



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION
COMMITTEE

ESTIMATES

(Additional Estimates)

TUESDAY, 22 FEBRUARY 2011

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE ENVIRONMENT AND COMMUNICATIONS**LEGISLATION COMMITTEE****Tuesday, 22 February 2011**

Members: Senator Cameron (Chair), Senator Fisher (Deputy Chair) and Senators Ludlam, McEwen, Troeth and Wortley

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

Senators in attendance: Senators Abetz, Birmingham, Cameron, Coonan, Cormann, Eggleston, Fielding, Fierravanti-Wells, Fisher, Heffernan, Humphries, Fisher, McEwen, Joyce, Ludlam, Macdonald, Ryan, Siewert, Troeth, Wortley and Xenophon

Committee met at 9.02 am

SUSTAINABILITY, ENVIRONMENT, WATER, POPULATION AND COMMUNITIES PORTFOLIO

Consideration resumed from 21 February 2011

In Attendance

Senator Farrell, Parliamentary Secretary for Sustainability and Urban Water

Senator Conroy, Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity

Department of Sustainability, Environment, Water, Population and Communities**Executive**

Dr Paul Grimes, Acting Secretary

Ms Kimberley Dripps, Deputy Secretary

Dr David Parker, Deputy Secretary

Mr Mark Tucker, Deputy Secretary

Mr Malcolm Thompson, Deputy Secretary

Approvals and Wildlife Division

Mr Peter Burnett, First Assistant Secretary

Ms Deb Callister, Acting Assistant Secretary, Wildlife Branch

Dr Kathryn Collins, Assistant Secretary, Business Systems and Governance Branch

Ms Carolyn Cameron, Assistant Secretary, Strategic Approaches and Species Management Branch

Ms Vicki Middleton, Assistant Secretary, EPBC Taskforce

Ms Barbara Jones, Assistant Secretary, Environment Assessment Branch 1

Ms Mary Colreavy, Assistant Secretary, Environment Assessment Branch 2
Ms Michelle Wicks, Assistant Secretary, Environment Assessment Branch 3
Ms Rose Webb, Assistant Secretary, Compliance and Enforcement Branch

Australian Antarctic Division

Ms Lyn Maddock, Director
Dr Rob Wooding, General Manager, Support Centre
Dr John Gunn, Chief Scientist
Mr Matthew Sutton, Finance Manager

Australian Government Land and Coasts

Mr Mark Flanigan, First Assistant Secretary
Ms Kelly Buchanan, Acting Assistant Secretary, Biodiversity and Conservation Branch
Mr Bruce Edwards, Assistant Secretary, Indigenous Policy Branch
Dr Paul Salmond, Assistant Secretary, Policy and People Branch
Ms Claire Howlett, Assistant Secretary, Finance and Aquatic Partnerships Branch

Business Improvement Division

Ms Catherine Skippington, First Assistant Secretary
Mr Aaron Hughes, Assistant Secretary, Governance Branch

Corporate Strategies Division

Mr Arthur Diakos, First Assistant Secretary

Environment Quality Division

Dr Diana Wright, First Assistant Secretary

Heritage Division

Dr Greg Terrill, First Assistant Secretary
Mr Paul Murphy, Assistant Secretary, Natural and Indigenous Heritage Branch
Mr Mark Nizette, Acting Assistant Secretary, International Heritage and Policy Branch

Housing Supply and Affordability Division

Mr James Shevlin, First Assistant Secretary
Ms Susan Finnigan, Assistant Secretary, National Rental Affordability Scheme Branch
Ms Mary Wiley-Smith, Assistant Secretary, Housing Supply and Affordability Branch

Information Management Division

Dr John Gunn, First Assistant Secretary
Mr Geoff Richardson, Assistant Secretary, Environment Research and Information Branch
Mr Al Blake, Chief Information Officer

Marine Division

Mr Stephen Oxley, First Assistant Secretary
Ms Lara Musgrave, Assistant Secretary, Tropical Marine Conservation Branch
Ms Christine Schweizer, Assistant Secretary, Marine Initiatives Branch
Mr Charlton Clark, Assistant Secretary, Temperate Marine Conservation Branch
Mr Nigel Routh, Assistant Secretary, Marine Biodiversity Policy Branch

Parks Australia Division

Mr Peter Cochrane, Director of National Parks

Policy and Communications Division

Mr Andrew McNee, Acting First Assistant Secretary
Ms Rachel Parry, Assistant Secretary, Communications and Ministerial Services Branch

Mr Anthony McGregor, Acting Assistant Secretary, Strategic Advice Branch

Supervising Scientist Division

Mr Alan Hughes, Supervising Scientist

Sustainable Population Taskforce

Mr Sean Sullivan, First Assistant Secretary

Mr James Tregurtha, Acting Assistant Secretary

Water Efficiency Division

Ms Mary Harwood, First Assistant Secretary

Mr Colin Mues, Assistant Secretary, Water Recovery Branch

Mr Richard McLoughlin, Assistant Secretary, Irrigation Efficiency Northern 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

Ms Gayle Milnes, Assistant Secretary, Environmental Water Branch

Mr Steve Costello, Assistant Secretary, Urban Water Security Branch

Mr Mark Kwiatkowski, Assistant Secretary, Project Management and Governance Branch

Mr Graeme Marshall, Assistant Secretary, Water Efficiency Labelling and Standards Branch

Water Reform Division

Mr Tony Slatyer, First Assistant Secretary

Ms Kerry Smith, Assistant Secretary, Water Policy Branch

Mr Aidan Dagliesh, Assistant Secretary, National Water Market Systems Branch

Ms Tanja Cvijanovic, Assistant Secretary, Aquatic Systems Health Branch

Mr Russell James, Assistant Secretary, Water Resources Branch

Bureau of Meteorology

Dr Greg Ayers, Director of Meteorology

Dr Rob Vertessy, Deputy Director, Water

Mr Alan Vallance, Deputy Director, Corporate

Dr Ray Canterford, Deputy Director, Services

Dr Neville Smith, Deputy Director, Research and Systems

Mr Trevor Plowman, Chief Financial Officer

Great Barrier Reef Marine Park Authority

Dr Russell Reichelt, Chairman

Mr Bruce Elliot, General Manager, Corporate Services

Ms Margaret Johnson, General Manager, Communication and Policy Coordination

Mr Peter McGinnity, General Manager, Environment and Sustainability

Mr Andrew Skeat, General Manager, Marine Park Management

Murray Darling Basin Authority

Mr Rob Freeman, Chief Executive

Dr Fraser MacLeod, Executive Director, Basin Plan

Ms Liz Dann, Executive Director, Special Projects

Ms Jody Swirepik, Executive Director, Natural Resource Management

Mr Frank Nicholas, Executive Director, Corporate Services

Mr Geoff Haberfeld, Executive Director, Engagement, Secretariat and Communications
Mr David Dreverman, Executive Director, River Murray

National Water Commission

Mr James Cameron, Acting Chief Executive Officer
Ms Kerry Olsson, Acting Deputy Chief Executive Officer
Mr Matt Kendall, General Manager, Sustainable Water Management Group

Sydney Harbour Federation Trust

Mr Geoff Bailey, Executive Director

CHAIR (Senator Cameron)—I declare open this public meeting of the Senate Environment and Communications Legislation Committee. Today the committee continues its examination of the Sustainability, Environment, Water, Population and Communities portfolio. 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 estimate 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*.

The extract read as follows—

Order of the Senate—Public interest immunity claims That the Senate—

- (a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;
- (b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;
- (c) orders that the following operate as an order of continuing effect:
- (1) If:
- (a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and
- (b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.
- (2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.
- (3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.
- (4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only

from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(Agreed to 13 May 2009.)

(Extract, Journals of the Senate, 13 May 2009, p.1941)

CHAIR—I welcome the Hon. Don Farrell, Parliamentary Secretary for Sustainability and Urban Water, representing the Minister for Sustainability, Environment, Water, Population and Communities, the Hon. Tony Burke, and portfolio officers. Parliamentary Secretary, would you like to make an opening statement?

Senator Farrell—Thank you very much for the offer, but I will decline on this occasion.

[9.03 am]

Murray-Darling Basin Authority

CHAIR—I now call on officers of the Murray-Darling Basin Authority and invite questions. Mr Freeman, would you like to make an opening statement?

Mr Freeman—No, thank you. I have no prepared statement.

CHAIR—Then we will go to questions. Senator Birmingham.

Senator BIRMINGHAM—Thank you. Senator Farrell, Mr Freeman and colleagues, it is good to see you all. Can I start just by getting a brief update on changes to the membership of the authority and any changes to the structure of the authority that have flowed on from those membership changes.

Mr Freeman—The previous chair resigned from the authority, with his resignation taking effect from 1 February, and the new chair was appointed with a commencement date of 1 February. The authority met on 1 February and has had a subsequent meeting. There have been no changes to the structure of the authority since the commencement of the new chair. There have been no other changes to the membership of the authority.

Senator BIRMINGHAM—The terms of all the other authority members do not expire for some time yet, do they?

Mr Freeman—That is correct. Authority members are appointed for four years. They were initially appointed in May 2009, so their terms will expire in May 2013.

Senator BIRMINGHAM—There have been reports of a delivery board being established. Is that term accurate? Can you provide some clarity for us as to the role and relationship of any new organisations established within the authority?

Mr Freeman—There have been two subcommittees suggested. At this stage those subcommittees have not been formalised. There have been some suggestions as to possible membership, but at this stage they are still yet to be determined.

Senator BIRMINGHAM—Can you take me through what those two subcommittees are please?

Mr Freeman—One of the two proposed committees—and they are proposals at this stage—would assist departmental officers in preparing the proposed Basin Plan. Historically, the authority has used consultants in that regard. The suggested approach is to use consultants more in a committee arrangement rather than in a contractual arrangement. The other proposed committee is to be a sounding-board for policy positions prior to their public disclosure, as part of the proposed Basin Plan for the 16-week public consultation period. So it is a sounding-board type role. This role was actually suggested a long time ago as a way of road-testing positions, and perhaps road-testing expression as well, to make sure that the public actually understands those positions when they are exposed.

Senator BIRMINGHAM—Various names have been suggested in the media in relation to these possible subcommittees. Is there an agreed possible membership of them?

Mr Freeman—No, membership has not been determined yet.

Senator BIRMINGHAM—Was their status and proposal discussed at the 1 February authority meeting?

Mr Freeman—I do not recall that it was discussed at the 1 February meeting. It was discussed at the subsequent meeting. It may have been discussed on 1 February but I just cannot recall. At this stage the authority is simply looking at possible membership and possible terms of reference. Those committees, I would imagine, will be formalised in the near future.

Senator BIRMINGHAM—Just so that I do not keep tripping over myself, I obviously missed the date of the subsequent meeting of the authority.

Mr Freeman—Can I take that on notice? It was approximately a week later.

Senator BIRMINGHAM—I thought you had said that, Mr Freeman, so that is okay. So there have been two meetings of the authority that Mr Knowles has chaired?

Mr Freeman—That is correct.

Senator BIRMINGHAM—Thank you. At the second one of those, these possible subcommittees were definitely discussed?

Mr Freeman—That is correct.

Senator BIRMINGHAM—But the authority has not at this stage approved either of them?

Mr Freeman—That is correct. The membership and the terms of reference have not been finalised and therefore they have not been established formally yet.

Senator BIRMINGHAM—Would these subcommittees be appointed by the authority, in terms of the proposal that is being mooted, or are they ministerial appointments?

Mr Freeman—No. The actual terms of engagement have not been determined. Whether they would be 203 committees under the Water Act or whether they would simply be ad hoc committees, which as chief executive I am allowed to form, or any alternative has also not been decided.

Senator BIRMINGHAM—Has the authority, the chair or any other person acting on behalf of the authority made any approaches to individuals at present as to their willingness to serve in these roles?

Mr Freeman—Yes. There have been discussions with several individuals, some of which I have been party to, and I imagine the chair may have also sounded out some of the potential candidates.

Senator BIRMINGHAM—On what basis have these people been selected?

Mr Freeman—In the case of the sounding-board type committee—and we do not even have a name for that committee yet—the individuals would have wide connections into the community from economic, social and environmental backgrounds. One potential candidate who has been suggested for that committee—I have not talked to her, but I understand that the chair has—is Karlene Maywald, a former politician from South Australia. That committee is really around connections into the community and connections into those three dimensions of the Water Act. With the other committee, the issue would be expert knowledge and bringing together the elements of the proposed Basin Plan. One committee would have more of a policy dimension and economic, social and environmental analysis. I think that it is fair to say that the staff of the authority are well qualified in terms of the environment. The economic and social dimensions of the Water Act have always been a particular challenge. It is not our traditional base in the Murray-Darling Basin Authority, so we would be looking for some added expertise there.

Senator BIRMINGHAM—Various names have been mentioned publicly. You mentioned Miss Maywald's name. Others have included Jennifer Westacott, Lindsay Nielsen, Peter Sutherland, Brendan Ring, Peter Cosier and Noel Peters. Are these all potentials for the sounding-board or are some of them being considered for the committee to assist in the preparation of the basin plan?

Mr Freeman—I have had discussions with Peter Sutherland and with Jennifer Westacott. Their potential involvement would be in regard to the development committee and not the sounding-board committee. They both have strong backgrounds in the technical detail of the basin. I have not had discussions with the other names. I understand that Brendan may have

attended a meeting that I attended with Jennifer. However, I have not had discussions with him about his membership of the committee.

Senator BIRMINGHAM—Peter Cosier of the Wentworth Group?

Mr Freeman—I have not had any discussions with Peter. I do not know whether the chair has.

Senator BIRMINGHAM—Have any of these names been discussed by the authority?

Mr Freeman—Certainly I have discussed some of those names with the chair. He has asked me about people's backgrounds. With the authority formally, I think the names were put forward as possible names at that second meeting, but there has not been any broader discussion than that, no.

Senator BIRMINGHAM—So a list of possible names was put forward, along with the concept of these two committees, at that second meeting under Mr Knowles?

Mr Freeman—I think a list of possible names would possibly be going too far. They were potential names, but that was not seen to be an exhaustive list. It was just the types of personalities that may be involved in the two committees.

Senator BIRMINGHAM—Who provided these potential names? Were they suggested by you or by the chair? Where did they emanate from?

Mr Freeman—The names were originally suggested by the chair.

Senator BIRMINGHAM—The names were originally suggested by the chair?

Mr Freeman—Yes, that is correct.

Senator BIRMINGHAM—Did he present, however rough, some type of list—

Mr Freeman—No, he did not.

Senator BIRMINGHAM—He just listed off some names from his own notes or off the top of his head?

Mr Freeman—The chair talked about the need for two potential committees. In explaining the roles that those committees would undertake, he outlined the sort of people who would be valuable in that sort of role.

Senator BIRMINGHAM—Are there any names that I have not mentioned who were discussed or considered at that meeting or who have been approached?

Mr Freeman—No. I am not aware of any other names.

Senator BIRMINGHAM—What would be the expected nature of the employment of these individuals with these committees? Would they need to satisfy Public Service employment guidelines? How are you anticipating them being structured?

Mr Freeman—That could vary depending on the nature of the committee. If they were committees under section 203 of the act then they would be like the Basin Community Committee and they would come under those Public Service guidelines. Alternatively, this committee could simply be a meeting of engaged people. So we could deal with it more administratively and then they would not be required to come under those guidelines.

Senator BIRMINGHAM—But, again, no decision has been taken in that regard?

Mr Freeman—No.

Senator BIRMINGHAM—When is the next scheduled meeting of the authority?

Mr Freeman—The authority is having an ad hoc get-together on Thursday of this week. However, the formal meeting is on 1 March. So there is a bit of preparatory work to ensure we can get on with the task. That is occurring Thursday this week with the formal meeting on 1 March next week.

Senator BIRMINGHAM—Did other members of the authority express any reservations about these committees or what their establishment may mean for either the role of the authority itself or of the Basin Community Committee? Were there any reservations about some of the individuals mooted?

Mr Freeman—I cannot recall any discussion around reservations. Certainly there was discussion around how these committees might interface with things such as the Basin Community Committee. But I think ‘reservations’ would not be an appropriate word.

Senator BIRMINGHAM—Was how the sounding-board sat alongside the Basin Community Committee a particular point of discussion?

Mr Freeman—Yes, that is correct.

Senator BIRMINGHAM—Has there been a meeting of the Basin Community Committee since Mr Knowles’s appointment?

Mr Freeman—Yes, there has. There was a meeting in Griffith on 8 and 9 February.

Senator BIRMINGHAM—Was the potential establishment of these subcommittees discussed at that committee?

Mr Freeman—I was not present. One of the authority members was. At this stage, I have not seen the minutes, so I do not know. The chair did meet with the chair of the Basin Community Committee prior to that meeting. I believe at that meeting—although I was not present—he outlined the potential for this additional sounding-board committee and how it would relate to the Basin Community Committee.

Senator BIRMINGHAM—Has the Basin Community Committee expressed any concerns or opinions in relation to the establishment of an alternative sounding-board?

Mr Freeman—Not to my knowledge, no.

Senator BIRMINGHAM—Have you undertaken within the authority any work as to how these two sounding-boards would operate and how you would ensure that those on the Basin Community Committee were not sidelined as a result of a new sounding-board being established?

Mr Freeman—I believe the two committees can be complementary. The Basin Community Committee has terms of reference under the act which are about community engagement, consultation and communication. The role of this sounding-board committee is one more of testing a policy position and how it might be seen by the community, including,

to the extent that there might be an overlap, whether the expression of it is appropriate. So I can see that the two committees would actually be complementary.

Senator BIRMINGHAM—Isn't it a little unusual to start sounding out members for potential appointment prior to agreeing on what committees will be established, the composition of those committees and getting the approval of the authority members as to who would be approached?

Mr Freeman—I do not believe that there is a stock standard approach. Sometimes terms of reference are fully developed before people are approached. Other times, I guess as part of the development of those terms of reference, there are some preliminary discussions on potential membership with people who may have knowledge and advice in the area. So I would not say that it is unusual. I think both approaches are adopted.

Senator BIRMINGHAM—Who will sign off on the final terms of reference and structure for these two committees?

Mr Freeman—That would to some extent depend on the method of appointment. A '203 committee' could be determined by the six-person authority itself. Alternatively, I have delegated powers in that area, so I could actually do that myself. Alternatively, the committee could be struck without using the provisions of the Water Act but just by using general public administration to form an ad hoc committee, in which case it would be dealt with administratively by me.

Senator BIRMINGHAM—Have the authority members asked that the proposal actually be brought back to them?

Mr Freeman—No.

Senator BIRMINGHAM—Is it your intention or—from your discussions with the chair—the chair's intention that the proposal be brought back and it actually be a decision of the authority members?

Mr Freeman—I am well aware that the chair, in briefing me as to the content of Thursday's meeting, has outlined that he intends to talk more about these potential committees on Thursday. So all the authority members will be brought up to speed, I would imagine, as part of that briefing.

Senator BIRMINGHAM—Have you prepared draft terms of reference or proposed structures to be tabled at Thursday's meeting?

Mr Freeman—I have put together some very preliminary terms of reference which I have provided to the chair. But at this stage I am not aware of whether they are going to be tabled on Thursday.

Senator BIRMINGHAM—In relation to the appointment of these people, ultimately I assume the same answer applies—that it could be you or it could be the authority who makes the actual appointments and approaches?

Mr Freeman—That is correct.

Senator BIRMINGHAM—And no decision has been made as to who will be responsible for selecting the individuals and making those appointments?

Mr Freeman—Not at this stage, no.

Senator BIRMINGHAM—Is a further list of names being presented in any way at Thursday's meeting?

Mr Freeman—I do not know if there is a further list of names. Certainly I have provided the chair with at least one other potential name that I believe would complement the sounding-board committee. I am not sure whether he will table a list.

Senator BIRMINGHAM—It is always worth asking in these instances, seeing as all the other names seem to be bouncing around in public. Are you willing to share that one, Mr Freeman?

Mr Freeman—The name that I have suggested to the chair is Kel Baxter, who is an irrigator from the Murrumbidgee irrigation area, and who I believe has good connections in the irrigation industry.

Senator BIRMINGHAM—Is it possible for the chair to make the appointments on his volition or to establish the committees on his volition? Or is it something that has to be done by either the authority or you under the act?

Mr Freeman—To the best of my knowledge it has to be the authority or me.

Senator BIRMINGHAM—Wouldn't it be preferable to have a clear position at present that the authority will approve these committees, that the authority will be the one who takes the decision as to who sits on these committees and that the authority will be the body tasked with approving the terms of reference, rather than leaving some doubt as to whether it will be a more selective process, and to ensure that the authority is not seen to be sidelined, especially seeing as some of the media commentary has suggested that there are efforts to replace or sideline members of the authority?

Mr Freeman—Both options have certain benefits. The authority has a very complex task in developing the proposed Basin Plan. If it is seen more in an administrative nature then of course the chief executive gets on and does it. If this is something the authority believes it needs to progress through the Water Act then of course the authority will have its fingerprints on that and will formally make the decisions. As I said, alternatively, the Water Act provision has been delegated to me. So the decision of the authority could be, 'This is fine—just get on and do it as the chief executive under that delegation.'

Senator BIRMINGHAM—Aside from saving the time of the authority, is there any benefit that can be had by the authority not being involved in the decision?

Mr Freeman—I have not exercised my mind on that issue. I think both are legitimate avenues for appointment.

Senator BIRMINGHAM—I am sure we will pursue that at a later stage. Are there guidelines on the role and powers of the chair of the authority?

Mr Freeman—There are some outlined in the Water Act. I am not sure whether, when briefing the chair, we also provided some guidance in that regard in the briefing document. There is a briefing pack being prepared for the incoming chair. That includes certain advice, but I am just not sure whether that supplements the Water Act or not.

Senator BIRMINGHAM—Are you able to provide existing guidelines for the role of the chair to the committee?

Mr Freeman—To the extent those exist, I could provide them.

Senator BIRMINGHAM—If you could do so that would be appreciated. In relation to the timing of the Basin Plan process from here on in, what is the current expected time line of the authority for the release of the draft Basin Plan?

Mr Freeman—The authority does not have a definitive date at this stage. It is working within certain parameters which were agreed to by the Murray-Darling Basin Ministerial Council. The ministerial council requested that the authority prepare the proposed Basin Plan, having considered the outcomes of the House of Representatives inquiry. Certainly the proposed Basin Plan will not be coming out prior to that inquiry releasing its findings. The ministerial council also suggested that we prepare the proposed Basin Plan to allow it to be considered by the Commonwealth parliament in early 2012. So we have two sorts of time lines there. The other advice that was given was that they requested the authority get on and prepare it within the provisions of the Water Act as drafted. So they are the parameters. I think all of that will see a proposed Basin Plan released around midyear. However, we do not have a definitive date.

Senator BIRMINGHAM—When you say that it certainly will not be released before the Windsor committee reports, one assumes that at present the authority is getting on with preparing the draft Basin Plan. Is that correct?

Mr Freeman—That is correct.

Senator BIRMINGHAM—And you are doing that based on the submissions that you have received and the feedback from community consultations and the other research inputs that you have commissioned?

Mr Freeman—That is correct.

Senator BIRMINGHAM—When do you think you will be in a position to take that initial draft of the Basin Plan to the authority board?

Mr Freeman—The methodology we have adopted is that the authority actually decides on policy positions. The final drafting of those are a subsequent activity. To answer your question, I do not believe that there would be a draft of the actual proposed Basin Plan available until early June at the earliest, given that I understand that the House of Representatives inquiry will deliver its report in May. That does not mean that the authority would not have considered its policy elements, at least in a preliminary stage, prior to that time.

Senator BIRMINGHAM—It is not a lot of time between delivery of a House of Representatives report in May and then the potential completion of the draft report in early June. Does that really leave appropriate time to consider the implications of whatever the Windsor committee may recommend?

Mr Freeman—It is difficult to speculate without having seen the outcomes of the inquiry. However, the proposed Basin Plan is very broad. I think it is fair to say that about half the elements of the proposed Basin Plan have not been commented on even in the public

consultation process. So we are continuing to draft the proposed Basin Plan along the lines of some of those positions. Whether they are embraced by the authority will be a subsequent decision. The sorts of elements that I am referring to are things like the description of the Murray-Darling Basin, which is a requirement of the act. We must do that in the proposed Basin Plan. To the best of my knowledge there has been no comment around the description. So there are many elements that can be progressed. The Windsor inquiry certainly does affect the economic and social type considerations which probably influence three elements of the 15 mandated items.

Senator BIRMINGHAM—What are those three elements—just so that they are on the record?

Mr Freeman—They include the environmentally sustainable level of take and the associated SDLs, sustainable diversion limits. They include the transition path of how we move from the current water extractions to future extractions and things such as temporary diversion provisions. They would clearly affect the other economic and social documentation that the authority has to prepare to go with the proposed Basin Plan. We must present our estimated social and economic impact of introducing that proposed Basin Plan.

Senator BIRMINGHAM—How does the current timetable align with your belief in the achievability of the reform process under the time lines stipulated in the Water Act?

Mr Freeman—I think the time lines are achievable. The issue here is that the proposed Basin Plan is just that—it is a proposal. Then there is an extensive consultation process. I think that it is fair to say that many in the community are looking for the proposed Basin Plan to be as close as possible to the Basin Plan; however we should not underestimate it. I imagine that is why the legislation has such an extensive consultation period—a minimum of 16 weeks. If we see the proposed Basin Plan as being another exposure prior to the drafting of the final Basin Plan for submission to the Minister, I believe the time lines are achievable.

Senator BIRMINGHAM—A briefing document provided by the former chair to the minister stated that COAG has agreed to the release of the Basin Plan in 2011, and the Water Act's schedule outlining the required timing for new state water resource plans was written with this timetable in mind. If this timetable is to be met, given the process is prescribed in the act, the proposed Basin Plan must be released in early 2011 at the very latest. You are now saying, Mr Freeman, that the proposed Basin Plan will be released in mid-2011 at the very earliest. How is it that the situation has changed since this briefing was provided to Minister Burke just late last year?

Mr Freeman—In December the Murray-Darling Ministerial Council determined that a basin plan should be prepared to allow it to be presented to the Commonwealth parliament in early 2012. So I guess that is the difference. That was based on advice that the Basin Plan was to be prepared in 2011. The ministerial council has now advised us that that is the time frame for its preparation.

Senator BIRMINGHAM—It also highlighted the process prescribed in the act which, of course, is the process relating to the preparation of complementary state plans. The 2011-12 deadline is not prescribed in the act—that was just a COAG agreement.

Mr Freeman—That is correct

Senator BIRMINGHAM—Ministers have agreed to vary that to allow the slippage to early next year, but that does not change the other processes. In fact, in separate briefing documents the authority has stated that the time frames for state water resource plans are legislated in schedule 4 of the Water Act and that failure to vary the timing provisions of schedule 4 will cause difficulties for state governments as they need sufficient time to prepare new state water resource plans that are consistent with the Basin Plan for accreditation by the minister—that is, failure to vary them should the plan not be delivered in accordance with the COAG timetable that has been set. What feedback have you had from the states as to their capacity to meet the obligations imposed on them under the Water Act, given the slippage in time that has occurred?

Mr Freeman—States have commented to a minor extent on the lack of time for development. I think that it is fair to say though that the states' submissions have drawn out the issue of the different commencement dates—Victoria in 2019 and some of the other plans as early as 2012. So commentary has been not so much around the lack of time to develop their plans but more about the different time frames that the Water Act currently prescribes through that schedule. Having said that, there is no doubt that it is a challenging task for jurisdictions to prepare water resource plans in a period of two years.

Senator BIRMINGHAM—What correspondence or communication have you had from the states about the revised time lines?

Mr Freeman—States were part of the ministerial council's decision that outlined the two parameters: that ministers wanted us to consider the House of Representatives inquiry and that we should bring forward a Basin Plan in early 2012. So state ministers and state officials were part of that decision. Most of the states' submissions have probably been published already and are available for people's scrutiny. We have had further discussions at two subsequent basin officials committee meetings around preparation of the proposed Basin Plan where we have outlined the time frames that we are working to. So there has been plenty of dialogue between states on a multilateral basis. On a bilateral basis, we have had many meetings between the authority and individual states as we work through the particular issues that may impact those jurisdictions.

Senator BIRMINGHAM—Have any of the states indicated a date beyond which they do not believe they could get the work done for their water-sharing plans to be developed?

Mr Freeman—No, not to my knowledge.

Senator BIRMINGHAM—Again, in the incoming minister's brief provided, you highlight: the process for the development of the Basin Plan; the release of the proposal and the 16-week consultation period; the need to then consider submissions and amendments as proposed; the submission to the ministerial council; and the time frames and processes for consideration by the ministerial council. On page 15 of that brief you ultimately say that, all up, these processes could take in the order of 40 to 50 weeks if there is a reasonable level of agreement to the plan, and much longer if there is significant disagreement at the ministerial council level. These processes I take to be from the release of the draft plan to finalisation. Now, if you are not going to get the draft plan out until June this year at the earliest, and it is going to take in the order of 40 to 50 weeks at the earliest, that gets you through to April or

May next year at the earliest. Is that consistent with the objective agreed by the ministerial council? If it is not, what has changed that will allow you to do it in a shorter time frame?

Mr Freeman—The discussion at the ministerial council and subsequently at the authority is that the only one of those time lines that is time bound as far as a minimum period goes is the public consultation. That is a minimum of 16 weeks. Clearly, we will require some time to analyse submissions. In the event that the proposed Basin Plan was very close to final form and there was general agreement or acceptance of the positions, many of those time lines could actually be run in parallel. So there is potential for those 40 weeks to be condensed. Sixteen weeks is a given and that cannot be compromised, but all other elements could be run in parallel, and we may see the ministerial council, for instance, not exercise its full six-week period.

Senator BIRMINGHAM—It may not exercise its full six-week period. It is entitled to exercise its six-week period.

Mr Freeman—That is correct.

Senator BIRMINGHAM—Has there been an agreement with the ministerial council not to do that or is there just a tacit understanding at present that if you are to meet the current deadline there will have to be some cooperation from the states, the ministerial council and others?

Mr Freeman—I think all jurisdictions are well aware that if you add up the time lines sequentially in the Water Act then you do get to this situation of some 40 to 50 weeks. So I imagine that in coming to that collective decision that we should prepare this for early 2012 there was an understanding of those time lines.

Senator BIRMINGHAM—What is the time line? When you speak of early 2012, what is the authority's target for finalisation of the Basin Plan as a result of that ministerial council decision and discussions that you or Mr Knowles may have had with the minister?

Mr Freeman—The only steps that the authority can control is the consideration of the public submissions and their incorporation. So the 16-week period is set. There has been no suggestion that the 16-week minimum should be extended. That was one of the issues that we asked for comment on as part of the guide. I think there is general feedback from people that whilst they may want longer, potentially, to implement the Basin Plan, they want the certainty of what is in the Basin Plan. Once the authority has considered those and incorporated them into a proposal, which it then puts to ministerial council, time lines are generally outside the authority's control.

Senator BIRMINGHAM—What is the target for the tabling of the final plan in the parliament?

Mr Freeman—We do not have a date other than that we are striving to meet the early 2012 ministerial council decision.

Senator BIRMINGHAM—And that is a target for it to be tabled?

Mr Freeman—That is correct. So the authority will release the plan, there is a 16-week public consultation and we then need to analyse those submissions and incorporate them where necessary. That will give us a proposed Basin Plan. It is still referred to as that under

the terminology of the Water Act. At that stage we then go into those various other steps that you have outlined. The authority cannot control those steps other than try to facilitate them to make it as short as possible. But we do not determine how long a jurisdiction might take to respond.

Senator BIRMINGHAM—May would not be early 2012, would it?

Mr Freeman—I have not exercised my mind on that.

Senator BIRMINGHAM—I would not have thought that May or June would meet the definition of ‘early 2012’ in most people’s language. And the parliament does not traditionally sit in April, so that means that March is going to be, I would have thought, the latest window you have in which to get a final plan tabled and it to meet the early 2012 objectives.

Can I go through the processes that you are required to undertake from the release of the draft plan to the finalisation of the plan? In particular, what are the processes that you would seek to run in tandem rather than sequentially? Can we get a better understanding of what it is that the authority is hurrying up in order to meet a time line that you previously said was unachievable?

Mr Freeman—Some of the issues that could be run in parallel are consideration of the ministerial council and consideration by the minister, given that the minister chairs the ministerial council. The time lines that have determined the 40- to 50-week period are sequential. So there is potential to run those in parallel—they could coincide. Alternatively, the minister could take slightly longer after the ministerial council has come to its decision. So I think they are primarily the areas for consideration.

Senator BIRMINGHAM—In the 40- to 50-week model, how long has the authority allowed for the minister to have a separate consideration to the ministerial council?

Mr Freeman—I believe it is nine weeks in the briefing note.

Senator BIRMINGHAM—It will allow nine weeks for the minister and six weeks for the ministerial council?

Mr Freeman—Yes, I believe that that is correct.

Senator BIRMINGHAM—And how long have you allowed for the authority to consider submissions on the proposed Basin Plan?

Mr Freeman—Eight weeks after the 16-week public consultation and four weeks after the ministerial council has delivered its feedback.

Senator BIRMINGHAM—Have you varied those time lines at all in terms of your objective of now doing this in a significantly shorter timeframe?

Mr Freeman—We have not planned out past getting this released as early as possible after consideration of the House of Representatives inquiry. To a large extent these time frames will be determined by the comments and the feedback that we receive. Because of the sheer volume from the public consultation—irrespective of whether positions have significantly changed or not—it will take in the order of that period to get through all of the feedback and deal with it in good faith. The other periods could be quite significantly compressed—if the

ministerial council said, 'We endorse the proposed Basin Plan,' for instance. So we have not planned on that basis.

Senator BIRMINGHAM—We all hope to have a rosy outlook on the world, Mr Freeman, but the idea that the ministerial council will just endorse it is probably an optimistic one—especially as states will at least need their own period of time to digest the amended version.

Can we just go through this sequentially. The plan is released in June at the earliest. A 16-week consultation period will take us through until October or thereabouts at the earliest. The end of that 16-week consultation period will be in September or October—or in that zone. Previously you would have then taken a further eight weeks to assess all of those public submissions and amend the proposed plan, which in itself is a very short period of time for you to be able to digest all of that comment and then make decisions as to whether amendments need to occur or not. That takes you through to November or December. You decided previously that you would have then gone to the minister or to the ministerial council, under the act.

Mr Freeman—We would go to the ministerial council.

Senator BIRMINGHAM—You would go to the ministerial council first and they would have their six weeks, which gets us into early 2012 already. Then you would go to the minister, who has his period of time in which he can insist on changes to the act—or to request or insist on changes to the Basin Plan.

Mr Freeman—That is correct. There is an iteration step in there as well. In the event that the ministerial council suggests certain changes, we are then required to go back to the ministerial council and advise what we have done with those suggested amendments. So there could be a further iteration at the ministerial council. But it is along the lines that you have described.

Senator BIRMINGHAM—How long does the ministerial council—the states—then get to comment on or respond to your decisions on amendments to the plan?

Mr Freeman—That is a further three weeks. It is initially six weeks and then, depending on the nature of the suggested changes, the authority considers those and refers them back. The council then has three weeks for further consideration.

Senator BIRMINGHAM—Obviously in your concurrent process of the minister's consideration and the ministerial council's consideration, even if the states were not to request any changes but the minister were to request a change, then I assume you would need to go back to the ministerial council and pursue that process?

Mr Freeman—Can I take that on notice? I do not believe that if there is a subsequent recommended change of direction by the minister that it then goes back to the ministerial council again. But I would like to check that under the Water Act.

Senator BIRMINGHAM—If you could clarify that, particularly given your decision to run them concurrently. Is the requirement to consult with the ministerial council a requirement to consult with the ministerial council or with the states and territories?

Mr Freeman—It is a requirement to consult with the ministerial council—

Senator BIRMINGHAM—Of which the Commonwealth minister is of course a member.

Mr Freeman—The chair is the federal minister, that is correct.

Senator BIRMINGHAM—In that sense, how do you distinguish whether the federal minister's comments in that six-week period were a request to change from the ministerial council or a request to change from the Commonwealth minister?

Mr Freeman—We have experience in that area. The act actually requires us to consult, for instance, the basin officials committees, which is a collective of all the jurisdictions. But we are also required to consult basin states. Given that it requires a unanimous decision, it tends not to be as comprehensive a response as an individual might make. So we are doing that with the proposed basin plan. We consult both the basin officials committees and individual states. The ministerial council's decisions will be those that they can unanimously agree on. That is not to say that the minister might not in that forum have a view that he would then put forward as the minister in his own right. It will be important for the minister to exercise his decision making after the ministerial council.

Senator BIRMINGHAM—So, although you are going to run the periods of consultation concurrently, you do not expect the Commonwealth minister to be exercising his decision making until after the states, through the ministerial council, have made their opinions known.

Mr Freeman—I could not imagine that occurring.

Senator BIRMINGHAM—So you are not really running the process concurrently. You are giving the states a period of time for the states to look at the basin plan, but the minister will actually be making his decision at the end of that process.

Mr Freeman—The periods overlap significantly. What I am saying is that, rather than having them sequentially, which gets you to the 40- to 50-week scenario, there is potential for six of the 12 weeks that the minister takes to consider this to be the period when the ministerial council is also considering this.

Senator BIRMINGHAM—Has there been any consideration given to actually publicly releasing all of these tentative timelines and these decisions? Obviously there is a lot of speculation throughout the basin as to when the proposed plan will be released, how long there will be for consideration of the Windsor inquiry and how detailed that consideration will be—and indeed speculation as to whether it can all be done in the timeline proposed. You have obviously done some internal work on that, and you have a timeline that you have referred to in a briefing note. So obviously you have given the minister, the chair or someone—the ministerial council even—a proposed timeline. Why not give stakeholders those timelines?

Mr Freeman—As I have indicated, the authority has not sat down and prepared beyond getting out a proposed basin plan for the 16-week public consultation. The ministerial council, in determining how to meet those two different timelines, has given us advice that these things can overlap because, as you have indicated, these things need to overlap otherwise you end up with the 40- to 50-week scenario. We have not planned that in fine detail. I am simply outlining to the committee that there is potential for both those timelines to be met.

Senator BIRMINGHAM—To use the words from your incoming ministers brief, if there is not a reasonable level of agreement to the plan, then there is probably no chance of you meeting the early 2012 timeline, is there?

Mr Freeman—I guess there could be disagreement with people expressing that very quickly. But, if people choose to use the timeframe in the Water Act to express those disagreements—so they take it through to the end of each of the consultation periods—and then advise that they do not agree and refer it back et cetera, then it would be difficult to meet that early 2012 timeline.

Senator BIRMINGHAM—Given that you thought that finalising the basin plan this year was necessary for the states to get their plans in place by 2014, if you are unable to meet the early 2012 timeline and it slips into the middle of or late next year to finalise the basin plan, then there would be no chance of the states being able to meet those statutory timelines or compliance, would there?

Mr Freeman—The schedule in the Water Act outlines when the state plans expire for the purposes of the Water Act. There is potential for those plans to live on beyond that date for state purposes. Subsequently, the basin plan compliant water resource plans can come in some time after the dates outlined in schedule 4. So the provisions of the Water Act may allow for those plans to live on in a state context in the event that we do not get compliant water resource plans developed fully by that date.

Senator BIRMINGHAM—That was not quite an answer to my question, but it was a useful answer of the consequences of not meeting the timeline. In your opinion, if the basin plan is not finalised by early next year—and for it to be finalised by early next year you basically need everything to go right between now and then—could the states comply with the schedule to the Water Act that requires most of them to have new water resource plans in place by 2014?

Mr Freeman—I think that is really a question for the states. Clearly, resourcing can assist. I do not think it would be appropriate for me to speculate. I certainly have—

Senator BIRMINGHAM—Well, you were happy, Mr Freeman, to speculate in the incoming minister's brief and provide several references to the fact that it would be difficult, it would be challenging and it would be unlikely for the states to be able to meet their deadlines if a final basin plan was not developed in 2011. Now, I am accepting that you have recalibrated your timelines on an optimistic scenario and hope to be able to get it out by early 2012, and that the states have accepted that they can live up to their end of the bargain. But, if it goes beyond that, then surely it is too much to expect them to be able to fulfil their end of the bargain in a period of just a year or 18 months?

Mr Freeman—I would not change those words that you have used. It is challenging. The decision on the early 2012 release post the release of the parliamentary inquiry report was a decision taken jointly by the states and by the Commonwealth. It was a joint decision. I can say that it will be challenging. What I cannot say is that it will be impossible, because ultimately it is a matter of resourcing.

Senator BIRMINGHAM—I imagine resourcing is only part of it. There is then the matter of the states needing to go through their own community engagement and consultation, do

their own research and ensure that they are genuinely compliant. Then there is your own verification of those state plans, which is also necessary.

Mr Freeman—Yes, that is correct, although the authority has started discussions with the states to hopefully have a more integrated process so that, by the time a state water resource plan is developed, the jurisdiction will know that it is compliant. So we have more integrated processes rather than having the examination process at the end.

Senator BIRMINGHAM—I suggest that it would be useful for all stakeholders, and probably useful for the authority in terms of ensuring that governments help you to meet your timelines, for these processes to be as public and transparent as possible. That would provide the best opportunity to get compliance, assistance and pressure to ensure that each party who needs to cooperate—and you need an awful lot of cooperation from an awful lot of parties to meet these timelines—feels the need to do so.

Mr Freeman—Yes.

Senator BIRMINGHAM—Moving on from the timing, does the final plan require majority acceptance of the authority members or unanimous acceptance of the authority members? What is the requirement for adopting the proposed final basin plan?

Mr Freeman—The Water Act provides for majority decisions by the authority members.

Senator BIRMINGHAM—But in terms of the adoption of both the proposed plan and the final plan, it is required that that be the authority—and a majority of authority members?

Mr Freeman—The proposed Basin plan would have to be approved by a majority of authority members; that is correct. Subsequent amendments to the proposed plan would, again, be by majority decision-making.

Senator BIRMINGHAM—Ministerial insistence on changes aside, the final plan that is presented and then the amendments as a result of ministerial council decisions and so on, all require a majority of authority members?

Mr Freeman—That is the construct of the Water Act, yes.

Senator BIRMINGHAM—There are no discretionary powers for the chair in that regard?

Mr Freeman—I can either take a couple of minutes to check that in detail or take it on notice.

Senator BIRMINGHAM—If you could check it while we go, that would be great. Has there been any suggestion to members of the authority, either by Mr Knowles or by the minister, that they should step aside?

Mr Freeman—Not to my knowledge.

Senator BIRMINGHAM—Were minutes taken of the two meetings that have been held since Mr Knowles became chair?

Mr Freeman—Yes, they were.

Senator BIRMINGHAM—Would it be possible to have those tabled for the committee?

Mr Freeman—Can I take that on notice? I am not sure of the detail that is in those minutes and whether it is appropriate.

Senator BIRMINGHAM—Okay. You released some earlier minutes to me under FOI—albeit with some redactions, as is always the case. Will you be happy to release to this committee as much as possible of the minutes of those two meetings as soon as possible?

Mr Freeman—Yes. To return to the decision-making of the authority, the act specifies that the person presiding—which in all cases when the chair is present is the chair—has a deliberative vote, and in the event of equality of votes also has a casting vote.

Senator BIRMINGHAM—That is so far as additional discretion for the chair goes in relation to the finalisation of the Basin plan?

Mr Freeman—That is correct, in the formal voting sense.

Senator BIRMINGHAM—Has the authority taken any decisions in the period since Mr Taylor announced his resignation on 7 December, either at formal meetings or without formal meetings?

Mr Freeman—Decisions are always ratified through formal meetings. From memory, the most significant decision was the decision to release the submissions on the guide to the proposed Basin plan. That decision was taken at the very first meeting, 1 February. I cannot recall any other significant decisions. Decisions are taken, but certainly not of a major policy nature et cetera, as the chair has encouraged authority members to give him a little while to get his head around some of these issues before we make formal decisions of a policy nature.

Senator BIRMINGHAM—Were there any meetings of the authority between Mr Taylor's announcement of 7 December and the appointment of Mr Knowles?

Mr Freeman—Yes, there was a meeting in mid-January. There may have been a meeting in December as well.

Senator BIRMINGHAM—Were decisions consistent with the nature of the decisions which the authority is required to keep records of made at either of those meetings?

Mr Freeman—Yes, decisions were made at those meetings.

Senator BIRMINGHAM—Are you able to detail them?

Mr Freeman—I do not have the decisions with me. I could take that on notice.

Senator BIRMINGHAM—If you could provide details of those, it would be appreciated. Has the authority delegated any of its powers in accordance with section 199 of the Water Act since 7 December, since Mr Taylor's resignation?

Mr Freeman—No, there have been no further delegations since Mr Taylor's resignation.

Senator BIRMINGHAM—Who is ultimately responsible for employing staff and engaging consultants by the authority?

Mr Freeman—I am—as the chief executive, not as an authority member.

Senator BIRMINGHAM—Out of interest, when the guide to the Basin plan was released, was there a vote of authority members at that time or was it a unanimous decision to release the guide?

Mr Freeman—It was a unanimous decision to release the guide.

Senator BIRMINGHAM—The recommendations of the guide—and the recommendation in particular to provide the three options of 3,000, 3,500 and 4,000—were a unanimous decision as well?

Mr Freeman—That was part of the decision. There were many elements to release that were included in the guide, one of which was the three scenarios.

Senator BIRMINGHAM—When was the decision taken to settle on those three scenarios?

Mr Freeman—The decision to present the three scenarios was taken relatively late. I think it would have been in September.

Senator BIRMINGHAM—Post the election?

Mr Freeman—I believe that would be correct.

Senator BIRMINGHAM—Up until that time, on what basis had the authority been working in terms of the recommendations of the guide?

Mr Freeman—The authority had proposed to present a single position in the guide, prior to that late decision. There was a decision to present a single position. That was revisited, and subsequently changed to present a range.

Senator BIRMINGHAM—A letter and accompanying brief from Mr Taylor to Minister Burke of 14 September states:

A basinwide reduction of 3,500 gegalitres per year longterm average in the current diversion levels is the value which the Authority proposes for setting the surface water SDLs as set out in the guide.

So the 14 September document provided to Minister Burke is the previous position of the authority?

Mr Freeman—That is correct. We had decided to present a single position originally—there was a decision to that effect. That was subsequently changed.

Senator BIRMINGHAM—Did Minister Burke provide any feedback on the single decision or recommendation?

Mr Freeman—There were discussions with Minister Burke about the proposed positions in the guide. I cannot comment on whether there was specific comment around the range versus specific position. Certainly there was an issue that the authority members had deliberated on quite a bit. We had landed on a single position, but I think it is fair to say that in getting to that single position there were different views by authority members, and subsequently we revisited. Whether the minister made specific comment I cannot say.

Senator BIRMINGHAM—In the discussions or deliberations that you are aware of, did the minister address the merits of putting forward options versus a single figure?

Mr Freeman—Discussions were held between the chair and the minister which I was not present at, so I am not aware of those. To the extent that I had a discussion, I had a discussion with the minister about the proposed positions. We did talk about the merits or not of a range versus a single position, but there was no direction given in regard to that issue.

Senator BIRMINGHAM—When was the 3,500 gegalitre figure approved?

Mr Freeman—It was approximately the period June-July. However, I would have to refer back to the minutes for when the actual decision was made.

Senator BIRMINGHAM—Back in June-July, well before the election, which deferred the release of the guide to the Basin plan, the authority had settled on 3,500 gigalitres as a recommendation in that guide. Back in June it was still going to be the proposed Basin plan, wasn't it?

Mr Freeman—I am not sure when the actual decision was taken to release the guide, but certainly the 3,500 was taken in either context. I am not quite sure.

Senator BIRMINGHAM—Was Minister Wong briefed on the 3,500 gigalitre recommendation?

Mr Freeman—Not that I can recall, but I would like to refer to my notes.

Senator BIRMINGHAM—If you could. It would seem unusual if you had a decision as early as June-July—and presumably you were proceeding on the assumption that the guide would be finalised and released prior to the election—not to have briefed the minister at some stage on the recommendations of the guide. Obviously Minister Burke was briefed at the earliest opportunity.

Mr Freeman—Yes, the government was very clear to outline that the guide to the proposed Basin plan was an instrument of the authority. It was the authority's proposal. Therefore, generally as we got something firmed up, we would brief the minister to outline the position. There was never any suggestion that ministers would interfere in those decisions. Briefings of ministers generally occurred relatively late in the process because it was simply a courtesy of outlining what was in the document.

Senator BIRMINGHAM—In June-July, having settled on 3,500 gigalitres as a recommendation, how far had the authority progressed in finalising either the proposed Basin plan or the guide to be released?

Mr Freeman—I am not quite sure how to answer the question. Irrespective of the policy position in the guide, the authority thought it was important to outline the other positions. The decision to change from 3,500 to a range of 3,000 to 4,000 was not a major redrafting because in selecting 3,500 we had to outline what would be the environmental, economic and social impacts of those other two alternative positions anyway. I am not sure whether that answers your question, but I do not quite understand the question.

Senator BIRMINGHAM—Did you get to the point of basically having a draft or a close-to-finalised guide of the Basin plan ready to roll and be released recommending 3,500 as the single figure?

Mr Freeman—The authority had drafts of the guide; they were labelled 'proposed Basin plan' as early as March. So there was a complete instrument available as early as the end of March. The authority had not endorsed any of the positions in that document. As we stepped through all the policy elements, they were then confirmed in the document. So there was not a point in time when we went and prepared the final instrument. It was a process that worked from a complete proposed Basin plan with no endorsement as early as March right through.

Therefore, there were several iterations. It was not as if at some point we then said, 'Let's now prepare the guide or the proposed Basin plan.'

Senator BIRMINGHAM—In June-July of 2010, the authority adopted a recommendation of 3,500. On 14 September the authority briefed the minister. There may have been other briefings to Minister Burke, but certainly on 14 September written information was provided to Minister Burke by Mr Taylor highlighting the 3,500 gegalitre per year recommendation. That is less than a month prior to when the guide was released—on 8 October. So when was the decision taken to backflip on the authority's original decision of having a solitary recommendation and suddenly have a range of recommendations?

Mr Freeman—As I indicated earlier, it was in September. I cannot be precise about the date. I would have to check all the minutes. The authority was still varying policy positions up until a week before release date.

Senator BIRMINGHAM—This is probably the most fundamental of all of the policy decisions in terms of what is in the guide, so to vary it at the eleventh hour would seem unusual. What prompted the change of heart by the authority?

Mr Freeman—With the proposed Basin plan, clearly you need a definitive position; that is what the act requires. We could not express a range. The shift to presenting our thinking and options opened up the potential for a range to be expressed. I think it is the difference between a proposed Basin plan and a guide. The initial decision on 3,500 was not an easy decision for the authority. It was, at the end of the day, a unanimous decision, but there were very diverse views. That issue certainly was still alive in our decision-making. So the guide presented an option to present a broader range, as we did not have to promote one position. We believed that any position in the range three to four satisfied the requirements of the Water Act. These were just three scenarios that we outlined to allow people to understand the impacts of the three alternatives.

Senator BIRMINGHAM—But you knew all of those things when you were making the decision back in June-July. Having decided in June-July that a fixed recommendation was preferable, why the change of heart to then flip to a fixed figure?

Mr Freeman—Certainly with the proposed Basin plan you have to have a definitive position. The proposed Basin plan did not offer the potential for range. We continued to work through that issue and we then, therefore, determined 3,500. The guide opened up the option for a range to be expressed.

Senator BIRMINGHAM—You had known that you were going to have the guide for at least a couple of months. I cannot remember exactly when you made the announcement that you would release the guide instead of the proposed Basin plan, but it was well and truly before the election campaign was fully under way. So in July-August at the latest—it may have been earlier—you knew that you were releasing a guide instead of a proposed Basin plan. Yet you continued to develop that guide with a fixed figure. Then, only a matter of days or weeks before releasing the guide, the authority changed its mind, having briefed the new minister and the new government along the way. Who recommended the change? Was it your recommendation, Mr Freeman, as the chief executive, or was the change a decision prompted by the authority members?

Mr Freeman—It came from discussions by the authority itself. So it was not a recommendation of the office. It came from discussions by the authority members.

Senator BIRMINGHAM—Do you recall whether the suggestion was made by the chair or by other members of the authority?

Mr Freeman—I do not recall. Certainly, we had a lot of discussion around this number. As you say, it is the centrepiece of the Basin plan. I cannot recall exactly who promoted the range versus the single position.

Senator BIRMINGHAM—On 28 July you announced you would have a guide instead of a proposed Basin plan. In terms of having settled on 3,500 in the June-July timeframe it was obviously at a very close meeting—if not the same meeting—that the authority decided to have a guide instead of the proposed Basin plan. So, give or take a couple of weeks, from what you have said, for basically the entire period it was to be a fixed figure in a guide to the proposed Basin plan—right up until some point in the days or weeks prior to the release of the guide. Given this was a fairly fundamental change at the last minute prior to releasing the guide, I would have thought you would have a stronger recollection of who or what prompted the change of heart.

Mr Freeman—As I indicated, I do not believe it is as fundamental as the senator is promoting, in that in preparing the guide we felt there was always the necessity to explain the positions either side of even a recommended position. So the shift from a definitive number to a range was not a big one in some regards. The guide was not promoting a single position; it was simply exposing our thinking and saying, ‘Based on the information and the knowledge we have at the moment, either this is the answer or this is the range within which we believe the answer should be developed.’ So it was not as fundamental a change as perhaps you are suggesting.

Senator BIRMINGHAM—Can you rule out, Mr Freeman, that new Minister Burke did not suggest to Mr Taylor that a range would be more politically palatable, especially in the new paradigm?

Senator Conroy—I am not sure that Mr Freeman can comment on a meeting that he was not present at. That is just common sense.

Senator BIRMINGHAM—So Mr Freeman cannot rule that out.

Senator Conroy—No. I am not sure that he can, as you are asking him to do, speculate—

Senator BIRMINGHAM—Mr Freeman may have had a conversation with Mr Taylor about what went on at that meeting and be crystal clear on what was said.

Senator Conroy—Mr Freeman has answered your questions on this area for at least 15 minutes and he is very clear about his recollections. Now you are asking him to speculate on the content of a discussion he was not privy to.

Senator BIRMINGHAM—I am not asking him to speculate. I asked whether he could rule it out.

Senator Conroy—No; you are asking him to speculate.

Senator BIRMINGHAM—Mr Freeman is quite capable of saying no, he cannot rule it out because that would be speculation.

Senator Conroy—You are asking him to speculate on a meeting he was not present at, which is a little unfair—

Senator BIRMINGHAM—I am not asking him to speculate.

Senator Conroy—It is a little unfair to ask a question like that of a witness, Senator Birmingham.

Senator BIRMINGHAM—Mr Freeman, can you rule it out?

Mr Freeman—I was not present at the meeting.

Senator Conroy—He was not present at the meeting. It is an absurd question.

CHAIR—Senator Birmingham, Mr Freeman has indicated he was not at the meeting. I am not prepared for you to continue that line of questioning if the officer was not there.

Senator BIRMINGHAM—It will have to be then for Mr Taylor or Minister Burke to rule it out.

