



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

ENVIRONMENT, COMMUNICATION, INFORMATION  
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

ESTIMATES

**(Budget Estimates Supplementary Hearings)**

MONDAY, 3 NOVEMBER 2003

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE**

**ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY  
AND THE ARTS LEGISLATION COMMITTEE**

**Monday, 3 November 2003**

**Members:** Senator Eggleston (*Chair*), Senator Mackay (*Deputy Chair*), Senators Bartlett, Lundy, Santoro and Tchen

**Senators in attendance:** Senators Bishop, Conroy, Eggleston, Harradine, Lundy, Mackay, McLucas, Murphy, Santoro and Tchen

**Committee met at 9.00 a.m.**

**ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND  
THE ARTS PORTFOLIO**

**In Attendance**

Senator Kemp, Minister for Arts and Sport

**Department of Communications, Information Technology And The Arts**

**Executive**

Ms Helen Williams AO, Secretary

Ms Fay Holthuyzen, Deputy Secretary, Communications

**Corporate and Business**

Mr Craddock Morton, Chief General Manager, Corporate and Business

Mr Frank Nicholas, General Manager, Information Technology & Facilities & CIO

**Legal**

Mr Don Markus, General Counsel

**Finance and Budgets**

Ms Jennifer Gale, Chief Financial Officer

**Telecommunications**

Mr Chris Cheah, Chief General Manager, Telecommunications

Mr Colin Lyons, General Manager, Telecommunications Competition & Consumer Branch

Mr Brenton Thomas, General Manager, Enterprise, Infrastructure Branch

Mr Simon Bryant, General Manager, Regional Communications Policy Branch

Mr Colin Oliver, A/g General Manager, International Branch, or

Ms Caroline Greenway, A/g General Manager, International Branch

**Broadcasting**

Dr Simon Pelling, A/g Chief General Manager, Broadcasting

Mr Gordon Neil, General Manager, Licensed Broadcasting

Mr Rohan Buettel, General Manager, Public Broadcasting

Ms Trish Barnes, A/g General Manager, Digital Broadcasting & Spectrum Management

**ICT Industry and Intellectual Property**

Dr Beverly Hart, Chief General Manager, ICT Industry & Intellectual Property Division

Mr Philip Allnutt, General Manager, ICT Industry Development Branch

Mr Michael Sutton, General Manager, ICT Innovation Branch  
Ms Kylie Browne, General Manager, Intellectual Property  
Mr James Barr, General Manager—Regional Communications Initiatives Branch

**Arts and Sport Division**

Ms Lynn Bean, Chief General Manager, Arts and Sport Division  
Ms Karen Gosling, Special Adviser, Collections and Governance Branch  
Mr Peter Young, General Manager, Film and Digital Content Branch  
Ms Megan Morris, General Manager, Arts and Regional Branch  
Ms Sally Basser, General Manager, Sport and Private Sector Support Branch  
Mr Kevin Isaacs, General Manager, M2006 Taskforce

**Old Parliament House (OPH) / National Portrait Gallery (NPG)**

Ms Kate Cowie, A/g General Manager, Old Parliament House  
Mr Andrew Sayers, Director, National Portrait Gallery

**Telstra**

Mr Bill Scales AO, Group Managing Director, Regulatory, Corporate & Human Relations  
Mr John Stanhope, Group Managing Director, Finance & Administration  
Mr Darian Stirzaker, Chief of Marketing  
Mr Don Pinel, Regional Managing Director, Telstra Country Wide, Queensland  
Mr Anthony Rix, Head of Service Advantage  
Mr Dennis Mullane, Manager, Data Business Development

**Australia Post**

Mr Michael McCloskey, Corporate Secretary  
Mr Peter Meehan, Chief Finance Officer  
Mr Mark Howard, General Manager, Corporate Infrastructure Services  
Mr Gary Lee, Group Manager, Letters  
Mr Stephen Walter, Group Manager, Corporate Public Affairs  
Mr Mel Jackson, Group Manager, Retail  
Mr Rod McDonald, Manager, Human Resources  
Mr Gary Prior, Manager, Network Delivery Distribution

**Australian Broadcasting Corporation (ABC)**

Mr Russell Balding, Managing Director  
Mr Geoffrey Crawford, Director, Corporate Affairs  
Ms Sandra Levy, Director ABC Television  
Mr Colin Knowles, Director Technology and Distribution  
Mr David Pendleton, Director Finance and Support Services

**Australian Broadcasting Authority (ABA)**

Professor David Flint, Chairman  
Ms Andree Wright, Director, Industry Performance & Review  
Mr Richard Fraser, Content Assessment, Assistant Manager

**Special Broadcasting Service Corporation (SBS)**

Mr Nigel Milan, Managing Director  
Ms Julie Eisenberg, Head of Policy  
Mr Jon Torpy, Manager, Finance  
Mr Will Berryman, Head of New Media

**National Office For The Information Economy (NOIE)**

Mr John Rimmer, Chief Executive Officer  
Dr Rod Badger, Deputy Chief Executive Officer  
Mr Keith Besgrove, Chief General Manager, Regulatory & Analysis Group  
Mr Patrick Callioni, Chief General Manager, Govt Services & Information Environment Group  
Mr John Grant, Chief General Manager, Govt Services & Information Environment Group  
Mr James Shaw, General Manager, Channel Development Branch  
Mr Tony Judge, General Manager, Business Strategies Branch  
Ms Anne-Marie Lansdown, General Manager, Access Branch & International Branch  
Mr David Kennedy, General Manager, Strategy Branch  
Mr Ashley Cross, General Manager, Business Environment Branch  
Ms Robyn Fleming, General Manager, Information Framework Branch  
Mr Steve Alford, General Manager, IMSC/CIOC  
Mr Tim Field, General Manager, Corporate & Governance Branch  
Mr George Stoyanoff, Manager, Finance

**ARTS and SPORT****Australia Council**

Ms Jennifer Bott, Chief Executive Officer  
Dr Catherine Brown-Watt, Director, Major Performing Arts Board  
Ms Lisa Colley, Communications Research  
Mr Ben Strout, Executive Director, Arts Development  
Mr John Wicks, Executive Director, Finance and Services

**National Library of Australia (NLA)**

Ms Jan Fullerton, Director-General  
Mr Gerry Linehan, Assistant Director-General, Corporate Services

**National Archives of Australia (NAA)**

Mr Ross Gibbs, Director General  
Mr Steve Stuckey, Assistant Director-General, Collection Management  
Dr Stephen Ellis, Government Recordkeeping

**National Gallery of Australia (NGA)**

Dr Brian Kennedy, Director  
Mr Alan Froud, Deputy Director

**National Museum of Australia (NMA)**

Ms Dawn Casey, Director  
Mr Adrian Brocklehurst, Finance Manager  
Ms Suzy Watson, General Manager—Operations  
Ms Freda Hanley, General Manager—Collections, Content and Technology

**Film Finance Corporation (FFC)**

Mr Brian Rosen, Chief Executive Officer

**Australian Film Commission (AFC)**

Mr Kim Dalton, Chief Executive Officer  
Ms Sabina Wynn, Manager, Industry & Cultural