I am conscious that I have had a long go. If Senator Siewert or others have some questions, I am happy to yield.

CHAIR—I have some questions on the Murray-Darling. Mr Freeman, how long have you been involved with the commission?

Mr Freeman—My involvement with the former Murray-Darling Commission commenced in 2002, when I was appointed a commissioner. That is in a formal role. That was from South Australia. Prior to that, in my role as Deputy Director-General of the department in Queensland I was indirectly involved in Queensland joining the former commission.

CHAIR—So the issue of the Murray-Darling and reform of the Murray-Darling has been an ongoing important debate for government for a long time?

Mr Freeman—Yes. This is certainly one of the issues discussed at the Federation of Australia.

CHAIR—I have a paper here dated June 2006. It is a Productivity Commission staff working paper called 'Stranded Irrigation Assets'. Are you aware of that paper?

Mr Freeman—I am not aware of the paper but I am aware of the issue.

CHAIR—According to the paper—by Roper, Sayers and Smith, of the Productivity Commission—consultation took place with the authority on developing this paper. Can you take me through the issue of the stranded assets as concisely as you can?

Mr Freeman—I think it is fair to say that Australia's irrigation has grown in an incremental way. Commencing with the Chaffey brothers on the Victorian-South Australian border, we have seen extensive irrigation. As that irrigation has grown, there has been a need to rationalise that into perhaps more efficient, more effective arrangements. As you move to do that, some of the initial infrastructure no longer is useful or is highly inefficient. These are what people call 'stranded assets'. It can occur for reasons other than simply trying to create a more efficient irrigation industry. The water market potentially leads to this issue. Many water

holders are off one set of infrastructure and if several choose to trade out then the infrastructure that serviced the collective might become a stranded or underutilised asset. It is the issue that water licences are often broader than simply holding a property right. They are supported by a whole infrastructure of assets which can be impacted by subsequent decisions of the water owner or by the rationalisation of irrigation areas.

CHAIR—According to this paper, stranded or underutilised assets are the inevitable consequence of any adjustment that produces a more efficient reallocation of water entitlements. Their existence is an indication that the market is working as it should. What is your comment on that view from the Productivity Commission?

Mr Freeman—As we move to use less water in the Murray-Darling Basin or any major irrigation area, assets which historically would have been used will no longer be required. I am not sure that I would go as far as saying that stranded assets are an indication that markets are working well. I think there is a leap there. Markets may not be working perfectly and you will still end up with stranded assets, for instance. But as we move to more efficient industry, as we move to using less water in the Murray-Darling Basin, it is inevitable that some of our infrastructure is impacted.

CHAIR—The Productivity Commission paper says that the overriding rationale for water reform in Australia is to ensure that scarce water is allocated to where it is valued the most. What is your comment on that lead proposal that they put?

Mr Freeman—Water will always move to its highest valued use. Its highest valued use is normally taken in very broad context. Water can be a very small part of the input costs of an enterprise, and therefore people will pay a lot of money for that water. Water markets facilitate that. Again, it is probably a polarisation of the issue to make the comments that the commission has.

CHAIR—The commission paper says that governments have stipulated that any measures to manage stranded assets should not significantly distort trade. Was that a discussion you had with any of the ministers of the Howard government?

Mr Freeman—No, I never had any discussions with ministers of the Howard government, except perhaps through the Murray-Darling Basin Ministerial Council. Certainly in the early days of the Living Murray Initiative we talked about the potential for there to be stranded assets as a consequence of entering the water market. But other than those general discussions in the ministerial council, no.

CHAIR—So where did the proposition that governments have stipulated, that any management measures should not significantly distort trade, come from?

Mr Freeman—It is fair to say that we should not prop up unviable assets, but I am not sure where that suggestion came from.

CHAIR—Three propositions are put in terms of dealing with stranded assets. One is ongoing payments of infrastructure access fees by landowners after the sale of an entitlement; the second is that tagging—that is, access fees in the source area—are paid by the new owner; and exit fees are paid to the infrastructure operator by the purchaser on the sale of the entitlement. Are these still valid propositions? Are they under any consideration?

Mr Freeman—The Murray-Darling Basin Authority does not have a mandate to go into those areas, but there have been different models of whether you continue to pay for the infrastructure charges or whether you amortise those with an exit fee. Certainly the trade arrangements that the authority facilitates to allow interstate trade provide for either of those alternatives to be adopted.

CHAIR—The paper also says that, should there be concerns about the impact on communities of outward entitlement trade that require attention, they should be addressed directly and transparently through structural adjustment programs with a view to avoiding the erosion of potential gains from water reform through the introduction of distortion of the impediments to entitlement trade. It seems to me that what they are arguing there is that community concern should be addressed through structural adjustment programs, but you have to avoid distorting the market. Is that view still held within the authority?

Mr Freeman—These questions are better directed towards the department. Whilst my experience allows me to proffer a view, questions of the market are probably best directed towards the department.

Dr Grimes—I invite Mr Slatyer to address the broad thrust of your questions.

CHAIR—Before you do that, Mr Slatyer, I am interested, not in some academic answer from the department in terms of the theory of this; I am interested in how the Murray-Darling authority is dealing with these practical economic issues. So I am not sure that passing the buck to Mr Slatyer is what I am looking for. I am looking for how the authority is going to deal with these existing issues. Mr Freeman, I am sure that you heard that, but I do not think you can just walk away from this issue and hand it over to the department. It is an issue that you and your chair will need to deal with in terms of developing your response.

Dr Grimes—Chair, many of the matters do overlap between the department and the authority. We endeavour to work closely with the authority in making sure that a joined-up approach is taken between the authority and the department. Mr Freeman may be able to make a few observations, but it may be appropriate to have Mr Slatyer explain how the work is coming together between both the authority and the department.

CHAIR—So you will know where I am coming from, perhaps I can indicate that I am concerned that these theoretical economic approaches are being pushed within the Productivity Commission. They were obviously an engagement with the Howard government on these issues. If simply a theoretical economic approach takes place, what will happen in these regional communities will be exactly the same as in some manufacturing communities, where it is simply about the bottom line and the operation of the market, and other social aspects get pushed to the side. That is what I am interested in: how do you deal with these theoretical economic pressures that are being put on by people like the Productivity Commission and ‘the market’?

Mr Slatyer—There are a couple of practical things I might mention. The practical response to the recommendation that you alluded to about the charging of exit fees and the recovery of costs to help an irrigation district continue to manage a stranded asset problem has been that the government has made water market rules which allow an irrigation district to charge up to 10 times the annual cost of its access charge as an exit fee for an exiting

irrigator. The policy response that is now in effect helps shelter the irrigation district from the impact of that market operation.

In regard to the structural adjustment issues, the first thing is that the government has, through the Water for the Future Program, a substantial investment in improvements in irrigation infrastructure in these districts. As part of our evidence, my colleague Mary Harwood can give more detail about the specifics of those programs. But investments are being made right now both to help irrigation districts plan better for a future with a potentially reduced water availability and to invest in irrigation efficiency measures and infrastructure so that the economic impact of any reduced water availability is offset as much as possible. Furthermore, in regard to the potential impact of reduced water availability on individual entitlement holders, the government has undertaken to buy back from people who wish to participate in the government's programs enough water to fully offset that effect. So, through the Water for the Future measures that the government has put in place, there has been a fairly concerted effort to both acknowledge and address the potential effect on people of these water reforms. Finally—and Mr Freeman might be able to talk more about this—the authority is required under the act both to take socioeconomic considerations into account in its work and to report on the socioeconomic consequences of the reforms that are embodied in the Basin plan. That would then provide governments with data about those consequences that governments could draw on in designing any further adjustment policies.

CHAIR—I suppose you would deal with those socioeconomic issues on the basis of the government either intervening in the market or letting the market rip. To some extent, the Productivity Commission proposed in 2006 that the market should play the bigger role in this. Is that still the consensus view—that the market will resolve these issues? I would not call it 'tough love', but there are some pretty tough assertions in this document about where things should go.

Mr Slatyer—For quite some time, governments of both colours and at Commonwealth and state level have taken the view that the water market has a very important role to play in assisting in adjusting to the future. Governments at state and Commonwealth level have done a lot of work to try to help create a regulatory framework that allows those markets to operate efficiently but also in a fair way. The reference I made earlier, which I should clarify, was to what are called 'termination fee' rules rather than market rules; they are an example of that kind of government intervention. We do know, for example, that the capacity for farmers to trade water during the last drought greatly assisted in managing the impact of that drought. Whilst the impacts were terrible, they were in part made more manageable by the fact that farmers could sell their allocation to people who could use that allocation better, which gave them an alternative source of income and meant that agricultural productivity value could be largely maintained—notwithstanding that there was much less water in the system. So the short answer is that governments have felt that the markets have a very important role to play in water reform.

CHAIR—But the Howard government, according to this report, went further than just saying that the market will deal with it. It said that any measures to assist communities in the Murray-Darling should not significantly distort trade. That is a pretty tough statement and the genesis of some of the problems that we are having in the debate at the moment, isn't it?

Mr Slatyer—That is an opinion you are asking me to express.

CHAIR—The question I am putting to you is: if government allows the market to operate and says that there should be no distortion to trade, that has significant impacts for the communities of the Murray-Darling, hasn't it?

Mr Slatyer—The reality of the framework of government policies is that they are allowing the market to operate, but within constraints that acknowledge some of those concerns.

CHAIR—You are talking about constraints, but the constraint that the Howard government put on was that any approach in the Murray-Darling should not significantly distort the market and trade; is that correct?

Mr Slatyer—I do not recall that statement.

CHAIR—You do not recall it. So the Productivity Commission may have got it wrong.

Mr Slatyer—I do not recall the statement.

CHAIR—I might be talking to the Productivity Commission later, anyway. Thanks. This is a good time for the tea break. We will come back with Senator Joyce after the break.

Proceedings suspended from 10.44 am to 11.01 am

CHAIR—We will recommence. Senator Joyce, you have the call.

Senator JOYCE—Mr Freeman, at Senate estimates on 19 October 2010 you stated:

Section 21 outlines that the environmental water requirements are the first parameter ... the environmental envelope is the first consideration and then where you land in that envelope is determined by economic and social issues.

Does that still remain your view?

Mr Freeman—Yes, it does.

Senator JOYCE—Would you believe that that statement obviously shows that the environment has precedence?

Mr Freeman—It is this challenge that the environmentally sustainable level of take, as it is put in the words of the act, actually does require economic and social considerations in determining that environmentally sustainable level of take. We must achieve the environmental objectives whilst also maximising economic and social outcomes.

Senator JOYCE—That is very interesting: 'we must achieve environmental outcomes whilst maximising'. So it is not a case of maximising economic outcomes and then taking into account environmental outcomes. It is making sure that you achieve the environmental outcomes and then trying to maximise economic and social outcomes. Would that be a fair statement, or am I misleading everybody?

Senator Conroy—You usually do!

Mr Freeman—I think it is fair to say that, in determining the environmental outcomes, we take into account economic and social as well as environmental outcomes.

Senator JOYCE—Do you believe that all those statements—environmental, social and economic—are of equivalence?

Mr Freeman—I believe that those three elements must be taken into account. I am not quite sure how to interpret ‘equivalence’. But we certainly must consider those three elements in determining the environmentally sustainable level of take.

Senator JOYCE—I know you must consider them. You must consider a whole range of things. ‘Consideration’ is not a statement of weighting. ‘Consideration’ can mean anything. The promise has been made by both sides of the political fence that we will hold these things in equivalence. Can you direct me to any section in the act that actually requires those to be considered in equivalence?

Senator Conroy—What do you mean by ‘in equivalence’? I think Mr Freeman has indicated that he was not sure what you meant by that, so could you clarify it.

Senator JOYCE—Sure. I meant that environmental outcomes have the same weighting as social outcomes and have the same weighting as economic outcomes, that there is no disparity between what is the premise to a decision that is made, and that a decision is equally likely to be made on economic outcomes as it is on environmental outcomes. There is no prerequisite purpose—that is, you have to fulfil one outcome before you consider the next outcome.

Mr Freeman—The act requires us to consider those three things collectively.

Senator JOYCE—Collectively?

Mr Freeman—That is right. We must consider those three things together. I guess the whole idea of equivalence implies that somehow they can be brought to a common currency. That is not what the act does. I guess I am challenged by the idea of: how do you deal with these things in an equivalent way? We have to meet the environmentally sustainable level of take and, as I said, that occurs within the environmental envelope. The environmental envelope has economic and social considerations. As I indicated to the last Senate estimates, if this was purely about the environment at that stage, our answer would have been—and I qualified it because I said that it was based on science, analysis and no engineering works and measures—something in the order of 7,600 giganalitres.

Senator JOYCE—You have said that you were challenged by it. You were challenged by trying to come to that position. Do you think the act is also challenged by trying to come to that position in such a way that it clearly delivers equal weighting between social, economic and environmental, not ‘look after the environment and then maximise the social and economic outcomes’? If it is challenging you to answer it now, is the act actually challenged in trying to deliver it?

Mr Freeman—I do not believe it is. I think the issue here is that the environmental outcomes must be determined with an eye on the economic and social considerations.

Senator JOYCE—You keep saying that you have to take it into consideration, you have to observe it—you have to do a whole range of things—but, of course, what you are not saying is that they are of equivalence.

Mr Freeman—I am not saying they are not equivalent. What I am saying is: I have some difficulty in working out what the idea of equivalence means.

Senator JOYCE—Do you have another term that you prefer to use rather than ‘equivalence’? This is a promise that was made. When we talk about the triple bottom line—

which I know you are fully aware of—I presume it means a triple bottom line where the economic outcomes have the same consequence of the decision as the social outcomes, which have the same consequence of the decision as the environmental outcomes. It is not a case of one being superior to the other two.

Mr Freeman—I believe that the act is clear in that it does lead to a triple bottom line outcome. The idea that somehow they might be equal I think is the challenge. Clearly, as you move water from consumption to the environment, that has an environmental benefit. In doing that, that has an economic and social impact. So the idea that they are all going to be of benefit I think is one of the reasons I am struggling with the idea of equivalence.

Senator JOYCE—Well, so is everybody else in the basin—that is why we have had virtual riots. In his resignation statement, Mr Taylor refers to the fact that:

... the Authority has sought, and obtained, further confirmation that it cannot compromise the minimum level of water required to restore the system's environment on social or economic grounds.

When did the authority seek that confirmation and when was it received?

Mr Freeman—After the minister released his legal advice, the authority sought clarification as to whether the minister's legal advice was consistent with the legal advice that the authority had received. That was confirmed and, as part of that, it was confirmed that the authority could not strike sustainable diversion limits that were significantly less than the environmentally sustainable level of take.

Senator JOYCE—That seems to be contradicting what we were talking about before, doesn't it, Mr Freeman?

Mr Freeman—I do not believe so.

Dr Grimes—Perhaps I could make some comments here. I think what Mr Freeman was making quite clear was that, in determining the environmentally minimum sustainable level of take, one has to take into account economic and social considerations. It is absolutely fundamental that those economic and social implications are taken into account in determining the minimum environmentally sustainable level of take. So you require, if you like, a balanced approach here.

Senator JOYCE—Mr Grimes, I have to take into account whether my tie matches my shirt—

Senator Conroy—You have failed miserably!

Senator JOYCE—but before I do that I have to make sure that I have clothes on before I come in the door. It is quite obvious that the precedence is on the environment and what you then do is take into account—

Dr Grimes—The reason I am taking up this point is that this is a fundamentally important point which I think is misunderstood. In actually arriving at that environmental level, one has to take into account, under the Water Act, economic and social implications. That is absolutely fundamental. It is perhaps best expressed in the objects of the act—

Senator JOYCE—Section 3(b).

Dr Grimes—which make it clear that the approach to be taken is one that optimises economic, social and environmental outcomes.

Senator JOYCE—Since we are going into the act, maybe you would like to explain it to me. Can you go to section 44(5), Mr Grimes, and read it out to me?

Senator Conroy—Does that act mention the NBN?**Senator JOYCE**—No, not this one, not today. Can you just tell me exactly what subsection (5)(c) says—just the first two lines?

Senator Conroy—Are you sure?

Senator JOYCE—Yes, I am absolutely certain. I make a habit of reading these things, Minister.

Senator Conroy—Some day it will hopefully bring enlightenment.

Senator JOYCE—One day I will have to tutor you before we go on television.

Dr Grimes—What was the—

Senator JOYCE—I will read it out to you:

The Minister must not give a direction under subparagraph (3)(b)(ii) in relation to:

(a) any aspect of the Basin Plan ...

It goes on to discuss, where it refers to items 1, 2, 3 or 8 of the table in subsection 22(1), that subsection 22(1) gives a specific outcome—social and economic concerns. Basically, in plain English, it says that the minister must not give direction on the Murray-Darling Basin on items pertaining to social and economic concerns. Would you agree with what is written in the act or do you have a different view to what is written in the act?

Dr Grimes—I cannot have a different view to what is written in the act. What is written in the act is—

Senator Conroy—What is written in the act!

Dr Grimes—Yes.

Senator JOYCE—That clearly rules out the minister directing the MDBA on social and economic grounds then, doesn't it?

Dr Grimes—I do not believe that you can draw that conclusion. You have asked a question of legal interpretation of the act.

Senator JOYCE—I cannot get much more decisive than what is actually said.

Dr Grimes—You have read one part of the act in isolation.

Senator JOYCE—I will go to section 22—where it rules out the things you are talking about. It specifically says that objects and outcomes must be consistent with social and economic outcomes.

Dr Grimes—That is the contents page of the entire Basin Plan.

Senator JOYCE—In fact, I will quote it to you. One of the things that you are not allowed to talk to them about are 'the social and economic circumstances of Basin communities dependent on the Basin water resources'. There it is in black and white. I am sure the High Court would be quite clear about what that means because it is written there.

Dr Grimes—You are reading one part of the act, and what is absolutely clear is that the act requires a balanced approach, optimising social, economic and environmental considerations to bring a balanced approach.

Senator JOYCE—Can you direct me to another section of the act where it says that the minister can advise the Murray-Darling Basin Authority on something that actually disagrees with 22(1)(d)?

Dr Grimes—I will go back to my original answer. The act provides for a balanced approach, bringing together social, economic and environmental factors. As you are aware, there are a number of provisions here and the act has to be read in its entirety.

Senator JOYCE—I think the High Court would read that just as it is and say, ‘Sorry, Minister, you’re not allowed to advise them on the social and economic circumstances of Basin communities dependent on the Basin water resources.’ It does not say that you can consider it or you might think about it; it says that you must not. You cannot get much more direct than ‘must not’.

Dr Grimes—You are referring specifically to powers of direction. You are not referring to the process that needs to be undertaken in developing the Basin Plan over the series of questions you were asking Mr Freeman. We are making it absolutely clear that social and economic factors are fundamental to determining the outcomes of the Basin Plan.

Senator JOYCE—We are dancing around and around the issue, but it is quite obviously to a lesser degree. Do you have any other legal advice that has been given to you by the Australian Government Solicitor which has not been publicly tabled? Do you know of any legal advice that you currently have, Mr Freeman, that has not been publicly tabled?

Mr Freeman—Yes, I am aware of some.

Senator JOYCE—You are aware of some. Good. How much is there? Is it one or two pages? Are there chapters of it?

Mr Freeman—Given that the Basin Plan is a legislative instrument, a legal instrument, there has been substantial legal advice requested. My estimate would be that that legal advice would run to the order of several hundred pages.

Senator JOYCE—Several hundred pages of legal advice that we do not have. Do you think that if we got that legal advice we could probably make it—

Senator Conroy—I think your question is—

Senator JOYCE—Okay. Was Mr Taylor aware of that legal advice?

Mr Freeman—Yes.

Senator JOYCE—Mr Taylor was aware of that legal advice. Did Mr Taylor resign after receiving that legal advice?

Mr Freeman—Legal advice has been acquired over a substantial period, more than a year, so it is not as though several hundred pages arrived at once. I do not believe that the authority has requested any additional legal advice since Mr Taylor’s resignation. All legal advice was on the table prior to Mr Taylor’s resignation.

Senator JOYCE—I agree with you on that one, Mr Freeman. I believe that you have not requested any legal advice since Mr Taylor resigned. I want to know what Mr Taylor requested—and which we have not actually seen—and by reason he has resigned. Did Mr Taylor request legal advice prior to his resignation which the public has not seen?

Mr Freeman—All legal advice requested prior to Mr Taylor's resignation has not been disclosed to the public.

Senator BIRMINGHAM—With the exception of what the minister—

Mr Freeman—The authority has not released any of its legal advice.

Senator JOYCE—As Senator Birmingham has just stated, we have a selective compendium of advice that has been released to the parliament but not the full advice.

Mr Freeman—I cannot comment on legal advice that the minister has released. The authority has chosen not to release any of its legal advice.

Senator JOYCE—Is the minister aware of all the legal advice?

Mr Freeman—The legal advice has been provided to the minister's department.

Senator JOYCE—Is Mr Knowles aware of all the legal advice?

Mr Freeman—The chair has been provided with all that previous legal advice.

Senator JOYCE—Did Mr Knowles have this advice when he made his statement that there were no problems with the act and that you could deliver a triple bottom line?

Mr Freeman—I am not sure when Mr Knowles made that statement, but the chair received that advice on his commencement.

Senator JOYCE—How did the authority seek confirmation? Did it ask for further advice from the Australian Government Solicitor? That is how it did it, didn't it?

Mr Freeman—As I have said, the authority has requested a lot of legal advice. On receipt of the minister's advice, the authority then requested legal advice to ascertain whether that advice that the minister had received was consistent with all previous advice to the authority. That legal advice confirmed that the minister's legal advice was entirely consistent with all previous advice provided to the authority.

Senator JOYCE—Do we expect a further statement? Are we going to get any clarification statement from Mr Knowles, the minister or you about what is in that further legal advice that none of us have seen?

Senator Conroy—We released a summary of it back in October, I understand.

Senator JOYCE—You have released some of it, I know. You have released some of the story, Minister, but you have been very selective. You have not released all of the story. You have been very cunning and shrewd.

CHAIR—Is that a question? Are you asking the senator to confirm—

Senator JOYCE—No, we know exactly where we are here. What we have clearly is a compendium of legal advice that has been selectively withheld while another selective compendium has been given forth. This advice was requested by Mr Taylor. He got the legal

advice. He has had an argument and he has resigned because what the act was telling him to do was something entirely different from what the minister was telling him to do—wasn't it, Mr Freeman?

Mr Freeman—That is not my understanding, but I have not been privy to Mr Taylor's reasons for resignation.

Senator JOYCE—He has never discussed with you the reason he resigned?

Mr Freeman—He discussed with me that he proposed to tender his resignation.

Senator JOYCE—And that was it?

Mr Freeman—That is correct.

Senator JOYCE—That was all he said?

Mr Freeman—He published a letter to the authority members outlining that he proposed to tender his resignation.

Senator JOYCE—I do not want to know what he said in private—

Senator Conroy—You're still in favour of buybacks, aren't you, Senator Birmingham?

Senator BIRMINGHAM—We will be debating—

Senator JOYCE—but he just walked in to your office and said, 'I'm thinking about resigning tomorrow,' and that was it.

Mr Freeman—It was a little broader than that, but we certainly did not talk about legal advice.

Senator Conroy—You are in favour of—

Senator JOYCE—What Senator Conroy is doing now is talking over the top of you because we have got to a very sensitive area which he wishes to shut down. For how long did the conversation with Mr Taylor go? Did you talk for two minutes, five minutes, 10 minutes or half a day?

Mr Freeman—I believe it was probably in the order of 10 minutes.

Senator JOYCE—And in 10 minutes he did not give any reason why he was resigning? He did not talk about any dilemma or paradox between what was being asked of him by the act—which is asked by the parliament and which is the law of the land—and what was being asked by the minister?

Senator Conroy—I am not sure that you can ask Mr Freeman to give a detailed account of a private conversation. He has confirmed that a conversation took place.

Senator JOYCE—I would not have to if we had all the legal advice tabled, because it would be as clear as the noses on our faces as to why he resigned.

Senator Conroy—That is an entirely different issue. You have probably gone as far as you can in pressing Mr Freeman to reveal the contents of a private conversation.

Senator JOYCE—Minister, are you prepared to table the rest of the legal advice?

Senator Conroy—We tabled a summary of the legal advice, I understand, in October last year.

Senator JOYCE—Then you have nothing to be concerned about. You are prepared to table the rest of it, are you?

Senator Conroy—We have tabled all the information that we believe is necessary.

Senator JOYCE—All the information that you believe is necessary. How did you come to that decision of what you believe is necessary and what you believe is not?

Senator Conroy—I will take that on notice.

Senator JOYCE—You will get back to me after determining what you believe is necessary and what you believe is not.

Senator Conroy—As you would know, I am not the minister who made the decision, but I will seek some further information from Minister Burke.

Senator JOYCE—Does the legal advice that has not been tabled confirm in its spirit and its context the legal advice that has been tabled?

Senator Conroy—I am not sure that you can ask Mr Freeman to comment on a document that is not in the public domain.

Senator JOYCE—That is because you have determined that it should not be in the public domain.

Senator Conroy—I think Mr Freeman indicated that the—

Senator JOYCE—Let the sun shine in, Senator Conroy.

Senator Conroy—agency had not released any of its legal advice—

Senator BIRMINGHAM—Let us just go quickly to who determined what there. The agency has received from me and other stakeholders various FOI requests for legal advice. Has the agency sought advice from the government or the minister about the release of that legal advice?

Mr Freeman—I would have to defer to the FOI decision maker in regard to the FOI request. The FOI decision maker, I understand, outlined the reasons for his decision in the letter. As you would be well aware, the FOI application could be appealed, in which case I could potentially be the decision maker. I have not exercised my mind in regard to revisiting any FOI application in this regard.

Senator BIRMINGHAM—Did Mr Taylor seek to release any legal advice?

Mr Freeman—The FOI request is an administrative request and, therefore, is dealt with by me as chief executive.

Senator BIRMINGHAM—Regardless of the FOI request, did Mr Taylor seek to release any legal advice that he had received?

Mr Freeman—The authority collectively determined that it did not want to release its legal advice. Mr Taylor was part of that decision making.

Senator BIRMINGHAM—So that was a decision of the authority?

Mr Freeman—That is correct.

Senator BIRMINGHAM—Did the authority seek the opinion of either the AGS or the minister in making that decision?

Mr Freeman—It certainly did not seek the advice of the minister. I would have to take on notice whether we saw the AGS. We did not do that in a formal way. However, there is an AGS outposted office in the authority office. I would have to find out whether there were informal discussions. But certainly we did not seek any advice from the minister in that regard.

Senator BIRMINGHAM—So there was no direction, either formal or informal, from the minister or the department not to release legal advice?

Mr Freeman—There was no direction.

Senator BIRMINGHAM—It was a decision entirely of the authority?

Mr Freeman—It was a decision entirely of the authority members.

Senator JOYCE—Did the minister request that the Murray-Darling Basin Authority not release the advice that it sought from the Australian Government Solicitor after 25 October?

Senator Conroy—We have released it in the Senate. I am happy to read from the statement in the Senate: ‘The release of advice that explores legal matters in detail would go against long-established convention and practice. There are important public interest grounds long recognised by successive governments for having such material remain confidential.’ That was on the public record. As to whether the minister made a request, I am happy to take that on notice and ask Minister Burke.

Senator JOYCE—No doubt it will come back with your discussions about what you think is relevant for us to know and what is not relevant for us to know. Mr Grimes, can you tell me what ‘giving effect to international agreements’ means?

Dr Grimes—It is giving effect to the international agreements, delivering on the objectives of those agreements.

Senator JOYCE—It is in the objectives of the act, isn’t it?

Dr Grimes—I believe it is in the objectives of the act.

Senator JOYCE—So is ‘giving effect’ a term that determines precedence?

Dr Grimes—I do not think I am qualified to indicate giving precedence in that sense. If you are referring to the implementation of or giving effect to international agreements, one of the things that is important to recognise—I think this was drawn out or at least touched on in part by the advice in October—is that international agreements themselves have a degree where judgments can be exercised in how to give effect to those agreements.

Senator JOYCE—Let us turn it around, Mr Grimes. Could I come up with a decision that took into account social and economic circumstances in such a way that it did not give effect to international agreements and be within the scope of this act?

Dr Grimes—I think in giving effect to the international agreements you are bound to take into consideration social and economic considerations. That is a fundamental requirement—in giving effect to those, you have to take into account social and economic considerations.

Senator JOYCE—What does ‘take into account’ mean?

Dr Grimes—It is to take into account.

Senator JOYCE—What does that mean?

Dr Grimes—To take full consideration of what the implications are going to be for local communities, for economies, to ensure that those matters are fully appreciated.

Senator JOYCE—In such a way that it overrides international agreements?

Dr Grimes—In such a way that would allow the effects of the objectives of those international agreements to be given effect.

Senator JOYCE—Why can’t we just be upfront? That means that the environment has precedence. It hangs off an external affairs power, for goodness sake. We all know that; we just need you to say it.

Dr Grimes—I am being very upfront in saying that the social and economic implications are fundamental and must be taken into account in giving effect to the international agreements.

Senator JOYCE—You would be aware of paragraph 23 of the Australian Government Solicitor’s advice where it is stated that:

Neither the Convention on Biological Diversity nor the Ramsar Convention require that the Parties disregard economic and social considerations in giving effect to the environmental obligations. Both Conventions establish a framework in which environmental objectives have primacy but the implementation of environmental objectives allows consideration of social and economic factors. In short it would be an over-simplification to regard implementation of the agreements as being concerned with ‘purely’ environmental objectives as opposed to social and economic considerations.

Dr Grimes—So in giving effect to those, one must indeed take account of social and economic considerations and fully factor those in.

Senator JOYCE—I am finished. This going around and around in circles is hopeless.

Senator BIRMINGHAM—Can I just return quickly to the legal advice. Did the authority receive any advice or direction from the AGS or the Attorney-General’s Department about the release of legal advice?

Mr Freeman—Yes, it did.

Senator BIRMINGHAM—What was that direction?

Mr Freeman—It was not a direction. I believe that the advice—and I am paraphrasing—was to the effect that, before the authority released any legal advice, it should discuss it fully with the Attorney-General’s Department.

Senator BIRMINGHAM—In relation to FOI requests or otherwise for the release of legal advice, has the authority discussed it fully with the Attorney-General’s Department?

Mr Freeman—As I indicated before, I have not been the FOI decision maker. I believe that they were two separate issues. The FOI request has been assessed under the Freedom of Information Act. I am not aware of requests for legal advice. The other issue, as to whether the authority releases its legal advice, is outside that act and that framework.

Senator BIRMINGHAM—But there was also an order of the Senate last week for the release of legal advice, which was rejected.

Senator Conroy—Duly noted.

Senator BIRMINGHAM—Thank you, Minister; your contempt of the Senate is duly noted. Did the authority discuss fully with the Attorney-General that request to table the legal advice in the Senate before it was rejected?

Mr Freeman—No.

Senator BIRMINGHAM—By the looks on your faces, it does not look like the government even bothered troubling the authority with the request for that legal advice by the Senate.

Senator Conroy—I am not even sure that that was a question. It was more of a comment, Senator Birmingham.

Senator BIRMINGHAM—Perhaps it was. Was the authority asked to furnish the legal advice for tabling in the Senate, or did the government not even bother passing that request on to the authority?

Senator Conroy—The government decides what is tabled in the Senate.

Mr Freeman—I guess that there are many avenues for seeking the legal advice. This is another one of those. The extent to which we have been involved has been handled by the Executive Director of Corporate Services, Frank Nicholas. Can I refer that question to him?

Senator BIRMINGHAM—Sure.

Mr Nicholas—We have provided a list of all of our advice to the department in relation to that matter.

Senator BIRMINGHAM—You have provided a list of all your advice—

Mr Nicholas—Yes.

Senator BIRMINGHAM—Not the actual advice.

Mr Nicholas—We provided a list of all of the advice. We share the advice with the department in all regards. The department is the owner of the Water Act.

Senator BIRMINGHAM—So the department has all of your legal advice, as well as the authority.

Mr Nicholas—I would have to confirm that, but we have provided a list.

Dr Grimes—From the department's point of view, as far as I am aware, we have a copy of all legal advices or all relevant legal advices.

Senator BIRMINGHAM—I have a list of the legal advice that apparently exists. It is a list of documents that you have told me that you will not give me. Will the authority table

those documents? They include the legal advice: the advice from the AGS of 26 November 2010; the summary advice of 30 November 2010; the advice of 15 June 2010 et cetera. Will you table those for this committee?

Mr Freeman—I am sorry; will—

Senator BIRMINGHAM—Will you table those documents for this committee?

Mr Freeman—The authority will not be tabling that information. As we understand it, the legal advice is subject to legal professional privilege and disclosure may prejudice the Commonwealth's legal position. As a result, any discussion on the content of the legal advice or its production here might be the subject of a public interest immunity claim by the minister and needs to be referred to the minister.

Senator BIRMINGHAM—The Clerk of the Senate has made it clear that legal professional privilege is not being accepted as a public interest reason not to disclose advice or documentation. So on what grounds of public interest are the MDBA and the government refusing to provide this advice?

Dr Grimes—I think that this is a question that we will take on notice and have it referred to the minister.

Senator BIRMINGHAM—I ask that you to refer to the advice of the Clerk of the Senate in this regard as you take it on notice and ensure that a proper argument for what the public interest ground for not releasing this advice actually is so that it can be properly considered. In relation to the advice that Minister Burke tabled, is it the case that, by publishing that advice, the legal professional privilege on that has been waived?

Mr Freeman—The authority has not sought any comment in that regard about the minister's advice. I guess we are concerned about our legal advice. I cannot comment on the status of the minister's legal advice.

Senator BIRMINGHAM—Has the minister's legal advice been provided to the authority as well? I see that in the least the authority received advice dated 26 October, which is the day after Minister Burke released his advice.

Mr Freeman—We have received the legal advice as tabled by the minister.

Senator BIRMINGHAM—You have received it, but you do not have an opinion as to whether the legal professional privilege on that advice has been waived by its publication?

Mr Freeman—No. That is an issue for the minister.

Senator BIRMINGHAM—And the department?

Dr Grimes—It is not a matter that I have a view on, Senator.

Senator Conroy—We are happy to take it on notice and get back to you.

Senator BIRMINGHAM—Thank you. That is all I have on the act, unless anybody else wants to go there. I have one other quick question before I am done with the authority. Mr Freeman, were you at the 8 December ministerial council meeting?

Mr Freeman—Yes, I was.

Senator BIRMINGHAM—Were you present for the entire meeting?

Mr Freeman—For the entire formal meeting? Yes, I was.

Senator BIRMINGHAM—Was the issue of allocations in South Australia and the capping at 67 per cent of allocations for the current year raised at that meeting?

Mr Freeman—Not that I can recall, no. I could check with some of the other officers who may have been present.

Senator BIRMINGHAM—If there are others with recollection—

Mr Freeman—No, not to our recollection.

Senator BIRMINGHAM—Has it been formally raised with the authority at all?

Mr Freeman—No, it has not.

Senator BIRMINGHAM—I will ask similar questions of the department when their water officials are all present.

Senator JOYCE—I have one question in closing. Are you prepared to go below 3,000 gigs?

Mr Freeman—The authority has reached no conclusions. As I indicated the last time I appeared before this committee, there was the ability to go below 3,000 at that stage if new science, new knowledge or new information came forward or if governments were prepared to invest in infrastructure. Both of those areas have been certainly highlighted as part of the guide consultation process. It is fair to say that we now have new information on the table that would influence that number.

Senator JOYCE—That is completely against what you said in some of those meetings, Mr Freeman.

Mr Freeman—I do not believe that that is correct.

Senator JOYCE—Mr Freeman, what power does the minister have to change the outcome as would be outlined in the draft? Is it just a disallowance power or does he have any other powers to actually change the outcome?

Mr Freeman—As you identified before, within certain parameters, the minister can request that the proposed Basin plan be changed.

Senator JOYCE—But can he ask for it on social and economic grounds?

Mr Freeman—I guess the challenge here is that social and economic grounds on their own never really emerge. We are to consider these three things: social, economic and environmental.

Senator JOYCE—So you cannot ask on social and economic grounds alone.

Mr Freeman—Any variation would have to be on the basis of social, economic and environmental impacts—on those grounds; that is correct.

Senator JOYCE—Can he ask you to change it on the basis of lack of factual information?

Mr Freeman—No. The authority is required to base its decisions on best available science.

Senator JOYCE—So can a minister base a request to change the plan because of a paucity of information or a change of information?

Senator Conroy—I think you are now asking questions that are basically speculation.

Senator JOYCE—The only real power that the minister has is one of disallowance in the end, really, isn't it? That is the only way. If you and him or her have a discussion, at the end of the day the only way they can really deal with it is to kick the whole act out via a disallowance, because the act is structured in such a way that that is the way it works.

Mr Freeman—No. The minister has quite a defined role to vary the proposed Basin plan. That is not disallowance; it is simply requiring a change.

Senator JOYCE—So he can insist on a certain change in a certain area.

Mr Freeman—That is correct. The authority's response to that is very public. However, there are—

Senator JOYCE—Do you have to put the change that he insists on in place in the act? Do you have to change the draft to reflect the minister's request exactly; verbatim?

Mr Freeman—Ultimately, the authority is directed. However, we publish our response to that direction.

Senator JOYCE—So you do not have to change it verbatim as directed by the minister, do you? Just be straight.

Mr Freeman—I guess there is the issue of verbatim. The authority ultimately would have to adopt the minister's direction if we got to that position. So that is correct. Within the parameters of the act, yes, we could be directed to adopt something verbatim.

Senator JOYCE—On social and economic grounds.

Mr Freeman—As I have indicated, social and economic things are never singled out. As everyone has heard me say, this act is not singular. It requires social, economic and environmental things to be considered concurrently.

Senator JOYCE—Thanks.

Senator XENOPHON—Mr Freeman, given the recent flood events in south-eastern Queensland and within the Basin in New South Wales and in Victoria, what additional research modelling will the MDBA be commissioning so that that is taken into account as part of any Basin plan? That is the first question and there is supplementary question to that.

Mr Freeman—I will refer that specifically to Dr MacLeod. In preparing the proposed Basin plan—and the previous exposure of the guide—the authority is actually considering 114 years of records. That includes some very big floods and very big droughts. That goes through to 2009. As I have indicated previously to this committee, that is our strongest dataset. The hydrological dataset of the Murray-Darling Basin is the basis for the preparation of the guide and it will be the basis for the preparation of the proposed Basin plan.

The recent year is certainly within the framework of that. In the Murray system, the current water year would appear as if it might be the 15th wettest, so it is actually embraced by that 114 years of records. In the Darling system and the Murray system collectively, it is probably even slightly wetter than that, but it is certainly within the envelope of wet years. That is not to say that recent months, January and February, are not traditionally relatively dry months compared to the winter and spring months. We are now experiencing the wettest February

ever in the history of the Murray-Darling Basin and it will be quite significantly wetter than any preceding record.

Senator XENOPHON—Will that affect the plan?

Mr Freeman—No. It is relatively small because these are such dry months. If you set a new record in September, they are enormous numbers. If you set a new record in February, they are relatively small numbers. What I am saying is that the current water year falls within the 114 years of climate that we have modelled. To the extent that that could be incorporated into a proposed Basin plan in time, I would refer back to—

Senator XENOPHON—Perhaps I will ask my supplementary as it might assist Dr MacLeod. Is there a sense that, because of this exceptional rainfall in recent months, and even this month, that buys some more time in terms of the consultation process for the plan? Has it has bought some more time for the Basin Authority to perhaps step back, if only on a short-term basis, to rethink or to remodel the process of consultation and the implementation? I am not suggesting a delay as such, but has it bought a bit of time? Is the sense of urgency slightly different than what it was, say, 12 to 18 months ago?

Mr Freeman—I guess the fundamentals on which the Water Act was based, which was that we have an overallocated system here which is causing environmental harm, are still there. As CSIRO through the sustainable yields project identified, that is actually amplified when you go into drier years. We allocate in percentage terms more and more water with our current water resource plans as you move into a drier sequence.

Regarding the current water resource plan, there is probably not a significant impact on the environment during these very wet years, so the environmental degradation to some extent is arrested during these very wet years. I think we have a fair legacy. Notwithstanding that we are getting these exceptional rains, there is still not exceptional runoff. It is significant runoff and it is causing flooding in various places in the Basin, but the correlation between rainfall and runoff has still not fully recovered. That is because we have a very dry landscape and a lot of this water is going into that landscape. I am sorry; I have just lost my train of thought.

Senator XENOPHON—Has this bought a little bit of time to step back and rethink the process and the initial consultation?

Mr Freeman—There are probably two answers to that. The fundamental problem is still there. To the extent that the fundamental problem is causing immediate environmental degradation, that has been arrested by recent rain. So there are two answers

Senator XENOPHON—For how long? Let us say that we just have average years of rainfall for the next couple of years.

Mr Freeman—I could not speculate. I could refer that. The best answer you would get from the authority officers present would be from Ms Swirepik, the Executive Director of Natural Resource Management.

Senator XENOPHON—Perhaps on notice that would be useful.

Mr Freeman—Yes, I could take that on notice.

Senator XENOPHON—I know that in the community consultation—and I have already raised the issue of concerns about overcrowded halls, PAs breaking down and all that sort of thing—one of the issues that was raised in the Riverland in South Australia was the issue of early adopters. How do you take into account those who have genuinely adopted water saving measures before others in the Basin and, in many cases, did so largely with their own money and did not have the benefit of this infrastructure fund? I think you may have seen media reports of Brett Proud and his family. I think over a number of years they spent close to \$1 million on their irrigation property installing the latest and the best water saving measures. To what extent is the authority taking into account those early adopters, not just in South Australia but in other parts of the Basin, where they have actually undertaken water saving measures without the benefit, in almost all cases, of the infrastructure fund and the water plan?

Mr Freeman—You are correct: the issue of early adopters or efficient operators has been raised in every one of our regional meetings because in every community there are those that lead, and they have seen that they could be potentially disadvantaged by government programs because they have done this in their own way. So it is not just a geographic issue—

Senator XENOPHON—Sure.

Mr Freeman—within communities. The authority has not made any decisions in regard to feedback but it has determined that it will take into account this issue of efficiency; that is the way most people express that in their submissions. It will take that issue into account as it develops the proposed Basin plan. I do not know what that means but certainly we are well aware of the issue that was raised in all of the community meetings about those who have moved early to become highly efficient operators and the authority has said that it is one of the issues that it will take into account in setting the subsequent proposed sustainable—

Senator XENOPHON—I have only got a couple of minutes on this issue. It is very important to South Australia. You will take it into account. But one of the arguments in the river land is that they have already reached quite significant levels of efficiency. For instance, the Central Irrigation Trust there is at about 97 per cent efficiency in terms of their water delivery systems. They have covered pipes for their delivery system. There is not much more that they can do. One of the issues is that they could not really access one of the funds for infrastructure because they did not fulfil the criteria by virtue of their existing efficiencies. When you are talking about cutting water usage or allocations in a particular area, you cannot squeeze blood or water out of a stone. So how do you put sufficient weight on that if there is objective evidence that 30 years ago they had a certain level of efficiency and they have already done what some irrigation areas are only just doing now?

Mr Freeman—As I said, the authority has not made any decision. There have been many suggestions as to how you might handle that. One of those that has been promoted by a community in South Australia is that, to the extent that there are water efficiency savings, rather than those being dedicated to a particular region, they should be taken off the numbers globally so that they are not allocated to a specific SDL. That is a proposal that—

Senator XENOPHON—How would that work?

Mr Freeman—The guide, for instance, allocated proposed reductions to each of the SDL areas. What that submission is saying is that, to the extent that you generate water through efficiency—given that some individuals and some regions have greater access to those efficiency initiatives—that number should be taken off all SDLs rather than dedicated to the one where it happens to be identified. Does that make sense?

Senator XENOPHON—Sort of. But that means no real weight will be given to an area that has shown an ability to be an early adopter.

Mr Freeman—It means that any reductions from those who moved later would not be allocated specifically to that particular region. They would be spread right across the connected system. They are the sorts of suggestions that have come forward as to how there might be a more equitable approach if you cannot access this efficiency money. The efficiency money may in fact drive a more basin-wide response rather than a specific geographic response. So there are many suggestions in that regard and the authority needs to consider those fully in setting the new proposed SDLs.

Senator XENOPHON—I think you will get many more submissions on that. We will leave it there.

Senator HEFFERNAN—Thank you very much. Obviously I will be inviting you guys along to the Senate inquiry that I will be chairing to explore the more practical side rather than the war of words over the lawyers' side of it. There are known inefficiencies in the Murray-Darling Basin—they are well identified; 3,000 to 4,000 gigs from point of extraction to delivery. There have been entitlement miscalculations. There have been mistakes by governments of all persuasions in trading sleepers and supplementary water allocations, and even now making authorisations a tradable instrument. Then there is the science that says that by 2050 somewhere between 3,500 and 11,000 gigs are going to disappear with a two degrees increase in temperature and 38 per cent of the runoff is going to be coming from two per cent of the landscape. Given all of that in the background and given the fact that you guys have done the SDLs based on a combination of the history and the science of the future, where do you think the balance lies in your calculation of the SDLs? Does it lie in the history or the science of the future? If you do not know, just say that you do not know.

Mr Freeman—As with most answers, it is both. We are basing it on 114 years of records, so we are looking backwards. Certainly, recent years have fallen within that. As I indicated, this year is actually within that band of very wet years to very dry years. In addition to that, the authority has extrapolated forward in regard to climate change—

Senator HEFFERNAN—But what is the balance? Is it fifty-fifty? There must have been a calculation.

Mr Freeman—No. It is an issue of looking backwards and then the authority has chosen a number of three per cent for a 10-year period for climate change.

Senator HEFFERNAN—So it is a best guess?

Mr Freeman—It is CSIRO's best advice. I think it is fair to say—you will see from the submissions that people are saying this—that dealing with climate change across the Basin as a single number does not make a lot of sense.

Senator HEFFERNAN—CSIRO took the direction of government not to include building dams and storing water in the calculating of the water resources to the north. So we will not talk about CSIRO's ability. If we had used an entitlement system—we went from area licences and, with great amusement, I see where the government has acquired, instead of cancelling, the area licences on Toorale. They should have been cancelled. Anyway, I will not get into that—

Senator Conroy—You were asking a question?

Senator HEFFERNAN—We went then to volumetric and then to entitlement. Consider if the entitlement system had had more science put into it so it actually calculated the water available for farm use against the environment and all of the other important issues, such as the fish not having to grow legs. Then, if we had included in that calculation the declining water that becomes available for use, depending on how you trade—we have got this wild trading scheme where there is no plan and we are trading too much water up the river—then, as the available water falls, the proportion of water that is available for work as opposed to the freight, carriage and environment increases, you could have had an entitlement system that did the job instead of having all of this argument, by simply saying, 'We will re-jig the entitlement based on the science of the less water that is available et cetera.' Do you know what I am talking about?

Mr Freeman—Yes, I do.

Senator HEFFERNAN—We are going to go into great detail on that in my committee. Would you like to respond? We could have done it that way.

Mr Freeman—With the benefit of hindsight, we could have. I think it is fair to say—

Senator HEFFERNAN—That is all you need to say. Thanks.

CHAIR—Do you want to expand on that question?

Mr Freeman—I think the issue is that, as the senator outlined, historically we have had area based licences. They allowed you to irrigate a certain area for a certain crop. That did not encourage efficiencies and a whole lot of other issues, because it was area based. That then moved to a more volumetric arrangement. That encouraged people to actually become efficient because you could irrigate a broader area. That has then been brought into an entitlements regime. What the senator is saying is that—please excuse me, Senator, if I get it wrong—each of those is basically built on the previous regime. There were probably opportunities, as we move between the three different ways of expressing water rights, to more fundamentally review than simply to put into a different frame the decision of the past.

Senator HEFFERNAN—We could actually solve it.

CHAIR—We will move to program 4.1, water reform.

Senator BIRMINGHAM—Before we do that, the authority is getting some extra money that has been appropriated to it, \$59 million over three years, to assist the MDBA in undertaking Basin planning activities. What are those activities?

Mr Freeman—I will refer the decision initially to the executive director, Corporate Services, because it is not all new money. I need to explain that, and then we can talk about the activities.

Mr Nicholas—There are three components to the new funding. There is funding for additional Basin plan activities, there is the Commonwealth contribution to some works at Hume Dam and there is also additional interest equivalency money, which is funds that have been earned on the balance of money we have in a special account.

Senator BIRMINGHAM—Are any of these activities ones that will save water through infrastructure works?

Mr Nicholas—No. The funding for the Basin plan is all funding for administrative activities, for the agency to be able to undertake its Basin plan functions effectively.

Senator BIRMINGHAM—That is probably all we need to know from the authority. We can ask the department about why the money came from where it came from.

Senator JOYCE—Sixty million dollars, to send it to a bureaucracy.

CHAIR—Thank you, Mr Freeman.

[11.55 am]

Department of Sustainability, Environment, Water, Population and Community

CHAIR—I now call on officers from the department in relation to program 4.1, water reform.

Senator SIEWERT—I have some questions that I think might belong here rather than with the commission, so I will try them out. I am interested in the future role of the National Water Commission. I understand that the commission's term is up fairly shortly; is that correct?

Mr Slatyer—Yes, under the National Water Commission Act that act terminates on 30 June 2012.

Senator SIEWERT—That is what I thought. I wanted to clarify that. Could you tell me what is the likely future of the commission under that act and what the department is thinking about in terms of where to from here?

Mr Slatyer—I can tell you about the formal requirements, which are that under the National Water Commission Act, and also under the national water initiative, which is the policy agreement between governments, there is required to be a review of the National Water Commission arrangements. That review will inform any future decision that might be taken about the future arrangements.

Senator SIEWERT—June 2012 is not that far away. What is the process in terms of undertaking that review and the time line until June 2012?

Mr Slatyer—The first step in that process is a review of the National Water Initiative itself, which the National Water Commission is currently undertaking. The final review of the arrangements is to be informed by the outcome of that review. So these things will follow in, I

expect, quite rapid succession, for the reasons you were pointing out in terms of the time frame for making final decisions about all of this.

Senator SIEWERT—So the review of the initiatives is being undertaken by the commission?

Mr Slatyer—Yes.

Senator SIEWERT—When is that due?

Mr Slatyer—I think you will have to ask the commission about their schedule. My understanding is that they are aiming to have that completed by the middle of this year, to inform COAG decisions about the future of the National Water Initiative.

Senator SIEWERT—What happens from there? They are finishing their review. What happens from there in terms of process?

Mr Slatyer—Then, the review of the National Water Commission arrangements—it will be informed by the outcome of the National Water Initiative review—will then be completed and governments—and the initial establishment of the commission involved all the COAG governments—will then be in a position to make the decision they want about the future arrangements.

Senator SIEWERT—I appreciate that it is a policy issue. I am not going to ask about the policy; I know that I cannot. But I do want to know about the time line and what consideration is being given to the review of the commission. Has thought been given to what that would look like, who is going to do it and whether there will be an independent review?

Mr Slatyer—We are giving initial consideration to those issues and that is an issue under consideration within the government.

Senator SIEWERT—Within the federal government?

Mr Slatyer—Within the department at this stage.

Senator SIEWERT—What is the time line? Presumably this will then need to go to states and territories for their agreement on the review process, or will you undertake that review separately and then report back to the states and territories?

Mr Slatyer—The manner in which the review is conducted is yet to be settled.

Senator SIEWERT—Do you have a time line for when that will be settled? I am conscious of fact that there are 12 months here. Once the initiative is reviewed, there are 12 months.

Mr Slatyer—We do not have a predetermined step-by-step time line mapped out at this stage. We are working with the commission around the review of the National Water Initiative. As we can see clearly the progression steps for that process, we will be in a better position to map out precisely the mechanism for the NWC review.

Senator SIEWERT—Do you mean the process of the review of the initiative?

Mr Slatyer—Yes.

Senator SIEWERT—All right; I will ask in May.

Senator BIRMINGHAM—Can I start with the last question that I asked of the MDBA. It relates to the reallocation of funds from the Sustainable Rural Water Use and Infrastructure Program. Why is that program, which was funded to provide for infrastructure spending, being raided to the tune of \$59 million to provide administrative funding for the MDBA?

Dr Grimes—I think the broad answer—and I might ask Mr Slatyer or Ms Harwood to provide some extra information—is that what is called the SRWUIP initiative has been used to fund a range of activities, including similar activities to this, but it is also used for important funding for the ACCC, for example, and other activities.

Mr Slatyer—It is used to fund a range of policy initiatives. Just under my wing, for example, funds from the Sustainable Rural Water Use and Infrastructure Program support our compliance and enforcement initiative, the COAG compliance and enforcement initiative, and the National Water Market System project. These are both supported from that program. The framework of that program allows scope to support initiatives of that nature. The overwhelming majority of funding from that very large program is directed at the infrastructure challenge.

Senator BIRMINGHAM—What is the total funding committed for the SRWUIP?

Mr Slatyer—I will have to ask Ms Harwood to answer questions about the SRWUIP as a whole.

Ms Harwood—Of the \$5.6 billion of administered funds available for projects through the SRWUIP, \$5.1 billion, approximately, has been committed either for announced programs or for commitments through intergovernmental agreements et cetera.

Senator BIRMINGHAM—This is \$5.6 billion that we all talk about as being the infrastructure dollars for water saving infrastructure projects. Mr Slatyer has just told us that not only is \$59 million of it being shifted across for administrative purposes in the MDBA but that the government has been funding other non water saving activities out of this fund, thereby diminishing the overall pool available for water saving activities. How much in total has been committed out of the fund for non-infrastructure projects that do not save a drop of water in the basin?

Ms Harwood—For a precise figure, I would have to take that on notice. The two items that Mr Slatyer referred to—the support for the development of the National Water Market System and the work on compliance and enforcement—are funded from SRWUIP but the program objectives for SRWUIP embrace activities of that sort.

Senator BIRMINGHAM—My recollection is that when SRWUIP, before it was known as SRWUIP, was that when John Howard announced the funding for infrastructure and when the \$10 billion was announced, comprising the buyback money and the funding for infrastructure—

Senator Conroy—On the back of an envelope.

Senator BIRMINGHAM—You seem quite happy as a government to have, in theory, kept to those figures, but what we are discovering is that in practice you actually have not been.

This was a fund for actual infrastructure activities from which water saving would be generated, from which half of those water savings would be transferred to the Commonwealth

Environmental Water Holder. There may be wriggle room in the written guidelines, but how much of the infrastructure fund is actually now being spent or committed to non-infrastructure spending?

Ms Harwood—As I said, we will take the precise figure on notice. The two items for compliance and enforcement represent \$60 million out of the \$5.6 billion, and the National Water Market System, from memory, is \$56 million.

Senator BIRMINGHAM—So we have somewhere around \$175 million that we know of as a starting point, that has been committed to non-infrastructure activities from the infrastructure fund. I will look forward to getting your detailed answer, Ms Harwood, on that, and hopefully at some point we can get some explanation from the government as to why it thinks that it can use the infrastructure fund as a slush fund for other purposes.

Senator JOYCE—Minister, is it your view that the act was worked out on the back of an envelope?

Senator Conroy—No. I was talking about the famous \$10 billion Howard—

Senator JOYCE—Your view—

Senator Conroy—No, I am just saying there was a lot of public commentary at the time.

Senator JOYCE—That is your view as well?

Senator Conroy—No, I was just saying there was a lot of public commentary.

Senator JOYCE—But is that your view?

Senator Conroy—I do not know enough about—

Senator JOYCE—You do not know whether it is your view although you just said it 10 minutes ago? Is it your view or not, Minister?

Senator Conroy—I am just commenting on the many newspaper articles.

Senator JOYCE—Minister, is it your view or not?

Senator Conroy—As I said, I was simply pointing to the newspaper articles. If you are embarrassed by them, Senator Joyce—

Senator JOYCE—You are a bit awkward, aren't you, fervently writing away there, trying not to answer the question? Is that your view or not?

Senator Conroy—I will take it on notice.

Senator JOYCE—He will take it on notice! What a joke! What is the cost of water entitlements that the government has agreed to purchase under the Restoring the Balance program and how much has the government agreed to purchase by 30 June—

Senator Conroy—They would be the ones Senator Birmingham agrees with?

Senator JOYCE—I have another question following up after this.

Senator Conroy—No, I just wanted to make sure that Senator Birmingham agrees with those. That is my understanding.

Ms Harwood—The total being pursued under the—

Senator JOYCE—It is 30 June 2010; what is the number?

Ms Harwood—You want 30 June 2010. I have the figures up to date so—

Senator Conroy—You agree with these, don't you, Senator Joyce?

Senator JOYCE—1.37, the Australian National Audit Office would say.

Senator Conroy—No, I was asking: did you agree?

Senator JOYCE—Agree to what?

Senator Conroy—With these ones. You asked me about this expenditure. I am asking if you agreed with it.

Senator JOYCE—The expenditure on buyback? Yes, I do, Minister. It is easy to give a straight answer, Minister; just be honest.

Ms Harwood—As at the end of June 2010, the amount settled to that date was \$742 million.

Senator JOYCE—So the Australian National—

Ms Harwood—The previous year was 371 and in the first year of the program, which was 2007-08, there was \$27 million.

Senator JOYCE—Does that confirm the ANAO's figure on page 20 of the report, which is \$1.37 billion?

Ms Harwood—I just gave you the settled figures. If you want the figures under contract, I am sure our figures would line up with ANAO's.

Senator JOYCE—I hope so. They do not. We are out by a couple of hundred million at the moment.

Ms Harwood—Yes. There is a difference between settled and contracted.

Senator JOYCE—Okay.

Ms Harwood—So water that is under contract is under a binding contract with the money committed, but the expenditure does not occur until settlement of the trade takes place.

Senator JOYCE—You would agree that we are currently ahead of what was initially envisaged with the layout of the buybacks?

Ms Harwood—The bring forward of funds has meant that the program is further ahead than it would have been under the original profile.

Senator JOYCE—By how much is it ahead?

Ms Harwood—I would have to do a comparison of the previous profile for the budget and the current commitments against the revised profiles and give that to you on notice for a precise figure of the difference.

Senator JOYCE—It is just shy of \$700 million.

Ms Harwood—I think that is a little high but I will get back to you.

Senator JOYCE—So if we are ahead then deferring something that we are ahead on really just brings us back into line with what we initially anticipated—does it not?

Ms Harwood—The government has an appropriation for the program and our water purchase program operates against that profile.

Senator JOYCE—Very good. If we followed our initial path, we could defer up to \$700 million and still be in line—could we not?

Senator Conroy—That is asking the officer to speculate.

Senator JOYCE—No, it is a fact. You have your initial capital outlays. If we were to be congruent with our initial capital outlays we would be \$700 million ahead, so we could defer \$700 million and be basically in line with what we initially anticipated.

Ms Harwood—We delivered the program against the budget profile.

Senator JOYCE—Which budget? The last one?

Ms Harwood—The appropriation as it is, in the year—

Senator JOYCE—Are you in line with your first budget estimates for the program or are you way ahead?

Ms Harwood—As I said, we run the water purchase program against the administered funds that we have available, and that is how we operate. So we have operated the program to the funding available in each financial year.

Senator JOYCE—You have confirmed that you are ahead of where you initially thought you would be.

Dr Grimes—Senator, this may be a helpful point of clarification: I think what Ms Harwood is referring to is commitments against a program. So there are appropriations and making commitments against those appropriations.

Senator JOYCE—We are still ahead.

Dr Grimes—The point you are making is that there are commitments against appropriations and then there is settlement at future dates. So it is important to recognise that distinction.

Senator JOYCE—But we brought forward figures. From our initial prospective outlays, we are ahead, by reason that the Labor government have been bringing forward amounts—have they not? That is a fair comment?

Dr Grimes—You are talking about the bringing forward of funding for water purchases this year?

Senator JOYCE—Yes, that is exactly what I am talking about.

Dr Grimes—There were funds brought into the forward estimates for this year, that is correct—in the mid-year review.

Senator JOYCE—That is correct. So what brought this about? Why have we accelerated our buybacks?

Ms Harwood—It has been a government decision to accelerate the program, so appropriations have been brought forward into the bill, which provides the money for water purchase.

Senator JOYCE—I know it is a government decision, but is there any rhyme or reason behind the government decision?

Senator Conroy—That is asking the officer to comment on policy.

Senator JOYCE—Is that a policy?

Senator Conroy—The government made a decision. It based it on its policy. Now you are asking the officer to critique it, which is an unfair thing to do.

Senator JOYCE—What has been the average price that you have been paying? Do you have an overall average price per megalitre that you are paying for water?

Ms Harwood—What we publish, both on a cumulative basis and at the end of each tender, is the average price we have paid against each different type of entitlement. Across the basin, different types of entitlement have very different prices, so there is a different price structure for different types in the different states and the different levels of reliability. It provides a clearer picture to present the average price against each type of entitlement that we have published. At the end of each tender we will show the average price for the offers that we have accepted, and overall our public information shows the average price paid against entitlements.

Senator JOYCE—In your negotiations, are you aware that your department at times is having negotiations directly with the bank as mortgagee in possession?

Ms Harwood—I am sorry; could you ask that question again?

Senator JOYCE—Sure. In your purchase of water, are there instances where you are in direct negotiation with a bank as mortgagee in possession of a property and of the licences?

Ms Harwood—The water is offered to us for sale by those who own it. The due diligence process assesses whether there are encumbrances against an entitlement and the process of proceeding to contract basically makes sure that the water is free of encumbrances or that those have been addressed.

Senator JOYCE—I know that. I am talking about when the encumbrances actually crystallise into a position of hold on that asset. Your negotiation might be on Mr and Mrs Smith's farm but you are actually negotiating with Mr and Mrs Smith's bank, and you are buying the water from the bank, not from the farmer.

Senator Conroy—I think you used the word 'crystallise'. Could you clarify what you mean by that?

Senator JOYCE—Mortgagee in possession is—you know what I am saying—

Senator Conroy—No, I just wanted to clarify it.

Senator JOYCE—Let us go back to the first question. Have you been in negotiations with the bank as mortgagee in possession of assets for the purchase of water?

Ms Harwood—In simple terms, we do not negotiate. People make offers to us at the price that they choose for their water. If we decide to pursue that offer because it meets the tender specifications, our solicitors will take that through to due diligence and basically assess if there are encumbrances against that licence and if that licence is actually owned by the person

who has offered it et cetera. All that being sorted, then the trade can proceed to contract and through to settlement.

Senator JOYCE—Have banks made any offers of water to you?

Ms Harwood—Not that I am aware of. The water offers come from those who own the water entitlement, or someone acting on their behalf. Sometimes an offer may come through a broker.

Senator JOYCE—Do any of those brokers, to the best of your knowledge, represent banks?

Ms Harwood—I do not believe so. I will just check with my program manager. The offers always come on behalf of the legal owner.

Senator JOYCE—Let us go to a certain purchase: Twynam.

Senator Conroy—Sorry?

Senator JOYCE—Twynam Kahlbetzer—the purchase of the water at Twynam. It is only \$302 million; I am not surprised that you would not know about it. What was the socioeconomic study you did of the town of Collarenebri before you purchased that water?

Ms Harwood—Under the water purchase program, the parameters which we assess are: can the water that is on offer be used to address an environmental need? Can the water against that licence be delivered to meet that need? And does the offer represent value for money? Those are the characteristics that we assess on the offers made to us.

Senator JOYCE—That is very interesting. Let us repeat those. Can it address an environmental need? Can it be delivered to you? What was the third one?

Ms Harwood—Does it represent value for money in comparison with other offers? So under a tender, when we receive—

Senator JOYCE—An environmental need, can it be delivered and value for money—you did not mention socioeconomic conditions once.

Ms Harwood—That is because it is not part of the assessment process for determining which water to purchase.

Senator JOYCE—It is not part of the assessment process?

Ms Harwood—No.

Senator JOYCE—So you do not have to take into account socioeconomic conditions at all, do you?

Ms Harwood—In operating the purchase program, no. We are operating a market based tender program for those who wish to offer their water entitlements to us for sale and assessing the water on its environmental merits.

Senator JOYCE—That is a very clear answer. You do not have to take into account socioeconomic conditions at all. So when you purchased the water from Twynam, which is predominantly the largest amount of water around Collarenebri, you did not have to take into account socioeconomic conditions at all, did you?

Ms Harwood—Not under the tender, no.

Senator JOYCE—Is there any instruction under the act to tell you to do so?

Senator Conroy—I think the officer has outlined the act very specifically.

Senator JOYCE—No, I just want to know whether there is any instruction under the act. That is a question of fact; you can answer it.

Ms Harwood—The tenders operate under program guidelines approved by the government. They are not subject to the act per se.

Senator JOYCE—They are not subject to the act per se.

Ms Harwood—The government is operating a procurement process under procurement guidelines and under FMA rules et cetera. But basically it is operating in the market to purchase an asset.

Senator JOYCE—Have you ever been directed not to purchase by reason of socioeconomic conditions?

Ms Harwood—No.

Senator JOYCE—That is interesting. The act is apparently one that has triple bottom line, everything is in equivalence. It is quite easy to see that in operation that is not the case, is it, Ms Harwood?

Ms Harwood—We are talking about two different things.

Senator JOYCE—Well, it is not for the people of Collarenebri.

Ms Harwood—As I said, the water purchase program operates on the basis of assessing the water's utility to meet high priority environmental needs, whether the water can be delivered and whether the water entitlement on offer represents—

Senator JOYCE—As we have clearly displayed for Senate estimates here today, that does not even mention the word 'socioeconomic'. What was your knowledge of the purchase of Twynam's water? Were you involved with that purchase?

Ms Harwood—Yes, I was.

Senator JOYCE—Were you involved with the negotiations?

Ms Harwood—Yes, I was.

Senator JOYCE—Who did you rely on for determining the value of that water?

Ms Harwood—We had existing marketing information. We do regular assessments of the state of the water market and the value that water entitlements of different types are trading for. From memory, we also got some additional valuations in relation to the Twynam entitlement.

Senator JOYCE—Who did those additional valuations?

Ms Harwood—I would have to take that on notice. So we did a full valuation of it. It came through the formal tender process. The offer came through the normal tender process.

Senator JOYCE—That was the cheapest water at the cheapest licence value—as we all know, differentials of licences have differential reliabilities of water. That reliability of that water was the cheapest you could get, Ms Harwood; is that what you are telling me?

Ms Harwood—The Twynam offer was assessed on its merits as a large parcel of water being offered to—

Senator JOYCE—So you paid a premium by reason that it was a large parcel?

Senator Conroy—Can the officer finish her answer before you ask her the next question?

Ms Harwood—The offer was assessed on its merits. Under the guidelines applying to the tender for very large parcels of water, the department—

Senator HEFFERNAN—\$763, by the way.

Senator Conroy—Can we just get the answer.

CHAIR—Can I just indicate that Ms Harwood is trying very hard, and doing a very diligent job, in trying to answer these questions. She has been disrupted continually by Senator Joyce. I do not want you to do it, Senator Heffernan. You are normally better than that.

Senator Conroy—No, he is not. That is not true. I will defend Senator Joyce's honour.

CHAIR—I am sorry, I do not want to mislead the Senate!

Senator Conroy—Yes, that was very close.

Ms Harwood—Under the water purchase tenders for large parcels of water, our pricing purchase policy essentially enables a small premium to be paid where a very large parcel of water can be acquired at one time. This represents the efficiencies of buying a large volume of water entitlement at a single time. The department judged that a premium could be paid for this large parcel of water entitlements and that the offer would still remain value for money. The basis for the premium was the prospect of substantial administrative savings compared with the cost of acquiring a similar portfolio of entitlements via many individual purchases over an extended time period. Also, acquiring a large parcel of entitlements in a single transaction offered the prospect of a more immediate environmental benefit compared with the alternative of purchasing the equivalent volume of entitlements over an extended period. I might leave it there.

Senator JOYCE—Ms Harwood, you are aware, or everybody else in the district was aware, that you could have gone up the river and bought the same water for a vastly cheaper price. If you are not aware, are you prepared to table your evaluation report so that we can determine whether the Australian people paid the right amount of money for it?

Ms Harwood—Well, I might—

Senator Conroy—Could you just repeat the question?

Senator JOYCE—Yes, I will. It is well known, and it has been documented in such papers as the *Australian Financial Review*, that the capacity to purchase the same value of water or the same reliability of water could have been done at a much cheaper price. It is open knowledge that other people were more than willing, once they realised the price, to have sold

you water at that price. So the conjecture is: why did you spend so much of Australian taxpayers' money when you could have paid substantially less?

Ms Harwood—As I said, the 10 per cent was the upper premium for a very large parcel of water and the trade was within that premium. So, yes, there was a small premium paid to acquire the water all at once, for the reasons that I have already outlined, compared with the market price for water. So a small premium was paid above our normal tender benchmark, recognising the fact that we were acquiring a very large parcel of water at once that could immediately go to improving the prospect for environmental watering, as well as saving us the transactional costs of doing many individual small transactions to add up to the same volume of water.

Senator JOYCE—What did the evaluation committee present you with to come to that decision? I hear the statement but what did they present you with? What factual data did they present you with?

Ms Harwood—With a meticulous comparison against market prices for the parcel as a whole assessed against the tender guidelines and the evaluation plan for the tender.

Senator JOYCE—Would you be prepared to table them?

Ms Harwood—I am uncertain as to that because I believe it to be commercial-in-confidence.

CHAIR—Ms Harwood, you can take that on notice.

Ms Harwood—I will take it on notice.

Senator HEFFERNAN—I have got all the prices here, if you want.

Senator JOYCE—Did the department undertake any work to ascertain the effect on Collarenebri at all before the purchase?

Ms Harwood—As I have said, the water purchase was assessed on the basis of the extent to which it would meet identified environmental needs, the extent to which the water against the licences could be delivered to meet those needs and the extent to which it represented value for money.

Senator JOYCE—So with the process you used at Collarenebri, there is nothing to stop you using that process anywhere, is there?

Ms Harwood—The process we apply across the tender normally is to assess—it is a market based program procuring water entitlements in the market assessed against the criteria that I have described.

Senator JOYCE—You have described it very well; in fact, you repeated the description of it, which was very good, which clearly stated that there was no reliance on any capacity to analyse socioeconomic conditions. Now I am asking you the question: with respect to the process you used for the purchase of water from Twynam and its implications on the socioeconomic consequences on districts such as Collarenebri, could you use exactly the same process in other towns and other areas?

Senator Conroy—The officers would use the processes set out in the legislation.

Senator JOYCE—That is a very good answer, Minister. They would use the processes set out in the legislation. That is what you just said, didn't you, Minister?

Dr Grimes—Senator, if—

Senator JOYCE—No, Minister, that is what you just said. You would use the processes set out in the legislation. That is what you just said, wasn't it?

Dr Grimes—Senator, if I can—

Senator JOYCE—No, I want the minister to answer what he just said, or is he going to—

Senator Conroy—Dr Grimes has some further information, Senator Joyce.

Dr Grimes—I may be of assistance here to you and the committee. I think there has to be a distinction drawn between a procurement process, which is what Ms Harwood is talking about, and the operation of the act overall. Obviously, the operation of the act overall sets the full parameters for the setting of sustainable diversion limits within the basin. What Ms Harwood is talking about is a much narrower question—the question of a procurement process and the guidelines that need to be followed under procurement. So that does not detract at all from the importance, in setting the overall framework, of the consideration of social and economic factors. Ms Harwood is going to a procurement process which needs to be undertaken in accordance with the FMA Act.

Senator JOYCE—You talk about the narrow procurement process, Dr Paul Grimes. The minister has clearly said on the record that he followed the process of the legislation. He said that. That is on the record.

Senator Conroy—I was referring to the procurement process.

Senator JOYCE—We have it on the record. What you have said is what you have said, Minister.

Senator Conroy—I was referring to the procurement process.

Senator JOYCE—Okay. The procurement process in this narrow form is so narrow that it cannot actually take into account the socioeconomic consequences of certain areas, can it?

Dr Grimes—That will operate within the overall framework that is established and overall the framework that is established for the setting of SDLs is the Water Act. Ms Harwood's evidence is going to procurement processes that were followed.

Senator JOYCE—Which does not have to take into account socioeconomic consequences because—

Dr Grimes—As I have explained, in setting the overall SDLs socioeconomic factors are fundamental in setting those. She is referring to a specific procurement.

Senator HEFFERNAN—Can we put some facts in this, Barnaby? I have got all of the prices paid. They actually paid \$1,362. In the Macquarie they paid—

Senator Conroy—Do you have a question?

Senator HEFFERNAN—I have got some questions, when Senator Joyce is finished, to deal with both the process and the price.

CHAIR—Let us deal with this in the way we should. Senator Joyce has the call.

Senator JOYCE—Ms Harwood, can you direct me to what part of the act says you cannot actually have compulsory acquisitions?

Ms Harwood—I do not have the Water Act with me. But there is a provision—Mr Slatyer may be able to help.

Mr Slatyer—We may need to come back to it.

Senator JOYCE—Section 255 is probably as close as you are going to get. Anyway, whilst they are at that, Ms Harwood, there is nothing to stop you—

Mr Slatyer—It is section 255.

Senator JOYCE—That is incredible.

CHAIR—That matches up with your computer, does it?

Senator JOYCE—It matches up with the amendment I moved when I was actually doing it. That is what it matches up with. The thing is, via section 77, part 3—you can correct me if I am wrong there—you can change the allocation amounts and still get the water, can't you, without even buying it? That is where I made a mistake.

Mr Slatyer—If that question is directed at me, I do not understand the question.

Senator JOYCE—You just turn down the tap. You leave the tap there. You say: 'There is the licence. There is the tap. I just turn the tap off or I turn it right down so that you can't get any water out of it.' You turn down the allocations. It is a backdoor way of getting the water without buying it. I was a mere backbencher at the time. I did not have the resources that I have now. It is like I am omnipotent now. I feel like one with God.

Mr Slatyer—I think the senator is making a comment rather than asking a question.

Senator JOYCE—What I am saying is, if you can get back to me on section 77 and confirm to me that if someone wanted to, they could just tell you to turn the allocation down and you would get the water without having to pay for it. I think it is 77(3). My recollection is—

Mr Slatyer—We are deep into the Water Act.

Senator JOYCE—There were 27 amendments. I cannot remember them all.

Dr Grimes—Senator, it might be helpful if you repeat the question so that we can be very specific about the question.

Senator JOYCE—Section 255 in the act said you were not allowed to have compulsory acquisitions. That was one of the 27 amendments we got up when we were negotiating this thing at the end. But there is a later clause, I think it is 77 part 3, which talks about the inferences of allocation in the act. The problem is that you can actually turn down the allocations of water so that less water is available to the farmer. Ipso facto, you have taken water off them but you have not had to purchase it.

Mr Slatyer—States, of course, control allocation policy. They will have to observe the sustainable diversion limits when they do so. The Commonwealth has undertaken, as a matter of policy, to ensure that no entitlement holder's reliability is affected by buying back the

amount of gap that is created by the new sustainable diversion limits. In addition to that, section 77 sets out the obligations of government when it comes to ensuring entitlement holders can benefit from the application of the risk assignment framework of the National Water Initiative. However, that provision would only need to be invoked if the gap were not able to be closed, and the government's policy is to close the gap. So I am not sure in practical terms where—

Senator JOYCE—Where we are coming to, Mr Slatyer, is: what confidence can the farming community have, and by reason of that the economic and social fabrics of the town that relies on water to underpin it, if at the stage that you cannot purchase the water you are looking for you cannot go into a form of compulsory acquisition?

Mr Slatyer—It would not be a form of compulsory acquisition, to the extent that the policy of the government is to bridge any gap that is created as a result of the Basin plan.

Senator JOYCE—This trick has been done before where the federal government said, 'We didn't do it.' They just let the state governments do it for them.

Senator Conroy—I assume that was a statement.

Senator JOYCE—I am saying that process could be followed then.

Dr Grimes—I think Mr Slatyer has actually set out what the government's policy is on bridging the gap.

Senator JOYCE—I will let someone else have a go.

CHAIR—Can I just indicate, before Senator Heffernan starts, that I understand the arrangement the coalition want to try to adhere to is to move off this at 12.40. Is that still your—

Senator FISHER—That was based on the projection of who wished to ask questions of the National Water Commission. We do not have questions of the National Water Commission. If you can compress that time we would be very happy to have longer time with the department.

CHAIR—I will go to 12.45. Senator Heffernan.

Senator HEFFERNAN—Thank you very much. Can I draw the committee's attention to report 27 of the Australian National Audit Office and the criticisms therein of the purchasing process involved in four purchases. Could I first go to the Toorale acquisition, which I think I calculated at \$350 a megalitre. I take it the prices, Minister, are commercial-in-confidence?

Senator Conroy—I think that was what was indicated.

Ms Harwood—I think we previously tabled, in a hearing a couple of years ago almost, the valuations that we did leading into the Toorale purchase.

Senator HEFFERNAN—The Toorale purchase—I see Tim Fischer in the background there—came as a surprise, as it were, to the federal government because the New South Wales government decided to buy a national park and then thought: 'How can we offload some of the cost? Oops, we will slip down to the federal government.' The federal government agreed to buy the water. No-one was up to pace. The first conversation was that the water actually was not separable from the land. You actually had to have the land to go with the water

because it had not been separated. Also they then acquired—I do not say it was deliberate—Ms Harwood, area licences. Do you agree with that?

Ms Harwood—Could I just go back to the provenance of the purchase, which is that the Prime Minister made an announcement in August 2008 that the Commonwealth government would, if state governments were interested in pursuing the acquisition of conservation meritorious properties—

Senator HEFFERNAN—Yes, I understand that.

Ms Harwood—in association with water where that was considered advantageous for both the state and the Commonwealth and—

Senator HEFFERNAN—If it was mutually acceptable in offsetting the cost. Senator Joyce said—

CHAIR—Senator Heffernan, let Ms Harwood finish.

Senator HEFFERNAN—These answers can take up too much time.

CHAIR—Ms Harwood, you have got the call.

Ms Harwood—Thank you. The purchase of Toorale involved both contributions from the national reserve system, so parks funding as well as funding coming through the water program—

Senator HEFFERNAN—We know that.

Ms Harwood—and we have provided information on that previously.

Senator HEFFERNAN—So the first inspection by a government of Toorale was after the purchase was agreed to by two people who went out there to see it. I knew the manager at the time and I have been there and had cattle on agistment there. You are right, Senator Joyce, if they had bought the sleepers up the river they would have been a long way in front.

CHAIR—Senator Heffernan, I am still waiting to hear the end of this answer. You have gone off on a tangent.

Senator HEFFERNAN—No, the answer is done, isn't it?

CHAIR—Ms Harwood, can you finish your answer, thanks.

Ms Harwood—The purchase of Toorale proceeded against that announcement and the mutual consent of the Commonwealth and New South Wales governments. There had been extensive biodiversity surveys on the property prior to its acquisition by the New South Wales National Parks and Wildlife Service.

Senator HEFFERNAN—Can you explain to the committee the modelling of the purchase price for that water?

Ms Harwood—There was work done by, including with the help of people in the New South Wales department of environment and conservation, the water side of that department—

Senator HEFFERNAN—No, I do not want to know who did it. I want to know the model they used. Where did they price the water to come up with \$350 a meg, including the area

licence? Why weren't the area licences surrendered rather than compensated? They were out of date.

Senator Conroy—You have answered your own question.

Senator HEFFERNAN—No, I have not.

Senator Conroy—I am not sure—

Senator HEFFERNAN—I know the answer. I just want to see whether Ms Harwood knows the answer.

Ms Harwood—The water entitlements at Toorale were valued on their merits. There was modelling done to look at what would the long-term average yield from those entitlements be. It was assessed—

Senator HEFFERNAN—At what point in the river system?

CHAIR—Senator Heffernan!

Senator HEFFERNAN—I want to get the detail. Ms Harwood, at what point in the river—

CHAIR—Senator Heffernan, Ms Harwood has the call. I am going to move on from you if you keep this up.

Senator HEFFERNAN—Sorry.

Ms Harwood—Thank you. Prior to a decision to proceed to acquire the property there was a full assessment of the water entitlements done and it was modelled as yielding around 20 gicalitres per year on a long-term yield from the acquisition of the property. As for the area-based licence, that was acquired too. The area-based licences in the Barwon-Darling, the one at Toorale and elsewhere in the Barwon-Darling, are currently, as I understand it, in the process of being transitioned to a volumetric licence. So it is a conversion of that licence type to a volume-based licence. As for other entitlement holders, that process would happen for the entitlements at Toorale.

Senator HEFFERNAN—If we could go to the purchase of Booligal station down on the Lachlan, Booligal station was acquired, again as a national park. The Commonwealth had a role to play. The Commonwealth bought it for the environmental gratitude of the ibis rookery; correct?

Ms Harwood—I might ask Mr Robinson to comment on Booligal.

Mr Robinson—I am from the water governance division.

Senator HEFFERNAN—I know where you are from.

Mr Robinson—One of the programs in the water governance division is the Water Smart Australia program which I think did provide funding, through one of its programs, for the purchase of Booligal station. It was purchased on its own merits for its own values.

Senator HEFFERNAN—Environmental values?

Mr Robinson—Yes.

Senator HEFFERNAN—But the big mistake you made—I declare an interest. I have got a place just down the river. It runs out on the Murrumbidgee.

Senator Conroy—Usually when you declare you have to leave the room.

Senator HEFFERNAN—With great respect, Minister, they actually bought the wrong place. They thought they were buying the ibis rookery. When Booligal station was split up between the two boys—the bit that had the rookery on it, now owned by the mob from Toms Lake, Crossley—they offered to sell it to you. You actually thought you were buying the rookery. Fortunately this year there has been a fair bit of water down there. There are a few that have bred on the—

CHAIR—Senator Heffernan, what is the question?

Senator HEFFERNAN—What is the method in determining all these crazy sales? You actually thought you were buying the ibis rookery at Booligal. It is on the place next door. We will move on to Twynam. On 16 February 2009 there was a meeting between Twynam and the department of—

CHAIR—Before you go to that, does anyone want to respond?

Senator Conroy—I think Mr Robinson would like to offer some information. That is a statement that I think Mr Robinson would like—

Senator HEFFERNAN—Perhaps with Senate inquiry that I chair.

Senator Conroy—Really? You chair a Senate inquiry about something you have a vested interest in?

Mr Robinson—I know this issue has been discussed before. I think in relation to the ibis colony you are referring to, both the New South Wales government officials and ourselves knew it had moved before the property was purchased, although there are reports that, with increased flows this year, as you say, the ibis are pretty much everywhere down there.

Senator HEFFERNAN—On 16 February 2009 there was a meeting between Twynam and departmental officials. Are any of those officials present?

Ms Harwood—Sorry?

Senator HEFFERNAN—In 2009, on 16 February, there was a meeting with Twynam, having been given prior permission by the minister to go to private negotiations and abandon the tender. I note the concerns raised in the Australian National Audit Office report that no letter was on file to show Twynam's original application had been rejected. Why was that?

Ms Harwood—I think that was an administrative error. In other respects, the ANAO audit traces the process of the Twynam purchase—

Senator HEFFERNAN—And recommends changes.

CHAIR—Senator Heffernan!

Ms Harwood—and recognises it as having been done through the tender and having been appropriately accepted in terms of the pricing policy applied to the offer under the tender guidelines.

Senator HEFFERNAN—Were you at the meeting?

Ms Harwood—I probably was. I would need to see where I was on 16 February.

Senator HEFFERNAN—At the meeting you correctly described the unsuitability of buying allocation water and you said to Twynam, ‘Take that away.’ That was \$8½ million. You then said, ‘We will progress the rest of your tender.’ I have all the prices.

CHAIR—Senator Heffernan, you are making assertions on behalf of the officer. If you have got a question to ask the officer—

Senator HEFFERNAN—Yes, I have got a question.

CHAIR—ask the question. Do not make assertions on behalf of the officer.

Senator HEFFERNAN—But I have to put the proposition before I ask the question to see whether the proposition is right.

CHAIR—Senator Heffernan, if you have got a question—

Senator HEFFERNAN—As for the 10 per cent over the top that you paid, was that the price already in the tender less the allocation order?

Ms Harwood—I would have to take that on notice. I would be happy to read for you the summary paragraph from the ANAO report which describes their findings on the Twynam purchase.

Senator HEFFERNAN—No, I have got it here. There is no need to.

CHAIR—I would like to hear it.

Senator Conroy—I would like to hear it.

Ms Harwood—It describes some of the things we are talking about. It says:

For the largest purchase under the program, \$303 million to Twynam, additional measures were undertaken to assess some risks associated with this purchase, and to provide assurance on the potential benefits of the purchase. The premium paid for the entitlements (10 per cent above normal benchmarks) was in line with project board guidelines, which were approved by the then Minister.

Senator JOYCE—Can I just interrupt on one section. Could you tell me when the minister did approve changing or restoring the balance project guidelines to allow a 10 per cent premium, which seems conveniently close to \$25 million of what you got, above the normal benchmarks to be paid for water acquisitions larger than 40 gegalitres? Was this before or after the Twynam purchase?

Ms Harwood—I will take that on notice. There were other large parcels of water under consideration at the time.

Senator HEFFERNAN—With the Murray they did that the same way. I am across all that.

Ms Harwood—There was a Murray irrigation parcel of water that Murray Irrigation Ltd was assembling—essentially, a bundled parcel of water—that they were seeking to offer to us.

CHAIR—Senator Heffernan, can you make this the last question.

Senator HEFFERNAN—I am running out of time. I just want to let the department know I will be calling you all. We will have hours to do this in the Senate inquiry. In regard to the misnomer of a benchmark price—and bear in mind I am in the business—to give you an idea

of the complexity of trying to kid yourself you can come to a benchmark, the water market is unregulated. It is unlicensed. It absolutely has got some good people in it. It absolutely has got some good rogues in it. There is absolutely no oversight of it. The last three sales, just for the interest of the committee, were: in the Lachlan River on 6 July 2010 there was a thousand megs bought for \$1,600 a megalitre for high-security water. Got that?

Ms Harwood—Yes.

Senator HEFFERNAN—Then on 7 July, 616 megalitres of low-security water, general security water, were bought—bear in mind there was no allocation at the time and we did not have an allocation for 3½ years—for \$675. Then a few days later, on 4 August, again general security water, 100 megs, were bought at \$1,648, more than the high-security water was worth, for low-security water. So to say you can figure a benchmark for water is pretty amazing. I have all the details. We are not supposed to have them. I figured out, from the licence areas and talking to the managers on the places, how much was paid. It was a wink-and-nod system, and this report I am holding recognises that in plain language. Anyhow, whatever the government of the day is, that was—

Senator Conroy—That was not a question. That was a bald assertion.

Senator HEFFERNAN—As a final question, if we—

Senator Conroy—Does anyone in the opposition actually have a question?

Senator HEFFERNAN—The question is: if we had built the entitlement system on the existing figures—Senator Conroy, this is important—we have now gone to calculate, based on the science of the future and a mixture of the history and the past, we need somewhere between 3,500 and 11,000 gigs of water less. But if we had calculated with a decent formula the declining water that is available to the environment, and the more that is required, as the water available declines the proportion of water that has got to go to freight and environment et cetera increases disproportionately to the water work—

Senator Conroy—Do you remotely have a question?

Senator JOYCE—Now—

Senator Conroy—Save us, Barnaby! I never thought I would utter those words.

Senator JOYCE—It's a fair question.

Senator HEFFERNAN—And the answer by the previous witnesses was yes to this. We could have actually used that model and overcome all this trouble if we had used those calculations—

Senator Conroy—That is an assertion.

Senator HEFFERNAN—in the entitlement. The previous witnesses said yes to that.

CHAIR—Does someone want to respond to that?

Senator HEFFERNAN—Could we have used the entitlement system—

Senator Conroy—I am not sure there is anything to respond to. I think Senator Joyce had a question.

Senator HEFFERNAN—by nuancing the water available, the disproportionate allocation of water as the water available declines to the environment through the present entitlement system?

CHAIR—Senator Heffernan! Senator Joyce, do you have a last question?

Senator HEFFERNAN—I would like an answer.

Senator JOYCE—When was the \$303 million purchase of Twynam Agricultural Group's water entitlement approved?

Ms Harwood—I would have to take the precise day on notice. It was around May 2009

Senator JOYCE—How long did the deliberations go over?

Ms Harwood—I would have to take that on notice too.

Senator HEFFERNAN—I have got the answers here.

Ms Harwood—From the initial offer to the conclusion or the placing of the purchase under contract, I will take that on notice.

Senator JOYCE—Ms Harwood, you were part of the process from beginning to end?

Ms Harwood—Yes.

Senator JOYCE—How many people were also part of the process with you, Ms Harwood? Who actually signed the form to say let us go ahead with this?

Ms Harwood—The main people involved were Colin Mues, the assistant secretary who runs the water recovery branch, and me. There was also some engagement from the deputy secretary at the time, Dr Horne.

Senator JOYCE—Dr Horne?

Ms Harwood—Dr Horne.

CHAIR—Senator Joyce, we were supposed to finish this at 12.

Senator BIRMINGHAM—Chair, if I can—

CHAIR—Order! We have now gone about four minutes over. Ms Harwood, thank you for your evidence. Dr Grimes, before we finish do you have a document to table from yesterday?

Dr Grimes—Chair, I understand we have a document to table that was requested by Senator Birmingham. That is now with the—

Senator BIRMINGHAM—Thank you, Dr Grimes. Very quickly, were any of the officers at the table present at the 8 December ministerial council meeting of the Murray-Darling Basin ministers?

CHAIR—Senator Birmingham, order! We have finished with this process.

Senator BIRMINGHAM—Chair, I indicated I wanted one minute. One minute is what I indicated to you before.

CHAIR—Okay, go for it.

Senator BIRMINGHAM—Were any officers at the table present at the 8 December meeting of Murray-Darling Basin ministers?

Dr Grimes—Yes.

Senator BIRMINGHAM—At that meeting did any of the representatives of South Australia raise the issue of a 67 per cent allocation for South Australian irrigators?

Dr Grimes—Mr Slatyer has indicated that we are not in a position to disclose the deliberations of the ministerial council meeting on 8 December.

Senator BIRMINGHAM—Has the department or the government received any representations from the South Australian government on this issue?

Dr Grimes—While Mr Slatyer is looking for that, Chair, there is a part of my evidence that I would like to clarify for the record, for completeness. I think Senator Birmingham was asking some questions around the SRWUIP fund and the uses that that fund would be put to. I provided a general answer. By way of illustration, I made, along with other items, a reference to the ACCC. I think Mr Slatyer corrected my evidence but, just to be absolutely clear for the record, I was mistaken in making that reference to the ACCC. I think in the subsequent evidence it was quite clear that the fact is that the programs are currently being funded out of that money. I think that was made clear at the time. Just to put that beyond doubt, I thought it would be appropriate to correct the record now.

CHAIR—Thanks, Dr Grimes. Mr Slatyer?

Mr Slatyer—I have no record of any representations from South Australia on that issue.

Senator BIRMINGHAM—Thank you, Mr Slatyer. Thank you, Chair.

CHAIR—Dr Grimes, are you formally tabling this letter?

Dr Grimes—Yes, I am formally tabling the letter, Chair.

CHAIR—Thank you. I now call officers from the National Water Commission.

[12.52 pm]

National Water Commission

CHAIR—Mr Cameron, do you want to make an opening statement?

Mr Cameron—No. I am happy to take questions.

CHAIR—The National Water Commission do a national inventory of water stress in systems. Is that correct?

Mr Cameron—The National Water Commission has a current project underway with the intention of developing an inventory of stressed water systems and aquifers, yes.

CHAIR—Do you know whether Burren Creek is a water stressed system?

Mr Cameron—That project is still underway. It has not been completed. It is looking at catchments across the country. At this stage the project has not made final judgments about those issues.

CHAIR—Do you think if there was 1,554 kilograms of bogged Toyota Land Cruiser in the Burren Creek that would make it a stressed system?

Mr Cameron—I think that is a factor which is beyond the scope of the project.

CHAIR—Thank you.

Senator Conroy—I am not sure. Some people will go a long way to try to dam something.

Senator Joyce interjecting—

Senator Birmingham interjecting—

Senator Conroy—He does it all the time, Senator Birmingham. He never lets a chance go by.

Senator JOYCE—It said to drive slowly and I did.

Senator Conroy—It also said to engage, and it meant your brain.

CHAIR—Senator Xenophon?

Senator XENOPHON—I have a couple of questions for the commission. Could the commission outline what public consultation process took place as a result of the 2011 biennial assessment of the National Water Initiative, how widely available was the discussion paper and what was the level of community consultation?

Mr Cameron—The commission issued a discussion paper, as you noted, in, I think it was, September 2010 and invited submissions, requesting those to be provided to the commission by late November.

Senator XENOPHON—How was that done? How widely was that disseminated?

Mr Cameron—It was put on our website and it was also distributed through our stakeholder mailing list and—

Senator XENOPHON—No ads in the paper or anything?

Mr Cameron—There were advertisements in the major papers as well.

Senator XENOPHON—On notice perhaps: what was the level of submissions that you got?

Mr Cameron—My understanding is that we have currently received between 36 and 40 submissions, but we are happily accepting late submissions to the process.

Senator XENOPHON—In terms of community groups and individuals that made submissions as compared to businesses or professional lobby groups, were there many submissions from individuals?

Mr Cameron—There were a number of submissions from individuals, but I would have to take on notice the details of the numbers of them.

Senator XENOPHON—I guess that one of the issues that have been raised is whether there could be a more open consultation process that would broaden it out and engage the community to a greater extent than has been the case. Do you think there is scope to improve on the level of community engagement and consultation?

Mr Cameron—As I have indicated, the commission would be happy to accept submissions throughout the process. We are conscious that many stakeholders are focused on other aspects of the water debate currently; so we would welcome other submissions. If there are ways in which we can visit stakeholders to engage with them, we would happily consider

those possibilities. I have undertaken, along with my colleagues, visits to major stakeholder groups, and we are also holding a stakeholder forum discussion about the biennial in the middle of March.

Senator XENOPHON—On notice, because I think Senator Joyce has some questions, can you give details about how the assessment was advertised and promoted? If you could provide some details on notice, that would be terrific.

Mr Cameron—Yes.

Senator JOYCE—Very briefly, two questions: the Moonie River system in Queensland, are you aware of that?

Mr Cameron—Yes.

Senator JOYCE—How is it that we have got to a belief of taking back what would be the largest portion of water of virtually any river in the system when there are only, I think, three irrigation licences on it? It is hardly used at all. What were the parameters? Did you make any recommendation whatsoever about 'we think the Moonie is under stress'? In Queensland it is an area of immense curiosity as to how a system with hardly any water licences on it is one of the systems that are losing most of the water in the whole of the Murray-Darling Basin.

Mr Cameron—The commission has not made specific recommendations to the authority in relation to individual cases.

Senator JOYCE—Is the Moonie River system stressed?

Mr Cameron—I cannot answer that question. The project that was referred to before is still underway and we will finalise the analysis in due course.

Senator JOYCE—Let us go to the Gwydir system. From your knowledge of the Gwydir system, do you have any recommendations about how much water would go from the Gwydir system into the Darling?

Mr Cameron—The role of the National Water Commission is not to make specific recommendations about water allocations, entitlement arrangements or water recovery processes for individual catchments. That is the responsibility of the relevant planning organisation, whether it be the MDBA in the basin or the relevant authorities at the state level.

Senator JOYCE—Let us be more succinct then. Is the Gwydir River system stressed?

Mr Cameron—I will have to repeat my answer. The project that we are undertaking to look at that issue is not yet complete.

Senator JOYCE—Can you tell me any river system that is stressed?

Mr Cameron—This project that we are undertaking is designed to provide a level of information across the country about the level of stress or the level of modification of catchments. It is an area where the commission has expressed concerns in the past that we do not have a national definition or a national framework for identifying overallocated or overused systems.

Senator JOYCE—Have you ever given a recommendation to the government on any river or any environmental asset that you believe is stressed?

Mr Cameron—Again, we do not provide specific recommendations in relation to individual catchments. Our role is one of assessing whether jurisdictions are delivering on their commitments under the NWI.

Senator JOYCE—Okay.

CHAIR—Thank you. Can I have a resolution to accept the tabled document? Is it the wish of the committee that the tabled document be accepted? There being no objection, it is declared carried. That concludes the examination of the Sustainability, Environment, Water, Population and Communities Portfolio. I thank the ministers and officers for their attendance.

Proceedings suspended from 1.00 pm to 2.04 pm

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

Senator Conroy, Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and the Minister Assisting the Prime Minister on Digital Productivity

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

Mr Peter Harris, Secretary

Mr Daryl Quinlivan Deputy Secretary, Infrastructure Group

Ms Nerida O'Loughlin, Acting 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 Broadband and Communications Infrastructure

Mr Daryl Quinlivan, 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, USO Branch

Ms Joanna Grainger, Assistant Secretary, NBN Shareholder and Policy Branch

Mr Simon Bryant, Assistant Secretary, Australian Broadband Guarantee Branch

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

Mr Rohan Buettel, Assistant Secretary, Networks Regulation Branch

Mr Philip Mason, Assistant Secretary, NBN and Fibre-Roll-out Regulation Branch

Program 1.2 Telecommunications, Online and Postal Services

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

Mr Keith Besgrove, First Assistant Secretary, Digital Economy Services Division

Mr Richard Windeyer, First Assistant Secretary, Digital Economy Strategy Division

Mr Andrew Maurer, Assistant Secretary, Spectrum and Wireless Services Branch

Mr Duncan McIntyre, Assistant Secretary, Consumer Policy and Post Branch

Program 1.3 Broadcasting and Digital Television

Ms Nerida O'Loughlin, Acting Deputy Secretary Broadcasting and Digital Switchover Group

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

Ms Karen McCormick, Assistant Secretary, Communication and Media Branch

Mr Robert McMahon, Assistant Secretary, Digital Switchover Household Assistance Branch

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

Mr Paul Vincent, Assistant Secretary, Technical Implementation Branch

Ms Ann Campton, Assistant Secretary, Broadcasting and Switchover Policy Branch

Corporate and Business

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

Finance

Ms Karen Toole, Acting Chief Financial Officer, CFO Group

Ms Lisa Walker, Manager, Budgets Section, CFO Group

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 Richard Bean, Deputy Chair

Mr Chris Cheah, Member

Ms Andree Wright, Acting General Manager, Digital Economy Division

Mr Giles Tanner, General Manager, Digital Transition Division

Mr Allan Major, Acting General Manager, Communications Infrastructure Division

Ms Jonquil Ritter, Acting General Manager, Content Consumer and Citizen Division

Mr Brendan Byrne, General Manager, Legal Services Division

Ms Clare O'Reilly, Executive Manager, Public Inquiry – Reconnecting the Customer

Ms Kathleen Sillieri, Executive Manager, Content and Consumer Branch

Mr Vince Humphries, Executive Manager, Unsolicited Communications Branch

Mr Jeremy Fenton, Manager, Content Classification Section

Mr Stuart Wise, Acting Executive Manager Finance and Facilities Branch

Mr Paul White, Executive Manager, NBN and Industry Monitoring Branch

Ms Linda Caruso, Executive Manager, Regulatory Futures Branch

Mr Peter Sutton, Manager, National and Community Interests Section

Mr Nevio Marinelli, Acting Executive Manager, Spectrum Infrastructure Branch

Australian Postal Corporation

Mr Ahmed Fahour, Managing Director and Chief Executive Officer

Mr Stephen Walter, Chief of Staff

Mr Paul Burke, Corporate Secretary

Ms Christine Corbett, Executive General Manager, Retail

Ms Catherine Walsh, General Manager, People

Mr Steve Ousley, General Manager, Network and Transport

Mr Michael Tenace, Deputy Chief Finance Officer, Corporate

Mr Alex Twomey, General Manager, Communications, Stakeholder and Corporate Responsibility

NBN Co. Limited

Mr Mike Quigley, Chief Executive Officer

Special Broadcasting Service Corporation

Mr Shaun Brown, Managing Director

Mr Bruce Meagher, Director Strategy and Communications

CHAIR (Senator Cameron)—I declare open this public hearing of the Senate Environment and Communications Legislation Committee. The committee will now commence its examination of the Broadband, Communications and the Digital Economy portfolio. The committee has set Friday, 8 April 2011 as the date by which agencies must return answers to questions on notice. 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*.

The extract read as follows—

Order of the Senate—Public interest immunity claims That the Senate—

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

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(Agreed to 13 May 2009.)

(Extract, Journals of the Senate, 13 May 2009, p.1941)

CHAIR—Officers called upon for the first time to answer a question should state their full name and position for the Hansard record and witnesses should speak clearly into the microphones. Mobile phones should be switched off. I welcome Senator the Hon. Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, and portfolio officers. Minister, would you like to make an opening statement?

Senator Conroy—No, I will pass.

CHAIR—Mr Harris?

Mr Harris—No, I do not have an opening statement.

CHAIR—I am sure that everyone would join with me, given the disaster that has befallen Christchurch again, in saying that all of our thoughts are with our friends in New Zealand. It is a terrible situation that they are in, and we wish them all the best. I will call on agencies in accordance with the circulated program. I invite general questions of the department.

[2.07 pm]

Department of Broadband, Communications and Digital Economy

Senator FISHER—Minister, page 24 of the additional estimates statements refers to an additional \$17.1 million in additional legal fees. To what extent are they to be incurred by June 2011?

Senator Conroy—I will pass that to Mr Harris.

Mr Harris—They are substantially to be incurred by the end of this financial year. The moneys involved there are effectively to implement the agreement struck on 20 June. As you will appreciate, the budget would have incorporated what we knew of as at effectively April last year. The Telstra agreement struck with NBN Co. and separately with the government for an \$11 billion net present value transaction to implement the NBN resulted in quite a lot of financial analysis, commercial analysis and legal construct for us to implement during the course of this financial year. That is why those things have been funded at additional estimates.

Senator FISHER—So the bulk of the \$17.1 million is NBN related?

Mr Harris—It would be related to the agreements with Telstra primarily, yes—NBN related.

Senator FISHER—Sorry—the what?

Mr Harris—The agreements with Telstra and therefore linked, obviously, to the NBN.

Senator FISHER—In a proportional percentage sense, what does the additional \$17.1 million represent of legal fees already budgeted to date and/or incurred, cumulative?

Mr Harris—I can give you an order of magnitude sense. To get a specific number I would have to go away and get the calculation for you. But in an order of magnitude sense, if you recall, in the previous financial year some millions of dollars would have been dedicated to the NBN development group in the department and on top of that there was the \$25 million—or it turned out to be about \$23 million or something—for the NBN implementation study. There would have been some legal expenses as well as that. In an order of magnitude sense, I guess you are saying we have probably spent around \$30 million the previous year and we are spending \$17 million this year.

Senator FISHER—So it is more than an additional 50 per cent.

Mr Harris—If you are comparing year on year it is about 50 per cent—that is, it is roughly half, or of that order of magnitude, rather than more. But obviously the ongoing group still works in the department, so some moneys are attached to that ongoing group. As I said, to get a more accurate comparison on that I would have to get the calculation done.

Senator FISHER—Could you, on notice?

Mr Harris—Yes. We may be able to advise you of it later this evening.

Senator FISHER—All right, thank you.

Senator ABETZ—Were Egon Zender contracted to assist with the appointment of the NBN board and, if so, what was the cost?

Mr Harris—Egon Zender were but it was in the previous financial year so, again, I do not have the numbers with me for that period. I expect it would be in our annual report and you should be able to extract it from there, but if you like I can get that number pulled out.

Senator ABETZ—If you could. EWK International were contracted to search for an NBN chair. What was the cost of that? That was in July 2010.

Mr Harris—My recollection is that in an order of magnitude sense it was about \$60,000 but I will have to confirm that for you.

Senator ABETZ—Was Egon Zender also contracted, albeit in the previous financial year, to negotiate with NBN board candidates?

Senator Conroy—What do you mean ‘negotiate’?

Senator ABETZ—To find out what their deals were—their package. That was in July 2009. What was the cost of that?

Mr Harris—I think, subject to correction because I was not there for part of that period—

Senator Conroy—I do not quite understand your question, Senator Abetz.

Senator IAN MACDONALD—Mr Harris is answering.

CHAIR—Senator Macdonald, let the minister get an explanation from Senator Abetz.

Senator Conroy—Senator Abetz, could you repeat your question?

Senator ABETZ—I am asking about the consultancy services for conducting NBN board candidate negotiations—and, Minister, that is what was on the contract notice of your department, to which I am sure you paid very close attention. So now that we have that out of the way, possibly the official can answer the question for us.

Mr Harris—I think you will find—but we will examine this for you—that the Egon Zender arrangements were a single collective outcome. So the answer I gave you earlier would comprehend the additional functionality that you—

Senator Conroy—That is why I was confused, Senator Abetz, because you implied there were two contracts.

Mr Harris—I was not here for part of that period, so I do not have personal first-hand knowledge—but, again, I can confirm. That is my understanding.

Senator ABETZ—Take that on notice, because I suggest there may have been two separate contracts. Is it correct to say that the whole board appointment process cost \$315,000 when you take into account EWK and the three separate Egon Zender contracts?

Mr Harris—I could not confirm—

Senator ABETZ—Look, take it on notice. Do the maths and please come back to us, because with all these contracts it appears that we have appointed the most expensive board in Australia. What is the ongoing annual cost of the part-time board that has been appointed? And is there any ongoing contract to provide support services to the NBN board?

Mr Harris—The department is not providing any such services as far as I am aware, and I think I would be aware of that. NBN Co obviously is providing support to its board in the usual manner in which a corporation would provide support to its board.

Senator ABETZ—Egon Zender was contracted to provided support services to the NBN board. I am wondering whether that is continuing in any way, shape or form, or whether another type of contract may have been entered into.

Senator Conroy—I think Mr Harris has indicated that the department is not funding any ongoing services, but perhaps Mr Quigley could shed some light on that later today.

Senator ABETZ—All right. It looks as though we have spent \$315,000 in contractual services to get ourselves the most expensive board with the most highly paid part-time chairman of the board, so I want to ascertain—

Senator Conroy—We have ensured that we have some of the highest quality people on the NBN board, befitting the work that it is undertaking: one of the most complex operations of building a company from the ground up, dealing with the technological and financial implications. The priority of the government was to ensure that we got a first-class board. And after reading the Caliburn consultancy's view of their business case where it said they were of the calibre of a top-50 ASX company, I think we were proven to be correct.

Senator ABETZ—Well a \$192,950 stipend for a part-time chairmanship which I understand does not take much time per week is—

Senator Conroy—I think you are making a very unfair and, most importantly, inaccurate statement.

Senator ABETZ—Do we agree he is part-time?

Senator Conroy—Yes.

Senator ABETZ—Yes, thank you. Moving on, McKinsey has been awarded two consultancies, one for \$25 million for lead advisory services relating to the implementation study for the NBN—is that correct?

Mr Harris—That is correct.

Senator ABETZ—Did NBN board members have any input into this procurement.

Mr Harris—I cannot tell you that. I think it is very unlikely but it was effectively commenced around the time I started. They certainly did not post that period.

Senator ABETZ—Can you take it on notice, please.

Senator Conroy—My recollection—and I am happy to correct this if it is wrong—is that they did not. I am aware of some interest that has tried to suggest that because some members of the board have a background at McKinsey either in the last 10 or 20 years there was some input. But the truth is that I do not believe there was any input.

Senator ABETZ—If you can take that on notice—and, Minister, you are right: that is the point I am getting at. I am not suggesting any impropriety in any way, shape or form.

Senator Conroy—No, I know you were not.

Senator ABETZ—What I am asking about is the process to ensure that full integrity was maintained in relation to that. I also ask about the further consultancy that was awarded to McKinsey, of about \$11 million towards October last year—would that be right?

Mr Harris—I cannot confirm the figure of \$11 million but there was an extended arrangement with McKinsey. To me \$11 million sounds on the high side.

Senator ABETZ—Take that on notice, then—what the actual figure is. That is the contract that will finish in June this year.

Mr Harris—I am pretty sure we are talking about the same contract.

Senator ABETZ—In that case, can you also advise whether the board was consulted or had any input in relation to that?

Mr Harris—I can be confident in that case. The answer would be no. As I said, that was effectively an extended arrangement that we continued as a result of the Telstra agreements and continued advice from McKinsey on issues relating to that, particularly around the USO code.

Senator ABETZ—If you could double-check for us, I would be obliged.

CHAIR—In relation to the board appointments, is it unusual for companies to engage companies to give advice on the remuneration of boards and the appointment of boards?

Mr Harris—Certainly not. In fact, we would almost certainly be criticised for the reverse. If we had not contracted somebody to provide us with, effectively, an estimation of what talent was available in the marketplace that might suit the matrix of skills required for the NBN board, we would probably be criticised deeply for just picking people that we happened to meet in the street or people that the minister knew or something like that. The process was in fact a very highly driven one. It involved secretaries of the departments—my predecessors—effectively working with Egon Zender on a board selection process and then a cabinet selection process followed that. It is very much what you would do when you are committing the sort of money that is involved with the NBN—you want to get a fully professional board with the most significant skills that you possibly could. The board that has been appointed certainly fits that bill entirely.

CHAIR—The private sector use headhunters continually to have board appointments made, don't they?

Mr Harris—Absolutely, they do. These firms would be included in the sorts of firms that those major private sector firms would go to.

Senator Conroy—Senator Cameron, I can understand your concern here. I know a very major corporation board—the ABC—was almost entirely selected on the basis of whether they were on former Prime Minister Howard's Christmas card list. We went to a great deal of trouble to ensure that we had a proper process to draw on a first-class board.

CHAIR—I am just trying to get the benchmark between what is happening with appointments on the NBN board and what happens in the business sector generally. The new federal Treasurer of the Liberal Party is Philip Higginson. Senator Conroy, are you aware of Mr Philip Higginson?

Senator Conroy—Not off the top of my head.

Mr Harris—I have worked with him in the past.

CHAIR—Can I just indicate that Mr Higginson is the director of a company called ProNed. That company advertises itself to headhunt boards, to say, 'This is what you should pay your boards'. In fact, Mr Higginson, in my view, is part of the problem out there which sets comparative wage justice for company directors. I am just wondering whether anybody contacted Mr Higginson for any advice, because the federal Treasurer of the Liberal Party does for a living exactly what Senator Abetz is complaining about.

Senator Conroy—Right. That is very interesting. I personally did not contact him. Mr Harris?

Mr Harris—No, but, as I said, I have worked with him in the past, Senator.

CHAIR—It is not just comparative wage justice, they involve themselves in pattern bargaining. They say, 'This is what the board earns for this company; this is what you need to pay the board in that company'. Were there any elements of pattern bargaining or comparative wage justice in terms of this board?

Senator Conroy—I think the Remuneration Tribunal—

Mr Harris—The Remuneration Tribunal sets the pay levels.

CHAIR—So it was done independently—not what happens generally in business, where it is comparative wage justice and pattern bargaining?

Senator Conroy—I think that the Remuneration Tribunal considered all of the factors relevant to the experience and the magnitude. I think that is probably the thing that Senator Abetz is missing in his critique—that is, the magnitude of the job of the NBN board. A start-up company that is going to be engaged in what is now a \$36 billion or \$37 billion build requires some of the best and brightest directors from around the country. I think that independent assessment now has described the board's work as first-class.

Senator BIRMINGHAM—Senator Cameron, are you criticising what the board is paid?

CHAIR—I am not criticising, I am just dealing with the issue that Senator Abetz has raised. And can you understand this—

Senator HUMPHRIES—Which—

CHAIR—you do not question me. You can question the minister, but—

Senator Conroy—Welcome, Senator Humphries. You have escaped from Gungahlin, I see. I am very pleased.

Senator BIRMINGHAM—We are taking this chance—

CHAIR—Senator Birmingham, I understand that you are very concerned that your federal treasurer is out there pushing comparative wage justice and pattern bargaining for directors. I know that you get edgy about that. But Philip Higginson does that for a living. I find it bizarre that Senator Abetz would criticise what has happened in this independent approach by NBN and the department. Senator Birmingham, do you have anything else to add to that?

Senator BIRMINGHAM—It sounded to me like you were being fairly critical of the actual wages being paid to the NBN. But I think Senator Fisher had questions.

Senator FISHER—I am starting to wonder whether industrial action needs to be taken in support of this pattern bargaining. Can you answer, please?

Senator Conroy—I am not sure that there was actually a question there, Senator Fisher.

Senator FISHER—Mr Harris, you wrote to me very politely not so long ago at all saying that there were about 181 questions on notice from this committee to your department. You had at that time answered some 45 or thereabouts. Are there about 136 questions on notice outstanding? Due to the torrent—or should I say the trickle—of answers that we have enjoyed over the last couple of days, I do not have the status count. But I want to ask you about your reference in your letter. You indicated that many of the questions received by the portfolio involved extensive manual effort to retrieve the data: 'We will seek to provide this data where possible, but please note that, in some instances, I consider the diversion of resources necessary to be unreasonable at a time when staff are under great pressure to deliver the government's priorities and programs'. Now, obviously, you have to strike a balance. How do you strike that and how do you decide what is unreasonable?

Mr Harris—It is particularly difficult, Senator. We had answered all of the questions by the time of this hearing. But I became conscious of the fact that there were not just 181 questions but that some of them had multiple parts—I think one question had 40 parts to

it—so the total number added up, in my rough estimation, to about 400 questions in a period where, as you know, we also had major legislation going through, the completion of and the government's response to the implementation study, and the delivery of the NBN corporate plan. The people that were handling those, both in the department and in NBN Co in particular, were under pressure to deliver results for both the department and the Senate. I thought in the circumstances it was advisable to write and give an accurate and honest reflection of the state of play to the committee. We tried to get as many done as we could by 3 December. I think the advice to me is that we got 64-odd tabled by 3 December. The remaining 117 were tabled after that. As you imply, and correctly so, quite a few of them were only provided to the committee I think at the end of last week.

Senator FISHER—Nonetheless, you have managed to get them done. Of course, in suggesting that in total there might have been, had they been separated out—

Senator Conroy—Four hundred items.

Senator FISHER—some 400 questions on notice, that is a very crude measure—

Senator Conroy—But accurate.

Senator FISHER—I mean as in blunt.

Mr Harris—It is my order of magnitude number again.

Senator FISHER—I accept that. However, it can often indicate the number of valid questions asked by a committee in the face of non-answers and non-responses from the officials and others before the committee at the table. So I note that and ask again my final question on this bit: how do you strike that balance between the resources needed to answer our questions on notice versus meeting the rather ambitious needs of this government—particularly in rolling out the NBN, might I say—to decide what is unreasonable, in your words, in terms of diversion of resources?

Mr Harris—Basically, what I did was give people revised deadlines once we had not met the committee's required deadline of 3 December. In recognition of the fact that obviously the Christmas and New Year period came in place in that, we completed as many as we could by the early part of January and delivered those in a batch. The portfolio agencies tried to do the same thing where they were behind. But the most complex questions—the NBN related ones in particular; some of those that had the multiple parts—or some that, indeed, were overtaken by the events that occurred between the time the question was asked and the period post 3 December, particularly those affected by the NBN corporate plan, all had to be updated. I guess what I am saying is that we gave people the maximum amount of time that we could while still trying to deliver the maximum number of questions as soon as we possibly could. But, as you would appreciate, the Christmas-New Year break does get in the middle of that. We did divert people, as soon as they were freed up from, for example, the passage of the bill, to finalising questions. But the passage of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill in particular involved a very significant diversion of a set of resources that was otherwise required to answer some of the questions. As you will appreciate, where questions are on notice, they are matters on which we are held to account not just now but in a year's time. Thus, the care that has to go into them is quite significant.

Senator Conroy—I should say, and I am sure all the senators would agree, last year was an extraordinarily busy year for the department. Mr Harris is being very modest in describing the amount of work the department put in, including himself and all of his officers, which continued after the legislation was passed. We had the NBN business case, which we released just before Christmas. And I am sure you would not begrudge the officers of the department some time off over Christmas, given the extensive amount of work they put in.

Senator FISHER—Of course not. I will not begrudge but I might be somewhat astounded at the ambitious nature of the NBN project, taking into account the former Treasury head's estimate of the time required by this government of, for example, Treasury to enable the government to hold the balance of power with the Independents by briefing Independents.

Senator Conroy—I cannot speak to your lack of ambition, Senator.

Senator IAN MACDONALD—Mr Harris, you are telling us a tale of woe. It seems to me that you are under-resourced to do the work that the department is expected to do (a) to serve the minister and (b) to serve parliament. It seems to me that if you are under-resourced it is no use coming here and crying to us about it; you perhaps should approach the government and tell it your tale of woe. You are required to do certain things, and why it is the parliament should be given second place I am not quite sure. Are you under-resourced?

Mr Harris—No, I would not say that. The problem is that work flows and then ebbs, and as a result of that you get significant peaks. As you know, employment in the public sector even for short-term contracting can be difficult to develop for work like this, whereas I have just noted that for the record these answers have to be spot on—

Senator IAN MACDONALD—That is your duty.

Mr Harris—We know we will occasionally make errors but I cannot bring in temporary people to deal with the significant nature of some of this work, particularly the advising of the Senate. As a result of that, I have to deal with the permanent officers who have familiarity with the subject matter to give us the highest level of certainty that you get the right quality answers. There is a limit to the extent to which we can bring in temporary resources to deal with such a massive peak of work as this.

Senator IAN MACDONALD—Perhaps you should bring in permanent resources if you are not able to—and I am not criticising you for this. If I have a criticism it is that you are under-resourced and cannot discharge the duties your department has not only to the minister but also to the parliament.

Mr Harris—We made every effort to get the questions to the Senate in the most rapid time frame possible.

Senator IAN MACDONALD—I know you did.

Mr Harris—But I am conscious of the legitimacy of your concern that you are not well served by these late submissions of answers. The solutions—

Senator IAN MACDONALD—You are not alone, Mr Harris, if that is any comfort.

Mr Harris—There is nothing deliberate about this, which I know is often the feeling—

Senator Conroy—When you get 400 questions it is a significant workload for the department.

Senator IAN MACDONALD—It is down by about 50 per cent from three or four years ago, Minister, I can assure you.

Senator FISHER—I have two general questions in relation to the department's annual report. First, on page 80 of the annual report you refer to expenditure on consultancy contracts from 2009-10. It looks like the department spent about \$37 million in consulting fees. That compares with about \$20 million in 2008-09 and just over \$10 million in 2007-08. What is the basis for the significant increase in 2009-10? This might traverse to some extent what you said earlier to Senator Abetz.

Mr Harris—As you know, Senator, the definitional issues do bedevil you in this, but, subject to finding that I have got the definition wrong, I would almost certainly say that that is McKinsey.

Senator FISHER—Which was about \$25 million.

Mr Harris—Yes, the McKinsey \$25 million. The \$37.685 million in 2009-10 is McKinsey as the NBN lead consultant, which is a \$25 million contract; research into digital TV readiness, which is the digital tracker, which I think most senators have kept under observation, that shows digital preparedness as we move around the country switching from analogue to digital TV spectrum; and Minter Ellison lawyers, the next biggest part of that \$37.685 million. Those effectively are the three large contributors. Just giving you an order of magnitude, that is roughly \$27 million between those three alone. By comparison with 2008-09—

Senator FISHER—But is it correct that \$25 million of that \$27 million is the NBN, which continues to loom large? So \$25 million out of \$37 million—

Senator Conroy—McKinsey's report is well known on the public record: \$25 million.

Senator FISHER—That is right. The McKinsey NBN implementation study, some 500 pages, took almost as many days for you to show it to us—

CHAIR—Senator Fisher, just settle down.

Senator FISHER—Wasn't \$25 million out of the \$37 million or so NBN related? In crude numerical terms, wasn't about five-sevenths of the department's full spend on consultancy in 2009-10 spent on NBN related stuff?

Mr Harris—Of that order of magnitude, yes.

Senator FISHER—I think that is enough. That illustrates the continuing, if I can put it this way, ambitious nature both of the government's aim and taxpayer expenditure on the NBN.

CHAIR—Do you have a question, Senator Fisher?

Senator FISHER—I want to ask a quick question about the software program, Mr Harris. On page 155 of the financial statements ending 30 June 2010, note 6(d), the table refers to software programs and states that the department is working on that account, if you like, for an increase in intangibles of \$5.5 million or so. What are the software programs—are they totally internal to the department?

Senator Conroy—Mr Harris will confirm that in a moment.

Senator FISHER—What are they?

Mr Harris—It will take us a few minutes to work out what those numbers are. The department did upgrade its IT systems internally last year in that particular period. But my colleague advises me that that is unlikely to have been of the order of \$5 million—the figure that you have read out. We can certainly update you on that. I would point out that the department does quite a lot of—if you have ever used our website you will know that we have a highly interactive website available for people which enables you to track programs around the country. That alone will be a pretty significant software investment. My suspicion is that if it is not the upgrading of the department's systems, effectively the Word systems in the department—and I think we had about a seven-year period without investing in that area at all, so we had to do it last year or risk getting completely out of touch—it is probably a combination of things. I can get them listed for you.

Senator FISHER—Do you think you will have to wait another eight or so years to upgrade them to make them NBN compliant?

Mr Harris—I do not think the NBN will—

Senator FISHER—Be done by then?

Mr Harris—affect our software at all. Everyone will be able to run on the NBN regardless of the quality of their software.

Senator FISHER—All right. That is the end of my general questions.

CHAIR—Mr Harris, part of your strategic direction is to promote the digital economy for the benefit of all Australians. One of the issues I am getting more and more feedback on is that for the digital economy to benefit Australians, online safety and security is extremely important. Is there someone I can ask some questions about general online safety and security?

Mr Harris—We do have quite a significant investment in safety and security programs for people. As you would appreciate, I am sure, we do not so much deal in internet security of the kind that the police force or the Attorney-General's Department deal in; we deal with advice to consumers, as does ACMA. Probably the most prominent and attractive product that has come out in recent times is the help button, which is available to be downloaded by parents for the purposes of effectively having on their home computers to assist, particularly when kids are using the internet. But there are also educative programs that the ACMA runs. I do have some details here. If you can give me a moment to dig them out, I would be quite happy to illustrate some of the examples of the kinds of investments we have made in security.

CHAIR—That is exactly what I am looking for, Mr Harris, not the general approach on cybersecurity.

Mr Harris—We have a StaySafeOnline website that provides information on the steps people can take to protect their personal information—and, as you know, kids are getting access to Facebook and that sort of thing at an ever younger age; it is about knowing how to deal with the consequences of potential privacy management issues that they have to go through as well—plus their own financial information. We are almost all online with the

banking system nowadays. We are encouraged to do so. But there are certain techniques that you need to take into account, particularly every time you do log onto the system. Merely giving people advice about looking for the padlock or the equivalent of the padlock whenever you enter that sort of territory is very valuable. Our website gets about 28,000 visitors a month for the purpose of the StaySafeOnline website only. We run a specific awareness week on Stay Safe Online. In July last year we had 144,000 visitors just for the purpose of scrutinising that sort of mechanism.

I think I mentioned the alert button that we have put up on the website. We have enabled that to be downloaded. It has not been a very expensive proposition—it cost us about \$100,000 to do the development work for that—but it has been taken up by a significant number of people. We promote those not just through the Stay Smart week but also around the country in interaction programs with schools.

I mentioned the ACMA. It does a very significant project here. In fact, I will dig out the numbers for the ACMA. They are spectacularly large. For the ACMA's program, 242,000 teachers, students, parents and key stakeholders have attended a presentation workshop to date run by the ACMA cybersafety program. The ACMA is here later on this afternoon and I probably do not want to steal too much of their thunder, but it is a very significant number of people who have picked that up.

We have done survey work on the attraction of the products that we are putting in place for parents in particular. We have an 81 per cent satisfaction rating from people who feel they have been equipped with sufficient information. Obviously they are the people who do access the website. We know that, out there, there is still a very large group of people that needs to continue to be further educated, and there is a significant appetite for this sort of information. It is an important project in the department and it occupies a significant portion of one of our divisions to continue to develop these projects. We spend most of our time working primarily with kids online—we are at that end of the spectrum, if you like.

CHAIR—I am sorry to have raised this so early—we will come back to the ACMA.

Mr Harris—The ACMA in particular has a particularly good product.

Senator WORTLEY—Mr Harris, I just wanted to ask about the cybersafety help button. I know that it only takes a minute to download. I am just wondering what sort of promotion of that has gone out into the community, because it is an excellent resource. I know that the schools and students I have spoken to think that it is terrific. But I am just wondering how widely known it is.

Mr Harris—As you know, the amount of money you spend on communications projects is always a difficulty. It looks like, 'Here's another advertising campaign for base political purposes'. We do spend some money promoting it directly, but primarily we put it into the hands of the school networks, for example. We have a youth action group online as well, which is schools based. Those kids effectively informing each other is another good viral advertising mechanism, if you like, that is available to us. There is the department's website. But, generally speaking, we tend to use that kind of community group type approach. I guess if you put a big ad up on the TV, (a) it is very expensive and (b) you are not sure that you are getting the right kind of audience. In our view, you sort of want to get somewhere where the

younger children are accessing it and the parents are looking around—that type of mechanism. So it is that 13- or 14-year-old kid, through their school networks and through the youth action groups—that sort of thing. I think that is where we are really trying to get this promoted.

But your point has validity. We can always do more work in this area. The fact that we are commenting about it today is hopefully the sort of thing you can always occasionally get a bit of a media story out of. I think the minister did some online launching for us on this in an attempt to use his reputation as another way of promoting this—

Senator Conroy—That is desperate.

Mr Harris—as he is an early digital adopter. He is certainly more digitally adoptive than me. You would not promote me for this purpose. But I must say that we do not put a lot of money into this. You can always argue that perhaps we should put in a bit more.

Senator WORTLEY—From the discussions I have had in the community, it is really relevant as well even for much younger children than the 13- to 14-year age group. But congratulations on a great initiative.

Mr Harris—Thank you.

[2.45 pm]

Australian Postal Corporation

CHAIR—I now call officers from Australia Post and invite questions. Mr Fahour, would you like to make an opening statement?

Mr Fahour—Thank you very much. I hope your office has been notified that I would just like to take a few extra minutes in my opening statement, given that I have now been in the role for over a year. I thought that the Senate might appreciate a bit of a background as to what has happened in 2010 and some context-setting.

CHAIR—As long as it is not a *War and Peace* effort, we will be happy to hear it.

Mr Fahour—Thank you. I think I said this last year, and let me say it again: it is a pleasure to be here again with you.

Senator IAN MACDONALD—There is no need to lie!

Mr Fahour—I think that is what was said last year as well.

Senator Conroy—It is still an offence.

CHAIR—No more stale jokes!

Senator IAN MACDONALD—You really don't have to start off with these mistruths.

Senator BIRMINGHAM—It does have a groundhog day feel for us.

CHAIR—A bit of order!

Mr Fahour—Thank you, Chair. A lot of effort is put into these meetings. They are important meetings and we like to invest in them. Hopefully the communication is useful both ways. Before I start, I would like to acknowledge the contribution of one of our directors, Bill Mansfield, to Australia Post. Unfortunately, Bill passed away a few weeks ago due to illness. I

wish to publicly acknowledge his contribution to Australia Post. He will be missed by many. I know, Chair, that you were at the funeral as well. Our thoughts are with his family.

It has now been a year since I was appointed as managing director of Australia Post. I want to start by saying that I have gained a very good appreciation for the important role that we play in sustaining commercial, economic and social links throughout the nation. I think it would be valuable to take just some time to give you my thoughts about where Australia Post is, the challenge we are facing and the optimism I have for its future. Australia Post has an incredible reach and its impacts in every Australian community have never been more evident than during the recent natural disasters across the country. Because we are a community based business, Australia Post has presence in all of the disaster affected areas. I am relieved to report to the Senate that all of our people living and working in the affected areas have emerged safe and well. They have gone to extraordinary lengths to establish postal services in the affected areas while also volunteering for the massive clean-ups in their own communities. I want to publicly express my immense gratitude for the self-sacrifice shown by so many of our staff, licensees and mail contractors throughout the recovery effort. The role our people played during the recovery period demonstrated to me once again that Australia Post is a vital piece of community infrastructure.

Managing Australia Post is certainly unlike any other leadership challenge that I have had. Every single Australian owns a stake in this business, and since 1989 we have been a self-funding government owned corporation with a set of community service obligations. As you know, Australia Post was structured this way by the Commonwealth parliament. Under the Australian Postal Corporation Act 1989 we have an obligation as the management team to run the business 'in a manner consistent with sound commercial practices'. But the act balances this with a requirement for Australia Post to provide a community service that is reasonably accessible to all people in Australia wherever they reside.

As a GBE that receives no taxpayer funding, Australia Post is motivated to earn a profit so that we can reinvest in developing new products, new services and new capabilities. Our only shareholder is the Australian people. We are not here to make money for individuals or for institutional investors. Our profits are used to maintain a sustainable and relevant postal service for all Australians. In that sense, our profit is only important in that it allows us to continue to serve the Australian community and prevents us from being a financial burden on the government. Over the past decade we have reinvested \$2.3 billion of our profits in upgrading our retail and mail delivery network. Of course we also use our profit to return a dividend to our shareholder, which is only fair and reasonable given the size of the Commonwealth's investment in our business. We have returned \$3 billion in dividends over the last 20 years or so.

While we take pride in our commercial performance, we have also maintained very high levels of community service. Under our CSOs we are committed to maintaining 4,000 postal outlets, 2,500 outlets in regional and rural communities and 10,000 street posting boxes, and to delivering letters five days a week to at least 98 per cent of Australian addresses. Furthermore, we have over 200,000 new delivery points we must service every year, given population growth and urban sprawl. Australia Post have consistently exceeded all of these performance indicators. Indeed, our strong brand is built on this bedrock of broad community

access and reliability. Maintaining our position at the heart of the Australian community will be vitally important to our future prospects as well, as we seek to broaden the range of services we are about to offer, and do offer, through our retail network and online.

The point I want to make is that the current governance model for running Australia Post as a GBE with community service obligations has served Australia well. Since Australia Post was corporatised two decades ago, we have kept postage rates low. As a matter of fact our prices are now the third lowest in the OECD. The reliability of our service has improved significantly to be best practice internationally. Furthermore, we are in a much stronger financial position than almost all overseas postal operators. If you examined the overseas postal operators that are not run in a commercial manner, you would find that they are now in a very precarious position. As some of the senators may have heard on the ABC's *AM* program yesterday, the US Postal Service lost the US\$8.5 billion last year and they have to cut 105,00 full-time jobs. It is the biggest retrenchment program anywhere in the world. Furthermore, the number of post offices in the United States has fallen from 70,000 to 32,000 to date, and mail volumes have fallen 20 per cent over the last three years. In the UK the Royal Mail last year lost £262 million, from a £40 million profit the previous year, and has also been forced to take very dramatic action to address its costs, closing more than 2,300 post offices between 2006 and 2009. That is equivalent to 16 per cent of the Royal Mail network. In comparison, Australia Post still made a profit of \$103 million last year. However, this was a substantial fall from the previous year's \$380 million. While we made an overall profit, our core letters business lost over \$170 million last year. Despite this financial situation and what is happening around the world, Australia Post finished 2010 with over 4,400 post offices and 16,000 street postboxes, and we exceeded all our community service obligations.

While it is in a solid position compared to its international peers, Australia Post is currently facing its biggest challenge in 200 years. The generational change in the global communication market means that the way the community uses Australia Post's services is changing and is changing very rapidly. Over the last 10 years, domestic mail volumes have remained virtually flat. But at the same time SMS texts have grown to nearly 20 billion compared to our five billion mail items, and email is 400 billion. These alternative forms of electronic communication are highly convenient, are available 24/7 and for things like email are virtually free, while a stamp costs 60c. The volume of letters posted in Australia reached an all-time peak in 2008, and letter volume has fallen by 10 per cent in the last two years. Back in 2000, Australian households and businesses received an average of 2.3 letters per letterbox per day. By 2010 this had fallen to 1.8 per letterbox per day. We now expect this figure to drop to 1.1 mail items per letterbox per day within the next 10 years.

Digital substitution is also being felt in our retail network as, increasingly, Australians are going online to pay bills and handle other transactions. The number of customers visiting our outlets, which peaked in 2003, has fallen by 20 per cent since that date. Modern-day technology and the community shift to the internet is causing a serious challenge to our traditional retail and mail business. But we believe that the internet will also open up growth opportunities for our business. An example of this is our parcels business for home shopping. We have 75 per cent of our parcels business being generated due to e-commerce transactions. This business has grown significantly, and you will note from our annual report that we made

over \$170 million of profit in that category. As our customers increasingly go online to do their shopping, we see an enormous growth opportunity as a delivery partner, especially for domestic online retailers. The new Future Ready strategy that we announced late last year is designed to reform our business model so that we will still be delivering a reliable letter service for all Australians but also growing our business in other areas like parcels, retail and digital services.

I tell you all this because I want to make a simple point today: that Australia Post is now operating in this very dynamic and challenging environment. The community is changing its behaviour, and as a management team it is our obligation to evolve our service to keep pace with its needs. If we do adapt and take hold of this opportunity we will have protected this great community asset and economic infrastructure. The question all of us at Australia Post are working to answer is what postal services will look like in 2020 or even in 2030. What will the community want from us then, how will we meet those needs and what are we doing today to prepare ourselves for that change? As the current custodians of Australia Post, we sometimes need to make hard decisions about changing services in locations where diminishing customer numbers mean we can no longer justify the expense of maintaining the status quo. But I want to assure you that these decisions are not taken lightly. I think our entire team and very important partners like the CEPU and POAAL and others are addressing the challenge of managing Australia Post during a period of unprecedented change and opportunity. That concludes my opening remarks. I am happy to take any questions.

Senator ABETZ—What security checks does Australia Post require before employing staff or engaging licensees, franchisees or community agents?

Ms Walsh—I can respond in respect of our employees. Our employees are required to undergo a criminal history check, which is undertaken at the time when we go through the interview and the reference-checking process before they commence with Australia Post.

Ms Corbett—From a licensee perspective, we undertake criminal history checks on our licensees, franchisees, mail contractors and mail subcontractors prior to entering into their various respective agreements. From their own staff perspective, each licensee is required to do the same checks.

Senator ABETZ—That has obviated the need for my next question, so thank you for that. Whereabouts are Australia Post uniforms manufactured? You can take that on notice if nobody knows off the top of their head.

Mr Fahour—We will take it on notice.

Senator ABETZ—Can I ask what assistance Australia Post gave to flood affected licensed post offices and mail contractors?

Mr Fahour—Are you referring to any specific floods, like Queensland or Victoria, or just generally?

Senator ABETZ—I think we have had a number of floods in every state of Australia. I am just wondering what Australia Post has done to assist those post offices and contractors.

Ms Corbett—A number of our licensees in Queensland were particularly affected. We have deferred some of the stock payments for the month of January because a lot of them were unable to trade on a temporary basis.

Senator ABETZ—Is that it? Could you take on notice what other assistance you may have offered to individual licensees and post offices, without naming them?

Ms Corbett—Certainly. I can give you a number of examples relating to the floods which happened in North Queensland straight after Christmas. We have given extensive support and have had experienced people managing to our licensees, our staff and the community at large. We have worked closely with the Queensland government—the Department of Communities in particular—to ensure we were able to distribute emergency relief funds to people in need. We have also worked very closely with licensees to set up some temporary arrangements with regard to both mail delivery and temporary premises. As I said, we have also then looked at how we can alleviate some of the stock payments in the immediate term.

Senator ABETZ—What about Fairfield Gardens in Brisbane? Are you aware of that particular one?

Ms Corbett—Yes, I am aware that Fairfield Gardens had extensive damage through the floods in the Brisbane flooding area.

Senator ABETZ—Have you been closing some post offices or agencies on a rolling program? I understand that in the seat of Brisbane, so ably represented by Teresa Gambaro, two were slated for closure and, despite the floods and all the dislocation, those closures have still gone on without regard to the impact of the flood on the local community.

Ms Corbett—I think you may be referring to Milton Business Centre. As you may be aware, Milton was one of the suburbs severely affected in the Brisbane flooding, being located right next to the Brisbane River. Our business centre at Milton sustained substantial damage and is unable to open at the moment. We are currently looking for alternative premises to operate that facility from.

Senator ABETZ—Is that the only closure in Brisbane?

Ms Corbett—That was the only closure related to the floods. With regard to—

Senator ABETZ—Sorry, I am not talking about closures related to the floods; I am talking about closures that you had slated in any event and that you have gone ahead with regardless of the fact that local communities have been impacted by the floods.

Ms Corbett—As I am sure you can appreciate, and as Ahmed has mentioned, we operate an extensive retail network of 4,400 outlets throughout the country. Of those, 2½ thousand are located in rural areas. At any particular time, there are movements in the network. There are openings, closings, conversions and changes to formats. That has happened as part of maintaining a large network.

Senator ABETZ—I understand that, but I would have thought that potentially some sensitivity could have been shown after the floods: ‘Given all of the dislocations that have already occurred in this community, we will delay the closure by six months or whatever,’ if that were possible. But I understand that that sort of thought process was not engaged in.

Ms Corbett—Certainly, we have actively managed all of our key stakeholders. With regard to sensitivities in Brisbane—I come from Queensland, so I am very aware of the local communities there and the flooding that has occurred. With the exception of the temporary closure at Milton, there have not been any closures affected as a result. We have some—

Senator ABETZ—As a result?

Ms Corbett—When you mention the sensitivities that have occurred and our openness to look at those, the outlets that were to have had some network changes have not been impacted by those sensitivities in Brisbane.

Senator ABETZ—I am sure that the residents of those areas will be interested to know that they have not been so impacted. I will move on to the *Australia Today* magazine. Is that going to be continued this year?

Mr Fahour—No.

Senator ABETZ—Was there a bit of a difficulty in getting the appropriate quantities of stamps required in the lead-up to Christmas this year?

Mr Fahour—Could you repeat the question, Senator?

Senator ABETZ—Were licensed post offices unable to get the stamps they required in the quantities they required at the time that they required them in the lead-up to Christmas?

Ms Corbett—Unfortunately, that is correct. In the lead-up to Christmas, we had a number of circumstances that coincided. Those circumstances included an upgrade to our point of sale program. That coincided with five stamp issues coming out over a very short space of time, including the immensely popular Mary MacKillop stamp issue that way exceeded demand. That put additional pressure that was unforeseen on our logistic supply chain operations, which led to some delays in Christmas stamps.

Senator ABETZ—When you have passed Christmas, the delays are in fact lost sales and lost opportunities for these licensed post offices, so what have you done to compensate them for the loss of sales and loss of income?

Ms Corbett—I think it is important to note that, although there were some delays with Christmas stamps and particular Christmas stamp issues, there were always stamps in various denominations available for people to put on letters. That being said, we have also had a number of discussions with POAAL and we did allow for licensees, because they had ordered and paid for their stock in advance, to return any of those Christmas stamp items to us.

Senator ABETZ—So that which they ordered and that they could not sell they were allowed to give back to Australia Post. But the profit that they would have made from the sale has been foregone by them and they are not going to be compensated for that?

Ms Corbett—Just to clarify, they did have Christmas stamp sales on their philatelic product, which are products that people want on a particular issue day. With regard to general stamps, there were other stamps in the supply system that they could use so that they did not lose sales.

Senator ABETZ—So you are convinced that, despite what I have been told about by these licensees, they did not lose sales?

Ms Corbett—I am not aware of any representations made to either me or my team on lost sales as a result of the delay.

Senator ABETZ—Can you give us a guarantee that our licensed post offices will not suffer this sort of situation again?

Ms Corbett—Certainly we have done an extensive review of the circumstances that led up to that. As I mentioned, there were, unfortunately, some unique ones. The introduction of phase 1 of our new point of sale system was a unique occurrence and hopefully the problem will not arise again.

Senator ABETZ—Last time around I asked about the arrangements with AQIS. We discussed the substantial increase in fees that Australia Post pays to AQIS for quarantine checks. That was question No. 10. I was told that Australia Post was still considering its position in relation to this matter. Are we still considering or have we finalised our considerations?

Mr Burke—We are still considering our position in relation to that.

Senator ABETZ—I asked question No. 8—whether it was indeed the case that Australia Post would be consulting with the CEPU and POAAL prior to making closures. I was told that, when Australia Post is proposing to close a postal outlet, it consults with the local community and other relevant stakeholders prior to making the change. You did not answer my specific question as to whether you consult with the CEPU and POAAL.

Ms Corbett—We have formal consultative meetings established with both POAAL and the CEPU. Yes, we will and do formally consult with both of those parties.

Senator TROETH—Can I just follow up on Senator Abetz's questions regarding the Milton post office. Is that post office to be permanently closed?

Ms Corbett—It is a temporary closure at this stage. We will not be looking at setting up in that exact facility. Part of the reason for that is that this is now the second time that that facility has been flooded. We have now briefed our corporate real estate area to find alternative accommodation.

Senator TROETH—But still in that same business area?

Ms Corbett—Yes, that is our plan.

Senator TROETH—I think you also answered to Senator Abetz that there are alternative arrangements in place at the moment to still provide services in the area. What are those alternative arrangements?

Ms Corbett—From a mail delivery perspective, customers are able to collect their mail from the Kelvin Grove business centre, which is located a couple of kilometres away.

Senator TROETH—I take it that it is reasonably well signposted and made known at both those centres that that is what is now happening.

Ms Corbett—Yes, it is, and it has also been communicated to the post office box customers, who are in particular affected.

Senator TROETH—You said that there was substantial damage to the Milton post office premises. How long would you expect it to take to repair the damage?

Mr Fahour—I think what Ms Corbett was just saying is that we are not going back into that building. So therefore we will find an alternative one.

Senator TROETH—Sorry, point taken.

Mr Fahour—Once bitten, twice shy—twice bitten in this case.

Senator TROETH—I understand that, certainly. I will go to some general questions on Australia Post. In normal circumstances if you are going to close a post office—and I understand that with shifting priorities and shifting populations you often open some and close some—what are the procedures you have in place for consulting and preparing the community?

Ms Corbett—We have some community consultation guidelines that were put before our board a couple of years ago that we follow. Some of the elements involved in our decision making with regard to what outlets may be affected look at customer numbers, customer demand, the product and service mix, and how many other outlets are in that vicinity—and when we say ‘that vicinity’ we mean the catchment area usually within a two-kilometre radius. We also then look at the lease and what the lease terms and conditions are, and we take all of those factors into account when we decide on our network planning considerations moving forward. Once that decision is made, we then have a variety of stakeholders we deal with. Those stakeholders include our staff and our staff representatives through the CEPU as well as, obviously, customers—post office box customers in particular. We also then consult with federal, state and local politicians. In some recent examples we have also met with local chambers of commerce. I personally have met with each of those constituents to really understand the impact of the decision on these local communities, their needs on an ongoing basis for which postal services, and their demands.

Senator TROETH—Speaking generally, what amount of notice is given to a community that the post office will be closing?

Ms Corbett—It depends on the individual circumstances. Again, as I am sure you can appreciate, at times some of them are quite unknown to us. Sometimes we are given notice to quit from a landlord and we have to react to that quite quickly. At other times we do know more in advance. So it does depend on the individual circumstances. But on average it would be anywhere from four to eight weeks.

Senator TROETH—Is four weeks the shortest time, in your experience?

Ms Corbett—Four to eight weeks is what we work to but there are some examples where we are ourselves not given any notice. We obviously convey that as soon as possible to the community and to the public at large at those times.

Senator TROETH—Do you explain that to the public? I mean if you are given notice to quit by a landlord obviously it is factors beyond your control that mean you will be closing the post office. You do convey this information, I take it.

Ms Corbett—We convey the information to our post office customers, in particular through the provision of notices to our post office box holders, and we also put public notices on display in each of our post offices where that may happen.

Senator TROETH—Numerous post offices have closed throughout the country. Could you provide the committee with a list of other post offices that you know of which are facing closures within, say, the next three to four months?

Ms Corbett—With some of those, as I explained, we are not aware of what is happening. I think it is important to say that over the last six months our network has only changed by, in total, five. So at the same time that we have had some closures—and the closures have occurred across our community postal agents as well as some of our licensees, as well as our corporate outlets—we have also had openings. We have had 28 post office openings in the last six months as well. In particular a lot of hard work and effort has been put into those 28 openings because they are in rural and remote areas that do not have access to any other facility. So there has been a dedicated focus in that regard.

Mr Fahour—I would add one other thing to Ms Corbett's answer. When we are coming towards a lease expiry it does not necessarily mean that we will vacate the building as well. This is a commercial negotiation that is quite sensitive. Landlords try to get the most they can out of you. That is what Ms Corbett has been doing: negotiating a way. Therefore while some leases are coming towards an end that does not mean a closure. Most of the time it does not, actually, except where they are trying to gouge the taxpayer. Our job is to make sure they do not do that.

Senator TROETH—So I take it that you would prefer not to release publicly notices of closure or that you will be closing.

Mr Fahour—I would not have thought that it is in the taxpayers' interest to do that.

Senator TROETH—In that case I will not ask you to produce a list of post offices that are experiencing financial difficulty and may be considered for closure.

Mr Fahour—Thank you.

Senator TROETH—Nevertheless, 27 post offices were closed just before the Christmas break. Was there any particular reason for that?

Ms Corbett—I think you are referring to some media speculation around a list of 27 outlets. That list does not equate to 27 post offices that closed. That was a list of outlets we were closely monitoring to look at their long-term sustainability. So it was not a closure list.

Senator TROETH—I take it that that includes the post office outlet in Parliament House, which also became the subject of some discussion.

Ms Corbett—That became a subject of some discussion and that is a great example of an outlet where since that time we have been in active negotiations, and they look to be heading in a very positive direction for us.

Senator TROETH—No doubt customers flooded in the door once they thought it might close.

Mr Fahour—We can only hope that that is the case, and we only hope that the landlord continues to be good about being realistic about the rent for this wonderful building.

Senator BIRMINGHAM—The landlord's estimates were yesterday.

Mr Fahour—I hope you stuck up for us, Senator.

Senator TROETH—Minister, I would like to ask you some questions. Section 49 of the Australia Post act states that the minister can give such written directions to the board 'in relation to the performance of Australia Post's functions as appear to the minister to be necessary in the public interest'. Do you think the alleged closure of 27 post offices throughout Australia is in the public interest?

Senator Conroy—Australia Post has a range of community service obligations and, as has just been explained by post officials, there is not a list of 27 post offices for closure.

Senator TROETH—Do you provide the board of Australia Post with any directions—either yes or no—relating to the closure or otherwise of those post offices?

Senator Conroy—I do not think—and I am happy to triple-check this—I have given Australia Post any directions at any stage since I became the minister.

Senator TROETH—Both sides of government, both Labor and Liberal, spoke out against the closure of post offices in their electorates. To the best of your knowledge, you did not take any steps to prevent the closure of any of those 27 post offices?

Senator Conroy—The 27 post offices have not closed.

Senator TROETH—No, I said any of them that have closed.

Senator Conroy—Following a range of representations from a range of individuals, I sought information from Australia Post and was satisfied with the answers.

Senator TROETH—Were you consulted or advised regarding the closures?

Senator Conroy—It would be fair to say that I probably read about it the newspapers in the same way you did, Senator Troeth. But, as I said, the newspapers did not present an accurate picture of what was actually being proposed.

Senator TROETH—No, I certainly gathered that.

CHAIR—Just on the issue of post office closures: I am sure that you are aware of Miss Minnie Knott.

Ms Corbett—From Glebe?

CHAIR—There you go.

Ms Corbett—Indeed, I am.

CHAIR—You have not told the chief executive about Miss Minnie Knott?

Ms Corbett—She is not currently on the payroll.

CHAIR—She was on the payroll in 1878. Is that correct?

Ms Corbett—That is correct.

CHAIR—In Glebe.

Ms Corbett—Yes.

CHAIR—And there has been a post office in Glebe since the 1850s, I think?

Ms Corbett—I understand that to be correct.

CHAIR—And you are closing Glebe?

Ms Corbett—The Glebe counter services closed on 4 February.

CHAIR—There has been a petition of about 4½ thousand local residents opposing that closure. You are aware of that?

Ms Corbett—Yes, I am aware of that personally. There have been a number of petitions and representations with regard to three outlets in particular in New South Wales. I flew to Sydney and met with community representatives, as did my team. We spoke to both federal and state members, individual traders, members of the public, senior citizens and the chambers of commerce.

With Glebe itself, I think it is important to point out that Glebe had five outlets within a two-kilometre radius of the historic Glebe post office. When we looked at the performance, the important thing in Glebe was that a 10-year lease was coming to an end. That 10-year lease came to an end in December last year. That caused us to look at and really try to understand whether that post office in that outlet in that format was sustainable. We looked at a number of factors. In Glebe, there were a number of factors that we needed to consider. One factor was that, in that post office alone, we had lost \$740,000 in one outlet over the last three years. We also experienced an 18 per cent decline in customer numbers over that three years. To put into perspective that 18 per cent customer decline in Glebe, nationally we had experienced a 3.9 customer decline. So it was five times the national average. When we looked then at the rent and total accommodation costs that we were paying, our total accommodation costs for the 2009-10 year for Glebe were \$357,000. Again, Glebe is quite a unique outlet in that we paid \$357,000 in accommodation costs, but we only generated \$464,000 in revenue.

CHAIR—I have not asked you a lot of these questions.

Ms Corbett—No, but I think—

CHAIR—Can you just hold up a minute and let me ask some questions in relation to it.

Ms Corbett—Sure.

Senator BIRMINGHAM—Senator Cameron, I thought you said, ‘Let the witness finish their answer’!

CHAIR—Normally that is my view, but this answer takes the ticket. This was a long answer. In relation to Glebe, you have indicated that the driving force was coming to the end of the lease. If the lease had not come to an end, would we still have a post office at Glebe?

Ms Corbett—I think the issue of the lease coming to an end allowed us to look at all of those dynamics that I mentioned in my answer previously, without going through that again. It allowed us to look at the performance of that outlet, what customers were using that outlet for and what kinds of outlets in the immediate vicinity had capacity to pick up that demand.

CHAIR—In relation to the losses at Glebe, I have seen somewhere that there are comments from some of the local shopkeepers and the community that the problem with the post office was that it was selling fluffy toys and nonsense things. Has there been an analysis of whether you could actually get more people into that post office if you changed the basis of what you sell in Glebe and the services you provide?

Ms Corbett—One of the basic issues with Glebe was declining customer numbers. Customers were not coming in the door, regardless.

CHAIR—For fluffy toys?

Ms Corbett—No, for our core services. That was the key issue for us. Our retail merchandise business is there to support and offset some of the fixed costs we incur in running our network. It has an important place in that regard.

CHAIR—You said that you consult. Is there still a process of discussion or is it now a fait accompli?

Ms Corbett—With regard to Glebe?

CHAIR—Yes.

Ms Corbett—As I mentioned earlier, the post office shut on 4 February.

CHAIR—That does not mean to say that you cannot open up a facility in Glebe in the future—is that correct?

Ms Corbett—What we have done in Glebe—and can I beg your indulgence to answer a couple of things—is that we have looked at a nearby outlet. The nearest outlet is 800 metres away, at Broadway. What we have done in that facility is put in two additional counter terminals and increased the staffing to accommodate some of that need. There are also then a further four outlets within that two-kilometre radius. We have also put in place at the convenience store, which is 80 metres away, a community postal agency. That allows the local residents access to our core range of postal services, being stamps, Express Post, Postpak and parcel services, and avail themselves of those services in that immediate vicinity.

CHAIR—Is your full service post office in Broadway on the Glebe side of Parramatta Road or on the other side?

Ms Corbett—I have been to the outlet. It is literally straight off the car park. There is convenient access straight from the car park. It would be on the corner. I would have to check that for you exactly in terms of the location.

CHAIR—Do you understand why I am asking that question? Parramatta Road is one of the busiest roads in New South Wales and probably in the country.

Ms Corbett—Yes, absolutely, but it is in the shopping centre, which has a dedicated car park, so people are not expected to park on Parramatta Road and go into it. There is a car park and our post office and post office boxes there are located right outside.

CHAIR—So you expect people to drive two kilometres if they are in their eighties?

Ms Corbett—It is 800 metres to Broadway. It also has public transport straight to its door.

CHAIR—Given that, in the chief executive’s statement to us, parcels and home shopping have increased 75 per cent, why couldn’t you look to Glebe to provide a parcel service in conjunction with a postal service?

Ms Corbett—I am not sure what you mean by a parcel service.

CHAIR—You could have a facility in Glebe that helps to build your capacity to do with parcels in that Glebe area.

Mr Fahour—Firstly, we do have a parcel facility in the Glebe shop. Therefore, the reality is that we generated \$411,000 or something in that order—\$400,000 of revenue—in this beautiful building and just the rent alone was approximately \$350,000. Then we had to pay for labour and have the right number of people, and the list goes on. When you have a situation like that, where the entire customer revenue—which is mostly postal and so forth—is consumed, it is very difficult.

When it comes to parcels—and this is a very important point—this is a great opportunity for us, but in the parcel world it is not about picking them up from the post office. The beauty of the parcel world is that you get it delivered to your house. This is a terrific opportunity that we have in front of us—the one opportunity that we have, to your point, compared with the rest of the world—to actually take part in a growth opportunity, where we can get some revenue and deliver the parcel to the home or the business, and create the convenience. At the moment, people are not wanting as many stamps as they wanted, as I said earlier. They are not wanting to pay their bill at the post office; they are hopping online or they are using BPAY. Therefore, this expensive building is not how we are going to choose to deliver the vital services. But we will support the Glebe residents. We will support these communities. We are not vacating; we are just changing the nature of the service so that we remain viable throughout this country.

CHAIR—Will you continue a dialogue with the community to make sure that what you have decided to do now is operating as you believe it is and in the interests of the community? You did say that it was about broad community access and reliability.

Mr Fahour—You are 100 per cent right. I have said to Ms Corbett and my entire organisation that as we go through this journey of transformation that we have to go through to survive in the next five to 10 years—we cannot do this; this is being done to us—we need to bring people with us. We need to bring our staff with us, we need to bring the community with us and we need to bring the parliament with us in handling this very difficult transition that is part of a global problem. You only have to go, Senator, as I am sure you have, to the United States or back to the United Kingdom and walk through and see what has happened to those postal organisations. You have a very interesting situation right now. I have just come back from Hong Kong and I saw some of the efforts that are going on in China and in Hong Kong. I was in Europe a few months ago. When I visited those post offices I saw at the one extreme the postal operations that are run as almost government departments. If you look at their losses—the United States postal system, according to the newspaper reports, will run out of money this year.

CHAIR—I thought you were talking about China a minute ago.

Mr Fahour—I just said these are models. At the other extreme are the ones that are purely profit orientated—look at what is happening to TNT in Holland right now. We have this wonderful opportunity to mix both our community service obligation and our profit opportunity, and we are doing it in such a way that must bring people along. So you have a commitment from my team that we will continue to engage with all the communities on the change of service in order that it satisfies their current needs but also satisfies their future needs.

CHAIR—Arising from this wonderful opportunity that you are talking about, I suppose if you were the post person delivering the mail you would not see it in the same terms as you see it, given that your job might be at risk. What discussions are you having with your staff and the union to deal with the declining number of letters and any redundancies that might take place amongst post personnel?

Mr Fahour—I can assure you that there has been extensive and detailed dialogue with our staff and with the union movement and the CEPU, which we as an organisation and I personally meet with regularly. We had a landmark agreement last year in settling the EBA. The way we did the EBA was through openness and transparency on all the issues we have today and the issues we are facing into the future. It is through their thoughtful leadership that they have come to see this problem. That is why we struck this EBA. We struck it because of the openness and transparency around the problems, the situation and the opportunities for tomorrow.

To specifically answer part of your question, late last year during the EBA process I announced a \$20 million investment in a program of training and skilling staff for the new opportunities that are in front of us—it is called Future Skills. We also set aside a large sum of money, which is detailed in our annual report, to take care of the voluntary redundancy program that has occurred over the last little while that will be used to help those people who take a program and leave our company. But we are very committed to this investment and I am very hopeful that in the fullness of time we will be able to seek further dialogue about who we train, where we train and how we take our staff with us on this very important transformation that we need to undertake at the moment.

CHAIR—On this issue of the Future Skills program, is \$20 million sufficient to deal with the massive change that you have outlined here this morning? How did you reach \$20 million as a figure, and will that \$20 million mean not only workers leaving and moving on but also workers moving from delivering mail to the parcel service? How does that work?

Mr Fahour—I am happy to continue this dialogue with you. There is a long answer to that, because it is not a very straightforward question. Your point is 100 per cent valid. The \$20 million dollars—we figured out how many people we thought we needed to train in the next 12 to 24 months and train in the new areas of some of the retail services and parcel opportunities—because it is not just on the delivery side; when you do parcels there is a whole bunch of processing, transportation and other activities like that. Another part of it is for the actual posties themselves. How do we equip the posties to be able to deliver slightly larger items? How do we give them more work? We had this discussion with the union movement and the CEPU. We had a dialogue leading up to Christmas, for example, about how to split some of the items that are coming in and put more of them that can be handled

with our current equipment and current people through the postal network side. The more we can do on that side—we are all for it but we have to have the right equipment, the right training and the right development. Could I do with more than \$20 million? Senator, if you were good enough to give us any more money we would be delighted and absolutely feel privileged. All charity is accepted, from you or anybody else who cares to put into that bucket.

CHAIR—Have you heard about budget deficits?

Mr Fahour—I am just trying to figure out how to stop my own going into deficit. If you have some spare change from anywhere else we would be delighted.

Senator Conroy—To confirm an answer I gave earlier, I have at no stage since becoming minister given any directions to Australia Post. But I have given a very public indication that, given Mr Fahour's long-term addiction to the Carlton Football Club, if Australia Post were suddenly to start sponsoring the Carlton Football Club I would issue a ministerial directive.

Senator BIRMINGHAM—Australia Post has had some correspondence with my colleague Dan Tehan, the member for Wannon, about the frequency of mail delivery in the Streatham and Mininera regions. Streatham in particular is a region where delivery services have been reduced from five days a week to three days a week. I understand the arguments that have been mounted in the correspondence to Mr Tehan, and obviously there is no expectation or likelihood that Australia Post will reconsider delivery frequency in that area. With regard to Mininera, though, the correspondence signed by Mr Thorne, the board and shareholder liaison officer, highlights that although Mininera does not meet the five-day delivery frequency policy you will maintain a five-day-a-week route because of certain factors related to a local service and so on. Can I have an assurance that there is no plan to review that anytime soon, given the existing arrangements there?

Mr Fahour—I will take your question on notice to give us time to investigate that particular agreement, whenever that was made. We will come back to you with the facts on that.

Senator BIRMINGHAM—Thank you. More generally in relation to this issue of regional services and frequency of delivery in the regions, in your opening statement you highlighted the decline in mail volumes that is being experienced. These regional services, you have highlighted, are reviewed. At what frequency are they reviewed for their cost-effectiveness or cost comparison against urban delivery services?

Mr Fahour—I am sure that you are aware that we have a community service obligation that requires us to meet at 98 per cent the five days delivery service for all Australians. We have met and exceeded that target. We intend to keep maintaining this great service that we provide in our country. But we regularly review our network. We make sure that we review it daily, weekly and monthly. This is the heart of what we do every day and it is the thing that our people take the most pride in—that we actually do deliver and we deliver through all sorts of circumstances to all parts of this country, 98 per cent, five days a week.

Senator BIRMINGHAM—How far above 98 per cent do you deliver? Do you have those statistics?

Mr Fahour—I am happy to take that on notice, but I can assure you that we meet our community service obligations at the very highest standards. Clearly, as you can imagine, with the accounting background that you have, between 98 and 99 per cent, the numbers are actually quite small, but the actual cost is completely—

Senator BIRMINGHAM—Of delivery—indeed.

Mr Fahour—The parliament when it set the act took into consideration the word ‘reasonable’. We feel that we exceed the word ‘reasonable’.

Senator BIRMINGHAM—How many regions over the last 12 months have had their services cut from a five-day-a-week delivery to a three-day-a-week delivery?

Mr Fahour—I am happy to take that on notice.

Senator BIRMINGHAM—Equally, to be fair, are there any regions that have had their services increased from a three-day-a-week delivery to a five-day-a-week delivery?

Mr Fahour—I appreciate you asking that. I hope you will also note that each year, despite the fact that our mail volume is declining, we actually have to service approximately an extra 200,000 homes and businesses, especially in places like Queensland and Western Australia, which have huge growth and vast distances. Because of that population growth, the number of delivery points is increasing at a very rapid rate. So, for us, it is not an issue of just trying to economise—quite the contrary, actually. We have a significant number of our resources committed to the growth of our country, particularly the growth in Western Australia that we are seeing. Whereas in places like New South Wales there might not be that population growth, certainly in those other two states it is huge, and we meet those. Therefore, in meeting that service obligation that I have given you and that we have exceeded, that is in addition to the population growth that we have in our country.

Senator BIRMINGHAM—Thank you. I may have some other questions in this space that I will place on notice. Can I just ask my one ritualistic question: are there any plans or is any work being undertaken to lodge an application to the ACCC for any variation to the base postage rate?

Mr Fahour—There is no application for the basic postage rate that has been put in to the ACCC. We always reserve our right to figure out when the right time to do so is. We gave a public undertaking at the time that we would not raise the basic postage rate within two years.

Senator IAN MACDONALD—I want to add my congratulations on the work that the Australia Post staff, particularly the parcel delivery people, did in the recent floods and cyclones up my way. Has there been any major catastrophe to post offices in Cardwell, Tully, Mission Beach or Ingham?

Ms Corbett—Certainly at this stage, with regard to the latest cyclone in Queensland, we still have six offices that are temporarily closed. Of those that you mentioned, Cardwell LPO is one of those licensees.

Senator IAN MACDONALD—And Tully?

Ms Corbett—No, that is open and operating.

Senator IAN MACDONALD—Very good. And Cardwell?

Ms Corbett—Cardwell is the one that is temporarily closed.

Senator IAN MACDONALD—Mission Beach, I mean.

Ms Corbett—Mission Beach is open. The six that we have temporarily closed are Allingham, Cardwell, El Arish, Morella, Silkwood and Yeronga.

Senator IAN MACDONALD—Your people did a very good job, particularly during the floods, in getting the mail through. They should be recognised for that.

Ms Corbett—Thank you.

Senator IAN MACDONALD—I just wanted to briefly question what happened to the Rockhampton mail centre's operations during the floods in Rockhampton, when, clearly, trucks were not able to get through. I have heard that the mail centre was temporarily moved to Gladstone. I am interested to question that in relation to my other interest in the Rockhampton mail centre, which I will not mention today except, in passing, to say that I appreciate that arrangements have been made to meet with residents and me at some time in the not-too-distant future.

Mr Ousley—The work-around arrangements for Rockhampton did not involve a relocation to Gladstone. Both events—the floods and then later the cyclone—caused closures for staff to deal with their own personal issues on a number of occasions. There was obviously work that did not flow as usual because of road closures et cetera. But there was local work to be done in those precincts during that time. There were no relocations—

Senator IAN MACDONALD—It was suggested to me that mail coming from the south that could not get through to Rockhampton because of the floods was actually diverted to Gladstone and then distributed to western Queensland and sometimes further north via circuitous routes, but done out of Gladstone. That is not the case?

Mr Ousley—That is not the case, to my knowledge. There was some mail that got held up at Miles heading north and then across, but that eventually got in through Mackay, I think. But we can clarify this through a question on notice if that would suit.

Senator IAN MACDONALD—Could you just check out what happened to the mail coming north when it reached the outskirts of Rockhampton? As I said, my information is that it was diverted to Gladstone and then sorted and distributed from Gladstone as a temporary measure. I am interested in whether that did happen and, if so, what the arrangements were.

Mr Ousley—Yes.

Mr Fahour—We are happy to take that on notice.

CHAIR—We will have a short break.

Proceedings suspended from 3.47 pm to 4.05 pm

Senator RYAN—I would like to turn our attention to stamps, if I could—in particular, the Australian legends series that was recently announced.

Senator Conroy—Did you miss out?

Senator RYAN—The standard would have been lowered if I was on one, Senator Conroy. I would like to explore who chose the criteria for this particular series of stamps.

Mr Fahour—Stephen Walter has been looking after this area for the last number of years. He can give you the background on how we went through our process.

Mr Walter—I have been involved since the inception of the Legends Award in 1997. I can give a bit of background in answering your question. Prior to 1997 the only living people honoured on Australian stamps were the monarch and sometimes members of the royal family. Our stamp program is approved by the board. The living legends series has been an annual part of the program since 1997. What has been attempted with the legends award is to make it a very long-running event and each year there will be people, as individuals or in fields of endeavour, who will be recognised with the Australian Legends Award. The recommendation for the content of the legends award comes from our philatelic group, which consults widely, and particularly the Stamp Advisory Committee, comprising external experts including philatelic and graphic designers. They are looking at a balanced approach.

Senator RYAN—It will not surprise you that I am a bit concerned about a lack of balance here. Do you have the names of the members of the Stamp Advisory Committee handy?

Mr Walter—No, but I can take that on notice.

Senator RYAN—You said that the members of the Stamp Advisory Committee were experts in philately and graphic designers. Is that who is on the Stamp Advisory Committee?

Mr Walter—It goes wider than that. I can take that on notice and give you the make-up of the Stamp Advisory Committee.

Senator RYAN—So that committee makes a recommendation about the criteria for a legends series in a given year?

Mr Walter—No, there are some criteria that have been established from the start.

Senator RYAN—If we go to this year, who established the criteria around which these four women were made Australian legends on stamps?

CHAIR—What four women?

Senator RYAN—Excuse me if I do not use their honorifics. They are Eva Cox, Elizabeth Evatt, Germaine Greer and Anne Summers.

Senator Conroy—The stamp police have arrived. The stamp police are with us.

Senator RYAN—I am a bit concerned about the stamp police already having been in action. Who established the criteria? Someone obviously chose them. Recognising leaders amongst Australian women is something I entirely support. I am not challenging that. But I assume that someone made that choice.

Senator Conroy—Of the four?

Senator RYAN—No, the criteria.

Mr Walter—The criteria have been established since 1997. I can also arrange to give you those on notice as well. But, basically, the selection criteria include things like helping to shape the national identity—

Senator RYAN—Sorry; maybe I am not being clear. I understand the broad criteria. Who established the theme for this series, if that is a better way to put it?

Mr Walter—About the middle of last year—I am sorry if that was the specific point you were getting to—it was decided that, in line with the celebration of the centenary of International Women’s Day next month, those women who had contributed to gender equality would be recognised. I think it is important to understand, too, that the Legends Award is not just about four individuals in this case; it is about all women who have supported the cause of gender equality. If you look at the book that was published in conjunction with the award, which is called *Trailblazers: The Road to Equality*, you will see there that many women are recognised. This group of women was chosen—

Senator RYAN—The choice of the four who go on the stamp is obviously an important one. I think you will accept that. In acknowledging the centenary of International Women’s Day, a valid thing to honour and recognise, someone decided to pick only the 1970s. Who was it? Your criteria say the recipients of the Australia Post legends award each rose to prominence during the 1970s. Who decided to say we are going to have the four from the 1970s on it?

Mr Walter—The criteria actually say that they have to have achieved in their field or contributed in their field over an extended or sustained period of many years. If you look back through the years and the people who have been awarded you will find that from people like Sir Donald Bradman, one of the first ones, Slim Dusty and so on—

Senator RYAN—Yes, I have the list.

Mr Walter—all of them have contributed in their field for many years. The process that occurred is that our philatelic researchers, once the theme of gender equality was established, researched the various possible people to fit that theme. And of course they consulted widely. Again, I could give you on notice who was consulted. It goes outside the Stamp Advisory Committee—

Senator RYAN—I appreciate that.

Mr Walter—It went to a number of women’s groups. I cannot name them but I can take it on notice. It goes to a number of prominent Australians as well.

Senator RYAN—But who decided to pick the 1970s? In a century of a campaign for women’s equality there have been an enormous number of Australians involved. Who decided to pick the 1970s? You have picked four in one decade here out of 10 decades and many more.

Mr Walter—Sorry, I missed an important point, I think. I was going to run through the criteria as I understood them without providing them on notice, but this is the living legends as well. So the fact is that you have to be alive to receive this award and, as I said, the only living people who appeared—

Senator Conroy—It is an important point.

Senator RYAN—I am assuming there are more than four people alive from the 1970s involved in this particular sphere, Senator Conroy.

Senator Conroy—Just come out and say who you hated. Stop teasing us; tell us who you hated on the stamp. I cannot stand the suspense anymore. Who is it you hate?

Senator RYAN—Just ignore the interjections of the minister. We find it much easier in the chamber as well.

Mr Fahour—Senator, I guess it is fair to say that a recommendation comes through from that group—

Senator RYAN—To the board?

Mr Fahour—From the advisory committee to the managing director. The managing director puts it to the board. The board approves the stamp issue. The board is an independent board with an independent chairman, Mr David Mortimer. I am sure you know David. And the board will look at a whole series of stamp issues. The living legends, while it is an important exercise and over the last 14 years has been terrific and well received, in the context of our business represents less than one per cent—it is 0.05 per cent—of our business. Therefore it would not necessarily take up the amount of time at a board meeting that maybe you would like it to.

Senator RYAN—No, the point is I am not critical of any particular choice; I am, however, concerned at what is, quite frankly, a lack of diversity amongst the choices.

Senator Conroy—Could you explain what you mean?

Senator RYAN—I am quite happy to explain that.

CHAIR—Why couldn't you even get a female senator to ask this? That is what is exercising my mind.

Senator RYAN—Chair, we can think as individuals. My concern is that in this particular choice there are a number of other notable women. The truth is that the four people you have named as legends—and I am not critical—can be balanced off with four people who do not necessarily share that political persuasion. You have a person who used to work for a former Labor prime minister. You have a person who at least used to recommend Labor votes but now recommends Green votes, so I understand why you are a bit sensitive about that. And you have consciously chosen political activists. Yet in the 1970s you had the first female cabinet minister with portfolio, Dame Margaret Guilfoyle, a senator. You had the first convenor of the National Women's Advisory Council, Dame Beryl Beaurepaire, who later became the first female chairman of the Australian War Memorial. The point I am making is that there is not the diversity in this range of stamps that there could otherwise be that would fully represent the cause you are trying to raise public consciousness about.

Mr Fahour—Senator, thank you for your feedback. I have not been around, obviously, long enough to know any of these things, but could I just add this point. It is an important thing and we have to make sure, but definitely the one thing I will not allow my team to do is to figure out what the underlying politics of the individuals are and whether they are left, right, up or down. I do not really care, nor do I want to influence their decision in the recommendations they put forward. There is an independent group who are experts in their own right who have put forward—

Senator RYAN—Experts in history? Experts in this?

Mr Fahour—Experts in their own right who—

Senator RYAN—On what?

Mr Fahour—I am the CEO. We are running a business, and as the CEO of this business working for the government of Australia—we have been asked to dispense our duty. We have dispensed our duty. We have put in place expert people who have gone and consulted widely. We have taken on notice, Senator, the points that you make, and we will come back to you with who they consulted and how they did—

Senator RYAN—I would like to know whether they were considered by the group. I would like to know who else was considered and whether anyone else was recommended either to you or to the board, or whether the board simply ticked off on the four who were proposed.

Mr Fahour—No problems.

Senator RYAN—Mr Fahour, just because you have an independent group does not necessarily mean it is not subject to question. And quite frankly, if you are going to name four people who are political activists, as I said—in a sphere that I think is entirely worthwhile to acknowledge—then you probably need to be a bit more careful about balance.

Mr Fahour—As you know, I only just took on this job, and this is an area that I will be taking a good look at. The issue of women's equality and 100 years of celebration of international year of women is a really important topic for us in Australia Post. Since I have taken on this responsibility as the managing director, when I stand back and think about the issues we had—we had very much a male dominated management group and we are very committed to diversity as a topic. For example, before I started there were no women who were directly reporting to the managing director. The number of women on our senior management team, in the first two layers of the management team, was in the single digits. Today it represents close to 30 per cent. Therefore this topic of women's equality is very important—

Senator RYAN—And it is not done any favours by not fully representing the diversity of people who have worked in that field, where some of the most prominent women not only—

CHAIR—Senator Ryan, I do not know whether you are advocating for these women or whether you are asking questions of Australia Post. Can you just ask a question if you are asking a question?

Senator RYAN—I raise a point of order, Chair. If you would return me the courtesy that I do you when you speak and not sit there guffawing like you were earlier—

CHAIR—There is no point of order.

Senator RYAN—I am putting a question to Australia Post.

CHAIR—Well, put the question.

Senator RYAN—Do you think that to truly represent and raise the status of that particular campaign not only in your organisation but in relation to the role Australia Post plays within the broader community you need to be careful when you step into a field of political activism

to represent the full breadth of political activity, which has not been represented in this field of stamps?

CHAIR—Mr Fahour, you do not have to answer that; it is a political statement that has been made.

Senator RYAN—My question was whether you think that if this is such an important campaign you need to be particularly careful when stepping into a political field, as political activism is—that you need to make extra effort to represent the breadth of activity in that field? That is a question, Chair.

Senator TROETH—And totally legitimate, too.

Mr Walter—Senator, this was about gender equality and these four women do represent all women who have worked in that area. But going to your point, there was bipartisan support for this in the sense that at the Melbourne and Sydney functions where these were presented there were 1,000 people in Melbourne and 1,500 people in Sydney, the minister representing the Victorian Premier lauded the selection and there was a spontaneous standing ovation by all present.

Senator RYAN—That can represent the campaign. But I am here as an individual. Can I ask one last question on a different issue: does Australia Post plan to commemorate the Diamond Jubilee of Queen Elizabeth II in any way? Are you planning to commemorate it with a stamp of any variety?

Senator Conroy—Oh, my god.

Senator RYAN—I am a republican, Senator Conroy, but I am asking the question.

Senator HEFFERNAN—I am a stamp collector.

Senator RYAN—Amongst many other things, Bill.

Senator Conroy—Did you miss out on an invitation? Is that what this is about?

Senator RYAN—I would not take it up.

Senator Conroy—Do you think you can score a late invitation to the wedding?

Senator RYAN—I have been a republican longer than you, Senator Conroy. It is just a question. Do you have plans under way to commemorate the Diamond Jubilee?

Ms Corbett—I will need to refer to our stamp issue program for the upcoming month. We will take that on notice for you.

Mr Fahour—If it helps, though, Senator, we are going to do the royal wedding.

Senator RYAN—I am sorry?

Mr Fahour—We are looking forward to it. We are very excited about the stamp that is going to be issued for the royal wedding, as I mentioned to Senator Abetz outside.

Senator Conroy—You will get that invitation in the mail now, Senator.

Senator RYAN—No thanks, Senator Conroy.

Senator Conroy—We will be right onto the palace.

CHAIR—Mr Fahour, can I just indicate my congratulations on picking these four eminent women who have made a fantastic contribution to women's rights in this country. Congratulations and well done.

Senator WORTLEY—Last time we spoke about e-services as part of the Future Ready program. Would you be able to provide an update today on what is happening with e-services in Australia Post?

Mr Fahour—May I just do one thing: Senator Birmingham is back and I got the answer during the break to one of his questions. Our 98 per cent service standard of delivery points is five days a week throughout the length and breadth of our country. You asked me a specific question which I did not have to hand: what was the 2010 performance, basically, and the answer is 98.8. So 98.8 per cent of those addresses, no matter where they are in our vast country, are getting five days a week service.

Senator BIRMINGHAM—Thank you. I will look forward to the other information. I appreciate you coming back to us on that.

Mr Fahour—I will respond to Senator Wortley's question. The Future Ready strategy that we announced late last year focused on three different areas. One was around our parcel opportunity, which I spoke about a bit earlier, and the online home shopping opportunity. We are very excited and looking forward to the growth of that area. Australia does lag behind the rest of the world in home shopping domestically. The other area is around retail services. Some of the opportunities that we see are in financial services, communications services and identity and government services through the 4,400-plus shops that we have across the country.

The third area is digital opportunities. We have made some terrific progress in the digital space. We have hired a senior executive to come in and help drive some of those digital opportunities. The idea is to take some of those retail services and, especially for younger customers who do not want to go to a shop but who want to go onto the internet, provide them with some of the postal services so that they can use those. One of those, for example, is online bill payments. We have made some very good progress in that area. We have begun a trial of some different categories online—you can get some of the stationery that you can get in our shop, for example, as well. You can also get it online. It is this idea of being a multichannel provider. The only way to survive in retail is to be multichannel. You are going to have to do both, because that is how the rest of the world is going.

Senator WORTLEY—We spoke last time about the application for the Apple iPhone and the Windows 7 platforms. I am wondering if there have been any enhancements to those.

Mr Fahour—No, we are now providing a multirange of services on our various smart phone applications, whether it be a Windows operating system, an android system or an Apple system. Our idea is to provide increasingly more and more services as the year progresses. It is a case of watch this space, but it is an area of great opportunity for us.

Senator WORTLEY—I just want to see what progress has been made with regard to the Fair Work Australia agreement and the issue of the facility nominated doctors. I am wondering how that is panning out.

Ms Walsh—As we advised the Senate at our last appearance here, we are very proud to announce that the Fair Work Agreement was resolved and has been endorsed by Fair Work Australia in October of 2010. As part of the agreement with our union colleagues through that Fair Work Agreement, we have undertaken consultation over what we call the Work Ready Program, which is the program with which we are seeking to replace the previous program, which concerned direction to facility nominated doctors. As part of that program, we have the basics set out in the Fair Work Agreement itself. That enshrines the principles that an employee in the first instance can elect to go to their own doctor in the event that they have had the unfortunate consequence of being injured at work. Obviously we are trying to prevent those from occurring in the first place as well.

In those circumstances, though, what we are seeking is that the employee and their doctor look at the sort of work that that employee can undertake safely in the workplace. So they will get a range of documentation, which the doctor can make themselves aware of, about the range of duties an employee can undertake safely in the workplace. Hopefully they can come to a discussion agreement themselves about what the person can do if they can return to work. That is the first principle. What we are continuing to do with the CEPU is work through the detail and the policy documents that sit behind that. There have been a number of discussions since October between us and the unions to get that detail right and make sure that our employees have that information.

Senator WORTLEY—So that agreement is now in place?

Ms Walsh—It is in place.

Senator WORTLEY—And how is it operating? Have you had feedback on it?

Ms Walsh—At this stage, as I said, we have not pressed the button. So the previous system has been in abeyance and we have not quite started the new system. At this stage, we are not undertaking as we previously were—we are working through with the union to get this right, give people the right information and get the policies that sit behind it correct. Then we will be making that available to our employees.

Senator WORTLEY—What happens at the moment, then, if there is an issue? They are not working under the old system and they are not working under the new system.

Ms Walsh—What we are seeking to do is use the principles under this new system. We are giving people that option to go to their doctor in the first instance. But obviously we want to back that up with the right documentation. So that is what we are seeking to do. We are not using the old system—it is, if you like, the new system, but we really want to enhance the documentation that sits behind that.

Senator WORTLEY—When will the new system be working?

Ms Walsh—As at the last discussion we had with our union colleagues on this issue, they are considering some of that paperwork. I am hoping that any day now they will come back and say that they are happy with the current documentation. Then we will be able to make all of that documentation available to our employees in hard copy and online, and also make it easily accessible to their doctors as well. So I am hoping I can get back to my office and the answer will be yes.

Senator WORTLEY—On the issue of the Mercedes Benz vans, there was a questionnaire that was received by drivers that were going to driving the vans. I understand that a lot of the drivers were satisfied, but in October, I think, when we spoke, there were some six per cent who still had issues. I am wondering whether those issues have been addressed or how that has been dealt with.

Ms Walsh—As with the Work Ready Program, the Mercedes van arrangements and concerns that the union and our employees have had is a continuing discussion that we are having with all of those groups. I am happy to take on notice if there has been any change from that six per cent. But what I can advise you is that the discussions around this with individuals who are concerned and, indeed, the unions, has been continuing during that time. Given the small number of people with those concerns, I think the best thing to do is continue working with them one-on-one to consider their concerns and the particular details of their route that they are undertaking as part of their round to see what improvements can be made to allay those concerns.

Senator WORTLEY—Has there been feedback from the other drivers—not the six per cent who had issues—as to how it is working with the other drivers?

Ms Walsh—Since we undertook that original survey and the further discussions that have been had, I have not been advised that there has been any further increase or addition to that. But I am happy to take that on notice and provide that to you.

Senator WORTLEY—I would appreciate that. Thank you.

Senator XENOPHON—Mr Fahour, Australia Post made a submission to the Senate's banking inquiry, which was appreciated. You said basically that there are no plans for Australia Post to become its own bank. But what plans are there and what scoping is being done for the possibility of Australia Post being an outlet for smaller banks and for financial services generally?

Mr Fahour—I thought I had dealt with the issue quite firmly last year in the sense that we outlined very clearly that we are not a bank and have no plans to be a bank. But we continue to believe very strongly in some of the things that you have been advocating around distribution and making financial services capabilities available across our country. I spoke with some of the senators last time I was here, particularly with Senator Boswell from the National Party, about some of the services, especially in regional and rural Australia. I mentioned that it is vitally important that we continue to play an agency and distribution role in the provision of some of those financial services capabilities such as the ability to deposit into your bank or credit union or to make a withdrawal, but also to change your money if you are travelling, and to pay your bills. These services, particularly in regional and rural Australia, which are not well serviced, are an area in which we think we can play a really important role in providing opportunity.

Senator XENOPHON—If there were to be an expansion of that facility, especially for smaller banks to have Australia Post as an outlet, what would that involve in terms of training of staff and security arrangements? Has any scoping been done as to what the likely cost of that would be?

Mr Fahour—The good news is that the government of Australia has Australia Post as a safe, reliable, trusted entity that already does this—that has this right now. We have the technology. We have the identification capability. You might have heard Ms Corbett talk about this thing called CEPOS, which is our point of sale system which we are upgrading to be able to do things. So we are investing a large sum of money in our infrastructure and our capability in order that we can continue to provide and grow in the provision of financial products and services on behalf of other banks and financial institutions in this country.

Senator XENOPHON—So you are geared up—basically Australia Post is in a position to provide a lot more for those second- and third-tier banks?

Mr Fahour—Absolutely. And, Senator, I said this last year but anything you can do to tell the rest of the community to come into Australia Post and change your money, we would appreciate it. We do not charge commissions, either.

Senator XENOPHON—Okay, thank you.

Senator McEWEN—Thank you, Mr Fahour, for illuminating us as to the efforts Australia Post has made to increase the number of female employees, particularly at senior levels. I think that is a wonderful initiative. While we are on the theme of equality, could you give me an update on Indigenous employment levels in Australia Post? I think you have about 35,000 employees overall and I am curious as to what numbers of Indigenous employees you have.

Mr Fahour—I will hand over to Ms Walsh in one minute to give you as much detail as we have, but let me just make two comments about this. The diversity of our workforce is critical. Australia Post for many years, for decades, has really been, I hope, a source of pride for the Commonwealth government in the sense of the way it tackles the issue of diversity and the type of population we have. A lot of our jobs, for example, are manual jobs and provide a real opportunity to give people a starting point with a job that they may ordinarily not get elsewhere. My predecessor did an amazing job in really focusing on the Indigenous side. As you may remember, my predecessor was a terrific sportsman with South Melbourne football club—now Sydney—and he saw a lot of the issues around the Indigenous population as something he really wanted to make a difference on, and I feel he has. Currently we are at about 1.7 per cent and we have a target to increase that significantly.

The entire board of Australia Post on Tuesday last week announced our new reconciliation action plan, our RAP as we call it. In that reconciliation action plan, which we did with Reconciliation Australia, we pushed very hard in saying what tangible KPIs we are going to have over the next three years. Really the big one for us is employment. Because we are in such vast areas of Australia, we have a real opportunity to make a difference and do something. Currently we have about 600 Indigenous employees and we have committed to having at least another 600 go through our place for a minimum of 12 months through a combination of scholarships, jobs, traineeships et cetera to really lift the percentage as much as we can. We are going to hold what we have and we are going to do a lot more. So in a big picture sense it is something that we as an organisation—the board, myself and my team—are very committed to. Along with the diversity of women in our management group, the Indigenous population is a very important part of our responsibility and one of our important

objectives. If you have any specific questions Ms Walsh will be more than happy to answer them.

Senator McEWEN—You mentioned that you have 600 Indigenous employees and are aiming higher, and that is great. I am particularly curious about what programs you have in regional and rural areas of Australia to provide employment for Indigenous people.

Ms Walsh—As Mr Fahour has indicated, those programs are now encapsulated in our reconciliation action plan. But I think the focus we really want there is, as Mr Fahour said, around the employment opportunities we can offer, particularly around traineeships and encouraging people to take part in school-to-work programs. So we see the whole spectrum of assistance through the Indigenous community. It does not just start with employment, although that is the bedrock of what we are doing and what we can offer. It starts with keeping people in school, giving them a great education, supporting them with part-time work while they transfer from school to work, and then giving them the opportunity of undertaking traineeships in skills that will take them not only to jobs and a career at Australia Post but indeed, if they so choose, elsewhere. We have seen a lot of that at Australia Post—we skill people up to go into other jobs and give them careers in other places, and we see that as success as well. And beyond that we are giving them the basics and the fundamentals. We have been working with TAFE in the Hunter Valley region to give people skills to set up their own small business. They might be mail contractors or parcel contractors, given that those are often the jobs that are available in rural and regional areas. We want to continue that kind of work and we see that it can make a real difference in rural and regional areas as well.

Senator McEWEN—Of the 600 Indigenous employees you have now, how many would be on traineeships of some kind?

Ms Walsh—I can take that on notice but I know that we have a commitment to—at the moment it is around 30 but we are certainly looking to extend well above that into the future and over the period of the RAP commitments.

Senator McEWEN—And do you have any mentoring programs to get Indigenous employees into more senior levels?

Ms Walsh—Absolutely we do. It is important in our programs to have not only a buddy or coaching system at the workplace but also a mentoring system so that people can seek support and advice not only in their own workplace but also outside the workplace. Critical to the success of our programs has been our Indigenous employment coordinators in each state. Our Indigenous employees know that they have a dedicated resource—someone they can go and speak to who understands the issues they are facing and can give them that support. I certainly believe that that is why we have such long-term employees—and we have long-term Indigenous employees and Indigenous employees at all levels of our organisation.

Senator McEWEN—Excellent. Thanks very much.

CHAIR—I do not think there are any further questions for Australia Post. I thank Mr Fahour and the team.

[4.40 pm]

Australian Broadcasting Commission

CHAIR— I now call on officers from the Australian Broadcasting Corporation. Mr Scott, would you like to make an opening statement?

Mr Scott—Yes, thank you. In the last few minutes, the New Zealand Prime Minister has confirmed that at least 65 people are dead in the New Zealand earthquake, and he said that we may be witnessing New Zealand's darkest day. The ABC has a team of reporters who are on their way to New Zealand this evening. Our New Zealand correspondent, Dominique Schwartz, is heading to Christchurch. We have another reporter, Emma Pollard, who happens to be in Christchurch and is already providing live coverage for us. Since the middle of the day, ABC News 24 has taken live television coverage from NZ 3, our colleagues there. We are also taking that feed from New Zealand and sending it into 46 countries in the region on Australian Network. We are also providing a special feed into the Pacific on Radio Australia, taking coverage from NZ 3 but also from our colleagues at Radio New Zealand. The ABC has also established this afternoon a special digital radio station using the spectrum available, allowing those people in areas of the country where digital radio can be heard to hear live and continuous coverage from New Zealand of the incidents in Christchurch this afternoon.

That incident, of course, is just another that comes after this terrible summer. As an emergency broadcaster, the ABC has been required to broadcast on floods, cyclones and fires around the country. The ABC is part of the Queensland community that braced for and battled through the floods and cyclones from mid-December on. ABC staff in places like Brisbane, Rockhampton and Toowoomba faced the twin challenges of keeping the public informed while protecting their own families and properties. As the construction task continues across the north, I can report that the ABC is proud of its work over the past few months in covering these natural disasters and bringing the news to the Australian people, not only in Queensland but also in states like New South Wales, Victoria and Western Australia that were hit hard by the force of nature this summer. As the Queensland Premier herself has acknowledged, the ABC has played a vital role in keeping these communities that have found themselves in harm's way fully informed of the climatic developments and the emergency services instructions.

I want to take this opportunity to place on the record my thanks to the ABC staff, not just those in Queensland but also those who responded to the call over summer from all around the country to go and be able to report on these incidents first-hand. In doing so, I want to stress that our first priority will always be the safety and wellbeing of our staff. There is always a management of risk when it comes to reporting in dangerous situations, but, as best we can, we look to ensure that our staff remain safe and well so that they can continue to bring the story to ABC audiences around the country in Australia. It is not just in the face of natural disasters that our staff face great challenges and risk. At the same time as we had teams on the ground in Queensland, ABC crews faced hostility and violence on the ground covering the uprising in Egypt. I am pleased to report that those crews are all safe and well, having provided world-class reporting of this story of global significance.

CHAIR—Thank you, Mr Scott. On behalf of all of the committee, I am sure, I extend our congratulations and appreciation to the ABC for the work they have done during this terrible summer in Australia.

Senator ABETZ—On this occasion you do speak on behalf of all of the committee, Chair. That is shared. I observe that answers were due on 3 December 2010 and that 19 answers were provided on 14 February 2011, with the remaining 16 provided on 16 February, which was a number of weeks later. Can I be told when draft answers were supplied to the minister's office?

Mr Scott—I believe that in December the ABC sent off answers. I am not quite sure of the timetable, though.

Senator ABETZ—In December?

Mr Scott—I believe that is right.

Senator ABETZ—Can you take on notice, Minister, when the 19 answers to questions on notice that were tabled on 14 February 2011 came to your office and when the remaining 16 answers that were tabled on 16 February 2011 came to your office from the ABC. I want to find out if the tardiness, with respect, is with the ABC or in the minister's office. Can I move on to the helpful answer I was given to question No. 151, which is, once again, the break-up of Q&A audiences. Can I ask you to give me an update from episode 41 onwards to date. Can you take that on notice.

Mr Scott—I have material here, Senator.

Senator ABETZ—Take it on notice, because time is very short. But could you confirm that, in relation to episodes 15 through to episode 40, not one of the audiences, even by accident, was a coalition majority audience?

Mr Scott—As I look at the chart here, Senator, episode 39 was 40 per cent coalition and 37 per cent ALP.

Senator ABETZ—And we conveniently ignore the Greens, who have signed an alliance with the Labor Party.

Mr Scott—If that is the way you are calculating it—

Senator ABETZ—I think most Australians would see the Labor-Green alliance as being one side. It would be like trying to carve out the National Party and saying that that was not really part of the Liberal cohort.

Senator Conroy—Senator Macdonald has been trying to carve out the National Party for years. And at times, can I say, he has been very successful.

Senator ABETZ—We have the coalition, and we the ALP and the Greens, so—

Mr Scott—We do not allocate preferences when we do this, Senator. The votes are as they occur here. We ask people who they vote for. We have recorded it and we give you that detail. It often falls out very similar to the way that opinion polls are falling out at the moment, but I note that you want to allocate preferences on it.

Senator ABETZ—No, I have not asked about preferences. It just seems passing strange that on not one single occasion has the coalition had, even by accident, a majority of the audience. It is always a majority to Labor Greens. I just wanted to make sure that I had not misinterpreted the figures. Can I move on to the program *Laid*. I understand that you are a fan of *Laid*.

Mr Scott—I have seen an episode.

Senator ABETZ—But I understand that you are a fan of it.

Mr Scott—I thought it was quite funny. Have you seen an episode, Senator? I am happy to send you a tape if you have not seen it and you want to comment on it.

Senator ABETZ—Please, Chair—time is very short.

Senator Conroy—I thought Mr Scott was being very helpful.

Senator ABETZ—Mr Scott, I understand you are a fan of *Laid*. You in fact tweeted on the night of the first episode, did you not?

Senator Conroy—Are you stalking Mr Scott?

Senator ABETZ—Given the distasteful Facebook page of *Laid*, which includes references to necrophilia and smothering your ex with a pillow—and they are available on Facebook and YouTube—can you explain the reason for the decision not to place an age access restriction on the content?

Mr Scott—On the Facebook page?

Senator ABETZ—Yes.

Mr Scott—I have not seen the Facebook page. My reference was to the first episode of the program that went to air, which I thought was, appropriately, adult content.

Senator ABETZ—That is right. I am asking about the Facebook page.

Mr Scott—I will have to take that on notice.

Senator ABETZ—Because, as I understand it—though I have never claimed to be a tech-head—with three clicks you could ensure with a Facebook page that, if they are registered correctly, anybody under a certain age would be denied access.

Mr Scott—Okay. Let me take that on notice.

Senator ABETZ—And if you think that smothering your ex with a pillow or necrophilia, which is a criminal offence, is good humour, so be it.

Mr Scott—I have not seen that.

Senator ABETZ—I will not get into a discussion with you about taste but I will get into a discussion with you about the protection of our young people from that sort of material.

Mr Scott—Okay. I will take that on notice.

Senator COONAN—There would not be any restriction on accessing that on iView, would there, for 14 days or so?

Mr Scott—No. It is up on iView, as nearly all our programs are. The warning classification that appears before the program goes to air on television also appears as part of the iView service but there is no age—

Senator COONAN—So really anyone can access that particular program any time they like?

Mr Scott—They can, that is true. And that is really with all our programs online.

Senator COONAN—It is available for about 14 days?

Mr Scott—That is right. It is a 14-day free window.

Senator ABETZ—I will ask a few more questions on notice about cost and the viewer audience et cetera, but let us move on. Despite repeated ABC denials about anti-Israel bias, I draw your attention to yet another of many examples—but we will try to limit it because of time restraints—the story on 24 January 2011 about the flotilla raid which was on the *AM* program. There are many aspects to the story but I will just deal with two of them. The ABC broadcast mentions both the misery of the Gaza Strip and the Israeli blockade, and by implication attributes the former to the latter. No mention whatsoever is made of the Egyptian blockade. I then did a search of the ABC websites et cetera and could locate only one solitary instance where the ABC refers to an Egyptian blockade of Gaza; by comparison, there are literally hundreds in relation to Israel's Gaza blockade. I am sure that that is not indicative of bias and you will have all the rationale that you have previously provided, but I point that out to you as an example—

Mr Scott—There have been numbers of other reports though, Senator, where references have been made to an Egyptian blockade.

Senator ABETZ—Could you please provide them on notice—an example of all the references to the Egyptian blockade and all the references to the Israeli blockade. The same story on 24 January referred to the flotilla as aid ships and we were told that this was bringing humanitarian aid to Gaza. The organisers of the flotilla have admitted that the purpose of the flotilla was in fact to break the blockade, and Israel had agreed to deliver any humanitarian aid that was on board the ships to the people. They were enforcing the blockade and were not seeking to deny the humanitarian aid getting through. So why do we describe the flotilla as aid ships bringing humanitarian aid to Gaza when the actual organisers said that this was about trying to break the blockade?

Mr Scott—I do not have a copy of the transcript of that program, nor do I recall hearing it. I simply say that I accept that you may have criticisms of it. There has been criticism of our coverage of that from both sides. We have had some very strong criticism of a television documentary put to air in, I think, the *Four Corners* slot which I think is currently being investigated by the Independent Complaints Review Panel or by ACMA—I am not quite sure which—that says we were very pro-Israel in our coverage of that. There has been criticism on both sides and I accept your concerns on that.

Senator ABETZ—Mr Scott, you always tell us there are criticisms on both sides but you have only ever had to apologise in relation to anti-Israel material, not because you were too pro-Israel in relation to any stories. That still remains the fact, doesn't it?

Mr Scott—I will take your word for that.

Senator ABETZ—In the past you have told us that on notice. I assume nothing has changed in the last six months. I turn to question No. 156, which you answered. I asked whether there were any complaints that the ABC was somehow anti-Greens in its coverage.

CHAIR—On Senator Abetz's previous question, Mr Scott, can you provide some details of the ABC's coverage of Operation Cast Lead, in which hundreds of civilians were killed and there was massive damage of civilian residences and various government establishments—and where it was found that the Israeli forces had overreacted and that there had been war crimes as part of that process. When you are answering Senator Abetz, can you advise the committee as well what the follow-up coverage of Operation Cast Lead has been.

Mr Scott—I will take that on notice.

Senator ABETZ—On question 156, you kindly provided us with a breakdown of figures on complaints from the last election. There were 982. Of those, 55 per cent were in relation to anti-coalition bias and 33 per cent in relation to anti-Labor bias, and we were told there were five complaints—which is one for each Greens senator—about anti-Greens bias. In relation to those five complaints—take this on notice—did any of them assert that the interviewer or presenter displayed a bias against the Greens as opposed to being about lack of time that may have been afforded to the Greens?

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

Senator ABETZ—Yes, of course. Technically and statistically I think five out of about 1,000 is insignificant but, nevertheless, as it represents one for each Greens senator, I thought I should ask about it. I will finish by asking about the role of the ABC as the emergency broadcaster. In my speech to the Senate about the flood I in fact paid tribute to the role of the ABC. However, I have received a complaint that on 14 January 2011 a farmer in Elmore rang the ABC regarding the impending threat of floodwaters in Rochester. What action was taken as a result of this call, and were hourly flood updates being broadcast on ABC radio during the Twenty20 international coverage in January?

Mr Scott—I will take that on notice.

Senator FIERRAVANTI-WELLS—I would like to ask about *Q&A* and its Twitter account. I do not Twitter, myself, Mr Scott, but—

Mr Scott—It is a big universe; you are welcome, Senator. You need a tutorial.

Senator FIERRAVANTI-WELLS—I know, I know. I still believe that tweeting is for the birds. There is a *Q&A* account and I would like to take you to one example, on 10 February, where it says 'odds on that the impact of cutting back funding will be very bad.' Of course this was in relation to the coalition's plan to defer water buybacks so that the new flood tax would not have to be raised. Whose views does this Twitter account represent?

Mr Scott—These are not the tweets that go to air on the program down the bottom of the page are they? Is that what you are referring to?

Senator FIERRAVANTI-WELLS—Someone just printed this for me. Mr Jones's portrait is on the side—

Mr Scott—Oh, that account. I suspect it is not Mr Jones himself.

Senator FIERRAVANTI-WELLS—Whose views does this Twitter account represent?

Mr Scott—I will have to take that on notice. I am not aware of the origins of that account, so I will find out.

Senator FIERRAVANTI-WELLS—Who physically issues these tweets?

Mr Scott—I will have to find that out for you.

Senator FIERRAVANTI-WELLS—When you do find that out, could you tell me whether these are the views of Mr Jones, given that his portrait appears on the site, and whether it is the view of the *Q&A* program that deferring water buybacks is a bad idea or whether it is the view of the ABC that deferring water buybacks is a bad idea?

Mr Scott—Let me investigate the origins of that.

Senator FIERRAVANTI-WELLS—Do programs such as *7.30 Report* and *Four Corners* have Twitter accounts?

Mr Scott—In the main, a number of programs have Twitter accounts and, in the main, they are used to promote forthcoming episodes—to, in a sense, market the program and explain what is going on. Often you will find that members of the audience send questions through to the program using the Twitter account. So it is a way of responding to questions or issues that are raised. I do not have the complete list in front of me of official ABC Twitter accounts, but many programs do. Local radio is using it very extensively and numbers of our news programs do as well.

Senator FIERRAVANTI-WELLS—My concern is: do they comment directly on policies of political parties? Could you review those accounts.

Mr Scott—Sure, Senator.

Senator FIERRAVANTI-WELLS—I notice that Ms Fran Kelly has one that pertains to Radio National—

Mr Scott—To the breakfast program.

Senator FIERRAVANTI-WELLS—and then one that pertains to herself. Could you also take on notice what ABC policies govern such tweeting?

Mr Scott—Absolutely. We have clear social media policies and I am pleased to make them available for you, Senator.

Senator FIERRAVANTI-WELLS—Is the ABC all set for the New South Wales election coverage?

Mr Scott—Yes.

Senator FIERRAVANTI-WELLS—Can I be assured of a balanced coverage?

Senator Conroy—Soliciting like that to be on the panel really is unseemly—really unseemly.

Senator FIERRAVANTI-WELLS—Can I be assured?

Mr Scott—Our editorial policies and guidelines apply to the New South Wales election, as everywhere else. We will seek to ensure that principal relevant viewpoints are aired. We will be monitoring and reviewing our coverage throughout the campaign.

Senator FIERRAVANTI-WELLS—So will I, Mr Scott.

Mr Scott—I am sure, Senator. I would be disappointed if you were not.

Senator FIERRAVANTI-WELLS—I am also interested in the extent of coverage—

Senator Conroy—As long as it is not done on a voting population on primary votes.

Senator FIERRAVANTI-WELLS—on New South Wales election night.

Mr Scott—It will be comprehensive and exhaustive, Senator. You will find it in New South Wales on ABC 1 and around the country on *ABC News 24*, and there will be extensive radio coverage, online coverage and updates on Twitter.

Senator Conroy—Will they be the views of the ABC on the Twitter account?

Mr Scott—They will be factual news tweets, Senator.

Senator ABETZ—Was that factional or factual?

Mr Scott—Factual.

Senator FIERRAVANTI-WELLS—Of course, Senator Conroy—what else would it be other than factional! You come to Canberra quite often, Mr Scott.

Mr Scott—I did bump into you last week, Senator.

Senator FIERRAVANTI-WELLS—Where do you sit when you come—or do you hot-seat with somebody else in the ABC?

Mr Scott—It is a very crowded bureau—it is crowded.

Senator FIERRAVANTI-WELLS—I have noticed on the odd occasion that I do visit up there—

Mr Scott—You are welcome any time. It is crowded, Senator, because we are doing that much more news coverage now, of course, with *ABC News 24*. Chris Uhlmann will be playing a leading role in the new 7.30 program when that goes to air on Monday week. So it is crowded. We continue to look at how we can make best use of that space. We have contemplated a mezzanine level, but we have been told that that is not possible.

Senator Conroy—I have actually found reporters sitting in the garden outside having to use their laptops.

Senator FIERRAVANTI-WELLS—I did notice Mr Simkin and Mr Jennett cosily ensconced in their two square metres, although they did assure me that they have a possie for their coats.

Mr Scott—It is crowded—I accept that.

Senator FIERRAVANTI-WELLS—On a serious note—and given the expansion of *ABC News 24*—I mean, with two desks put together, are there any OH&S issues? Seriously, Mr Scott—

Mr Scott—We are addressing that. We are looking at how we can redesign and reconfigure that space and the availability of space to make better use of it and give people a little more space. We are conscious of that.

Senator FIERRAVANTI-WELLS—We do not want low morale at the ABC and crotchety journalists, do we.

Mr Scott—No, we certainly do not.

Senator FIERRAVANTI-WELLS—That would make it even worse for us, particularly those on the conservative side.

Mr Scott—They work very hard.

Senator IAN MACDONALD—Mr Scott, again, as always, congratulations to local ABC on the cyclones—it was just fabulous, as always. I have a number of questions, as you may be aware. We are each given five minutes, so we have to move very quickly. I am a great supporter of Haywire. I saw the shirts around. For the first time in 23 years, since it has been going, I did not get an invite to see anything.

Mr Scott—I am shocked and dismayed by that, Senator, because your regular attendance has been much noted. I will investigate what the story was with that. You should have certainly got one. I am sorry about that.

Senator IAN MACDONALD—You will recall my involvement in the original. I just wonder whether other politicians were invited and, if they were, to which party they belonged.

Mr Scott—I think everyone was invited.

Senator IAN MACDONALD—Well, Senator Abetz was there—that is to the right of the spectrum.

CHAIR—It must be done on Liberal factions.

Senator ABETZ—We should have asked Australia Post.

Senator IAN MACDONALD—Maybe my invite got destroyed in the cyclone or something. Can I leave you with a transcript of a doorstep interview in Cairns on 17 February 2011. It was done by a local reporter, not an experienced political reporter, I understand, using questions provided by *ABC News 24*—you can see the interview and the prepared questions. This was a press conference with the Prime Minister. There were no other journalists there. It ran all day on 24 but was also syndicated to every other channel, which means that this was the story of the day. It was a day when there was lots of talk around uranium in the ALP, criticism of Craig Emerson and quite a number of other stories.

Senator Conroy—Surely you are not now trying to tell people what they should be asking?

Senator IAN MACDONALD—Let me ask my question, Minister. Time is short.

Senator ABETZ—That is what you are doing to the senator.

Senator IAN MACDONALD—What I am saying is that this was a very important trendsetter of the news for the day. None of the questions were about the other major issues. It was all about the Leader of the Opposition.

Senator Conroy—You can criticise what is asked, but you cannot start telling them what to ask.

Senator IAN MACDONALD—I am going to give this to you, if I may, Mr Scott—

Mr Scott—We will take a look at it, Senator.

Senator IAN MACDONALD—and ask, in view of the circumstances and the background that I portrayed, whether you think that was a fair distribution of questions—

Senator Conroy—You think it is important—I do not.

Senator IAN MACDONALD—from *ABC News 24* to a local reporter—

Senator Conroy—That is an outrageous question that goes to your political bias—nothing else, Senator Macdonald.

Senator IAN MACDONALD—I am just ignoring you, Minister.

Mr Scott—The only thing I would say about News 24 is that we are using our local reporters in the regions to conduct interviews when leading figures are outside the major capitals. So that would not be unusual and it would not be unusual that areas of questions are provided. But I am happy to take that on notice.

Senator IAN MACDONALD—But, you see, there was only one area of questions. On a very busy news day, with lots of things happening—

Senator Conroy—That is your opinion.

Senator IAN MACDONALD—in the Labor Party, there was one series of questions that you picked up from there.

Senator Conroy—That is your political opinion, Senator Macdonald, not a factual critique.

Senator IAN MACDONALD—I will ask you just to have a look at it and give me a view as to whether you think that is appropriate. The ABC premises in Townsville and Mackay were evacuated. I am wondering why work had not been done prior to this—I understand that advance notice had been given several years ago—to make them cyclone-proof. Because I am going to be cut off, I am asking you both of these questions at once. There is a concern by local ABC people in the flood and cyclone areas, without being more specific, about the absence of an ABC helicopter in regions where they are needed in these sorts of things. They do hire in helicopters. There is a question about the cost of hiring in versus acquisition et cetera.

Mr Scott—Sure. Let me address both of those very quickly. We had an assessment done of those buildings as recently as 2008. We saw that the buildings, say, in Mackay and the other buildings in Far North Queensland were not built to withstand category 4 or 5—they are built to withstand category 3. So we needed to make a call. With the concerns about storm surge and some of them being in low-lying areas, in consultation with the staff we needed to make a

call as to whether it was safe to keep them in that building, which could be seriously damaged or flooded. We continued to provide local broadcasting, of course, with regular local updates. We kept on the air in that region throughout but it was simply not safe to keep our staff in a building that was only cleared for category 3.

Senator IAN MACDONALD—I accept that. That is not my complaint. My complaint is: why were the buildings category 3 and not category 5 when I understand, and as you say, you knew two years ago that work was needed.

Mr Pendleton—Senator, it is almost impossible to upgrade some of those buildings to withstand the force of category 5 storms and it is incredibly expensive. We only have one building that has a category 5 facility, and that is a bunker at the back of the building in Karratha, recently built. The sites in Queensland would not accommodate bunkers and we have upgraded those buildings to the maximum extent possible in terms of cyclone preparedness. But at a point when cyclones are predicted at levels beyond what those buildings and facilities can withstand, then it is in the interests of our staff to pull them back.

Senator IAN MACDONALD—Because they are a public service as well as an ABC broadcaster, I suggest to you—and I would be happy to support this—that there should be a special approach to the government for an allocation not for ABC radio as such but as a community service in cyclone-prone areas to enable you to spend the money needed, expensive though it is, to make them category 5 because they do perform a useful service. Admittedly they were broadcasting but from out of the town.

Mr Scott—I appreciate that.

Mr Pendleton—The other consideration is that a number of those facilities, even if we could have manned them throughout the storm, would not have been able to broadcast without the communications facilities to them. So we would have had to pull back and broadcast from afar anyway.

Mr Scott—It is not just the building; it is the Telstra links, the power and all those other aspects.

Senator IAN MACDONALD—Yes but none of those was a problem. They could have been but I do not think—

Mr Scott—Yes, they could have been. And in a sense we had to manage the risk on the basis of the forecast we were given. It turned out that they were not inundated but in the briefings we were getting in the lead-up right up to the day that was the problem. And there were some problems with the Telstra line. Just briefly on the helicopters, the ABC has two helicopters. They are based most of the time in Sydney and Melbourne. Both of them were in Queensland. Both of them provided support through the flood coverage. We deploy them where they are needed and we continue to monitor where they are best located. They were there for the flood coverage and they were also there for the cyclone.

Senator IAN MACDONALD—Thank you for what you have said. There are a couple of other points I want to ask you about but I might have to take the opportunity of doing that on notice.

Senator XENOPHON—Mr Scott, we have had an informal discussion about this beforehand, so I do not think many of these questions will be—

Senator Conroy—How many Xenophon supporters attend *Q&A*? How many of his family members have you invited?

Senator XENOPHON—Mr Scott, recently the ABC cancelled the *Soapbox* program on 891 local radio in Adelaide and replaced it with *Conversations with Richard Fidler*. Can the ABC describe how this program, which recently interviewed of Northumbrian folk singers, is more relevant in terms of local content than a program which included feedback from the entire state?

Senator FISHER—Hear, hear!

Mr Scott—I appreciate that this is of concern to some of the good senators from South Australia.

Senator XENOPHON—It is a big concern.

Mr Scott—Yes, I understand that. If you look at our local radio format right through from the smaller local radio stations to the main ones in the metropolitan areas you will see that we have local coverage and we have national coverage. In the heart of the breakfast program we cross to *AM*, and *AM* goes around the country. And on the weekend, of course, there is extensive national coverage on local radio through *Grandstand* and other programs as well. The Richard Fidler conversations program is one of those national programs. It comes out of Queensland and goes, I understand, at the moment through New South Wales, Tasmania and now South Australia. As I said to you earlier, I do not think there is another program on local radio on which I get more unsolicited comments of praise and support than I do for that detailed conversation he has. In a sense it is the radio equivalent of the kinds of interviews that Andrew Denton used to run on television. I think he is very gifted. I appreciate that this change has generated concern in South Australia and that there is a feeling that something about the collective conversation element that Matthew Abrahams and David Bevan's *Soapbox* program used to bring has been lost. I know that our radio management team in South Australia is looking at that. We are aware of the concerns. We have had complaints raised and phone calls—

Senator XENOPHON—Can you provide—again, you may wish to provide this on notice—how many complaints were made to the ABC switchboard about this.

Mr Scott—We got a lot of them.

Senator XENOPHON—Perhaps on notice you could provide how many complaints and how that tallies as a proportion of national complaints about any particular issue.

Mr Scott—I would say that it is a significant level of complaint but is at about 10 per cent of the level we get when things really happen. I think it runs into the hundreds but there have been issues on which we have had thousands and thousands of complaints. But I will give you that detail.

Senator XENOPHON—Thank you. In relation to the issue of *Soapbox*, James de Barro, the chairman of the board of the Keith and District Hospital, said recently that *Soapbox* was a critical hour—“The end of the program has created yet another disconnect between the

metropolitan and rural areas. It was instrumental in raising awareness about the South Australian government's funding cuts to the Keith and District Hospital which have led to the hospital's imminent closure. The loss of this program in 2011 means it is much harder to raise awareness of this and other issues in the broader community.' Is that something that seriously concerns you, and will there be an urgent review?

Mr Scott—I absolutely take on board your concern and others' concerns. It is early in the year. I think that at 891 they are looking at whether there are other ways they can bring that content to bear on the station at some time during the day, and we are reviewing it. As you know, the first radio ratings for the year are out tomorrow morning. We will study those closely, we will study the audience feedback and we will give some of these things a bit of time.

Senator XENOPHON—And if they are bad will there be an earlier review of the decision?

Mr Scott—What I can say is that we have the matter under review. We are aware of the concerns. We want to be able to deliver the best local programming. We want to be able to deliver outstanding national programming. I think Richard Fidler's program is an example of outstanding national programming but I understand that the community there feels that it has lost something as well. We do want to be connected and engaged with the local community. We do want to be a place where the conversation can take place so that we all understand each other a little better by hearing those views and those voices aired. So we will continue to have the matter under review and if we feel that we need to make a change and that it is in the interests of the community to make a change in the station and we do not think there are other ways we can do that, then we will certainly come back to you on it.

Senator XENOPHON—On the issue of local content, what guarantees are there that the new 7.30 structure will give what I think is known at the ABC as the BAPH states—named for the capitals Brisbane, Adelaide, Perth and Hobart—greater editorial control and time for stories from those states?

Mr Scott—As we reviewed the *7.30 Report* with the changes that were inevitably going to happen at the end of last year, one of the things we were very conscious of is how you give appropriate weight to state based current affairs stories. I think there is an argument, and it is an interesting debate, as to whether in fact focus on state based current affairs issues was diminished with the loss of the state based *7.30 Report*, but that was almost 15 years ago now. We are keen in our format, particularly on a Friday night but certainly at other times during the week, to be able to allow a focus on appropriate state based issues where important. We will have a mechanism whereby we can do that and we will be able to measure local content and need to justify the decisions we make on local content.

Senator XENOPHON—In the old *7.30 Report*—again, on notice unless you have it at your fingertips—what percentage of stories came from the BAPH states and what percentage from South Australia, as a stand-alone figure? To what extent will the local state edition of *7.30* on a Friday be subject to greater editorial control or instruction from producers in Sydney? That is a concern that has been expressed to me.

Mr Scott—I can understand that. I will get those first figures back to you on notice. The new 7.30 program hosted by Leigh Sales and Chris Uhlmann goes to air on Monday week. There will of course be some strong local issues in some states. State elections are looming in some states. There are the critical local issues we have been dealing with in recent months that will need to be followed up on. I think the best test of how we go in delivering the national and the local will be evident as that program goes to air, as it beds down and as we look at the data that emerges from that. We looked seriously at how you increase local input and coverage of local stories. The creation of the new 7.30 has certainly not been driven by an attempt to increasingly centralise and nationalise.

Senator XENOPHON—You can understand the fear that it would be.

Mr Scott—I can understand that, but that has not been a driver. In fact more of our conversations have been around how you ensure that when there is a significant local story that is of importance at a state level but does not pass the national threshold you can get that to a significant audience at 7.30.

Senator XENOPHON—I look forward to those figures. Finally, is there a commitment to review the issue of the loss of *Soapbox* on 891?

Mr Scott—We are reviewing that in light of the audience concerns. I know that it is a matter they are aware of. The director of radio raised it with me a few weeks ago now, saying that there had been significant community concern about it. I know they are thinking about what they can do to, in a sense, tap that need for the coverage of those state based issues at a timeslot and the time and space that works well. So they are looking at alternatives for that.

Senator XENOPHON—Eleven to 12 worked pretty well during weekdays.

Mr Scott—I note your views.

Senator XENOPHON—Let's leave it at that.

Senator Conroy—Let's be clear—I think that, when *Q&A* goes to South Australia, the audience needs to have 15 per cent of Xenophonites.

Senator XENOPHON—That was my vote.

Senator Conroy—That was his vote. So if 15 per cent of the audience are not barracking for Nick, there are going to be some serious claims of bias.

CHAIR—Thank you. Senator Ludlam?

Senator LUDLAM—Thank you, Chair—

Senator Conroy—There will be four per cent for you.

Senator LUDLAM—Just to completely change to subject, can we get a quick update on the audio description trial that I asked you about last time we were here?

Mr Millett—Yes, it is pretty much the same answer. We are still talking to the department. As I indicated last time, we have raised some issues with them in relation to cost, also technical issues and legal issues. They are in the midst of responding to us on that particular point. They have indicated that they would like us to do a trial in the second half of this year.

Senator LUDLAM—Is that looking like it is possible?

Mr Millett—It really depends on sorting out those issues.

Senator LUDLAM—Just step us through again exactly what they are. What is taking the time?

Mr Millett—The cost is the first one. We have not done this exercise before. There is a shortage of programming in Australia that we can actually put to air, so it means purchasing it. That is the first issue we have raised. The technical ones are in terms of the equipment that needs to be used for the trial and the scope of the trial—whether it is of a closed nature or an open nature. The legal issues are the implications that follow in relation to doing a trial. And there are spectrum issues relating to it—that is, exactly where you actually run the trial, using which piece of spectrum.

Senator LUDLAM—If I ask you to take it on notice and provide us with an update on when we might see some progress on it, will I get the same four lines that I got from you last time?

Mr Millett—Unfortunately, it is with the department and the minister at the moment.

Senator LUDLAM—Does anyone from the department or representing the minister or even the minister himself want to provide us with an update?

Senator Conroy—I would have to get some advice on where it is up to.

Senator LUDLAM—I am okay with that. Would you like to do that now while I change the subject?

Senator Conroy—I am sure I will have some officers back at the table shortly.

Senator LUDLAM—Mr Scott, I gather that the ABC has expressed interest in becoming Australia's primary Indigenous TV channel.

Mr Scott—I think that is a bit of an overstatement. As a public broadcaster, clearly we have an interest in Indigenous broadcasting. Clearly, we have programs that go to air on radio and television and online that cover Indigenous issues. We are making a major investment in television. Sally Riley joined us some months ago now. Part of the drama investment we have made is going on some significant new series that are based in Indigenous communities but also are using Indigenous filmmakers. So there is a significant investment there.

A review of Indigenous television and broadcasting has been undertaken by the government. We made a submission to that. We said that, of course, we would be available to increase the level of Indigenous broadcasting and aggregate some of the content that is out there and put it together in a stream of programming, even on an existing channel or, if the spectrum was available, on a new channel. We are happy to provide support for the NITV service if the NITV service continues in its current form. So, in a sense, we are available to play a role. Finally, the role that we play will be determined, I suspect, by the review of Indigenous broadcasting, which has not been released, and then the response of the government to that; and whether there was funding available for that work to happen. So there are a number of steps around the way. The way I would depict it is: are we happy to have an increased role in Indigenous broadcasting? We are if we are able to do so and if the funding is available for us to do so.

Senator LUDLAM—I might ask you to take the next question on notice because I do not know if you will have it in front of you. Can you tell us what percentage of ABC 1 on-air time is currently dedicated to first-run Indigenous content?

Mr Scott—I will have to take that on notice. The one thing I would say is that it is going to increase with the slate that we are developing now. In part, it is about how you define Indigenous content. But we have a significant amount of drama that is under way. These issues are being extensively addressed in Television's strategic plan. We will be able to give you the current numbers.

Senator LUDLAM—And also any definitions that you stick to.

Mr Scott—Sure.

Senator LUDLAM—Either a percentage or as hours would be helpful.

Mr Scott—Yes.

Senator LUDLAM—While we are on that subject, in the past 12 months, how much of that content was broadcast in prime time or during the official ratings period?

Mr Scott—Some of our programs, particularly our current affairs programs, go into a seasonal recess. But we have shown some significant programs. There was one on Indigenous art recently that we showed in the heart of prime time. It was a three-part series. It did not win extensive ratings at all, but we thought it was an important program to put into the heart of prime time. A lot of our work, particularly the first-run work that we have done and shown, we have absolutely shown in the heart of prime time. One of the exciting things that I think we have done in recent years is to put investment money into significant Australian films that are addressing Indigenous issues. The two most recent ones or most high profile examples were *Samson and Delilah* and *Bran Nue Dae*, both of which we showed early in their release windows on ABC television in the heart of prime time to very pleasing audiences.

Senator LUDLAM—You mentioned Sally Riley before. Do you want to maybe go into a little bit more detail about how you procure Indigenous content?

Mr Scott—Yes. I think one of the things Sally brings is years of experience in working with Indigenous filmmakers. With, say, drama, we work with the independent production sector around drama. So we look to identify filmmakers and production units, then we put our money into that. Screen Australia and other funding bodies might put their money into it as well. So partly it is to identify the talent and be able to work with the development of the talent for this to happen. We have a new drama series that we are working on now that will be set in Redfern using Indigenous filmmakers. We brought out from the UK Jimmy McGovern, who is quite a well known director and filmmaker, to work with these Indigenous filmmakers as they are developing this series. So there is quite an extensive process of talent identification, I suspect, and mentoring and development of that talent as part of the work that we are doing. But I am happy to provide further details for you.

Senator BIRMINGHAM—Following on a bit from Senator Xenophon's questions, or one issue that he raised, why is it taking so long to get the new *7.30 Report* to air?

Mr Scott—Firstly, the *7.30 Report*, of course, has continued on air through the year, so it is not as though there is a vacuum there at 7.30. We have a great team there and they are

working well. We are building a new set. The Canberra end of that is being constructed up here. The New South Wales set in Sydney at Ultimo will be finished in coming weeks. We think this program will have a slightly different flavour. They are piloting it at the moment. I think they would have all been keen to be on air. But it is important to remember that that national *7.30 Report*, which I think started in 1996, had been largely unchanged in format over that time. With Kerry O'Brien's decision to leave the program, this was an opportunity to look at it again and think about what changes we would like to make. There is a new head of national programs and a new executive producer of the *7.30* show. There are new hosts and some new teams around them. It goes to air on Monday week and it will be with us for a long time.

Senator BIRMINGHAM—I am sure it will be. I just note, of course, that there have been a number of changes to your commercial rivals. They have largely all relaunched at the beginning of the year.

Mr Scott—We are letting all of that noise settle down, Senator.

Senator BIRMINGHAM—It is a little late in the season.

Mr Scott—One out, one back, Senator—that is the way we are running it.

Senator BIRMINGHAM—With regard to the management of your digital program guides that are available on digital television, do you do those in-house? Who updates those?

Mr Scott—I think we do those in-house and then provide a feed to the providers. Sometimes there is a challenge if there are late changes to that schedule—as, say, there will be today—as to how regularly those providers update the program guide. So we can make a late change to the schedule but it will not necessarily be captured by the people who are delivering the EPG for all the networks. It is not a live updated feed. It will be updated once a day or several times a day.

Senator BIRMINGHAM—I ask the question having had some complaints or queries about updating.

Mr Scott—Late changes are difficult. I think that, say, the Freeview set-top box during the Queensland floods was updating a few times through the day. I am not quite sure what subscription television is doing. But when we are making a change to the schedule, which does not happen often but will happen on days like today, we provide that information to the organisations that are providing the feed to the electronic program guides.

Senator BIRMINGHAM—Thank you. I have previously pursued—I think this was all tied up at one stage into the illustrious program *W* and so on, and I will not try to go back there. In the 2009 budget papers there were some departmental savings identified for the ABC described as distribution and transmission efficiencies. At that stage they were earmarked in the budget papers as not for publication because they were part of commercial negotiations that were occurring.

Mr Scott—Commercial in confidence, yes.

Senator BIRMINGHAM—Were those savings realised?

Mr Pendleton—There are two levels of savings that have been identified within the budget papers. One relates to the commencement of switch-off of some of the analogue around the transmission. There were other savings contemplated in terms of synergistic benefits or efficiencies that could be found in the transmission services. Partly those come from looking at working with SBS in delivering some of that benefit. We are on track to deliver, for our part anyway, a number of those efficiency savings. The joint ones we are still working with SBS on and talking to SBS about what scope and opportunity there is. We have yet to really identify anything that comes from working together. It is the nature of the contracts we have with the service providers and the confidentiality clauses that sit within them. But certainly the savings that we are required to find for the budget we will find from those line items.

Senator BIRMINGHAM—By when are you required to find these? They were identified for the 2009-10, 2010-11 and 2011-12 financial years.

Mr Pendleton—Definitely within the triennium. There would be some due, I think, next year.

Senator BIRMINGHAM—There were some due in each year. There was a not-for-publication amount for each of those three years. One has well and truly gone and the second is almost complete. So have savings been returned to government as a result of that?

Mr Pendleton—I would have to take on notice whether we have actually returned anything as yet from it. But certainly over the triennium we will return the required amounts from the transmission line.

Senator BIRMINGHAM—If you could provide us with some detail in relation to that on notice it would be appreciated. The Australia Network contract expires on 8 August; is that correct?

Mr Scott—That is correct.

Senator BIRMINGHAM—What is that contract worth to the ABC at present?

Mr Scott—It is about \$19 million a year at the moment.

Senator BIRMINGHAM—And does that \$19 million just cover your specific costs as they relate to Australia Network, or would you have to scale back other activities such as foreign correspondents and so on if you were to—

Mr Scott—Senator, I am a bit constrained in that, as you would be aware, that contract is currently out for tender, and a condition of the tender is that the ABC not discuss the nature of the tender and our work at the moment. So I am keen not to go into detail around that. We are paid \$19 million for that service. We invest that \$19 million in delivering that service.

Senator BIRMINGHAM—Have you lodged a tender yet?

Mr Scott—The tenders have not yet closed.

Senator BIRMINGHAM—When do they close?

Mr Scott—In about five weeks time.

Senator BIRMINGHAM—Thank you. I have a series of Australia Network questions which I am sure you will look forward to answering on notice.

Mr Scott—Yes, in five weeks time, thanks.

Senator BIRMINGHAM—A lot of them relate to the current viewer audience and so on and I am sure will not be so sensitive.

Mr Scott—I appreciate that; that is fine.

Senator WORTLEY—I have a number of questions but I understand that we are pushed for time so I will put those on notice. There is just one that I would like to ask in relation to ABC3. I know that we had a target for Australian content on ABC3. How are you going at meeting that target?

Mr Scott—We are going very well. I believe we are aiming to reach 50 per cent Australian content by the end of 2012. We are currently at 45 per cent, so we are exceeding our expectations about the level of Australian content. We are very happy with ABC3. It is the No. 1 rated daytime channel for children aged five to 12 across free-to-air and subscription television. Five weeks after launch its share was already 16.1 per cent. It has now risen to 22 per cent for that demographic. We have received numerous awards for programs that were specially commissioned for ABC3, like *My Place* and *Dance Academy*, including awards received last week for *My Place* and *Dance Academy* at the KidScreen Awards in New York. So we are really getting international recognition for the work that is being done. We are really very pleased with the programs. We are very pleased with the investment we have been able to make around Australian drama. We are delighted with the audience levels, and there is a strong online element to that as well. I think the station is on track to achieve all the targets we set down for its first few years and is proving to be a great return on the taxpayer's dollars.

Senator WORTLEY—Last year ABC Open was launched. I note that it now has a website as well. Would you be able to provide an update on where we are at with ABC Open?

Mr Scott—Absolutely. They are doing a tremendous job at the moment—a series of projects that allow regional communities to tell stories from their region and then use the ABC to showcase it to the country and also to showcase digital media skills. I encourage senators to go to the ABC Open website, where they will see that work available. What I am really pleased about, too, is that it is not only available there; we have shown some of it on the ABC Local website and some has appeared on local radio, *Arts Online* and *ABC News 24*. It is also significant that at the moment we have attracted nearly 1,200 contributions to that website from community groups and different multimedia projects we have been running. In addition we have held 360 workshops across the country, held by ABC Open staff, teaching individuals about how they can develop the digital media skills to be able to take advantage of what is available on ABC Open and elsewhere in the media. It is a very hardworking team. We have been delighted by the calibre of people we have been able to recruit. Recruitment for ABC Open in new sites is continuing around the country now.

Senator WORTLEY—Do you have the figures on the number of jobs that it has provided?

Mr Scott—There will be 50 staff in total, and we have currently recruited 32. We have five Open editors and 27 Open producers, and more jobs have been advertised at the moment as well.

Senator WORTLEY—Have some of those jobs come from inside the ABC—have they moved from one area to the other?

Mr Scott—A lot of the recruitment was of people from outside the ABC—I think the vast majority of people who have joined us for this work. Most if not all of them have come from regional and rural areas. We have been able to recruit Indigenous staff as well, which has been good as part of our reconciliation action plan that has now been under way for a year. We are delighted at the calibre of people we have been able to introduce to the ABC—their energy, their skills, their enthusiasm—and what they have been able to bring to the culture of the place too.

Senator WORTLEY—I will put the rest on notice, thank you.

CHAIR—Thank you, Mr Scott, to you and your team for being here today. I now call officers from the Special Broadcasting Service. While we are doing the changeover, Senator Birmingham, we have correspondence here from Blair Comley.

Senator BIRMINGHAM—I seek leave to table it.

CHAIR—All are in favour—carried.

Senator BIRMINGHAM—I note its lack of satisfactory information in terms of the question I asked.

CHAIR—You do not have to go there.

[5.40 pm]

Special Broadcasting Service Corporation

CHAIR—Mr Brown, do you have an opening statement?

Mr Brown—I have just a brief one, Chair. There are a couple of highlights that I would like to identify to the committee—first, the success we achieved with *Immigration Nation*, a three-part documentary series which ran in January and is currently being repeated on SBS2. It was a look at the history of immigration through the political prism. I would urge anyone who has not seen it to see it.

Senator BIRMINGHAM—I have seen it.

Mr Brown—If any member is finding it hard to see it, I am quite happy to supply DVDs. It rated very well. It is particularly pleasing for us to take on a politically controversial story of that type with a strong historical theme and get very strong ratings. The other highlight, really, happened about two weeks ago, when we officially launched what we call the Virtual Community Centre for Chinese language groups. That is primarily for Cantonese and Mandarin speakers. It is an online location where all of those speakers and community members can access content originated by SBS and also other content. It is proving already to be very successful in our pre-official-launch trialling of it. We got 20,000 unique browsers in a month, which is a tremendous response for something that we had not really made a big fuss about. It is accompanied by a Mandarin news service—a weekly news service in language for

Mandarin-speaking audiences in Australia, with original content about the Australian experience for Australian Chinese.

CHAIR—There seem to be no questions. Mr Brown, you have done very well. Thank you.

Senator BIRMINGHAM—I apologise, Mr Brown—we did not request your attendance. We were going to give you a leave pass this time around. We were trying to save you a bit of time.

Mr Brown—We could have saved the airfares!

Senator BIRMINGHAM—I have some questions that I will be putting on notice for you.

CHAIR—Thank you for your statement. There may be questions on notice. If there are some questions on notice, we will forward them to you. We will make up for it next time.

[5.42 pm]

Australian Communications and Media Authority

CHAIR—Mr Chapman, do you have an opening statement?

Mr Chapman—Thank you. I just wanted to indicate to senators that some of our general managers are not with me today. One of them has recently been seconded to the digital task force to head that up and one of our other general managers is representing us as head of delegation overseas in the lead-up to the World Radiocommunication Conference 2012. So, if I take a few more questions on notice today, you will need to accommodate that, if you would not mind, Chair.

CHAIR—That is fine—I think that suits the committee's timetable as well.

Senator BIRMINGHAM—Mr Chapman, thank you for your patience and welcome. I thank you for the detailed report that was released since we last met in regard to al-Manar television programming. Perhaps you can briefly give us a summary of the findings that ACMA made. Then we will follow up on where you are going from there.

Mr Chapman—This might test the definition of brevity. In essence, the ACMA, over a sustained period of time, looked at as much material as it could, bearing in mind that it was in Arabic, so lots of translation and investment in time and staff was required. We sought to review a representative sample of the al-Manar service over the course of about a year. In doing so, we found several breaches of the open narrowcasting code and no breaches of the current antiterrorism standards. Nonetheless, we satisfied ourselves that it would be prudent to make some amendments to the antiterrorism standards. Indeed, we went out with consultation on that. That is the current status.

Senator BIRMINGHAM—You found, as you said, several breaches by al-Manar. I appreciate indeed the effort that was involved in translating and ensuring a thorough analysis. Before I go to where you are going, can you summarise as best you can the breaches as they applied, those breaches that did relate to the existing codes and then those issues where you were concerned that the codes were too narrow to be able to deal with issues that were of concern, and what those issues were.

Mr Chapman—The ACMA found that the licensee al-Manar Television, namely the Lebanese Communication Group, breached two parts of the open narrowcast television code

of practice: firstly, in broadcasting the current affairs program *With the Viewers*—a program that was not presented fairly pursuant to clause 1.2 of that open narrowcast code; and, secondly, in broadcasting the current affairs program *With the Event*—a program that was likely to gratuitously vilify a group on the basis of ethnicity and religion, which, in the opinion of the authority, breached clause 1.3 of the open narrowcast code.

Senator BIRMINGHAM—Can I interrupt. We can perhaps try to take a slightly more stepped approach. What are the consequences of those breaches of the open narrowcast code for al-Manar and their broadcast in Australia?

Mr Chapman—The consequences of the breach of the code go to matters of pragmatism. The difficulty is that enforcing a code breach against al-Manar, given that it is a class licence, is more problematic than would ordinarily be the case if the service originated in Australia.

Ms Wright—As Mr Chapman has said, there are challenges in enforcing a code when you are looking at an overseas service. However, it has informed our view that it would be appropriate to further augment the antiterrorism standards, because if a breach is found against a standard there are a number of actions that we can take. We can issue a direction to the licensee of al-Manar directing action to ensure that it does not breach the standards, or we can apply to the Federal Court for an order directing that the service providers cease providing the service, or we can apply to the Federal Court for the imposition of a civil penalty. So we have reached the position where we think that co-regulatory approaches under a code in an area such as this are no longer appropriate and augmentation of the standard will provide the ACMA with the opportunity to move directly in future should we need to.

Mr Chapman—I apologise; I should have introduced Ms Wright earlier. The minister has also pointed out to me that with us today is the new deputy chair of the ACMA, Mr Richard Bean. I had thought Richard might have been with us at the Senate estimates last November; I apologise.

Senator BIRMINGHAM—Thank you, Mr Chapman. In relation to the breaches that were found for al-Manar in your review and the consequences of that in the immediate term, the practical outcome is that there are few if any consequences for al-Manar in their broadcasting to Australia despite those breaches, because practically you are unable to enforce the open narrowcast code on an overseas broadcaster?

Ms Wright—I think we would argue that the investigation was conducted without a specific complaint about the program to us. This was an area that we opened up of our own volition to diagnose whether there were problems, and we are now moving to a systemic remedy.

Senator BIRMINGHAM—I appreciate that but the question I asked was about the immediate consequences. You have undertaken a review of al-Manar. There may not have been a specific complaint about these specific programs that you identified but there were certainly complaints to the ACMA about al-Manar. They may have been more generic, although I think some of them over time highlighted some examples. There were certainly issues raised here about al-Manar as well. I appreciate that you have identified—and I want to go to those issues—the need to reform the antiterrorism standards. But before we get there—and it is certainly not your fault—I just want to clarify the impact of this review as to whether

in fact there is any change to al-Manar's capacity to broadcast in Australia and whether there is any repercussion to them whatsoever from the negative findings that have been made.

Mr Chapman—I cannot speculate as to whether our breach has had any material impact on the service. The short and accepted point is that, given that the al-Manar service falls into the category of an open narrowcasting television service, and in accordance with section 12(2) of the Broadcasting Services Act, it does not require an individual licence but is provided under a class licence under that act. The consequence with respect to the ACMA's direct jurisdiction and ability to impact the service as a result of the breach of that code is that there is little direct impact we can have.

Senator BIRMINGHAM—I understand the reasons and the challenges you face in that regard but I wanted to be clear on that. You have identified that to be able to more effectively tackle issues such as these you require reform to the antiterrorism standards. Hypothetically, if breaches of those standards were to be identified and upheld, what action would the ACMA then be able to take against a broadcaster like al-Manar broadcasting from overseas?

Ms Wright—Senator, they were the three points that I outlined earlier, including two pathways through the Federal Court as well as the direct licensee direction. The standard opens up three pathways for us. As Mr Chapman said, we have just concluded public consultation on wording this standard to ensure—I guess we have nailed it. As I said, that will open up pathways for us that are not available under the code. I am happy to run through them again if you want.

Senator BIRMINGHAM—Okay—practically, if you could, for those of us who do not understand all of the codes and all of the implications. Al-Manar is produced by Hezbollah. It is, I gather, broadcast into Australia by providers out of Indonesia, if my recollection is correct. So in terms of your opportunity through the antiterrorism standards to have recourse to the Federal Court, or those three points that you raised, what are the practical outcomes for al-Manar's capacity to broadcast—or, hypothetically, anybody else who breached the standards to broadcast—by following those things? Would you be able to get the signal broadcast into Australia blocked?

Ms Wright—As I understand it—perhaps we can provide a more precise answer to you on notice—we do have international arrangements in some of these circumstances with overseas countries in relation to these services, and the standard would enable us to leverage those. But, as I said, we are happy to take that on notice and provide you with more detail.

Senator BIRMINGHAM—So we would expect that another country would help us to enforce a Federal Court order barring the transmission of a signal of something into Australia—that is the type of agreement you are talking about?

Mr Chapman—I do not think it goes that far. I think it is fair to say that, with respect to the enforcement of any order we would seek from the Federal Court, the ability to serve that order and have an impact on a body that supplies outside the Australian jurisdiction is a practical and pragmatic shortcoming that any number of organisations face with respect to organisations outside their jurisdiction. In that sense we are no different.

Senator BIRMINGHAM—Indeed, but at least you are pursuing this pathway of reform to the antiterrorism standards, because rather than a code seeking compliance it at least gives

you some enforceable powers through the courts that if there are Australian linkages would be upheld in those courts, or the ability to pursue assistance in this with foreign governments or your equivalents overseas.

Mr Chapman—Notwithstanding the fact that there was no specific complaint, nonetheless by the time we completed our review we felt that it would be sensible for the prohibition on the advocacy of terrorist acts, which was otherwise embedded in the classification act, to be lifted into a standard in the antiterrorism standards. We thought there was sense in that harmonisation. It was obliquely there but not overtly and we felt that it would be much clearer and more transparent and help inform the discussion if we did that. We have satisfied ourselves that that is the way forward. Second, we were conscious of the fact—and this is what you are suggesting—that elevating it out of the code to, in effect, a standard does in a theoretical enforcement sense give you greater strength of sanction than would otherwise be the case.

Senator BIRMINGHAM—Lastly on this topic, submissions closed on 12 February, as I understand. How many submissions have you received and how long does the ACMA expect it will take from here to get the standard revised and in place?

Mr Chapman—We received very few submissions—five. It is on our work program for the second quarter of this calendar year.

Senator WORTLEY—I will put my questions on notice.

Senator FISHER—Mr Chapman, you have spoken of the relevance of a converging world in communications. Can you answer on notice whether you think regulation—at the moment by ACMA—is somehow compromised by having to focus sector by sector, as it were, rather than on a converged world, and whether there is a better way to do it.

Mr Chapman—I am happy to take that on notice.

CHAIR—Thank you for the information you have given, Mr Chapman.

Proceedings suspended from 6.00 pm to 7.03 pm

Department of Broadband, Communications and the Digital Economy

CHAIR—I now call officers from the department in relation to program 1.2, telecommunications online and postal services, and invite questions.

Senator BIRMINGHAM—I will start by asking a couple of questions in relation to internet filtering. I suspect, looking at the grin on Senator Ludlam's face, that I am appropriately bringing the right people to the table. I am sure he can pick up from there. Specifically, I am assuming the department is monitoring the review of classification laws relatively closely. Are you able to tell us in terms of the timing for that review as to whether it has kicked off, proceeded and whether it is working to the time line that the department is expecting for your ambitions or the government's ambitions?

Mr Rizvi—Senator, on 21 December, the Attorney-General and the Minister for Justice announced their intention to ask the Australian Law Reform Commission to conduct a review of the national classification system in light of changes to technology, media convergence and the global availability of media. Consultation has been sought on draft terms of reference for

the review. Submissions closed on 28 January 2011. We expect that the ALRC will seek submissions about the substantive issues under the review during 2011. At this stage, we anticipate a final report by the end of the year.

Senator BIRMINGHAM—We can anticipate a final report by the end of 2011?

Mr Rizvi—2011 from the ALRC.

Senator BIRMINGHAM—Did the department make a submission on consideration of the terms of reference?

Mr Rizvi—No, we did not. We had consultations on the draft terms of reference with the Attorney-General's Department, but we did not make a submission.

Senator BIRMINGHAM—So was that consultation prior to the public consultation process that you referred to?

Mr Rizvi—That is correct.

Senator BIRMINGHAM—So the department has satisfied itself that the terms of reference met your objectives prior to them going out for public comment?

Mr Rizvi—We are comfortable with the terms of reference.

Senator BIRMINGHAM—Does the department anticipate playing any role in the review?

Mr Rizvi—It is a review by the Australian Law Reform Commission. We do not anticipate playing a role in that process.

Senator BIRMINGHAM—While that review is being undertaken throughout the course of this year, is the department continuing with any other work in relation to the development of the proposed filter?

Mr Rizvi—We are closely involved with the IIA and three of the ISPs that have indicated that they will voluntarily filter a list of child abuse material. We continue to consult with them on that process. At this stage, we anticipate those three ISPs starting voluntarily filtering from around the middle of this year.

Senator BIRMINGHAM—From around the middle of this year. And what nature will their filtering take? Will they be filtering off a defined list of URLs?

Mr Rizvi—At this stage we are working with the Australian Communications Media Authority, which is developing a subset of the existing ACMA blacklist, which includes only URLs relating to child abuse material. The Australian Communications Media Authority is developing or intending to trial secure methods of transmitting that list to participating ISPs in the near future. We anticipate that that will be the list that ISPs would be filtering.

Senator BIRMINGHAM—So at present ACMA is developing this subset of the blacklist. Are there terms of reference that ACMA is working to in relation to what this subset will consist of?

Mr Rizvi—The subset is defined in the existing legislation, Senator.

Senator BIRMINGHAM—So it is literally just that particular category around child sexual abuse material?

Mr Rizvi—That is correct.

Senator BIRMINGHAM—And that is the category that ACMA is working to in dividing up its blacklist?

Mr Rizvi—That is correct, Senator.

Senator BIRMINGHAM—I am assuming that does not sound like a particularly difficult job for ACMA given presumably it knows the reason that it has each URL on its blacklist in the first place?

Mr Rizvi—Identifying the URLs is not the issue. It is the question of secure transmission of the list in a manner that satisfies both ACMA and the ISPs.

Senator BIRMINGHAM—Is the department working with ACMA in relation to that secure transmission issue?

Mr Rizvi—We are monitoring that development process, but we are not involved explicitly in the development of the technology around the secure transmission.

Senator BIRMINGHAM—Has ACMA started any trials in that regard, or are they still doing the internal work?

Mr Rizvi—I would have to take that on notice, Senator. My understanding is that they were scheduled to start early this year. I will need to check precisely where they are up to.

Senator BIRMINGHAM—In relation to the three ISPs, will there be any independent oversight or monitoring of this voluntary trial as it occurs, or has the department thought ahead as to once ACMA works out how to transmit that list and the ISPs start trying to filter against that subset of the blacklist, the department will be undertaking an evaluation? Will you simply be seeking feedback from the voluntary participants?

Mr Rizvi—We will continue to remain in close touch with the relevant ISPs on their experience in this space.

Senator BIRMINGHAM—So there is no structured plan at present for the department to monitor either the complaints, the success, the feedback from customers or any of those types of matters?

Mr Rizvi—That is something that we would have to develop with the ISPs, given that it is a voluntary arrangement.

Senator BIRMINGHAM—Beyond this voluntary trial by the three ISPs, which appears to be largely resting with the discussions with ACMA and their work, is there any other work being undertaken by the department in relation to the filter?

Mr Rizvi—We are continuing to monitor developments in filtering technology and filtering issues around the world. We continue to keep an eye on those issues as they develop.

Senator BIRMINGHAM—There is no research in relation to that monitoring or consultancies that have been issued and nothing other than basically keeping an eye out and the usual, I guess, awareness of technological developments that I would expect to be occurring in the department?

Senator Conroy—It would be part of our ongoing role to be monitoring that sort of stuff.

Senator BIRMINGHAM—That is what I would have expected, Minister. That is why I am asking. There is nothing else beyond that normal monitoring of global technological developments that you would expect this department to undertake?

Senator Conroy—Even I am confused by your question, Senator Birmingham. What are you actually asking?

Senator BIRMINGHAM—I am seeking clarification. I guess the department has no other initiatives, structures, reviews or anything else in place related to the filter or its monitoring that go beyond really the department's normal awareness of what happens in the world?

Mr Harris—I think the answer to your question, Senator, is no.

Senator BIRMINGHAM—Thank you, Mr Harris. That will suffice for me.

Senator LUDLAM—Is there any effort being expended on getting more ISPs to join that trial? I understand it is the three largest in the country who signed themselves up last year. But what is in play to get more into that trial, if anything?

Mr Rizvi—We are in regular contact with the IIA, who are looking to develop an appropriate framework where other ISPs would be able to participate voluntarily.

Senator LUDLAM—Presumably, that is going to be against the cut-down list that you spoke of earlier with Senator Birmingham? I understand the line of questioning that has been pursued so far this evening is along the lines that we may end up with a de facto voluntary filtering scheme nationally with most ISPs in it. I would have thought you would be taking more of an interest than you appear to be in the way that that scheme is run and regulated, given that we could end up with something very similar to what the government was proposing.

Mr Rizvi—By definition, Senator, if the scheme is voluntary, it is not regulated.

Senator LUDLAM—What if the three largest ISPs in the country had decided to sign up to a gigantic list of things to block and all sorts of inappropriate stuff was being blocked? Would you have taken a view then?

Mr Harris—I think it is a bit hard for us to answer hypothetical questions like that.

Senator LUDLAM—All right.

Mr Harris—Clearly, if participants in the marketplace wanted to join together at a point which impeded the consumer interest, there would not just be us involved. It would not just be DBCDE's interests. There would be other parties which would have an interest in such behaviour. So it is not really a matter for the department. Clearly, we try and keep in touch with trends. We are in touch with relevant carriers and Internet service providers. But the description of the work that Mr Rizvi has given is correct.

Senator Conroy—I will add some information to possibly what you are asking, Senator. The voluntary filtering will incorporate all of the transparency measures that we announced in December 2009. So we announced a range of things on a page that would tell you where to go if you had a complaint and those sorts of things. Do you remember those? So the voluntary filtering arrangement would include all of those transparency measures.

Senator LUDLAM—I recognise that you are a little short of time. I think we have you for another 15 minutes or so. What happens subsequent to the ALRC producing some kind of report? If they propose modifications to the operation of the blacklist, does that then have to go to SCAG? What is the process that would roll out from there? Once you get the ALRC report in your hands, what will happen?

Mr Rizvi—If they were to recommend changes that affected the national classification system, that would have to be considered by censorship ministers.

Senator Conroy—Yes. State Attorneys-General.

Senator LUDLAM—I think this is probably ground that we have traversed before. Those processes that we have seen in the instance of computer games can take a very, very long time indeed.

Senator Conroy—Well, as you know, we are working hard to try and bring that one to fruition as well.

Senator LUDLAM—I was not trying to change the subject. I am just saying that is the forum into which it goes. You will need the consensus of all the state and territory Attorneys-General to make a change?

Senator Conroy—I remain optimistic.

Senator LUDLAM—How much do you know about the actual technology itself that will be used by the ISPs? Is that a solution that each of them is developing in-house?

Senator Conroy—We are not recommending any technology.

Mr Rizvi—We would not be recommending it. They will tend to select technologies or vendors that will suit their circumstances.

Senator LUDLAM—All right. So specifically, I guess, ACMA's role is in providing them with a secure copy of the blocked list and then after that it is in their hands?

Mr Rizvi—Apart from the transparency measures, yes, that is correct.

Senator LUDLAM—As the minister mentioned before. How frequently would the list be updated and transmitted to the ISPs?

Mr Rizvi—My understanding is that at present ACMA updates that list on a weekly basis. As to precisely how often it will be transmitting it, I would need to take that on notice. ACMA would be better placed to advise.

Senator LUDLAM—All right. Maybe that is still up in the air. I might leave it there. Thanks very much for your time.

CHAIR—Thanks, Senator Ludlam. Thanks, Mr Harris.

[7.19 pm]

We will now move to the officers from the department in relation to program 1.3, which is broadcasting and digital television.

Senator TROETH—The department has stated at Senate estimates hearings, the Senate committee examining the bill establishing the VAST satellite platform and on its own website

that in respect of all digital terrestrial transmission facilities being established or upgraded by broadcasters, and I am quoting here:

In most cases, new or converted sites will be established no later than 6 months before switchover in the area.

Is that so?

Ms O'Loughlin—I believe my predecessor, Andy Townend, had previously indicated that, where possible, our goal was to give six months prior to the establishment of that infrastructure so that consumers had time during a simulcast of both analog and digital to upgrade their digital equipment.

Senator TROETH—Well, is it true, then, that in respect of analog self-help upgrades and new gap fillers being provided by broadcasters, if regional Victoria's switch-off goes ahead as planned on 5 May, so far some 34 such facilities will have been rolled out but not one will have met the six months deadline? I list three at Mildura, Underbool, Robinvale and Ouyen; five in regional South Australia, being Orrorroo, Burra, Quorn, Clare and Morgan; and 26 in regional Victoria. So not one of those will have met the six-month deadline?

Senator Conroy—Perhaps I can just explain. There is a technical issue that cannot be overcome by asking Senate estimates questions, and it is the availability of spectrum. So in some instances we have been doing what is called a hot swap. That is because there is no available spectrum to do anything else. Even though you are quoting those towns, I think if you were to speak with the people in those towns, it has been almost 100 per cent successful in the hot swap. A lot of extra work goes into working with the local community in a hot swap scenario. So I think if you were to talk to the people in Underbool and you talk to the people in and around Mildura plus some of those South Australian towns plus some towns in Victoria that we have already done the hot swap on, you would find that they are satisfied that the process has delivered them a massively improved service.

Senator TROETH—So that they have got it? They already have it in spite of some expectations that they would not have it? Is that correct?

Senator Conroy—I am not sure quite what you mean by that question. But, as I said, we have worked with each individual household in some places to ensure that they were ready, notified and had the equipment. A hot swap means we take one tower and put another one up. When we chopped the tower down and put the new one up, there was no disruption.

Senator TROETH—There was no disruption?

Senator Conroy—The service has gone. I am not aware of any complaints. I am happy, if you have any, to deal with them.

Senator TROETH—No, I do not. But I hope to explore the expectation plus the reality.

Senator Conroy—The reality is that nobody has ended up losing their transmission. Everybody has been satisfied with the preparations that we put in place. The ongoing feedback that we get is very, very positive. Bonnie Doon and Howqua in Victoria, to name a couple, are already done. I can run down the list and the times. Bonnie Doon was 29 November; it is already done. Howqua was 10 December. Hopetoun was 2 February.

Jeeralang/Yinnar South had a hot swap on 9 February. Boolarra had a hot swap on 12 February. Lorne is expected in April. Apollo Bay is expected in April. I could keep going.

Senator TROETH—No. I did not list all the regional Victorian ones. There are too many. So far, neither the department nor the authority have had any complaints?

Senator Conroy—ACMA is not here, but I am sure they would say the same thing.

Ms O'Loughlin—I am not aware of any complaints, Senator. To just expand on what the minister mentioned, the taskforce has been on the ground in those communities. With the hot swaps particularly we have some technical issues because these are usually transmission facilities which are self-help and they are in relatively small communities. They may not have enough space on their transmission tower. They may not have enough space in their facility to be able to accommodate additional equipment. So we do need to do it on the same day. So where we have needed to do more intensive work with those communities, we have done so. As the minister said, we have been on the ground in places like Yinnar and Jeeralang, where we held community forums. We also did a lot of work in Hopetoun. Indeed, the community came out to see that hot swap because they knew it was happening on the day and they were very involved in the hot swap on the day. We know that we need to intensively work with those communities, and that is what the taskforce has been doing.

Senator TROETH—All right.

Ms O'Loughlin—Ideally, we would like that six months, but where that is not possible, we know we need to work intensively in those areas.

Senator TROETH—I now move to Queensland. Is it true that regional broadcasters in Queensland have indicated that they will roll out some 24 self-help upgrades and new gap fillers?

Senator Conroy—The TV stations you are talking about?

Senator TROETH—Yes, TV.

Ms O'Loughlin—I will confirm the figure in a moment, but that sounds around about right. There are a mixture of gap fillers and self-help facilities which will also be rolled out by the broadcasters in Queensland.

Senator TROETH—You may need to take this on notice. When you do ascertain that, could you publish a list of those 24 and the communities affected?

Ms O'Loughlin—I think they are actually published in what is called our black spot report, which was tabled in parliament on 9 February. So there is a full list in that report of the expected gap fillers.

Senator TROETH—Does that tabling include how many of those 24 have been commissioned to date?

Ms O'Loughlin—It gives an indication, but I think it would be best if we took that question on notice for you.

Senator TROETH—Yes. And can you provide an expected time for the commissioning date of each?

Ms O'Loughlin—Yes. We can certainly do that and take that on notice.

Senator TROETH—Can you also add to that table whether those expected dates are guaranteed, pretty certain, untested et cetera? That is, give us a reasonable professional view of the department's expectations.

Ms O'Loughlin—We are certainly happy to take that on notice. I would note that we are reliant on the broadcasters for that information. Often you will find that, particularly in an area like Queensland, where there is in normal circumstances difficult topography and various things that can happen on the ground, sometimes those dates can change a little. We need to give the broadcasters that flexibility to enable them to complete those rollouts. But we can certainly take that on notice and give you an indication as best we can.

Senator TROETH—Good. Minister, you have not yet tabled the legislative instrument proposing the analog switch-off date in regional Queensland. Can you confirm that for regional Queensland you will only propose a date which allows those 24 facilities to be up and running at least six months before switch-off—in other words, that you will stick to the letter of the agreement?

Senator Conroy—Within the technical bounds of what is possible. If there were a hot swap scenario, again we would go into the intensive phase. In regional Queensland there is some discussion that some of the councils are raising about wanting to continue to provide services themselves. We have asked them to demonstrate that they can actually deliver this. At this stage we have not received any extra information. So there are some discussions going on with some regional councils. But in terms of the broadcasters, they are working very cooperatively with us. We have been very pleased that the progress around the country has been as swift and as very robust as we would have hoped. So the process has actually worked well in Mildura, South Australia and Broken Hill so far. We will obviously have the Victorian situation. So where there are technical limitations or physical limitations, as I think Ms O'Loughlin said, there is enough room on a tower. So within some constraints we hope to achieve that. We cannot give you a 100 per cent guarantee in the way that you are describing, but it is a technical issue and a physical constraint issue rather than any lack of preparation.

Ms O'Loughlin—I might just add to that that there is also a very powerful incentive for broadcasters to establish those facilities six months out because in those black spot areas if the broadcasters do not have something working six months out, then those communities can apply to access the VAST satellite service.

Senator TROETH—Right.

Senator Conroy—Have you had a chance to access that service yet?

Senator TROETH—No. Not yet.

Senator Conroy—I think you would be very pleasantly surprised. Have either of you had a chance to test it yet? It is in the house that has had the VAST stuff installed.

Senator BIRMINGHAM—I must confess, Minister, that Senator Fisher was whispering in my ear.

Senator Conroy—I was asking whether or not you have had a chance to meet in regional South Australia someone who has now got the VAST service in their home?

Senator BIRMINGHAM—No. I have not yet.

Senator Conroy—It is worth while. If you are going to be out somewhere and you get a chance, it is genuinely worth while.

Senator BIRMINGHAM—I shall do. Well, as you know from the many letters you sent to my office, just today I have a few houses that I could visit.

Senator Conroy—Good.

Senator BIRMINGHAM—I want to squeeze in one unrelated question. I will follow up on those letters, Minister.

Senator Conroy—I think I signed them all off so you had them all. They should have been dropped around.

Senator BIRMINGHAM—Yes. And I have not had a chance to review all of them. But I appreciate the responses. I think there are some who might require a bit more personal attention. But we will take a look at those and see what we can do. Unrelated to switchover, I want to ask about anti-siphoning and where, Minister, you are at in terms of decisions about AFL football rights.

Senator Conroy—Look, AFL football is close. That is probably the best way to describe it. Negotiations have been intense. There is a lot of movement backwards and forwards. I always say there is a tripartite sort of negotiation between the AFL itself and the broadcasters as well as the government. But, as you know—and I know that you would be very concerned about this—we are ensuring that South Australian team matches are shown live on free-to-air television. I have been very conscious of wanting to ensure that you can continue to watch your footy teams. As you know, Senator Troeth, I have been working hard to ensure that Collingwood is on Friday night every week, but so far I have been unsuccessful in pulling that one off. But I am a very dogged person, as you know.

CHAIR—Senator Conroy, does that include the mighty Western Sydney?

Senator Conroy—They are not playing in this season's games, I think it is fair to say. But I will indicate to Senator Birmingham, the way that we are working on it is that, for instance, if there are matches in Sydney and Brisbane, that would be shown on a Friday night, not live. They are often shown at 11 o'clock at night, which is one of the great complaints of footy fans in the Sydney and Brisbane markets. We are facilitating the ability to show them on the multichannel. So we are putting in place the mechanism now to allow those matches to be shown on the multichannels, even prior to the legislation passing, though we obviously hope that the legislation will pass swiftly. But the season kicks off soon and we want to make sure as many people can watch the footy as they can.

Senator BIRMINGHAM—Minister, in terms of your aim at least for concluding these negotiations?

Senator Conroy—Look, it is genuinely close. Sometimes the lawyers get involved and they debate it for a while. You are not a lawyer, are you, Senator Birmingham?

Senator BIRMINGHAM—No. I am not, Minister.

Senator Conroy—You have just gone up at least two notches in my estimation.

CHAIR—That is a rarity, then.

Senator Conroy—How did he get preselection for the Liberal Party? That is extraordinary. I thought it was compulsory. It is very close to coming back to cabinet for final decision. But those negotiations are very close.

Senator BIRMINGHAM—And it will require legislative change?

Senator Conroy—To allow the matches to be shown on multichannels on a permanent basis, we are required to change the Broadcasting Services Act. So there is a piece of legislation on that specifically—it is an easy one to pick out—and other things that will come forward.

Senator BIRMINGHAM—And the time frame for that?

Senator Conroy—How are we going? What is the time frame on the draft legislation?

Dr Pelling—The legislation is still currently on track to be tabled in the current sittings of parliament. But it ultimately will depend on the time frame for the minister making decisions on that.

Senator Conroy—The NRL one is a little harder. I suspect we will pass legislation before we sort the NRL. The NRL, as you would know, is going through a fairly significant organisational change at the moment. I think they have announced they are going to have an independent commission a la the AFL some time in April. So we look forward to sitting down with them to talk about what they intend to do into the future. There has been a lot of speculation they could change their fixturing. At the moment, they work on a six-week rolling draw. So you do not know in six weeks what day or what time your team is playing. They are talking about moving to the AFL style system. But we will not be able to finalise those sorts of discussions until they have made their own decisions about that. The other outstanding sport is football, or soccer. We have probably all just been really recovering from the disappointment of the World Cup bid, to be honest, and not really wanting to have a lot of serious conversations when our chins are dragging on the ground. But we will begin those conversations in the next few weeks.

Senator BIRMINGHAM—I have every confidence, Minister, that you will not be forgetting the interests of the round ball game.

Senator Conroy—When my team is playing at the moment, I wish I could.

Senator TROETH—I do have more questions, Chair, but I will put them on notice.

CHAIR—Thanks, Senator Troeth.

Senator LUDLAM—I have a lot of questions. I might put some of them on notice. I could short-circuit this. Minister, are you able to undertake to contact directly the Local Government Association of Queensland? It relates to some of the issues that Senator Troeth was raising before.

Senator Conroy—We have been talking with certainly individual councils. I think we have also had correspondence from the Local Government Association of Queensland. As I said, they have put an argument that they believe they can manage to do the changeover

themselves. We have asked them to demonstrate that they can do that. We wrote to them a week or so ago.

Senator LUDLAM—To the LGA or to individual councils?

Senator Conroy—I think to the individual councils.

Senator LUDLAM—I was not intending to get into a Q&A session here. You have received correspondence from the LGA. It is just that they have not received any correspondence from you. It may short-circuit or shortcut some concerns around the switchover in Queensland if they hear from you or the department directly.

Senator Conroy—Well, as I have said, we have actually written to every individual council directly.

Senator LUDLAM—Except for the folk who have written to you from the local government association. That is all I am saying. So if you are able to undertake to contact them directly, it might save some grief.

Senator Conroy—I am advised that we also wrote to LGAQ and RAPAD.

Senator LUDLAM—Recently?

Senator Conroy—I assume so. I am sure I will be able to advise you very shortly whether that was a recent piece of correspondence.

Senator LUDLAM—We will come back to that later. Thanks very much.

[7.38 pm]

NBN Co. Limited

CHAIR—I think that concludes program 1.3. I now call officers from the NBN Co. and I will invite questions. I welcome those officers and executives from NBN Co. Mr Quigley, would you like to make an opening statement?

Mr Quigley—I would like to. First of all, thank you, Chair, and senators. I do appreciate the opportunity once again to brief you and answer any questions you have about the progress on the NBN project. As you know, since I was last here, we have released our corporate plan. It was quite a comprehensive document. It had details of our assumptions about the business environment in which we operate. It had our financial forecasts, our funding assumptions, our risk management strategy, the proposed network design and construction objectives and, of course, a lot about our commercial operations, including our product and pricing construct. The plan was publicly released together with the government's statement of expectations. The next step involved us working with the government on a set of key performance indicators, or KPI. The company will also shortly lodge a statement of corporate intent, which will also be publicly released. Our staff numbers have now grown to 656 as at the end of January this year. Our recruitment focus has shifted from filling senior management positions to obviously now non-manager positions. To date, the total funding from government via equity injections is \$1.012 billion following a further \$350 million injection in December last year. We will be working with government on an equity agreement to cover future funding certainty.

As you now will have seen in the press, we have entered into an agreement with Austar to acquire its 2.3 gig and 3.4 gig spectrum holdings for \$120 million. There has been some

misunderstanding about the price of that transaction and some comparisons of what we paid compared with Opel. The latter deal, the Opel deal, had both a cash and a non-cash component. The non-cash value of the Opel transaction was not publicly disclosed but it was received by way of various wholesale arrangements and delivered value to Austar substantially in excess of the cash component that was paid. So when you are comparing the Opel transaction to the transaction we completed, you need to look at the total deal. This deal will assist us in delivering our high-speed fixed wireless service to rural and regional areas. The first of these commercial services is scheduled to be available in mid-2012. We are also in detailed contract negotiations for the delivery of the first release, the interim satellite service in this year, which will deliver a much improved service to regional areas until we get our final satellite solution on the two next generation satellites we plan to launch in about four years.

In parallel with the design, planning and progressive fibre deployments in our first and second release sites, we are also developing our back end, operating and billing systems to support our network operations. These are complex systems—they are not off-the-shelf products—and they are critical to the successful operation of the network. They are very important for our customers so that they can access our network and systems in a very efficient way, so we are paying a lot of attention to them. We are also focusing carefully on issues to do with customer connection, including the design specifications for battery back-up, to ensure they are consistent with what was in the statement of expectation from government. We are looking at multidwelling unit connection designs, and consent processes are also being worked through as the technical solutions for smart metering with utilities are also being worked on.

Since last October when I was here, we have made a number of announcements on the procurement front. For passive hardware, we have had contracts totalling \$1.6 billion signed with Corning, Prysmian and Warren and Brown on 17 January. The technical work is underway with these suppliers for the provision of their equipment for construction of the points of interconnect, fibre access node sites and the fibre access network itself. A fourth contract worth some \$300 million over five years is being finalised with Tyco Electronics following its completion of a takeover of ADC. We are now currently evaluating responses to our RFP, which closed in November 2010. That closed on 31 January. We are moving into an intensive evaluation of that long-term satellite solution over the next few months.

We have a response to our managed services RFP for our wireless network. They are currently being negotiated and evaluated. We expect to resolve that fairly soon. A contract was awarded in October 2010 to Nokia Siemens Networks for our optical transmission equipment. We are currently evaluating tenders for the passive fibre build—that is, the large volume construction.

We have announced two data centres—one located in Sydney hosted by Global Switch and the second in Queensland to be hosted by Polaris. We have also awarded a contract to Cisco for the provision of the data centre computing platforms. We also have a number of other smaller procurement processes underway covering such things as equipment for multidwelling units, alarm aggregators, racks, DC power distribution equipment, splice

machines, test equipment and, of course, pipes, ducts and kits for the fibre distribution network itself.

I will turn now to some of the actual construction. We now have six RSPs delivering services in Tasmania. They are Primus, Internode, iiNet and now also Telstra, Exetel and Aurora Telecommunications. Orders on this stage 1 for Tasmania have been received for 575 premises as at 18 February. Of these, 554 premises have been activated with sometimes multiple services on them. Construction is progressing well in our first five mainland release sites. We have about, on average, 90 per cent of the passive build complete. The next phase will be to deploy the active equipment and then move into customer trials in these five sites.

The number of end user consent forms in these five first release sites is being tracked weekly. As at 14 February, we had 91 per cent of premises in Willunga who have had positive consent forms; 76 per cent in Kiama; 88 per cent in Armidale; 61 per cent in Townsville; and 50 per cent in Brunswick. That is an average across all five sites of just under 75 per cent.

Naturally, the widespread interest in the NBN means there has been a lot of scrutiny in the press and in local communities regarding each of those first release sites. There has been some coverage in the media regarding overhead and underground cabling and local expectations about the rollout. Just to make sure everybody understands, we have always said that in these first release sites there is likely to be a combination of aerial and underground. In fact, in some locations, passing a home there will be both underground and aerial. It is because there are two different parts of the network—one distribution which is underground and the other which is local which ends up connecting to houses which could either be underground or overhead. So it is not a waste of any money if passing a home there is in fact both underground and overhead. It is part of the plan.

There have also been some questions about the use of aerial cabling in Townsville. As you know, some of Townsville is in a floodplain so whether you build above ground aerial or underground, there could be issues depending on whether there are heavy winds, such as in a cyclone, or flooding. As it happens, the impact on our network that we were building when the category 5 cyclone came through was that some trees did fall and cause damage to many of the power poles in Townsville, some of which, of course, had our fibre-optic cable on them. The optic cables, in fact, proved to be quite robust. Of over 79 cable segments that we had installed, there were only three segments that were damaged beyond repair and they are now being replaced. So it is relatively minor damage.

We are also now, of course, into the planning for the second release project following on from the first release, but we are having to take into account three additional factors. First is the decision to move from 14 points of interconnect to 122. That obviously needs a degree of replanning. We would like to use the maximum amount of Telstra infrastructure. Even though we have not finalised the definitive agreements with Telstra, we are hoping that could be done before too long. If it was, it would be a good outcome for these second release site communities and, of course, for the taxpayer because we could build at a lower rate.

Of course, we also have to accommodate the government's priority on greenfields. Our obligation as of 1 January this year is to make sure we can provide fibre in new estates. In fact, we are now required, as you know, to install fibre infrastructure in new estates. That will

apply to all broadacre and infill developments of 100 premises or more which are released over a three-year period. The developers are required to install a pit and pipe infrastructure to NBN Co specifications and standards, in which case, then, we will provide the fibre installation and the gear that goes with it.

To facilitate the interaction with the developer community, we have developed an online registration portal and database. To date, we have received more than 260 new development applications. We received an additional 4½ thousand pre-existing applications from Telstra. We have also engaged Telstra to provide a managed service until we have our own facilities in-house shortly. We are also doing construction and fitout of the national operations and test facility in Melbourne. That is progressing well. We hope to have the new main test line ready towards the end of May. This will allow retail service providers to start the onboarding and testing process. It is a key piece of infrastructure which is now nearing completion.

As we build this network and operate it, obviously safety is of paramount importance to us. We are taking a lot of actions and steps to ensure safety. We have in fact commenced random drug and alcohol testing of all staff and are focusing a lot of effort on embedding a safety culture right across the organisation. We have recorded no lost time injuries with all the work we have been doing so far. I have to say when I visit sites I am very pleased with the level of focus there is on safety in every site I go to.

As I mentioned before and as has been announced recently, we have reached key commercial terms with Telstra and we are now working constructively to finalise the detailed documentation for the definitive agreements. There is still some way to go, but we are making good progress and the respective teams are working basically around the clock to see if we can finalise those definitive agreements. We continue to work with the ACCC on our special access undertaking and our wholesale broadband agreement. That provides information to our customers and the general public on our non-discrimination commitments. We are consulting with ACMA on a number of technical matters, including spectrum. We are continuing to engage with the communications alliance on the post migration transfer arrangements between retail service providers. There has been a lot of work done in that area.

When the end in companies and access bills are finalised, that will give us some certainty around the operational framework. That will certainly be welcomed by the company. We stay focused on resolving the many challenges faced in what is a very significant engineering task. But we believe we are making good progress in the design and construction of our initial sites. We are, as I have said before, committed to work closely with local communities and other stakeholders. We are going to be putting more effort in the months ahead on a communications strategy. That will be important as we move out further across the country. And, of course, we will continue to work closely with the government on policy and implementation issues as they arise.

Finally, I would like to address an issue. There has been quite a bit of misinformation circulating in some sections of the media. I am referring to the comparison between mobile and fixed fibre networks. The fact is they are complementary. Mobile networks alone will not provide all of the telecommunications services that Australians will need in the years ahead. There is much commentary by ill-informed commentators on the subject. We all know mobile networks will become more capable and the amount of data transferred will increase and the

number of users will grow. But every expert I speak to around the world recognises both the advantages and limitations of mobile networks and the advantages and limitations of fixed fibre networks. It is why they are complementary. I am just going to quote a couple of them.

The first is from the CEO of AT&T, a gentleman I know called Randall Stephenson. He is the CEO of a \$120 billion company, the largest in the US. He has 100 million customers and some 300,000 employees. He does know what he is talking about. What he said is if you take HSPA plus, which is the latest generation of 3G mobile technology, and you go out to west Texas and put two people in a cell site, you can get 20 meg. He is talking now about 20 megabits per second speeds. If you take HSPA plus and put it in downtown Manhattan and load a cell site, even with fibre backed core, probably the best you are going to get is 2 to 3 meg. LTE will be the same thing. So that is what the man who runs the largest telco in the US said. LTE will be the same thing.

The second quote is from the Telstra CEO, Hugh Bradlow, who said:

Could we wait another eight years and not require high speed fixed networks? The answer is no because of the capacity issue.

Interestingly, just today I noticed, in the *Australian IT* section—

Senator Conroy—No!

Mr Quigley—Yes. There was a quote from Telstra's director of network and commercial planning, Mr Anthony Goonan, who runs a lot of their mobile network, in looking at LTE. He is implying it will be fine for moderate use. He said:

We refer to products like IPTV as the digital short-circuit ... We will be introducing quality-of-service technology that allows us to manage the balance between different types of usage. That hasn't been overly necessary till now because we've had capacity in the networks and haven't had applications that suck all the life out of it.

What he meant by that is there are applications coming along which mobile networks simply cannot handle. So Telstra is going to have to put functionality in their network to limit the number of users who can try and use those high bandwidth applications. So they have three experts around the world who are saying you need both—fibre and mobile. I do hope that now this rather futile debate will come to an end. I certainly welcome any questions on the operations of the company, our network planning and our rollout activities. Thank you.

CHAIR—Thanks, Mr Quigley. That is quite an extensive and detailed opening statement. As I did in the last estimates, I ask whether that statement is in a form that could be tabled?

Mr Quigley—No. But you get a transcript in the morning. I have a lot of scribbles on it.

CHAIR—Okay. We will get it when we can. Thanks for the opening statement. I have a few questions I want to deal with in relation to the wireless question that you raised at the end of your statement. It seems to me there are lots of urban myths out there. There is some deliberate misinformation and there are lots of people who genuinely do not understand this debate about broadband versus wireless. The problem is—and I think you started to do a little bit on the end—the acronyms and the technical jargon switch people off.

Senator IAN MACDONALD—Is there a question in this?

CHAIR—Yes, there is a question. Can you in layman's terms tell us about the wireless broadband and its impact on the NBN, especially the 4G argument that I have seen recently?

Senator IAN MACDONALD—Well, I think he just did that, did he not? He spent 10 minutes doing that.

CHAIR—Senator Macdonald, you will get the call when you have other questions.

Senator IAN MACDONALD—But did he not just spend 10 minutes answering the question before you asked it?

CHAIR—Senator Macdonald, I am happy for you to carry on like this all night. Let me tell you that if you want to disrupt proceedings, fine. It is your time. If you want to—

Senator IAN MACDONALD—It would be yours, Mr Chairman. You are asking the questions. You are asking a question he has already answered.

CHAIR—My questions will be asked. The sooner you behave, the sooner you will get to ask questions.

Senator IAN MACDONALD—The sooner I kowtow to this rubbish—

Mr Quigley—Chair, I will not repeat what I have said before about LTE. I make the point that the reason why you need both fixed fibre and wireless is because wireless gives you mobility—a mobile network gives you mobility—and fibre gives you lots of bandwidth for applications that you cannot handle easily on mobile. Spectrum is limited. It is a very, very scarce resource. The only way you could emulate a fibre network is to build literally tens of thousands, if not hundreds of thousands, of base stations. When I talk to British Telecom, France Telecom, Deutsch Telecom, AT&T and all of these companies, they really are quite amused at the debate that is going on in Australia, where we are debating why we need one or the other. They need both. Most of these big telcos around the world are looking at how to shift traffic from their mobile networks on to fixed networks using, for example, Wi-Fi. If there is one thing that I like to get clear, it is that Wi-Fi utilise the fixed network. It is not a mobile network; it is a fixed network appendage.

CHAIR—One of the other issues that has been raised is that wireless technology will develop and it will surpass the fibre technology. Is that a fair argument?

Mr Quigley—No. There is frankly not a chance that could happen. Will wireless technologies continue to evolve? Absolutely. Will they ever have the sort of bandwidth that fibre has? Not a chance.

CHAIR—What kind of infrastructure build would be required if you went down the wireless approach to try and match what broadband can deliver?

Mr Quigley—You really could not. What you would need to end up with is what is called a thinker cell, a femtocell, network, where would you need literally millions of—

CHAIR—Mr Quigley, just a minute. If we can let Mr Quigley be heard, I will make sure that you get the same cut.

Senator IAN MACDONALD—He said it the first time around.

CHAIR—Again, Senator Macdonald, the longer you interject, the longer it will take for you to get your questions.

Senator IAN MACDONALD—We know what sort of chairman you are. You will waste our time as much as you can.

CHAIR—Mr Quigley.

Mr Quigley—To try to get the same sort of performance out of a wireless network, a mobile network, as you could get out of a fibre to the home network, you literally need to have a cell site per premise. The cost of that is just astronomical. In fact, if you go to that point, you have Wi-Fi, which people normally use to reticulate signals around their home. But always Wi-Fi is terminated off an ADSL link, which you will find with a Wi-Fi router or, in the future, off fibre. So it would be very, very expensive to try and duplicate a fibre to the home network using mobile.

Senator TROETH—Mr Chairman, I want to clarify this further. To put it in layman's terms, when I retire in four months, to expect to survive on an iPhone and an iPad rather than having a fixed network to the home is not feasible? Is that what you are saying?

Mr Quigley—You can certainly use an iPad. What is happening in the US and what is happening in Europe is the telcos are offloading traffic on, for example, their iPads onto Wi-Fi cells, which are terminated in the fixed network. In other words, they are pushing from the mobile network. Traffic is moving from the mobile network onto the fixed.

Senator IAN MACDONALD—We are going to be a long time if you do not answer the question.

Senator Conroy—Senator Macdonald, Mr Quigley is absolutely answering the question.

CHAIR—Senator Macdonald, order! A bit of order. Mr Quigley is answering the question. You will get a chance.

Senator Conroy—If you take the answers around you, he is doing it with you.

Senator TROETH—It is a serious question.

Mr Quigley—The serious question is the telco networks—

Senator IAN MACDONALD—Can she use them?

Mr Quigley—Sorry. It depends what for.

Senator Conroy—It depends what you want to use it for and how many other people are using it. It is all about what you do and it is what everybody around you does.

CHAIR—Senator Conroy, order! Mr Quigley, can I give you the same advice I have given previous witnesses—not to get sucked in by Senator Macdonald. Do not answer questions from Senator Macdonald unless he has the call.

Mr Quigley—Senator, you can certainly use your iPad on a cellular network. But if there are too many people who are using their iPads or their iPhones, the network will slow down radically. In fact, there is an increasing amount of mobile usage that is happening indoors. A recent analysis by a company called Analysys Mason is showing that trend is going up, which is why telcos around the world are shifting traffic from mobile cellular networks onto fixed line networks with Wi-Fi. So, yes, you can use it on the mobile, but the telcos will be trying to get your traffic onto Wi-Fi onto a fixed line network as fast as possible.

Senator BIRMINGHAM—They are also adopting new generation technologies to more efficiently be able to use the spectrum available to them and to be able to increase the available downloads and do all of those things.

Mr Quigley—Of course they are. But the problem is that the growth of usage is far outpacing the rate at which improvements are coming in in mobile technology. That is the problem.

Senator Conroy—Let me give you an example. In New York two Christmases ago, AT&T sent a text message to every one of their at that stage only iPhone users to say, ‘Please when you go home, turn your iPhone off the mobile broadband network on to your Wi-Fi.’ They had to get people to shift off their mobile network. Again, this is a mistake that is common, as Mr Quigley has said. Wi-Fi is a fixed line extension. It is not mobile broadband. A lot of people just genuinely make this confusion. They are completely different. You cannot run Wi-Fi except off the fixed line network, whether it is copper or fibre.

Senator TROETH—Thank you for that advice. Thank you.

Senator IAN MACDONALD—I think the answer was yes.

Senator Conroy—You have got to be joking.

CHAIR—That is why we should end here. Senator Fisher.

Senator FISHER—Thank you, Chair. I might just pick up on wireless—let me clarify that. Mr Quigley, you quite rightly talked about wireless and fixed line being complementary. I go back to primary school mathematics when we learnt about the universe—excuse my poor pictorial—and we had sets and subsets. If we can think about the private sector as one subset in the universe—the universe being Australia, of course—and the NBN being the other where the NBN is properly a mixture of fixed and wireless. What we have not yet been able to ascertain is where NBN will be putting wireless and satellite and precisely where in terms of which customers NBN will be putting fixed line.

There is always an intersection in the universe of the two subsets so the question is: where does the intersection fall in terms of competition between the private sector and the NBN, not so much in terms of providing fixed line but in the provision of wireless? The smaller the intersection, some would argue, the better given that NBN is largely taxpayers’ money. What would be the worst—forgive the pictorial—for the expenditure of taxpayers’ money would be if the intersection between private sector wireless and public sector wireless—that is, NBN wireless—were almost one and the same, because that would be a silly spend, in the view of many, of taxpayers’ money. Given the complementary nature, where is the NBN Co’s plan about who will get wireless and satellite and how they will get it? Where do they live? Where is your map?

Mr Quigley— First of all, I agree with you the Venn diagram that put up and showed that intersection is a very small set, which is why almost all—in fact, I cannot think of one who does not—telcos in Australia, be that Telstra, Optus, iiNet, Internode and Primus—all welcome the building of the NBN. They have gone on public record to say so. They do not see it as competitive; they see it as complementary. Most of them look forward to having a utility infrastructure such as we are building so they can build their advanced services on it.

Your second part of the question relating to exactly which addresses, you just do not do the engineering that way. It is going to be roughly four per cent of services we will cover with fixed wireless. This is a fixed wireless service; it is not a mobile service. So once again we are not competing with mobile wireless players; we are providing a fixed wireless service, not mobile. And with satellite, we are providing a broadband service, as you know, in places where no commercial entity really wants to go. Likewise in the fixed wireless area, there are very few people who really want to go into that part of the country, because it is expensive.

Where are the precise addresses? We obviously cannot know that until we do the detailed engineering on the ground. We have produced maps, which I believe are on the DBCDE website at the moment giving our best estimates of where those boundaries are, but you have to do the detailed design on the ground street by street to make that absolute decision at the end.

Senator FISHER—Is that going to take eight to 11 years?

Mr Quigley—The fact is in places where we go in the latter part of the rollout, we cannot say in advance ‘Is this premise going to have it?’ And by the way some of those change in real time as the number of premises increase over the next years.

Senator Conroy—I understand that the maps are also on the NBN website. If I could just add to some of the discussion that we have been having—

Senator FISHER—Will it add to the answer to my question, Minister?

Senator Conroy—It cannot but help.

Senator FISHER—I am not so sure.

Senator Conroy—If I could draw your attention to some commentary on these issues we have been ventilating here as recent as over the weekend. The chairman of Google, Eric Schmidt, was asked a question about the NBN in Barcelona on the weekend and this is what he had to say: ‘Let me start by saying’—

Senator IAN MACDONALD—Point of order, Mr Chair.

CHAIR—What is the point of order?

Senator IAN MACDONALD—We have very limited time. This process is for us to ask questions to get answers to the queries we have. It is not a platform for the minister to run off with a political justification for his \$55 billion spend.

Senator FISHER—And I asked where is the wireless going to be—

Senator IAN MACDONALD—It is not answering the question asked. It is wasting our valuable time.

Senator McEWEN—Just because you do not like the answers.

Senator BIRMINGHAM—Nobody has asked for a list of third party endorsements of the NBN. Now Mr Quigley has given us some during his opening statement and otherwise—

CHAIR—Is this a point of order, Senator Birmingham?

Senator BIRMINGHAM—But nobody has asked the minister to provide us with a list, particularly when Senator Fisher’s question was about—

CHAIR—Minister, you can continue.

Senator Conroy—I am about to give you some more. Let me start—

Senator IAN MACDONALD—We have not asked this question and we do not want the minister to waste our time in simply giving third party—

CHAIR—Do you have a point of order?

Senator IAN MACDONALD—Yes, it is.

CHAIR—Is it the same point of order?

Senator IAN MACDONALD—It is.

CHAIR—I am ruling against you. Carry on, Senator Conroy.

Senator IAN MACDONALD—I move that your ruling be disagreed, Mr Chair.

CHAIR—We will suspend for a private meeting.

[8.16 pm]

CHAIR—Senator Conroy, could I ask that you take notice of the questions that are asked and confine yourself to answering the questions that are asked, and on that basis we may get through this without any further disturbances. I have also asked other senators not to inflame issues or behave in a manner that is about disturbing the proper operation of the Senate estimates committee. We are hoping that we can move forward and give everyone a fair go. It is now up to everyone to deal with it on that basis, and that is how I will be controlling the meeting.

Senator Conroy, I am sure that, with the issue that you are raising, you will get an opportunity to deal with that later. If you have any issues arising from Senator Fisher's question, would you like to deal with them now?

Senator Conroy—I appreciate your advice, Chair. Senate estimates is a process where a whole range of questions are asked and extra information is provided continually during the discussions so I can be answering any one of a number of questions with extra information as I receive it as we go. I am happy to say I have finished with updating Senator Fisher with any more information but I have some more information for Senator Macdonald on the questions and commentary that he made a little earlier about the iPad and whether or not Senator Troeth could use it. I am in your hands as to how you would like me to proceed with that, Chair, but I did not know we were being confined to only answer information that had been put at that moment. Senate estimates has never worked that way in my experience.

CHAIR—I do not have a problem with that. But I am asking you predominantly to deal with the question. There will be from time to time where the process that you have outlined will be appropriate, and I do not think anyone will have a problem with that.

Senator FISHER—Near the end of last year in the dying days of parliament when the Prime Minister wrote to Senator Xenophon confirming in her words: 'By letter 23 November confirming the package of measures we—as in the government—have agreed with you to facilitate the passage through parliament of what was known as the consumer and safeguards bill', was the department involved in the drafting of that correspondence or was NBN Co.?

Mr Harris—No, Senator.

Senator FISHER—In that letter the Prime Minister referred to the establishment of a joint parliamentary committee in saying, ‘The government will move to establish a joint committee on the National Broadband Network to provide progress reports every six months on the rollout of the NBN.’ Has there been any progress on the establishment of that joint parliamentary committee on the NBN?

Senator Conroy—Are you asking the department or Mr Quigley or me?

Senator FISHER—Can anyone at the table answer that?

Senator Conroy—There are about 27 parliamentary committees but I think with this one—Senator Ludlam has a grin on his face over there—there are still ongoing discussions about the terms of reference. You are now blushing, Senator Ludlam—

Senator LUDLAM—I am not.

Senator Conroy—It has not been finalised yet because there has not been agreement across the chamber as to the terms of reference and I think even the personnel although we are making progress on that one. But I do believe we are getting close—

Senator FISHER—Across which chamber, Minister?

Senator Conroy—The Senate.

Senator FISHER—My understanding of process—can anyone at the table help—is that a joint committee has to originate in the House and not in the Senate. Has anything happened in the House?

Senator Conroy—When I say ‘across the chamber’ I am referring to all of the individuals who are represented in the Senate which include some people who are not represented in the House of Representatives. When I say ‘across the chamber’, I am referring to Senator Xenophon and the Greens now have membership in both chambers. I am reflecting the broader nature of the parliament when I say ‘across the Senate chamber’.

Senator FISHER—The broad church of parliament.

Senator Conroy—That is right, but I am hopeful. Without wanting to make Senator Ludlam blush too much, I think possibly by early next week we may have resolved this issue—he is shaking his head, for the *Hansard*—so I am not sure that means you are making progress. Perhaps we will have an agreed position by next week.

Senator FISHER—What indications has the government made to Senator Ludlam and/or Senator Xenophon in order to maintain their agreement to the passage of legislation—

Senator Conroy—As I just said, we haven’t finalised the discussion so I am not sure that I can go a lot further than that.

Senator FISHER—The Prime Minister’s letter refers to the joint committee on the national broadband network and says that the composition of this committee will mirror the Joint Committee of Public Accounts and Audit—

Senator Conroy—As I indicated a little earlier, one of the issues that was being discussed was the composition question. It has not been finalised yet, but again hopefully next week all will be tabled.

Senator FISHER—Good, I look forward to it. The Joint Committee on Public Accounts and Audit has a composition, as set down in parliamentary rules, of 16 members, nine of which are government. So the government controls the membership of that committee. Will the government control the membership of the joint committee on the NBN?

Senator Conroy—The tradition of joint committees is that the government of the day does have the numbers, I think. But one of the issues we are discussing is the composition, and it has not been finalised yet.

Senator FISHER—Have you made any indications to either the Greens or Senator Xenophon about the composition of the committee either being as reflected in the Prime Minister's letter or something different?

Senator Conroy—As I said, the discussions at this stage have not been finalised so I would not want to pre-empt—

Senator FISHER—So is it still looking like a government stacked committee, Minister?

CHAIR—Senator Fisher!

Senator Conroy—I guess it is in the eye of the beholder. You have the numbers on a committee.

Senator FISHER—Well, nine out of 16 is pretty stacked—

Senator Conroy—It is a vibrant democracy, the government has the numbers and it is a stacked committee.

Senator FISHER—What about the terms of reference? What will this committee be tasked with doing and who will determine the terms of reference?

Senator Conroy—I am not sure how many more ways I can explain that those two issues haven't been finalised yet. As soon as we have something we can bring forward, we will. Hopefully it will be next week. But I do not know that I can add anything more.

Senator FISHER—What about the commencement date of the work of the committee given that the NBN is rolling out as we speak, we would believe.

Senator Conroy—As I walked around Armidale last week it pretty much looked like it was rolling out, Mr Quigley.

Senator FISHER—That is right. Yet the Prime Minister says in her letter that this joint parliamentary committee will start its work on 1 July 2011. Is that still the case? Will we continue without any parliamentary oversight ongoing, other than Estimates from time to time, until July?

Senator Conroy—As I said, it is a little hard for the committee to start its work if the composition and terms of reference have not been finalised yet.

Senator FISHER—Has the government, through any of its ministers or otherwise, given any indications or made any overtures to the Greens or Senator Xenophon—for example, at

the eleventh hour during the debate of the competition and consumer safeguards bill in the Senate or since—about the commencement date of that committee?

Senator Conroy—I am not the only minister who has been involved in the discussions so I will probably have to take that on notice for you.

Senator FISHER—The Prime Minister also says in her letter that the ‘committee will be able to call witnesses, including members of parliament, before it about the performance of the NBN or other matters of local interest’, what would—

Senator Conroy—I would love to be invited to your committee on a regular basis.

Senator FISHER—Your colleagues have been invited by the home insulation committee and they were conspicuous in their refusal to attend before the committee inquiring into home insulation.

Senator Conroy—I look forward to, if invited, explaining to you in extreme detail the differences between Wi-Fi and wireless again and why mobile broadband will not replace a fibre optic network.

Senator FISHER—What did the Prime Minister mean when she says in her letter: ‘The committee would be able to call witnesses, including MPs, about the performance of the NBN’—fine—‘or other matters of local interest.’ What could she have meant? Were you consulted by the PM in the drafting of this letter, given that your department was not? Who wrote it?

Senator Conroy—I think it was written in the Prime Minister’s office. Given that you are asking me about the intent of something written by somebody else, I would have to take that on notice so I can give you an accurate answer.

Senator FISHER—She goes on to say as of 23 November last year: ‘The government will be writing to the Productivity Commission and the ACCC to advise these arrangements,’ because earlier on she confirms that those bodies and NBN Co. will, if required, appear and contribute advice to the committee. Does anyone at the table know whether or not the government has so written to the Productivity Commission and the ACCC some three months later?

Senator Conroy—I will have to take that on notice and ask the Prime Minister if that has happened yet.

Senator FISHER—The government is pretty keen to get this joint parliamentary committee up and running, isn’t it?

Senator Conroy—As I said, I am happy to take that on notice and seek information from the Prime Minister.

Senator FISHER—The Senate may soon be asked to consider the reference of the NBN to a Senate references committee. Thanks, chair, that is my question on the joint parliamentary committee. I will move to one more section, if I may, as I know others will have questions. I now have some questions about costs of the construct of the NBN. If I can start with the minister’s answer to the Senate during question time about the strategy that might be being used, given that certain unions are saying that they are mustering troops to gather membership

and to get good wages and conditions, if you like, for NBN workers. The NBN implementation study factored—

Senator Conroy—Would you like them to announce they were going to get bad outcomes for their workers?

Senator FISHER—That is not my question.

Senator Conroy—I was just checking.

Senator FISHER—And I do not have to answer yours so I shall not. What I would expect is that the McKinsey NBN Co. implementation study based its figuring for workers building the NBN on annual wage increases of some 2.5 per cent. Given the pressure for wage increases in excess of 2.5 per cent per year said to be being applied by some unions, has any increase in wages been factored into the NBN spend?

Senator Conroy—As I am sure you would understand, Mr Quigley and the NBN Co. are involved in a great many negotiations on some quite sensitive commercial matters. It would be preposterous to reveal what the NBN's bottom line was prior to a deal being completed.

Senator FISHER—I am sorry. What is preposterous?

Senator Conroy—As you would be aware, Mr Quigley and the NBN Co. are currently involved in a whole range of negotiations around construction issues. It would be preposterous for Mr Quigley to provide the information that you have just asked for. It would seriously undermine and damage his commercial position.

Senator FISHER—Are the detailed Labor costings in the blacked out parts of the business plan, because they are not in the non-blacked out parts of the business plan?

Senator Conroy—I am sure that Mr Quigley has the information that you are seeking. Whether or not it was written as specifically as you have asked, I am not sure but, again, it would be preposterous and damaging to both the NBN Co. and taxpayers to reveal this information.

Senator FISHER—Minister, how were you able to say to the Senate on 15 November:

Overall I believe that the answer will be no, there is no blow-out in wages costs because we have an agreed set of EBA principles. They have now been signed and agreed by the ACTU, coordinating right through with the CEPU and a range of other unions that have been involved in these discussions ...

Then you went on and on.

Senator Conroy—You are now asking about two different things. One of them is about the workforce of NBN Co.—

Senator Fisher interjecting—

CHAIR—Order! Senator Fisher, if you want to go down that track, it will be a problem for this committee. You are the deputy chair and you should behave.

Senator Conroy—You are referring to two entirely different things.

Senator FISHER—I am not asking about NBN Co.'s workforce; I am asking about workers employed by everybody other than NBN Co.

Senator Conroy—But they are not currently employed by NBN Co.

Senator FISHER—The implementation study factored wage increases for those workers of some 2.5 per cent per year.

Mr Harris—Could I clarify that? I did not want to interrupt earlier, Senator, but you are mischaracterising what the implementation study actually said.

Senator FISHER—Please recharacterise it.

Mr Harris—You are talking about the construction cost index growth, some factor of which will be labour but other factors would also be involved in there. That was a factor in the implementation study that was plausible to drive down by competitive tendering via NBN and was placed in the implementation study to show that there was a reasonable margin for error, if you like, in estimates because those sorts of matters had not been taken to be delivering particular levels of savings. It was not simply labour cost saving. It is important that, if we do go through this debate, we do not just characterise it as the McKinsey study saying labour costs will increase by 2.5 per cent. It is the construction cost index per se.

Senator Conroy—To clarify further for you, NBN Co. has entered into four enterprise agreements covering only NBN Co. employees and has worked with the ACTU and relevant unions in finalising these agreements. The four agreements have all been approved by Fair Work Australia and are: the NBN Co. and Communications, Electrical and Plumbing Union of Australia, or CEPU, Technical Employees' Agreement 2010-14—

Senator FISHER—Thank you, Minister. I have your written response to me saying exactly that.

CHAIR—Allow the minister to respond.

Senator FISHER—The minister is telling me information I have already.

Senator Conroy—which covers NBN Co. employees working in connection with a network operations centre; the NBN Co. and the Association of Professional Engineers, Scientists and Managers Australia, or APESMA, Professional Employees Agreement 2010-14, which covers some classes of professional engineers and some IT architecture employees who work for NBN Co.; the NBN Co. and Clerical Administrative Employees Agreement 2010-14, which covers NBN Co., clerical and administrative employees; and the NBN Co. and the Contract Centre Employees Agreement 2010-14, which covers NBN Co. employees who may work in an NBN Co. call centre.

Senator FISHER—Thank you, Minister, for telling me that which you told me a couple of weeks ago in response to a question I asked you in the Senate. I note that all of that covers NBN Co.'s workers, which is all well and good, but I would like to go back to your reference to the agreed set of EBA principles.

Senator Conroy—Yes. I have just described the EBA's work.

Senator FISHER—So there is no agreed set of EBA principles covering non-NBN Co. workers?

Senator Conroy—For people who do not work for NBN Co.? Surprisingly, no.

Senator FISHER—So the vast majority of workers hired to build the NBN who are not currently employed by NBN Co. but will be involved in digging, rolling out, engineering and

re-engineering the NBN were not included in your reassurance to the Senate that there will be no blow-out in wages? Can you reassure this committee that there will be no blow-out in wages of those workers which will impact on the NBN's bottom line?

Senator Conroy—All Australian businesses are faced with the same cost pressures at the moment due to a whole range of factors. We have low unemployment and we have just had a number of tragedies in Queensland and across Australia which are creating pressures for every company in Australia that is engaged in any sort of construction work. The NBN Co. is very conscious of these and is working through its processes to ensure that it is in a position to ensure it meets its targets.

Senator FISHER—Mr Peter Tighe, secretary of the CEPU gave evidence to a Senate committee last week inquiring into industry skills councils about a forum that he attended where he presented what was needed in training for workers required in various aspects of the roll-out of the NBN. Are you familiar with that, Mr Quigley?

Mr Quigley—I am familiar with the work that we have done in NBN Co. to look at what skills and training plans we need.

Senator FISHER—Is the department familiar with Mr Tighe's views in his capacity as a member of the—

Senator Conroy—We read them on the front page of the *Australian* about two months ago and we read them in the *Financial Review*—

Senator FISHER—Yesterday.

Senator Conroy—when they repeated a story that was about two months old in the *Australian*.

Senator FISHER—Yes, about five per cent a year for electricians and 10 per cent for—

Senator Conroy—As I said, the *Australian* ran that story about two months ago.

Senator FISHER—That is about wages. My question here is about the training required for the people to build the NBN. Are you familiar with the relevant industry skills council's view as to the training module that needs to be approved so these workers can be trained?

Mr Harris—Not to that level of detail.

Senator FISHER—Mr Tighe expressed concerns that, in his view, that program needed to be approved so it could get tracking quick smart. Not only is there the projection that he has made prior to the various natural disasters that we have experienced about shortage of the technical workers required to build the NBN but there is also the claim that that will be exacerbated by the natural disasters we have had. Will it not?

Senator Conroy—As I have said, it is clear that the whole range of recent events have put pressure on every company in Australia. One of the reasons the government is putting \$100 million on the table to retrain Telstra employees is to ease some of these pressures. The training of employees is something that NBN Co. takes very seriously. We are all aware of those pressures. Mr Quigley is aware of those pressures. I am not sure that much more can be said.

Senator FISHER—Well Mr Quigley did. On 4 February, Mr Quigley was quoted in *CommsDay*—presumably you would read that more than you read the *Australian*, Minister—as referring to labour shortages and saying, ‘They’re a big issue, it’s an external factor that’s hard to control. We know that particularly in Queensland.’ You are quoting as going on to say:

We have done a detailed analysis of the skills we need in the company in order to build the network. There is the straight issue of: will there be enough people to do this type of work in the construction industry? What I can tell you is that the view of the company won’t be such as we will just keep building regardless of the cost. If we find that costs are going up regardless of labour, we will go back to the shareholder and talk about that very carefully.

Is that a correct quote of what you said?

Mr Quigley—Yes.

Senator FISHER—So clearly you are envisaging the prospect that the costs could go up in building the NBN due to labour?

Mr Quigley—I am reflecting exactly what the minister has just said, which is given the number of disasters that have occurred across the company and given where employment levels are, clearly the number of people to do an undertaking such as this is going to be a factor we have to look at very carefully. But what I can assure you here is that we will not be building at any cost. If we find that costs are above what we have in our corporate plan we will obviously go back to the shareholder, the government—

Senator FISHER—The taxpayer.

Mr Quigley—And say, ‘This is what the position is. How would you like us to proceed?’

Senator FISHER—So the options there will be delay the work or increase the taxpayer spend?

Mr Quigley—I would not say what the options are until we know what the situation is. I was answering a hypothetical question: what is the impact of all of these natural disasters. I would be being disingenuous if I said there is no impact. Of course there could be.

Senator FISHER—Have you had any instances already—perhaps due to natural disasters, for example, in Townsville—at existing sites where work has had to be delayed or suspended or put on hold due to labour shortages?

Mr Quigley—No.

CHAIR—Just on that question of the availability of skills, is NBN facing anything different from any other company in the construction and building industry?

Mr Quigley—No. In terms of magnitude, we know that to execute the plan over this period we have to get to some 5,900 homes passed a day when we are in full volume rollout. That is a magnitude question. Our analysis of the skills base is the training that is needed in those key areas can be organised. That is not such a big issue. The question really is one of scale. If a lot of people are sucked into the construction industry over the next few years in repairing the damage that has occurred due to the natural disasters, we do not yet know what impact that will have on availability of people. It is not so much skills we are worried about; it is people.

Senator FISHER—What about the economic forecasts that there will be a shortfall of about 36,000 resource sector jobs over the next five years in the resource states WA and Queensland; will that impact your ability to recruit or the ability of those involved in building the NBN to recruit?

Mr Quigley—We do not know yet. We are in the middle of an RFP process which is about construction and resources. I think we have to wait and see what the outcome of that is for the large construction companies in Australia.

Senator FISHER—Returning to Mr Tighe, I think the name of the industry training body that he sits on—but I could be corrected—is the construction and information technology training industry council. That body has said there are approximately 63,000 cablers who are licensed and registered with ACMA to work inside premises, almost all of whom, that body estimates, would already be actively involved in that sort of work in Australia at present. So they are estimating that an additional 30,000 cablers will be needed to satisfy the needs of the NBN rollout. Do you agree with that estimate; and, if so, what will you be doing to find those workers?

Mr Quigley—Did you say ‘internal’?

Senator FISHER—Inside premises, that is apparently their view.

Mr Quigley—That does not align with the experience we have had so far and our expectations.

Senator FISHER—So you have been able to recruit those sorts of workers?

Mr Quigley—No, it is not a question of being able to recruit workers; it is a question of how much internal wiring is necessary in order to utilise the services that NBN Co. will be providing.

Senator FISHER—All right. So you disagree—

Mr Quigley—Yes. In most cases there is no additional internal wiring needed.

Senator FISHER—Thank you. Chair, before I give others a go, one more question to mop up an earlier issue—for the purposes of tonight: the joint parliamentary committee, the member for Greenway I am quoting from *Hansard* on 9 February said:

We had the member for Wentworth talk about the lack of oversight of the NBN rollout. He has a short memory. He forgets that late last year—

so she is saying this on 9 February this year—

... one of the last things we did was establish a joint committee on the NBN, which will report on a six-monthly basis. Its membership will mirror that of the Joint Committee of Public Accounts and Audit. So to suggest there is no oversight of the NBN rollout process is a complete furphy.

Does the member for Greenway know something that the rest of us didn't or did she, unintentionally I am sure, mislead the House by saying that ‘late last year one of the last things we’—that is, the government—‘did was establish a joint committee on the NBN’?

Senator Conroy—I am sure she is referring to the Prime Minister's letter—

Senator FISHER—Statement of intent at best.

Senator Conroy—And as you are aware from the discussions now, there are further discussions that have taken place since then and I think they only came up quite recently. Senator Ludlum, you might want to help me out here.

Senator FISHER—Well may be, but part of the difficulty is these discussions were foreshadowed in the ‘very helpfully’ dying days of the Senate sitting last year, yet they have not come to any sort of fruition in terms of the establishment of a committee. How does that help deliver on the Prime Minister’s promise?

Senator Conroy—As I said, we are in the process of finalising the negotiations, and hopefully early next week we will have some further information for you.

Senator FISHER—Look forward to it.

Senator IAN MACDONALD—I just have two very quick questions before I go to another estimates committee. You mentioned in your opening statement about the number of ISPs in Tasmania. You have told us at various hearings up to now that NBN was providing its services effectively for free up until 1 July.

Mr Quigley—Yes.

Senator IAN MACDONALD—And that has happened?

Mr Quigley—Yes, they are still being provided free.

Senator IAN MACDONALD—And 1 July you are going to start charging?

Mr Quigley—We will make an assessment of that. It is something we discuss with the ACCC whenever we make any move on pricing. It depends on the state of our billing systems whether it in fact is worth doing at that point.

Senator IAN MACDONALD—So correct me if I am wrong please, because this is very important: for the investment that NBN has made in Tasmania to date, you are effectively giving it away to the ISPs without charge; is that correct?

Mr Quigley—I think the two issues are completely different. We have a trial service going on, which was put in place in order for us to get construction and roll-out learnings from this. The whole idea was not to make money out of these three sites in Tasmania; it was for a different purpose—

Senator IAN MACDONALD—I am sorry, Mr Quigley, I did not ask you what the idea was; I simply asked: is it a matter of fact that the network you have in Tasmania now, which has cost \$300 million in round figures?

Senator Conroy—Please, Senator Macdonald.

Mr Quigley—No, you are an order of magnitude out.

Senator IAN MACDONALD—Could you tell me what it is please?

Mr Quigley—Yes. It is approximately \$30 million.

Senator IAN MACDONALD—Thirty million dollars in Tasmania—

Senator Conroy—Which actually we told Senate estimates nearly a year ago.

Senator IAN MACDONALD—You are not getting any return on that investment until at least 1 July?

Mr Quigley—It was never a plan to get a return—the answer is yes of course.

Senator IAN MACDONALD—Thank you, I am after the facts, not your intentions. That is the fact: it is being given away for free.

Senator Conroy—The fact was: we were not seeking to make a return. That is a fact.

Senator IAN MACDONALD—Then as of 1 July, from your previous answer you are still thinking about whether you will charge them or not?

Mr Quigley—Yes, I cannot tell you at this point in time. We are in February. As we get closer we will make an assessment of that.

Senator IAN MACDONALD—People in Tasmania are signing up to the internet service providers on the basis of their costs which currently include nothing for your network. How will those people go when you actually start charging them something? Can you indicate to me—if not what you are going to charge them—how you are going to go about working out what you are going to charge them? Is it just going to be a commercial negotiation?

Mr Quigley—No, not at all. We have published in our corporate plan all of the details of our pricing. The retail service providers who are providing services in Tasmania know all of those pricings and they factored their retail prices on that basis. It is up to them to decide how they are going to handle that.

Senator IAN MACDONALD—Could you identify for me, on notice if need be, the part of your corporate plan which indicates how you are going to charge?

Mr Quigley—Yes, certainly, there is a whole section on it.

Senator IAN MACDONALD—You can tell me now, can you?

Mr Quigley—I can, if you would like to wait just a moment.

Senator IAN MACDONALD—While you are doing that I will go to the only other question I have which relates to the Townsville take-up—

Mr Quigley—It is section 8 starting on page 91 on product definition and pricing.

Senator IAN MACDONALD—And it goes through to?

Mr Quigley—Page 109 is the next section that starts on revenue forecasts.

Senator IAN MACDONALD—So you have 18 pages of how you are going to charge?

Mr Quigley—Yes.

Senator IAN MACDONALD—You cannot reduce that to a one line, can you, for me?

Mr Quigley—As you know in telcos, we have kept the pricing as simple as we possibly can because telco pricing tends to get a bit complex. On page 101 we have two components, the AVC or access virtual circuit, which is by far the biggest majority of it, the PIR charges starting at 12 megabits downstream and 1 megabit upstream is \$24 wholesale; 25 megabits per second down, 5 megabits per second up is \$27; 25 down, 10 up is \$30; 50 megabits per

second down, 20 up is \$34; 100 megabits down, 40 megabits up is \$38; 250 megabits down and 100 megabits up is \$70—

Senator IAN MACDONALD—All right, I will read the rest.

Mr Quigley—There are only two to go: 500 megabits down and 200 up is \$100; and 1 gigabit per second down and 400 megabits per second up is \$150.

Senator IAN MACDONALD—Is that per connection?

Mr Quigley—Yes.

Senator IAN MACDONALD—For a layman Tasmanian hooked up at the moment, would it be appropriate for me then to add that price to whatever price the internet service provider are charging me now, if I could add those prices to it, that will give me an indication of about what—

Mr Quigley—Yes, that is a wholesale price—

Senator Conroy—No, the answer is ‘no’ to what you just said.

Senator IAN MACDONALD—Well I am sorry, Mr Quigley just said yes, Minister.

Senator Conroy—No, I think Mr Quigley misunderstood what you were attempting to do. He was operating on a business principle; you were operating on a political one. You have just tried to add the existing retail price and then the wholesale price together to suggest that is what will happen. That is not necessarily what will happen at all.

Senator IAN MACDONALD—Could I ask Mr Quigley again—a look at *Hansard* will indicate this is what I asked you before and to which you said yes—if I were a consumer in Tasmania currently signed up with an Internet service provider, then to know what I am going to pay whenever you start charging some time after 1 July, would I add what I am currently paying to what the figures you have just read out approximately—

Mr Quigley—I am sorry, Senator, I misunderstood your question. I thought you were asking me: does the retail provider add their retail margin to that wholesale price? That is what I answered ‘yes’ to.

Senator IAN MACDONALD—Well they do.

Mr Quigley—If you are asking: are they going to add today what they are charging, I would expect what they are charging today is their retail price and when we start charging I would doubt that is going to change.

Senator IAN MACDONALD—So is the \$24 per month or per year?

Mr Quigley—Per month.

Senator IAN MACDONALD—So you are saying whatever the Internet service provider is currently charging to a customer in Tasmania, they will then wear your charge of \$24 a month or—what was it?—\$500 per month at the top end of the scale—

Senator Conroy—The good news is you are a genius—

Senator IAN MACDONALD—Sorry, I am asking Mr Quigley a question.

Senator Conroy—No, let me be clear about this: there were a number of offers clearly stated by the companies that were six-month offers or 12-month offers based on—

Senator IAN MACDONALD—Well Mr Quigley just said they would wear it—

Senator Conroy—No, the point I am making is that all three of these companies charge different prices. Some indicated they were also going to have an introductory price and they have some very low introductory prices. If you have paid any attention over the last 12 months at Senate estimates, I have made it clear that introductory prices in Tasmania were not necessarily going to be the final prices that would be put into the marketplace by these companies. So, for instance, Internode, who are charging \$30 for 50 megabits, that is possibly one that would be what could be described as an introductory offer to attract customers. But if you would like to know what Internode are going to do, you perhaps might want to ask Internode.

Mr Quigley—All of these retail prices are up to the retail service providers to decide.

Senator IAN MACDONALD—Exactly, Mr Quigley. What the retail service providers are now charging me as a customer in Tasmania is a certain price. Then post 1 July, whenever you get around to it, you are then going to charge them anything from \$24 a month to I think it was \$500 per month, depending on the speeds up and down. What I am wanting to get from you is that your charge will either have to be added on by the retail service provider or, alternatively, they will have to wear it within whatever pricing—

Mr Quigley—I think you are making an incorrect assumption, Senator, that you can draw conclusions on a trial of a small number of customers in Tasmania. I would not extrapolate from that.

Senator IAN MACDONALD—We are not allowed by the chairman to argue so I am not going to debate this with you, Mr Quigley. I just want the facts. Up until 1 July you are giving away for free a service that after 1 July, when you think it is appropriate and the right time, you are going to charge a minimum of \$24 for, and a customer would normally assume that whatever they are paying now they will pay \$24 more later—

Mr Quigley—No, you cannot assume that.

Senator Conroy—No, you cannot assume that at all. You have to be financially illiterate to assume that, Senator Macdonald.

Senator IAN MACDONALD—Minister, if we want to enter into an abuse name calling thing, I am quite happy to do that.

CHAIR—No, we will not go there, Senator Macdonald.

Senator IAN MACDONALD—I thought you might have call pulled the minister up, Mr Chairman, in your balance—

CHAIR—That is why I am saying we will not go there.

Senator IAN MACDONALD—Anyhow, we have those figures. I think it is fairly clear for people in Tasmania to understand that they are now getting for free something you are going to charge a minimum of \$24 for into the future, and that is the point I wanted to clarify. Thank you for that.

Very briefly before I go to my other estimates, in Townsville the take-up, as I understand—and perhaps ‘take-up’ is not the right word—was 54 per cent last October, by the date of this article in the *Townsville Bulletin* of 12 December it was up to 57 per cent, and I think you said earlier in your lengthy opening address that we haven’t got in writing so I cannot check this but you will no doubt tell me that it was now up to 61 per cent or something. Do you have any indication of why it is so low in Townsville?

Senator Conroy—It is not so low at all. It is a fantastic take-up rate, Senator Macdonald.

Senator IAN MACDONALD—I have heard what you have said about averages and take-ups in another place so I am asking why is the Townsville one lower than many of the others?

Mr Quigley—They are variable across different geography. They depend on demographics and on a whole range of factors. There is no one simple explanation of that.

Senator Conroy—To give you an example: in Brunswick for instance, you will find a large amount of rental accommodation which makes it harder—it is a double stage to track this down. While you get very excited about the take-up rates, the facts are that, with the Telstra deal, as we cut off copper, the only fixed line that will be available to you is the fibre connection.

Senator IAN MACDONALD—By government decree you cut off everyone else so you have to go to the NBN, that is what you are saying?

Senator Conroy—I think you have got it. As you would know—

Senator IAN MACDONALD—I know you are proud of that, Minister, for a country with freedom of choice and land of the free, the voters will know about this for a long time to come. But Mr Quigley, getting back—

Senator Conroy—Sorry, if I could finish my answer, Mr Senator Macdonald, on this point exactly: as you would know, Campbell Newman, the Lord Mayor of Brisbane, recently announced they were going have sewer broadband. There you are; there was a competitor. Except I did notice a press statement today stating:

Lord Mayor Campbell Newman today said Brisbane City Council would no longer be dealing with i3 Asia Pacific, as he was unhappy with the progress of the scheme. The company charged with installing this sewer system had been dumped.

Senator IAN MACDONALD—Is it possible for me to ask a question and get an answer to my question, Mr Chair, please?

Senator Conroy—So the broadband in the sewer plan has been dumped.

Senator IAN MACDONALD—I did not ask about Lord Mayor Campbell. Could I just finish my question?

CHAIR—You will get 15 seconds. You can ask the question and we will see if we can get an answer.

Senator IAN MACDONALD—Mr Quigley, do your staff, the people you employ and engage to sell connections, have they given you any indication of why the Townsville take-up to date is lower than it is in other places?

Mr Quigley—It is not something the company has focused on. We regard 61 per cent in Townsville as a very good number. We are in a period in which we are hopefully going to consummate a deal with Telstra which will change the landscape.

Senator IAN MACDONALD—Mr Quigley, I asked you did your staff have a reason for it—you are clearly saying no.

Mr Quigley—I am saying there is no reason for us to be focused on that at this point. That is not something we investigate.

Senator IAN MACDONALD—So your staff haven't told you what they think might be the reason, because you haven't asked them?

Mr Quigley—I have not asked them.

CHAIR—Thanks for that response, Mr Quigley. We will suspend the estimates hearing for a short break.

Proceedings suspended from 9.01 pm to 9.17 pm

Mr Harris—We were asked earlier today by Senator Abetz about McKinsey related consultancies. Senator Abetz referred to three McKinsey consultancies and we have been able to ascertain only two.

Senator ABETZ—There were only two McKinsey ones and I think three Egon Zender consultancies.

Mr Harris—There were indeed three separate contracts for Egon Zender. You referred to an \$11 million McKinsey one. We cannot find an \$11 million one, but we can find one worth \$25 million, which I think everyone understands in detail. We found one with a value of close to \$5 million, which is the follow-on contract.

Senator ABETZ—But have you been able to find out the important aspect, which was that the board had not been consulted or involved in relation to those?

Mr Harris—The board members were not involved, although, as I understand it, Mr Quigley, who is here, was involved in the original selection of McKinsey.

Senator Conroy—Only in the very early stages, from recollection.

Senator ABETZ—Only Mr Quigley?

Mr Harris—Only Mr Quigley.

Senator Conroy—I think you had a very early discussion about the terms of reference.

Mr Quigley—It is quite so, but no other board members—

Senator ABETZ—As I said, I was making no allegations; it was more a late-night fishing expedition to make sure that the process was proper and kosher. You have confirmed that it was, and I accept that at face value.

CHAIR—Senator Conroy, there was some discussion about Wi-Fi and broadband earlier in the debate. I would like you to clarify some reports I have seen about President Obama moving to an \$18.7 billion wireless plan. I have seen that this justifies the argument against the NBN and why we should move to wireless. Can you clarify that for me?

Senator Conroy—I am only giving a few edited highlights. The Chairman of Google, Eric Schmidt, was asked on the weekend at the Mobile World Conference 2011 in Barcelona—and I think it was by an Australian journalist—about the NBN. He is quoted as saying:

Let me start by saying Australia is leading the world in understanding the importance of fibre. Your new Prime Minister as part of her campaign and now, you know, as part of her prime ministership, has announced that 93 per cent of Australians, which I guess are all the folks in the cities, will have gigabit or equivalent service using fibre. And the other 7 per cent will be handled through wireless services of a nature of [Long Term Evolution]. This is leadership and again from Australia which I think is wonderful.

Vint Cerf, the Vice-President of Google but more importantly one of the genuine fathers of the internet, told a meeting of the Internet Society of Australia:

I am so envious that you have a government that is willing to make the long term infrastructure investment of this magnitude and of this type. I will be pushing very hard for similar activities in the US but quite frankly you guys are way ahead of us.

We have also Mr Tim Wu, a US based telecommunications policy advocate and author of *The master switch: the rise and fall of information empires*. He says:

I think it's a daring and fantastic plan, and yes, if it works out the way it's supposed to I think it'll be fantastic and will set a model for the rest of the world.

I think that countries that go forward with these kinds of things are going to have the advantage in the 21st century.

It will make Australia famous for something other than your athletes and Ned Kelly.

Professor Larry Smarr, one of the fathers and pioneers of the internet in the United States, on the weekend said in an article:

Obama's push for improved wireless broadband access will be of great benefit to rural communities in the US. It is a step forward, but lacks the vision of the Australian NBN. By using an appropriate combination of wireless and fibre access, Australia will become the envy of the broadband world.

There are a range of other quotes. Mr Ewaldsson from Ericsson was asked about it at the Barcelona conference, and the *Financial Review* quotes him as saying:

Demand for the NBN would surge as mobile phone providers increasingly rely on ubiquitous fibre connections to handle their customers' data.

That is Ewaldsson, the Vice-President in charge of radio systems of Ericsson. I can quote one more US based commentator, in the *New York Times*, in response to the Obama plan. Stacey Higginbotham noted:

... relying on wireless to solve this nation's looming broadband gap is like relying on low-fat Twinkies to solve the nation's obesity problem. Mobile broadband is a poor substitute for the faster wireline broadband ...

I could go on and on quoting Australians, but I thought I should quote international, particularly US, experts to refute these arguments of a range of commentators in this country. I thought it was important to put on the record that, while a range of commentators are making the claims that the Obama plan is the answer, experts in the US are saying the exact opposite. Those who followed President Obama's plans for sometime, including Paul Budde, well-known here in Australia—advised the White House—openly acknowledge that this was

plan B. Plan A was to build an NBN similar to what we were proposing but the US congress would not accept the concept and so President Obama has moved in a different direction.

The issue is that you cannot under any circumstance, as we discussed earlier, have a discussion which tries to pretend that a wireless network can in any way replace a fibre network. The evidence is in pretty extensively from overseas, despite the inability of a range of Australian commentators and the Tony Abbotts and Malcolm Turnbulls of this world to understand, that wireless is an inferior solution to Australia's NBN.

Senator ABETZ—Mr Quigley, I understand that in your opening statement you referred to 554 premises being activated in my home state of Tasmania. Is that correct?

Mr Quigley—That is correct.

Senator ABETZ—And 575 premises have requested connection.

Mr Quigley—Yes.

Senator ABETZ—And that request would be through the ISP.

Mr Quigley—That is correct.

Senator ABETZ—Or one of the six I understand that there are operating in my home state of Tasmania.

Mr Quigley—Yes.

Senator ABETZ—One would assume that if an ISP has made such a request then there would be something legally binding for the ISP to make that request of NBN.

Mr Quigley—When you say legally binding, between whom? The end user?

Senator ABETZ—The customer and the ISP.

Mr Quigley—I do not know if they are legally binding. There is normally a usual orderer.

Senator ABETZ—But that is a fair assumption, is it or not?

Senator Conroy—We cannot comment on that. The arrangement is between ISPs and customers.

Senator ABETZ—Yes, but—

Senator BIRMINGHAM—One would assume a standard commercial contract of some description exists.

Mr Quigley—A usual contract between an end user and a telco. But we do not know that for sure.

Senator ABETZ—But the 575 are for specific addresses.

Mr Quigley—Yes.

Senator ABETZ—That clarifies that for me at least. So how many premises has the NBN passed by thus far?

Mr Quigley—In Tasmania, three sites—3,987.

Senator Conroy—To save you the maths, it is about 14½, nearly 15, per cent.

Senator ABETZ—I was wondering whether an article in the *Hobart Mercury*, not notorious for its accuracy—

Senator Conroy—I am surprised you are going to be quoting the *Mercury*, given your stated views on it.

Senator ABETZ—I ask about a story that appeared on page 9 on 1 December about a person in Midway Point who says:

From day one, the speed that I was getting wasn't what they said I would get ...

I ordered a 100 megabits per second plan and I couldn't get anywhere near it.

At times I only get 10 megabits per second, although it might jump up to 28 megabits per second at 8am ...

Are those sorts of stories familiar to the NBN Co?

Mr Quigley—I have heard of that event. We did investigate it.

Senator ABETZ—And was it a single, sole event?

Mr Quigley—The NBN network, as you know, goes from a premise to a point of interconnect. You then have the RSP buy backhaul from wherever, from that interconnect to the point of presence. The result of the investigation by us and the RSP indicated that the backhaul link from the POI to the POP was under-dimensioned.

Senator ABETZ—Whatever all those acronyms mean. I thought Defence was bad enough.

Mr Quigley—When the RSP increased the backhaul capacity between the point of interconnect where we handed the traffic off to their point of presence, the problem went away.

Senator ABETZ—And your backhaul provider was Aurora Energy?

Mr Quigley—That is not our backhaul provider. It is the RSP's backhaul provider.

Senator Conroy—I think what happens is an RSP purchases a certain amount from the backhaul provider and, if the RSP does not purchase enough to support the connection that they have sold, then you will get not necessarily the full capacity, which is what was being experienced here. Once the RSP purchased more backhaul capacity, then the speed problem was eliminated and the service was provided as had been purchased by the customer from the RSP. But what the investigation showed was that the NBN network was performing exactly to specifications.

Mr Quigley—We checked with the end user. They were perfectly happy after the RSP increased the backhaul for that.

Senator Conroy—This happened on a number of occasions across a couple of different households and, I think, a school. The problem was the same RSP who were—

Senator ABETZ—That was the Circular Head Christian School?

Senator Conroy—Yes. That was the same problem. Once the RSP—

Senator ABETZ—It is not often you are on the ball, Minister, but—

Senator Conroy—Once the RSP purchased a greater amount of backhaul, the problem was solved. To give you an example, an adjoining Catholic school, which I am sure you are familiar with—

Senator ABETZ—The St Peter Chanel Catholic School?

Senator Conroy—right across the road, had a different RSP who had purchased sufficient backhaul and were receiving exactly the 100 megs they were paying for.

Senator ABETZ—And the more backhaul capacity, if I can use that term, the greater the expense?

Senator Conroy—As you know, Senator Abetz, up until very recently there has only been one backhaul provider across the Bass Strait—Telstra—so Tasmania has had some of the slowest and most expensive broadband in the country. That is one of the reasons we started in Tasmania—because this is the toughest market, because it has been so poorly served in the past. As the backhaul capacity has been improving in recent times, prices are getting lower. To give you an example, that Catholic school next door to the Circular Head Christian School sent me an email which said: ‘We used to pay \$60,000 for our broadband connection. Today, using the NBN and Primus RSP, we are now charged \$1,400’—more than a \$58,000 saving to the Catholic school because of the NBN.

Mr Quigley—You may be interested—I can leave these with you—in these two testimonials from the two schools involved. They say what they are now using the NBN for and we produced these. The schools were delighted to talk about it.

Senator ABETZ—Coloured brochures! I am all into coloured brochures late at night. Thank you very much, Mr Quigley. When were these produced?

Mr Quigley—We were contacted by the two schools who were thrilled about what they could now do and with the service we are providing through the NBN. They can now do things that they have not done. By the way, I have a few more testimonials, for example from some people who are screen-printers. All sorts of opportunities are opening up.

Senator Conroy—In Tasmania?

Mr Quigley—In Tasmania.

Senator FISHER—We might take them on notice.

Senator ABETZ—Very, very costly.

Mr Quigley—No, not costly.

Senator Abetz—Cheap? Very good. I will read these testimonials at my leisure.

Senator LUDLAM—Mr Quigley, in your opening comments you spoke a bit about how you are working with Telstra on some specific issues relating to access to their infrastructure. I am a bit perplexed about how you are able to do that when Telstra’s shareholders have not yet signed off on the deal. Can you spell out in a bit more detail for us how you are working with Telstra on infrastructure sharing when that has not gone by their shareholders?

Mr Quigley—We are already working with Telstra under the normal facilities access agreement in Brunswick to use their ducts. Clearly the prices and the commercial conditions

are somewhat different from what those which would prevail if you were doing a huge deal, such as the financial heads of agreement contemplated. But you can still use their facilities and, when we are working with them, we can obviously do planning together. We can now plan, for example, for the 122 points of interconnect that the ACCC has specified. We can look at the Telstra facilities such as exchanges and backhaul capacity and ask, 'How are we now going to configure the network so that we can put our points of interconnect, re-using the maximum amount of exchange space, duct space and all of the facilities that we have to use, to maximise the amount of existing infrastructure that we do use?' We can have all those discussions. They are all subject to approval, ultimately, by shareholders—both sets of shareholders, by the way. Any deal we do has to be approved by the two boards and then by the two sets of shareholders. But we can still do a lot of planning on the assumption that the deal will proceed.

Senator LUDLAM—What about the first release sites and the places where you are physically installing the infrastructure right now?

Mr Quigley—We had to proceed. We started those quite some time ago, such as in Brunswick, where we are using Telstra facilities. We chose Willunga because it is a very attractive little town in South Australia where we knew we could not do overhead; we had to do underground. So we did the ducting and boring and all that. We chose different sites to get a range of different techniques to test them all. We have done that without Telstra's cooperation. In other words, we are not using Telstra's ducts in Willunga.

Senator LUDLAM—I know this was canvassed a little earlier by coalition senators, but what kind of work have you done on network resilience, particularly in relation to the horrific series of serial disasters that seem to be overtaking us? What is more robust? I realise that most of your distribution network is going to be underground but, even for the last mile, is there any further study or work that has been done?

Mr Quigley—We have put a lot of work into the overall resilience and done some quite sophisticated availability calculations. We have someone inside the company who is an expert in doing network modelling and looking at reliability of every element that goes into the network and building a model and doing calculations of what the overall end-to-end availability would be. For example, if you look at the maps we have of our transit network, which is the transmission links that link up points of interconnect out to FAN sites, you will see they are built in rings. The reason they are built in rings is that, if any one side of the ring fails, you can still get the traffic back from the fibre access node to the point of interconnect. In telecom networks you generally do that type of thing: you look for single points of failure and you try to eliminate them. Obviously there is a point at which you cannot do that because it gets too expensive when you get further and further out towards the end customer. We have absolutely taken seriously the need for resilience and redundancy.

Senator LUDLAM—Are all of the connections from the street up the front yard and to the house going to be overhead cables like the existing power network?

Mr Quigley—No, absolutely not. In fact, part of the deal with Telstra that we hope to consummate is to re-use a substantial number of their underground conduits. Our general philosophy will be that, where the services are underground, we use underground today. If

they are overhead—for example, there is a substantial proportion of the copper network that drops from poles—in those cases we will probably use aerial drops.

Senator LUDLAM—So is there any reason you would not do more trenching for that last little segment from the street to the house?

Mr Quigley—It is an expensive proposition to keep trenching and some people simply do not want to have their garden trenched. They would prefer to have an overhead drop. On the question of reliability of overhead versus underground, we have spoken to some very big players in the world, particularly Verizon, who said it is not an obvious question. It is not necessarily the case that underground is going to give you higher availability, because while you may be less likely to have a failure in underground the time to repair is higher. You can fix an overhead faster than you can fix underground. So, when you look at the overall availability of the network, you should not make the assumption that underground is definitely better.

Senator LUDLAM—This is the first opportunity that we have had to speak to you since the disasters that overtook Queensland. Where is your thinking on whether copper will go back into the areas that were wiped out or whether you would put fibre in? Presumably you are balancing duplication of effort against time of reconnection.

Mr Quigley—I did make the offer to Telstra's CEO that we would be delighted to do anything we could to help, but of course Telstra is a very capable company well used to dealing with events such as those. I think it is up to them to decide. Often—in fact, almost always—the fastest way to restore service is the same service, so replacing copper with copper or remediation of the copper that has been damaged.

Senator LUDLAM—So has there been any material impact on your rollout schedule?

Mr Quigley—No.

Senator LUDLAM—So as far as you are aware it will be the copper going back in and just getting the services back up and running.

Mr Quigley—Yes, that is the fastest. That was Telstra's priority—to get services turned on as fast as possible.

Senator LUDLAM—I do not know whether this is one for the minister or one for you, Mr Quigley. We still have not seen a greenfields bill presented to the parliament and that is now well over a year in delay. What is going on in fringe developments and greenfields estates at the moment with regard to this infrastructure?

Senator Conroy—You read something out earlier about that.

Mr Quigley—Yes. In fact, the government's statement of expectations makes it clear that they would like us to take on the responsibility, effectively, for the wholesale obligation to provide a service into broadacre and infill developments—that means places already within the copper footprint—where there are more than 100 premises. The aim there, of course, for the government is to try to make sure that we put fibre in instead of continuing to put copper in. We have excluded, obviously, the very small infill areas because you cannot simply build a fibre network all over the place. That does not make sense. If it is a big enough area and we

go in and do it—that is what the greenfield arrangements are all about. Having said that, it is not easy; it is quite an engineering job to execute, which is what the company is now doing.

Senator LUDLAM—How much of that is dependent on legislation coming through here? This whole show operated for quite some time without anything at all coming through parliament. How will you manage the greenfields arrangements without a bill.

Mr Quigley—We are proceeding on the basis of the instructions the government has given us. We are working cooperatively with Telstra on that transition and we have had discussions for quite some time with developers, so we are proceeding.

Senator LUDLAM—Maybe this one is for you, Minister. What is the status of discussions around the universal service obligation—the USO? Where is that and have you thought of a better name for the company?

Senator Conroy—NBN stuck. NBN Co. stuck.

Senator LUDLAM—We are stuck with NBN Co. But, on a serious note, I feel as though there is a quite serious ambiguity around the way in which the universal service obligation is going to work and how you are going to phase it out—if you are.

Senator Conroy—Regarding where we are up to?

Mr Harris—Senator, as I am sure you know, the creation of what I will have to call USO Co.—because we have got no better name for it—has effectively taken on network obligations, which are going to need a new home as a result of the agreements we have struck with Telstra and the passage of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill 2010, resulting in structural separation. That effectively means that there are network obligations that will no longer be capable of being delivered by Telstra over the rollout period and therefore need a new home. They will be parcelled up and put inside the USO Co. entity. The government has committed to putting in on a long-term basis \$100 million per year, although in the first two years it is a smaller amount. The current negotiation with Telstra is attempting to finalise enough detail about the proposition that is inherent in the agreement struck with Telstra so that we can put that to a consultation process with other parts of industry. The funding arrangements, as you know, for the current universal service obligation involve industry effectively contributing to that cost as Telstra maintains it. The expectation is that over the longer term, as USO Co. takes over responsibility for maintaining network obligations, the industry will continue to contribute to those. As I said, we need a sufficiency of detail to go into an effective consultation with the remaining parts of industry. We expect to do that, obviously, well before the Telstra agreements are put in front of their shareholders for the purposes of endorsement. That is obviously going to happen in the second quarter of this year as the consultation process will take place early in that second quarter.

Senator LUDLAM—Are we going to see a USO Co. bill, or something of that order?

Mr Harris—There is a legislative component. Perhaps I could get one of my colleagues to describe the nature of the bill's construct.

Ms Cullen—The bill is still being drafted but there will be a scheme to give effect to the USO Co. arrangement. The bill will provide for USO Co. to deliver a number of the

government's public policy objectives, as the secretary has outlined, including ensuring that all Australians have reasonable access to a standard telephone service, ensuring that pay phones are reasonably accessible to all Australians, that there are appropriate emergency call handling arrangements and arrangements for the National Relay Service, that there are mechanisms in place to assist the migration of customers who currently have a voice-only service from the copper network to the fibre based service as Telstra's copper exchanges are decommissioned, and to fund research and development for technological solutions to ensure the continuity of public interest services such as public alarms in buildings and traffic lights.

USO Co. will also have responsibility for ensuring the delivery of voice telephony and payphone services, as I said, within the NBN fibre coverage areas from the point at which they are progressively migrated to the NBN and outside NBN fibre coverage areas from 1 July 2014. Under these arrangements, Telstra will continue to be subject to consumer safeguards in the same ways that they apply to all carriers. An important difference in the reform is that USO Co.'s focus will be on contracting with third parties for the delivery of the universal service outcomes and the public interest services.

Initially, in order to provide continuity for consumers, this will involve entering into contracts with Telstra for the delivery of the services, but over time it is expected that USO Co. will seek to engage other providers to deliver these services. Under this approach we are seeking to ensure that effective consumer safeguards remain in place during the transition to the NBN.

I think it is also important to point out that the government released a public policy statement broadly outlining this in June 2010. They then issued a discussion paper in October on the issues raised in that public policy statement and conducted public consultation on that.

Senator LUDLAM—How close would you say the government is to finalising its thinking on how USO Co., or whatever we call it, is going to work?

Ms Cullen—The arrangements are being finalised as part of the overall deal that is being negotiated with Telstra. I think that Telstra has indicated that it wishes to put that to a shareholder vote on 1 July this year. So the arrangements will need to be finalised before then.

Senator LUDLAM—Will there be an exposure draft of that deal as there was for the companies and access deals?

Ms Cullen—That is currently the proposal, yes.

Senator LUDLAM—I will just put on the record that I think it is a good process.

Senator Conroy—I am fairly confident there will be an exposure draft.

Senator LUDLAM—When I talked before about phasing out the USO, that was pretty loose language. I guess I meant phasing out payments to Telstra and you have described in a little bit more detail what you mean. To what degree will NBN Co. eventually be taking on those obligations—setting aside the payphone argument for a second—to provide the ability to make a phone call, which is effectively what the USO mandates at the moment?

Senator Conroy—NBN Co. does not have a capacity to be a retail provider and it does not have a capacity to individually provide phone services. It provides a port. As I have often

been asked, for people who just want a phone voice service you will be able to unplug it from the wall and plug it into the port on the—

Mr Quigley—The network terminating unit.

Senator Conroy—The NTU. So people will continue to have that capacity but NBN Co. do not provide that as a service.

Senator LUDLAM—No, you will still be getting a bill from a retailer for that.

Senator Conroy—Yes.

Senator LUDLAM—Is the USO split between wholesale and retail?

Mr Quigley—Yes.

Senator LUDLAM—So some portion of that obligation does rest with NBN Co.?

Senator Conroy—They provide the NTU. The NTU has how many ports?

Mr Quigley—It has four data ports and two voice analog terminal adapters that will take a normal telephone.

Senator LUDLAM—One of the issues that has been raised and got a bit of press late last year was the idea that at the moment if the electricity network gets knocked over you can still make a landline call and that is not the case with a fibre network. So there is a proposition that each one of the NTUs, I presume, has a battery in it.

Mr Quigley—It has a battery backup. It is a separate unit, but it is a battery backup.

Senator LUDLAM—Can we go into a little bit of detail about how many batteries that means? Who is going to be responsible for replacing them and who is going to recycle millions of these things every couple of years? This is some turnover that does not exist at the moment.

Mr Quigley—Yes, it is something that just about every telco in the world that I know of is doing. Yes, there is a battery that lasts for some years in the battery backup. We will provide that battery initially but after that it will be the responsibility of the retail service provider in their arrangements with the end customer. We will provide an alarm facility that will signal back to the retail service provider, and also to us, if that battery is coming to the end of its life.

Senator LUDLAM—Who is going to maintain responsibility for recycling the batteries?

Mr Quigley—That is with the retail service provider.

Ms Cullen—The government has said that it will consult with stakeholders on the appropriate way of ensuring access to battery back-up services, including examining environmental and emergency services issues. We are currently in the process of designing an appropriate stakeholder consultation process in the department and expect that to happen in the next couple of months. So it is an issue that is certainly alive, but that is a responsibility that we in the department have rather than NBN Co.

Senator LUDLAM—That is helpful. If the power does go out, how long will your system stay alive for on one of these batteries?

Mr Quigley—It depends on usage, of course. In the design specifications we have assumed—I will have to check to be certain—a minimum of three hours. I may be wrong there; it may be five hours. I cannot remember if it is three or five hours that the MTU will last. We are also looking at investigating the possibility of a reserve that cannot be tapped until somebody overrides it in the case of emergency.

Senator LUDLAM—So you could still make a phone call even if—

Mr Quigley—You could still make a phone call. You would have to physically press the additional button, which is to make sure that you—

Senator Conroy—Press in case of emergency!

Mr Quigley—That is what we are investigating at the moment. It obviously seems a sensible thing to do.

Senator LUDLAM—Will the RSP get access to that port no matter what plan the customer is on?

Mr Quigley—Yes. It comes with absolutely the most basic service and has access to that port.

Senator LUDLAM—How does it work in the case of getting wireless or satellite? Presumably they are not affected by this issue at all?

Mr Quigley—No, we do not provide those ports. By the way, I need to make something clear, and I think there is going to have to be more education on this. When people are using a cordless phone, it does not work when the power goes out. There are a lot of people using cordless phones. In the case of satellite, we are not providing a voice service because of latency issues.

Senator Conroy—If I could just clarify something. When Mr Quigley says NBN Co. are not providing a voice service, you can still use VoIP on the satellite service. So you can still make a phone call, but NBN Co. are not plugging in a piece of fibre or a piece of copper to allow a voice service. You still get a voice service using VoIP.

Senator LUDLAM—But technically we are all going to be using VoIP in 10 or 15 years time.

Mr Quigley—Yes.

Senator Conroy—The technicality of that is true. Just in terms of how it is described, often people do not quite follow that.

Mr Quigley—We do not provide the voice service per se; the retail service provider will provide that. We provide the capability to carry the VoIP.

Senator LUDLAM—Just to confirm your answer to the previous question right now: it does not matter how basic a service is, you will not be charged extra for that battery turnover business.

Mr Quigley—No. We are not charging extra for that battery back-up facility.

Senator LUDLAM—It is part of the basic package.

Mr Quigley—That is part of the basic service.

Senator LUDLAM—Whether you are using data services or not.

Mr Quigley—That is correct.

Senator BIRMINGHAM—So you will get more battery when the alarm goes off—

Mr Quigley—In some years time. As I said, there is an investigation going on, but at this point in time the arrangements we have with the retail service provider—unless something else comes along that the government wants to put in place—is that after the first battery that we supply subsequent batteries are with the retail service provider. That is subject to the government's ongoing investigations.

Senator BIRMINGHAM—So the retail service provider will presumably arrange to send the battery and add to the cost of it to your bill?

Mr Quigley—They may decide to replace it as part of the overall service, but that is up to them.

Senator BIRMINGHAM—But they are going to recoup the cost one way or another.

Mr Quigley—They have overall costs, so, yes, I guess they will.

Senator LUDLAM—Has anybody made an estimate of how many batteries are going to need to be replaced on an annual turnover cycle? It is a couple of million, right?

Mr Quigley—Yes, on an annual basis. We will be providing throughout the rollout period battery back-ups to a large number of premises.

Senator LUDLAM—At what point are you going to be pushing the button? Presumably, you are already installing these things. You have first release rights all over the country. What kind of battery is it? I am sorry to harp on this, because I realise it is kind of at the margins at the moment, but, once we have millions of these things being turfed every year once the thing is built, I am concerned that we do not open up another stream of toxic e-waste that was not thought through when we could have made the decisions now. What are you using in the NTUs that are currently deployed?

Mr Quigley—I will have to get back. I believe it is a—

Senator Conroy—The battery is not physically contained in the NTU. It is in a separate unit.

Mr Quigley—It is in a separate unit.

Senator LUDLAM—I have not seen one of these things, so I will take your word for it.

CHAIR—Senator Ludlam, can I draw your attention to the time. Senator Troeth is waiting for the call, so maybe you could think about winding up shortly.

Senator LUDLAM—I will wind up shortly and I will come back later if there is a little bit of time. I realise that it must be an excruciating temptation to send this out to Liberal seats last, but there was an article on the Delimiter blog that ran a couple of weeks ago. We have been focusing on who gets the NBN first, but the question on this piece was, 'Who gets it last?' Who is getting high-speed broadband eight or nine years after the first sites have gone into the ground? What is your thinking around that question?

Mr Quigley—I am afraid to say that I have not given it any thought at all. We are focused now on where we can start. We obviously have the second release sites that have been announced. We are trying to accommodate at one time various factors—the necessity to do greenfields as a priority; the obvious focus on rural and regional Australia—and a big issue, of course, is the change to the 122 points that interconnect and where we can actually put those points that interconnect in utilising the facilities that we are hoping to get from Telstra. It means that we have some constraints there, which will limit what we can do at what time. Some exchanges have space available that we can use; others need to have make-ready work done on them; and at some of them we will have to build new points of interconnect.

Senator LUDLAM—At what point will you be in a position to publish the rollout schedule for the whole country?

Mr Quigley—We will not anticipate publishing the entire rollout schedule. We would anticipate publishing it once it is clear to us when we can get the facility, assuming the deal is done with Telstra, that will dictate to some extent where we can go and when.

Senator Conroy—It would be unfair to punish the electorates of MPs who vote against it in the parliament, but I am certainly willing to entertain a proposition that those who voted against it should sign a consent form to go last.

Senator LUDLAM—Individual households?

Senator Conroy—Individual households such as, say, Senator Fisher's—she could sign up to get it last.

Senator LUDLAM—I would be happy with that more fine-grained approach rather than a broad approach.

Senator Conroy—I would not want to punish the voters of South Australia just because Senator Fisher has done everything she can to frustrate the rollout in South Australia.

Senator LUDLAM—Chair, I have about 10 minutes more but I might come back later if there is time.

Senator TROETH—Mr Quigley, I think you mentioned in your opening remarks—or perhaps the minister did—that NBN has signed up 50 per cent of households in the Melbourne suburb of Brunswick. One of you did mention it.

Mr Quigley—Yes, that is correct. When we say 'signed up', they have consented to have a connection to their house dropped in.

Senator TROETH—Of the various localities that you describe, that was easily the lowest.

Mr Quigley—Yes, that would be right.

Senator TROETH—I know it is half—whether it is half full or half empty—so, in a very densely populated area, wouldn't you agree that that number is comparatively low? Why would it be so low?

Mr Quigley—No, as I think the minister mentioned, there is a high percentage of rental properties in that area and you have to go through a more complex process to get consent forms because the renter is not the person who can consent. You have to go to the landlord.

Senator TROETH—So what percentage of households of that would you expect to actually purchase the packages?

Mr Quigley—I cannot tell you that at this point in time. Remember that all of this becomes a bit moot if and when the Telstra deal is executed.

Senator Conroy—Because, as I have said earlier, with the Telstra agreement we actually cut off the existing copper network.

Senator TROETH—Yes, I understand that.

Senator Conroy—So the only way to have a broadband service or to have a call on a fixed line network would essentially be to take—

Senator TROETH—To take it.

Senator Conroy—Essentially we will have—barring a small amount of, possibly, HFC from Optus—virtually 100 per cent of the fixed lines going into every home in the footprint.

Senator TROETH—After a certain time.

Senator Conroy—Yes.

Mr Quigley—Yes, it will be done region by region.

Senator BIRMINGHAM—Just on the rental property issue, when did you first start approaching the premises of Brunswick?

Mr Quigley—I do not know; I would have to give you a—

Senator BIRMINGHAM—What is that communication process to get that approval?

Mr Quigley—We have quite a sophisticated process of mailing out information—little forms that say: ‘This is what is happening. This is what we will be doing over the time. There will be a consent form that we will be sending round to you in due course.’ We have run information days in each one of these first release sites. We did that some months ago so people could come along and ask questions. It was, as you would expect, a normal community consultation program.

Senator BIRMINGHAM—Without a precise date, some have been running for some months—true or—

Senator TROETH—I think there was a photo of you, Minister, turning the first sod in Brunswick, if I remember.

Senator Conroy—No, I have not actually been to the Brunswick site.

Senator TROETH—All right. Somebody turned the first sod.

Senator Conroy—No. Unfortunately, given that it is an inner suburb, there is no sod to be turned and we are accessing—

Senator TROETH—A cobblestone to be dug up?

Senator Conroy—We are actually accessing with Telstra because we started late. One of the reasons we started late is that we were negotiating with Telstra to use all the underground capacity ducting of Telstra, so I was not turning a sod in Brunswick. I have turned a few other sods, but not in Brunswick.

Senator TROETH—Yes, I can well imagine.

Senator Conroy—And we have lots more to turn.

Senator TROETH—Not only would there be the issue of rental properties per se, even imagining a single-level dwelling, but there would also be the need to negotiate with landlords of multidwelling units, would there not?

Mr Quigley—Certainly.

Senator Conroy—That is an issue, though, right across Australia—that we have a separate strategy.

Senator TROETH—I understand that.

Senator Conroy—We have a separate strategy.

Senator TROETH—Given that this is a test site, wouldn't there be higher administrative costs in doing that?

Mr Quigley—In multidwelling units?

Senator TROETH—Yes.

Mr Quigley—No, not necessarily. In fact, you have the advantage that you are dealing there in most cases with a body corporate and you can then look at, as you go through and roll out the network, putting this possible connection located so that you can get to every unit in there. If the multidwelling unit is big enough, you may put a piece of equipment in the basement. We are working on that right now and there is a lot of work we are doing. We are doing some trials of that separate to the first release sites.

Senator TROETH—The McKinsey report notes that more than 30 per cent of Australian households are part of multidwelling units. Is there a shortfall of knowledge and experience that can be gained from rolling out to rural and regional areas which have much lower percentages of multidwelling units? The priority is going to be rural and regional areas, I take it. Is that correct or not?

Mr Quigley—We are doing a mixture if you are talking about the first release sites. There is a mixture. There is Brunswick, which is an inner city suburb; there is Willunga, which is a small rural town; there is Townsville—a suburb in Townsville; there is Kiama Downs, which is two hours south of Sydney. So we have a mixture of both rural and metropolitan.

Senator Conroy—That was the strategy.

Senator TROETH—Across the board you are getting a variety of experiences and skills being developed.

Mr Quigley—Yes.

Senator TROETH—But on the sites that you have mentioned you are still prioritising rural and regional Australia. Is that correct or not?

Mr Quigley—Yes, certainly. The announcement that was made on the acquisition of the spectrum is so that we can advance the wireless build. In the announcements we made on the second release sites, you would see that quite a number of them are in rural and regional Australia. Of course, in executing the Telstra deal, I think everybody understands that it is in

the best interest to re-use existing infrastructure. That is going to be a constraint on what we can do where, depending on which facilities are available at which times.

Senator TROETH—I still see a bit of a disconnect, though, between prioritising rural and regional Australia and having the skills and expertise to do the multidwelling units, but perhaps that is something that will correlate later on.

Senator Conroy—I think the intention is to have 31 construction sites—if I can use that phrase very loosely—at the same time. And there is a mix. At the moment there is Tasmania, where we have done some small towns and some suburbs and which will continue to evolve; Willunga, which is, as Mr Quigley said, a small town, and a beautiful town—I invite you to go and visit it; Armidale, where I was just last week; Townsville, which I have also visited; and Minnamurra-Kiama Downs. They are all different. But we are going to have a mixture right across Australia. Thirty-one sites is a lot of sites, and I think we will be able to cover off on all the skill sets that need to be developed and grown throughout the process.

Senator TROETH—So that will be advancing at an incremental rate as you deal with the variety of sites?

Senator Conroy—Yes.

Mr Quigley—Yes.

Senator TROETH—I think you mentioned educational and promotional campaigns in areas such as Brunswick, and I think you mentioned that you did hold one or more?

Mr Quigley—Yes. I do not know how many, but we certainly hold at least one in every first release site.

Senator TROETH—So how many people would have attended that?

Mr Quigley—They vary. In fact, in some we get quite large numbers of people.

Senator Conroy—I am sure some of that information is available.

Mr Quigley—It is.

Senator Conroy—We can take that notice. It is just that they were all last year so it was a little while ago.

Senator TROETH—I would be interested to know, especially if there were more than one, whether the interest did build. Thank you.

Senator BIRMINGHAM—I will just pick up there and say for the sake of the record that the invitation to Senator Troeth stands for a Saturday morning brunch at the Willunga Farmers Market.

Senator Conroy—It is very, very nice.

Senator BIRMINGHAM—It is a lovely setting.

Senator Conroy—In fact, that is where we held the open day.

Senator BIRMINGHAM—That was where you turned your sod, was it, Minister?

Senator Conroy—That is where we held the open day at the market.

Senator TROETH—Thank you, Senator Birmingham.

Senator BIRMINGHAM—I will go back partly to the communications effort and the challenges of getting access to some properties as against others. Mr Quigley, you alluded to some of these things changing with the Telstra deal—because, of course, there is a consequence of not accepting NBN Co. access—but there still will need to be approval for you to connect, won't there?

Mr Quigley—We are anticipating that, one way or another, there will be arrangements in place so that, as the copper network is decommissioned, we will replace it with the fibre. Our expectation is that most people who have a fixed line will want to keep a fixed line and will be quite happy to have a fibre instead of a copper connection.

Senator BIRMINGHAM—I am sure most people will, but the fact is that, in somewhere like Brunswick, you have been at it for several months and have only got 50 per cent of premises approving a connection at this stage. There is no consequence of not having a connection at this stage, so you are right to highlight that as an issue. If you are identifying a particular problem in communicating with landlords of rental properties, there is a consequence for them, eventually, of unhappy tenants. But the communication problem gets no easier.

Senator Conroy—The consequence will be lower rents. Homes that do not have a fixed line/fibre broadband will ultimately end up not being able to charge as much rent. So there will be a financial incentive—

Senator BIRMINGHAM—I am saying, Minister, that, in the initial stages of the communication, which seems to be an issue NBN Co. is having—

Senator Conroy—No, no. Let us be very clear: 50 per cent in Brunswick is a fantastic take-up, just as 87 per cent in Armidale is a fantastic take-up and 84 per cent in Willunga is a fantastic take-up. This is a tremendous response when we do not even have a product to sell to them because the RSPs are not marketing. So we consider this to be a very, very positive response.

Senator BIRMINGHAM—Do not undersell yourself, Minister—Mr Quigley said it was 91 per cent in Willunga.

Senator Conroy—Oh, it has gone up, has it? Sorry!

Mr Quigley—Yes.

Senator BIRMINGHAM—Why is 50 per cent in Brunswick a fantastic result compared to 91 per cent in Willunga? These sites were all announced at the same time. The rollout was being done simultaneously—

Senator Conroy—No. Brunswick started last because Brunswick was a different negotiation. Brunswick was a negotiation with Telstra, which took longer because it was not included as part of the NBN deal, so it took longer. It started last; it has the highest density of rental accommodation. Those are two very simple reasons why you would get a different response.

One of the reasons we picked different sites with different types of topography and size, shape and positioning was to learn from these experiences. I repeat, this argument is ultimately futile. If an individual down the track wants to make a phone call or use broadband

on a fixed line their only choice, barring a small proportion, potentially, of Optus customers on HFC, will be on the NBN network. We will have, virtually, 100 per cent of fixed-line connections in Australia in the fibre footprint. It is just that simple.

Senator BIRMINGHAM—That will be their only choice of course. There is also a growing data of people choosing not to have fixed line as well.

Senator Conroy—I am glad you raised that. If you read the NBN business plan it has actually been misinterpreted, and Mr Quigley might like to add to this. When people quote that 11 or 12 per cent of people have abandoned fixed line that actually includes four per cent of people who are using what is referred to as naked DSL. They have stopped paying the \$30 a month line rental but they are still using the fixed line. The actual figure is only seven per cent. It is often stated that 16 per cent is a terrible underestimation but that is because people have not read correctly the data that is available. The current figure is around seven to eight per cent. Mr Quigley often says that we have doubled that to 16 per cent, but what is important is that people just have not read all the details and that four per cent are actually still using a fixed line, referred to in the jargon as naked DSL. I am sure you have heard of it.

Senator BIRMINGHAM—It is still a figure that is growing.

Senator Conroy—It is a figure that we have factored in as doubling.

Mr Quigley—Although I would also refer to the Analysys Mason study which says that some of those trends are starting to go the other way as the amount of mobile data is going up. People are predicting now that 75 per cent of mobile data is going to be used in the home. As I said before there will be a real interest from the mobile telcos to get that traffic; the mobile data.

Senator Conroy—They will actually want to sell a bundled product. In other words you have both.

Mr Quigley—That is exactly right.

Senator BIRMINGHAM—Can I go to something that I do want some clarification on? In talking about apartments and multiunit dwellings, Mr Quigley, when you spoke of putting a facility in the basement of somewhere large that would be fibre-to-the-cabinet type architecture in the terminology?

Mr Quigley—No, that would be called a distribution hub. As you fan the fibres out from a fibre access node, which has the active equipment, you go out to what is called a fibre distribution hub where there are splitters which split the fibre—that is what GPON is all about—and those fibre distribution hubs are normally located in an area serving about 200 premises. They are in a cabinet on the side of the road. They are completely passive, which is completely different to fibre to the node. This is not the same technology. We are saying that if there is a big enough multi-dwelling unit we may put one of those fibre distribution hubs, in other words the passive splitters, in the basement to feed all of the units in that multi-dwelling unit.

Senator Conroy—Like Singapore and Korea are doing at the moment.

Senator BIRMINGHAM—In relation to multi-dwelling units it will be fibre to the apartment in all instances?

Mr Quigley—It will be fibre to the premise, each individual premise, not fibre to the node. It is not fibre to the apartment and then copper from there. It is fibre to every apartment.

Senator BIRMINGHAM—NBN Co. is the one covering all of the costs of however many apartments, however many premises in those multi-dwelling units—just to be very clear in that regard.

Mr Quigley—Yes.

Senator BIRMINGHAM—Can I skip over to some issues relating to the Telstra agreement and related matters. Will NBN Co. have a say over how long Telstra has to keep its copper network operating?

Mr Quigley—It is part of the agreement. Within the fibre footprint—and I would distinguish these two parts: there is the fibre footprint in which the copper network is being retired and then there is the remainder of the copper, which is in the part that we will not be fibreing, which is part of what was talked about before with USO Co.—there are clauses in the agreement with Telstra about how that transition will take place.

Senator Conroy—But I hope you are not going to seek any confidential information and waste everyone's time with that argument.

Senator BIRMINGHAM—I have no doubt that you will not be shy in telling me when you are not going to answer a question! We have had plenty of experience with that. Is there a time limit on how long Telstra can keep its wholesale HFC internet customers on after the NBN is rolled out in a certain region.

Mr Quigley—We have an agreement. As Michael mentioned, the agreement is for voice services and broadband services on the HFC to be retired. But, obviously, the pay TV service on the HFC can continue. There are some time frames, as we have discussed with Telstra, about that transition.

Senator BIRMINGHAM—In terms of those two issues—the copper network and HFC—in the copper instance, where it is going to be terminated, at what point do you envisage termination? Is it literally, 'We have connected you and now you are going to be terminated,' or is there a timeline?

Mr Quigley—Those details are part of the commercial negotiations that are ongoing with Telstra. I am sure that when they make their announcement to their shareholders they may choose to make that information public.

Senator BIRMINGHAM—So there will be some overlap period.

Mr Quigley—Of course. There has to be from an engineering sense there has to be an overlap. By the way, on the copper network it is not just voice services. There are obviously DSL services and there are what are called 'special services'. There is a whole range of services. Each one needs to be considered as to how it will be migrated: alarm services, PAPLs and a whole range of different types of migration scenarios that we are working through in exquisite detail at the moment.

Senator BIRMINGHAM—Is there a consistent time frame for HFC customers and internet customers to switch over.

Mr Quigley—Probably I should not comment on the details of the agreement.

Senator Conroy—There are ongoing discussions that are relevant here. We are not trying to withhold. As you can see we are being very helpful with information—Mr Quigley as always. But there is just some information that we cannot reveal for commercial reasons.

Senator BIRMINGHAM—Minister, you recently said—and I think you have repeated it tonight in response to Senator Ludlam—that people who want a home phone service will not have to pay a cent when the fibre-optic cable is connected to their house.

Senator Conroy—It is quite a small optic cable that connects to the house, not a big optic cable.

Senator BIRMINGHAM—I did not say ‘big’, I said ‘when the fibre-optic cable’.

Senator Conroy—I sounded like big to me.

Senator BIRMINGHAM—I was not trying to work on the size basis of the cable. Is that a correct statement?

Senator Conroy—Yes. I think that part of the agreement that NBN Co. has reached with Telstra—Mr Quigley might want to help me out here as I am not totally au fait with it—is that people who currently have just a voice line will continue to have the voice line at the same price.

Mr Quigley—We have an arrangement with Telstra whereby we are making sure that we look after people with a voice only service. You are probably aware that in the market today if it is a voice only line there is not margin between the \$24 basic service offering that we are providing and that voice only service that Telstra would provide, particularly to those people who are on special rates.

Senator Conroy—Those on low income.

Mr Quigley—Low-income and disadvantaged people. During the course of our arrangements with Telstra we have negotiated the way in which that can be taken care of.

Senator BIRMINGHAM—So Telstra will continue to provide those services to all of those voice only customers?

Mr Quigley—Telstra retain the universal service obligation at the retail level.

Senator BIRMINGHAM—In relation to other users who choose to connect, will they face a connection fee?

Mr Quigley—We have not anticipated that in our business plan. We have assumed the pricing and products as we laid out in the corporate plan.

Senator BIRMINGHAM—Okay. Of course—

Mr Quigley—By the way, we are talking about—I have to keep stressing—wholesale. Retailers will do what retailers choose to do.

Senator BIRMINGHAM—So retailers are free to charge—

Senator Conroy—The good news is that, for the first time, we will have real competition among retail service providers.

Senator BIRMINGHAM—Thank you, Minister. So retailers will be free to charge a connection fee if they wish?

Mr Quigley—It is not up to NBN Co. to dictate to retailers how they operate in the market.

Senator BIRMINGHAM—Will NBN Co., in your wholesale plans, charge a connection fee for retailers?

Mr Quigley—We do not anticipate that. We have not talked about that in the corporate plan.

Senator BIRMINGHAM—Do you anticipate doing so?

Mr Quigley—At this point we do not anticipate doing so.

Senator BIRMINGHAM—So it will be a flat service for the package of download volumes?

Mr Quigley—We will provide a service on a wholesale level. It could be that, and this is something we are working on at the moment, if someone lies outside the fibre footprint and yet they still want to get a fibre service—we anticipate that this is going to happen, by the way—we may have an arrangement where they could pay an additional amount to cover the differences in the costs.

Senator Conroy—But they are not in the 93 per cent footprint that we are talking about.

Mr Quigley—We would offer them a fixed wireless service or a satellite service, of course. For example, we anticipate that there may be groups of people who may, for example, live on bigger lots that are not in the 93 per cent footprint who may get together and say: ‘Will you please run a fibre? We will pay for the additional cost for that.’ We are working on a process that allows that to happen.

Senator BIRMINGHAM—That strikes me as being a fairly expensive proposition for many people, or are you envisaging there are situations where there is fibre already down the road but, for some reason, there are particular houses that you are just missing?

Mr Quigley—If you could imagine: at the edges of towns, people would be interested in asking us to extend the fibre out further. It is not planned in our 93 per cent footprint but we anticipate that people will want us to do that. We are already getting requests, even in the first release sites, to do that.

Senator BIRMINGHAM—To be clear: for the 93 per cent as it is, unless for some strange reason a retail service provider decided to have their own connection fee, there is not an upfront fee passed on to them that they are likely to be passing on to consumers.

Mr Quigley—We do not anticipate that at this time. The reason I am just a little cautious is that in our whole pricing construct we embed a special access undertaking which we submit to the ACCC—we have yet to go through that process of getting that approved. They can make some decisions; they may decide that they would like us to do X, Y or Z, and we will obviously need to respond to that.

Senator BIRMINGHAM—Regarding the pricing structure that retailers offer, will there be a requirement for retailers that are operating in different areas to offer uniform retail pricing across those areas?

Mr Quigley—We offer uniform national pricing at the wholesale level. We do not even begin to presume to tell retail service providers how they should price or what they should do. We are building a utility network that they can use. We expect there to be substantial competition at the retail level—we think the market should work at that level. It is not up to us to dictate to them how they should structure products. In fact, what we have done, and the retail service providers seem to be extremely happy with it, is provide them with all the flexibility we can, and we have made no presumptions about how they may want to use it. I think they appreciate the fact that we are not making any judgments on how they should do things. Let the market work at that retail level.

Senator BIRMINGHAM—So a retail service provider can either pass on the costs, if they have higher costs in servicing a particular area for whatever reason, or go their hardest, if they think they can get a higher margin out of a particular area.

Mr Quigley—That is the market. I am a firm believer in letting the market work.

Senator BIRMINGHAM—You said recently:

... Telstra is likely to become NBN Co's largest customer as it progressively migrates its voice and broadband traffic to NBN Co's wholesale-only, open-access network ...

What percentage of retail customers do you expect Telstra to retain?

Mr Quigley—We have made no predictions on that basis.

Senator Conroy—They start with a big lead on everybody else.

Mr Quigley—I guess common sense would say they are likely to be, at least initially, our largest customer.

Senator BIRMINGHAM—In your business modelling you have not made any distinction at all.

Senator Conroy—It does not matter to us if a Telstra customer becomes an iinet customer or an Optus customer or back to a Telstra customer. They are still on our network.

Mr Quigley—Yes. And in fact the network is so configured we have a number—

Senator BIRMINGHAM—If you believe in monopoly, minister, yes.

Mr Quigley—It is so configured that in fact you could have different service providers providing different services to the same customer over our network. They could get video from one service provider and internet access from another, and another service perhaps not dreamt about yet from a third.

Senator BIRMINGHAM—Has the growth in retail customers that Telstra has enjoyed had an impact on the figures in the heads of agreement?

Mr Quigley—I am not at liberty really to discuss the factors that influence what we are doing in converting from heads of agreement to definitive agreement. But both companies are not trying to finetune everything in real time. You could not do these kinds of deals if you kept trying to adjust things.

Senator BIRMINGHAM—Just to be clear on what you said there, Mr Quigley, and I may have slightly misheard it, did you say it does have an impact on the finalisation of negotiations?

Mr Quigley—No, I am giving you a philosophical approach by the two companies which is such that neither company is trying to constantly be adjusting for latest small changes in the market. You would never end if you did that.

Senator BIRMINGHAM—Will the domination of the retail market by a single player if that occurs—certainly in the early stages it is likely—

Mr Quigley—Sorry, if what occurs?

Senator BIRMINGHAM—The domination of the retail market.

Senator Conroy—If you look at iinet's success, it is advertised now as the third biggest broadband provider in the country. That is a relatively new thing. The TPG are very competitive. I do not think you should make an assumption about anybody being dominant. I think you will see a lot of competition, which is going to be great for consumers.

Senator BIRMINGHAM—When I asked the question about Mr Quigley's quote, which was assuming that Telstra will be the largest customer of NBN Co, it was met by both the you with, 'Yes, of course it will be.'

Senator Conroy—There is a difference between largest customer and dominant. You used the word 'dominant' in a quite deliberate pejorative way. I wanted to correct that and make sure we completely set it aside. Largest customer and dominant in the marketplace are two entirely different concepts that you try to tie together.

Senator BIRMINGHAM—Would having either a dominant player or a significantly larger player have any impact or put any pressure on the wholesale prices that you have modelled?

Mr Quigley—No, not at all. By the way, I think the market will respond in a dynamic way. Remember that what we are providing also with our operational support systems and business support systems is to make it much easier for retail service providers to manage this network that we are providing them and also for end users to churn, to move between them, or to have, as I said, two or three service providers providing the different services. So the industry dynamics will evolve and will change.

Senator BIRMINGHAM—Does Telstra get paid as customers switch off or are switched off from their copper network, or will it be when customers connect to the NBN?

Mr Quigley—Details of that I think will be revealed when the deal, if it is consummated, is made public.

Senator BIRMINGHAM—I might defer to Senator Fisher for a moment or two, if that suits the chair.

CHAIR—Senator Fisher.

Senator FISHER—Let us start with some questions about wireless.

Senator Conroy—I would love to; I can read some quotes. I only gave you the edited highlights before. I have many more.

Senator FISHER—I am going to ask you about something you said at the previous estimates. But to go back to your opening statement, Mr Quigley, you talked about the purchase of spectrum, your recent announcement. That is in the 2.3 to 3.4 gigahertz band, isn't it?

Mr Quigley—There are two bands, 2.3 gigahertz and 3.4 gigahertz.

Senator FISHER—Okay. That spectrum will be used to support the 12 megabits per second wireless broadband to people between the 93rd and 98th percentile, will it?

Mr Quigley—Ninety-three to 97.

Senator FISHER—And 97 now.

Senator Conroy—No, it has always been 97. Four and three comes to seven

Senator FISHER—Except when it was 98 in April 2007.

Senator Conroy—That was fibre to the node.

Senator FISHER—That is right. It was.

Senator Conroy—Just while I am talking, if I could just make a correction before I get an irate phone call, iiNet are actually the No. 2 provider of DSL broadband in the country now.

Senator FISHER—Minister, you said at the previous hearings about wireless broadband:

Let me be really clear about this: you cannot monitor somebody 24/7, every second, on an existing fixed wireless network or on some of the copper that we have in the ground. Broadband is required to guarantee the security of the service—meaning it does not go—

I hope I can do this justice—

'Blip, woops, what happened in that five minutes when it was turned off?'

Senator Conroy—What is the context of that conversation? A medical application?

Senator FISHER—Exactly. So my question is: will the wireless service that is delivered over this spectrum be able to support e-health applications such as monitoring in the home?

Senator Conroy—As we have said all along, it is impossible for the laws of physics to be countermanded by Senator Fisher, Mike Quigley or Steve Conroy. When we have been arguing about the properties of fibre versus copper and wireless, we have been pointing out that there are things you can do on fibre that you cannot do on other forms of broadband.

Senator FISHER—Does that mean that those who are receiving part of the purchased spectrum, which will support the 12 megabits for people between the 93rd and 97th percentile, will have facilities through their wireless service delivered over the spectrum to access e-health applications such as monitoring and the like? The answer is no, isn't it.

Senator Conroy—What people are going to get from both the satellite and the fixed wireless network is a massive improvement on what your government left them—20 times better.

Senator FISHER—Will they get the remote e-health services you promised them?

Senator Conroy—But, as I have repeatedly said, there are some things you just cannot do on copper, satellite, fixed wireless or mobile that can be done on fibre.

Senator FISHER—Can you get e-health services, remote in the home, over your wireless through the spectrum just purchased? You promised those people exactly that.

Senator Conroy—No, I did not. Do not mislead the Senate. Let me be clear: you want to build a wireless network across the whole country that will not deliver any of these services.

Senator FISHER—Rubbish. I am asking—

Senator Conroy—We are going to be delivering to 93 per cent of people's homes to enable these applications. But your plan is to leave millions of Australians without access to it.

Senator FISHER—I think that was a big no to people getting the remote health services they got over the wireless

Senator Conroy—What is 'no' is that millions of Australians will get none of these applications from the Liberals broadband plan—your current one, the one you took to the election, and the 18 plans before that. You are on your 20th plan and you are still leaving millions of Australians without any access to this.

Senator FISHER—You promised country dwellers speeds of 12 megabits per second.

Senator Conroy—I think you are now just making it up as you go. I have been very clear about the difference in capacity of fibre to wireless and satellite. I never promised anybody outside the 93rd percentile that they could get all of the same applications. I have not done that. You, however, keep pretending regularly with Mr Turnbull and Mr Abbott that you can defy the laws of physics and that you can deliver all of these applications to millions of Australians on a wireless network. You are just making it up.

Senator FISHER—Minister, was it correctly reported in your favourite newspaper, the *Australian*—

Senator Conroy—Can I start with the precursor 'probably not', but go on.

Senator FISHER—that you have reassured residents who are going to be wireless served that they will get peak speeds of at least 12 megabits per second?

Senator Conroy—I think that is an accurate statement.

Senator FISHER—So that leaves room, does it not, that, other than peak speeds, their actual speeds could be significantly lower, because peak is typically used to describe the maximum and the more the download the slower the speed?

Senator Conroy—The key difference between how most commercial mobile broadband networks—

Senator FISHER—I am asking about your NBN, Minister.

Senator Conroy—The key difference—you do need to understand this, Senator Fisher—

Senator FISHER—Yes, but if I tried to ask about that I would be told it was a program of a past government and not subject to estimates, so why are you going to tell me about it?

CHAIR—Senators, this is going to start to deteriorate even further. Senator Fisher, I know you are tired, but could you just ask a question and allow the minister to reply.

Senator Conroy—And I am actually attempting to answer the question.

CHAIR—Senator Conroy, I would ask you to do the same.

Senator Conroy—I am actually just trying to answer the question. The key difference between the way a commercial mobile broadband network is configured is that when they talk about peak speeds they are talking about at the centre standing next to the tower. The way that the NBN's fixed wireless network is being constructed is that you get those peak speeds at the edge of the footprint—you drew some circles before—at the edge of your circle. That means that the people who live inside that get considerably more speed than those who are on the edge. So there is a key difference between how the network is being configured. As to the dimensioning and all those sorts of things, I think Mr Quigley is in the process of finalising some tenders where there are still some issues that are being resolved.

Mr Quigley—Yes. There is flexibility to vary the speeds that you can get within the cell site. You have the choice. In our network we could dimension it such that 12 megabits per second is delivered right across the entire cell site, or higher speeds at the centre and going out to a minimum of 12. We are also dimensioning, if I could mention it—

Senator FISHER—A minimum of 12 or a maximum of 12?

Mr Quigley—A minimum of 12 at peak speed.

Senator FISHER—Peak speed?

Mr Quigley—Yes.

Senator FISHER—Does that mean the maximum speed wireless users will get is 12 megabits per second?

Mr Quigley—No, it does not.

Senator Conroy—No, that is why you use the word 'minimum'.

Mr Quigley—There is another parameter that is very important. It is a little complex. It is what is called the average busy hour throughput that you can get.

Senator FISHER—Volume.

Mr Quigley—It is the volume that you can download. What we are doing in the fixed wireless network is that we are dimensioning an order of magnitude above what a commercial mobile service would dimension so that they will get a much better service from the fixed wireless network. We can also control how many users are in the cell, whereas in a mobile network you cannot, because people come and go all the time in the cell. You have to keep adjusting it because people come and go in it. Whereas we have a planned and fixed number of people in that cell because it is fixed, so we can give them a much better service.

Senator FISHER—Thank you, Mr Quigley. I have a couple more questions around the universal service obligation. Why was the study let directly rather than going to open tender? It went to McKinsey & Co., didn't it?

Senator Conroy—My apologies, I was distracted.

Senator FISHER—Did it go to tender? I understand not.

Senator Conroy—Sorry, did McKinsey go to tender? Yes.

Senator FISHER—For the USO statement.

Senator Conroy—Sorry, for the USO.

Ms Cullen—For the USO it was a direct source to McKinsey on the basis of the extreme urgency provision in the *Commonwealth Procurement Guidelines*.

Senator FISHER—Not on the basis of merit?

Ms Cullen—The *Commonwealth Procurement Guidelines* provide for the circumstances in which you can go outside the open tender process, and one of those is extreme urgency. We saw a quote from McKinsey and its offer was assessed as providing value for money on the basis of the necessary skills and expertise that they offered.

Senator FISHER—Why was there extreme urgency?

Ms Cullen—It was brought about by the fact that we needed to engage in the negotiations with Telstra, and one of the things that they are advising us on is the negotiations with Telstra in relation to the establishment of a USO co.

Senator FISHER—Wasn't the imminence of that foreseen?

Mr Harris—Maybe I can answer that. No, Senator. At 19 June we did not have a deal. At 20 June we did have a deal.

Senator FISHER—But you wanted one—the minister was telling us about it—desperately.

Mr Harris—Yes, but I do not engage consultants on the basis of anybody's wants; I engage them on the basis that we have actually a deal in place. We have to have it completed. According to the terms of that deal, the expectation was that by the time frames that we have been talking about, the middle of this year, shareholders would have voted on it. So USO Co. is a serious element of this. It is a \$2 billion element of it. We need professional advice and we need it urgently. In those circumstances, McKinseys had both the capacity—

Senator FISHER—So hope like hell we get what we're seeking, but don't prepare for if we do and then, when we do, 'Oh, gosh, it's here'?

Mr Harris—No, no. We do not tender on the basis of a possible deal. No-one does that.

Senator FISHER—What estimates has the government now got of the cost of the universal service obligation?

Mr Harris—As you probably know, there is a long history of estimates of the cost of the universal service obligation and a very wide disparity in those estimates. The disparity is in the hundreds of millions of dollars. Previous governments have published estimates. I think the ACCC has some knowledge. I think Telstra claims a substantial body of knowledge, as it obviously would as the provider. We are currently engaged in attempting to bridge the gap such that, as I advised Senator Ludlam earlier, we can put a proposition in front of the remainder of the industry. That is part of the detailed negotiation that is going on at the moment.

Senator FISHER—Given the government's commitment to maintain existing fixed-line services outside the fibre footprint, how many copper services will be maintained after the fibre rollout?

Mr Harris—In order of magnitude, we have the seven per cent and the 93 per cent.

Senator FISHER—So, if NBN does not achieve—goodness forbid—the sought 93 per cent coverage, will more copper lines need to be maintained?

Mr Harris—I think that is a speculative question I could not really answer.

Senator FISHER—If the 93 per cent coverage is achieved, how many exchanges and how many kilometres of copper will need to be kept in service?

Mr Harris—We are currently negotiating with Telstra on the exchange issue. On kilometres of copper, I could not make an estimate. We can probably revise such a number once we are there, if you know what I mean, but I do not think we could prove it right now. But we are certainly in discussion with Telstra about which exchanges would have to be maintained for that purpose.

Senator FISHER—What will be the annual cost of maintaining the copper and who will pay it—USO Co. or Telstra?

Mr Harris—It is included in the USO Co. estimates.

Senator FISHER—If existing subscribers are keeping copper service beyond the fibre footprint—and that network will not be upgraded, as I understand it, to offer higher speed broadband—will those users, who will be predominantly regional, have to pay for two services, one from Telstra, their existing copper voice service, and one from NBN Co., which will be their wireless or satellite service?

CHAIR—Senator Fisher, can I ask for that to be the last question, because we have really got to move and tidy up. We have got 15 minutes.

Mr Harris—They are in the same position as every other consumer across the country, effectively. They can pay to maintain their existing phone service, as every consumer across the country can simply do—they do not have to become a broadband customer of NBN—or they can take up a broadband service via wireless or satellite as provided by NBN. So they are in the same position. It is just that what they are guaranteed of is the retention of the copper.

Senator FISHER—They may wish they were in the same position; they are not quite. But I understand the context in which you are answering that question.

Senator Conroy—Let us be clear: you want to build a second-rate wireless network—

Senator FISHER—Time is limited. If it is not limited, I will ask more questions.

Senator Conroy—for millions of Australians

Senator FISHER—Chair, that finishes my questions.

Senator LUDLAM—I will be quick. Mr Quigley, I asked you a couple of turns of the wheel ago about getting this service out to remote Aboriginal communities. I am particularly interested in WA. The places that I am talking about are not on your fibre footprint and they

are not on your wireless footprint either, as far as I can tell. What kind of equipment will people need in the communities that are well off the beaten track?

Mr Quigley—If they are not on the fibre footprint and they are not on the wireless footprint, they will be in the satellite footprint.

Senator LUDLAM—What kind of equipment will they need to connect?

Mr Quigley—The most obvious one is a dish.

Senator LUDLAM—Are you going to turn up and provide that?

Mr Quigley—Yes.

Senator LUDLAM—Everywhere?

Mr Quigley—Yes.

Senator LUDLAM—To every caravan in the country? There always has to be diminishing returns.

Senator Conroy—We are trying to make sure we have got the right definition. You are saying this is their permanent residence.

Mr Quigley—If it is a permanent residence, yes.

Senator LUDLAM—Okay. What will we do with the 22 per cent of premises in the country that do not yet have a computer? It is probably not your problem as a network engineer, but that is nearly a quarter of Australian premises that do not yet even have a computer, so we do not even need to talk about the speed of their dial-up connection.

Senator Conroy—We are seeking to provide people with the infrastructure that will allow them to take the opportunity of a 21st century telecommunications network. I am sure there are programs at the moment—I am just trying to remember the name of the program; kiosks I think we call them—where we are educating the elderly about how to use a computer.

Mr Harris—Broadband for Seniors.

Senator Conroy—Thank you, Mr Harris. Broadband for Seniors is proving enormously successful. Once people feel confident and they have grasped the opportunity from that education they are going out and purchasing computers to use for themselves. If your question is, ‘Will the government provide a computer to every home?’ I would have to say the answer is no.

Senator LUDLAM—That was not my question. We do not really have time tonight to go into this properly, but I was a bit shocked to realise that it was that high. Twenty-two per cent of residences is a very high proportion.

Senator Conroy—Like you, I am surprised.

Senator LUDLAM—While we are in WA, can you tell us how the first-release site in Victoria Park in metropolitan Perth is tracking?

Mr Quigley—That is in a second release.

Senator LUDLAM—Of course it is. Sorry. How is that going?

Mr Quigley—That is still in the planning and design stages. Construction is only taking place in the five mainland first-release sites.

Senator LUDLAM—I was under the misapprehension that you had at least started.

Senator CONROY—We have started the consultations. I think what we said at the time we announced the other sites was that we wanted to consult with the local communities. We had arbitrarily drawn lines on maps and there were some anomalies. I think we learnt from that and we wanted to engage the local communities in conversations about the best places to grow from next.

CHAIR—Senator Ludlam, we will have to wrap up I think.

Senator LUDLAM—Can I ask one more?

CHAIR—Sure.

Senator LUDLAM—I did tell the chair I would only take up five minutes. I just want to put a question to you about the discussions between NBN Co. and the Energy Networks Association, ENA. I gather you are down to monthly meetings now. This is in order to provide data services directly to electricity utilities for smart grid provision and so on.

Mr Quigley—There is a range of subjects we are discussing with energy utilities, including potential access to their facilities, because in some cases we may want to use access to poles or underground conduits that they may have. There are two sides to it: one is them as a supplier and the other is us as a potential provider of a service to them.

Senator LUDLAM—All I have got on this issue is open source reporting. Is there anything that you are able to tell us about the status of those negotiations or is there a point at which you will conclude negotiations?

Mr Quigley—With whom?

Senator LUDLAM—With ENA in particular.

Mr Quigley—We are having discussions with ENA as a representative body but the actual detailed discussions and any commercial arrangements would be with the particular energy utility itself. As you probably know, we do have a deal with three energy utilities around the country—ETSA, Ergon and Aurora.

Senator LUDLAM—I will leave it there, but I might pursue this a bit further in subsequent sessions.

CHAIR—Senator Conroy, you may want to take some of this on notice given the time because I have to come back to Senator Birmingham. Are you aware of the white paper by Huawei that is called *Connecting communities*, a white paper by Dr Tim Williams?

Senator Conroy—Yes.

CHAIR—Are you aware that on page 3 of the executive summary, after it outlines a range of benefits of citizenship and broadband, it outlines the UK political consensus in relation to broadband, and it quotes David Cameron—he's not in my clan, let me tell you; they've never heard of him in Scotland!—saying of the new government:

We need to make sure that people aren't left behind as more and more services move online.

It then goes on to say that there is a political consensus and:

The new government wants to complete the UK 'superfast' broadband network faster than planned—by the previous government. It then goes on to say that they want to reach the 'final third' quickly and they talk about digitally including people and making sure people are not excluded. I know it is a long question—that is why you may want to have a think about this—but it is such an important issue. They have political consensus in the UK and none here.

Senator Conroy—I am very familiar with the report. I have met with the author. I missed his Press Club speech, unfortunately—I was interstate. He launched it at the Press Club. I think it is a very impressive report. It highlights a range of examples of where broadband networks have been upgraded, and people have taken advantage, with new applications in health and education and in aged care. There are some very impressive results.

One thing that stuck in my mind was that it talked about reversing the trend of people moving into big cities and depopulating regional and rural areas of the UK. What they found in the UK is that the rural areas have stopped losing people and are now attracting the successful back, with high-speed broadband a key force in the comeback. I think that is one of the reasons why you cannot afford to build a second rate broadband network in regions and a world-class broadband network in the cities. If you actually want to deal with the problems that Sydney has and Melbourne are forecast to have, you have to provide equality of service and equality of pricing. Those are the two most fundamental principles that underpin the NBN.

That is why the arguments around sticking a second rate broadband service through a dodgy wireless service, which is what the opposition were going to put in place, is such a sell-out, and for the National Party in particular. It would lock millions of regional and rural Australians into a digital divide, which would only get wider faster than it currently does.

It is a fabulous study. I would encourage every senator and every member of parliament to read it. It really sets out very eloquently the case for having a national broadband network.

Senator BIRMINGHAM—Assuming you reach the point where Telstra put a deal to their shareholders, Telstra are clearly going to produce public material to explain to their shareholders why it is a good deal for them and why it is in their interests. I assume the government and NBN Co. have undertaken some analysis as to why the deal that you are negotiating is value for money for the taxpayer.

Mr Quigley—We would not be doing the deal if we did not think it was a good deal for NBN Co. and the government.

Senator BIRMINGHAM—What analysis has been undertaken?

Mr Quigley—Very, very extensive analysis.

Senator BIRMINGHAM—Internal, or engaging—

Mr Quigley—Internal but in cooperation, of course, with our investment bankers, Goldman Sachs.

Senator BIRMINGHAM—So you have had analysis done internally and by Goldman Sachs in terms of advice, reports and otherwise?

Mr Quigley—Working closely together, we had to build a base case—which is, if you like, a no-deal case—to compare with a deal case, and we were constantly looking at the NPV differences. We built some very sophisticated models.

Senator BIRMINGHAM—Just as Telstra shareholders will be provided with their value-for-money case, will Australian taxpayers be provided with their value-for-money case?

Senator Conroy—Sorry, Senator Birmingham, I was distracted by Mr Harris, who was being frivolous! What was the question?

Senator BIRMINGHAM—Just as Telstra shareholders have been provided with their value-for-money case as to why they should accept the deal, will Australian taxpayers be provided with an explanation as to why it is a good deal for them?

Senator Conroy—We have released a fair bit of the business plan, which argues very strongly that it is beneficial to the NBN. We have commissioned Calburn, which has looked at the business case. I repeat, hopefully to make Mr Quigley blush, that the findings from Calburn were that the quality of the business case that was released was the equivalent of one of the top-50 ASX-listed companies, which I think is an extraordinary statement for a start-up company—

Senator BIRMINGHAM—Minister, given the time frame—

Senator Conroy—that goes to the quality of the board and management of NBN Co.

Senator BIRMINGHAM—These are analyses that have said why a deal is better than no deal. Of course, they have not analysed the cost of the deal and the detail of the deal.

Mr Quigley—With building the National Broadband Network the deal is all about this: how do you build that more cost effectively with this deal rather than that one? We would not be entering into the deal unless that was significantly positive for the government.

Senator Conroy—I assure you the board would not have allowed or recommend to the government doing the deal if they felt that it was not value positive for NBN Co and the government.

Mr Quigley—Absolutely.

Senator BIRMINGHAM—Will any of the Goldman Sachs assessment or otherwise be publicly available for people to see that taxpayers have got a good value-for-money deal?

Senator Conroy—That is the Goldman Sachs work for NBN Co.?

Mr Quigley—So they advise our board, of course.

Senator Conroy—It is not ours to release.

Senator BIRMINGHAM—I was not necessarily directing the question at either of you. I am happy for Mr Quigley to answer the same question, Minister.

Mr Quigley—We need to present a case, obviously. The board, when it looks at the deal, signs it off, presents its analysis to our shareholders, and we have two shareholder ministers. So we present that to the government. That is the responsibility we have.

Senator BIRMINGHAM—So you are not saying that it will be released or that a case for argument will be released to the Australian people.

Senator Conroy—I think when we released the business case and, more importantly, when we announced the Telstra deal, we announced that it would be cheaper for taxpayers and faster ultimately. So I am confused by your question because it is self-evident in all the figures that have been produced by NBN Co that it is value positive.

Senator BIRMINGHAM—Perhaps ultimately, of course, it goes back to the problem of not having a cost-benefit analysis to start with, but let us not—

Senator Conroy—I thought we could escape the evening without that drive!

Senator BIRMINGHAM—Well, there you go, Minister!

Senator Conroy—Goodness! I thought you might have covered yourself in glory, but no. You fell at the last hurdle. You fell at the last.

Senator BIRMINGHAM—Has NBN Co prepared any contingency plans or put any contingency plans in place in the event that Telstra ultimately rejects the deal?

Mr Quigley—Yes, of course. In evaluating the deal we had to have a baseplate: in other words, if you do not do the deal how do you build the network? So we have that. That is obviously sitting there.

Senator Conroy—And McKinsey have looked at that—call that plan B.

Senator BIRMINGHAM—Given the legislative time line and the bills to pass through the parliament and, of course, the timing of negotiations with Telstra and the need for Telstra to go to a vote, how confident are you that the deal can be done within the time lines that you are currently working to?

Mr Quigley—We are working towards that. That is what the teams are doing as we speak now, still working.

Senator BIRMINGHAM—Are they going to actually be able to meet the time lines that you have set?

Mr Quigley—All I can say at this point in time in these complex negotiations—and this is still complex, turning the financial heads of agreements into definitive agreements—is that both teams are working very hard, very positively with the best will in the world, and obviously our chairman of NBN Co. and I meet with the senior people in Telstra.

Senator BIRMINGHAM—You see no slippage from your side of the equation at present?

Mr Quigley—What I would say is we are proceeding as fast as we can with the due care and diligence you would expect when we are talking about the use of public money—and this is obviously a big transaction.

Senator BIRMINGHAM—Certainly, but there have been some public time lines talked about—such as having the deal by—

Mr Quigley—We have never talked about public time lines. We have never talked about time lines. NBN Co has never said we will do anything by any specific date.

Senator Conroy—I assure you that is the case. I am sorry; I was just dropping in there, Mr Quigley.

Senator BIRMINGHAM—So you do not have a time line?

Mr Quigley—We will work as fast as we can work with appropriate due diligence. I put always looking after the public interest and public funds ahead of necessarily going at a specific speed.

Senator BIRMINGHAM—That is a nice note to finish on but—

Senator Conroy—You don't—

CHAIR—Order! That concludes today's hearing. Senators are reminded that written questions on notice should be provided to the secretariat by close of business, Monday, 28 February 2011. The committee has set Friday, 8 April 2011 as the date by which agencies must return answers to questions on notice. I thank the minister and officers for their attendance, fellow senators and Hansard.

Committee adjourned at 11.00 pm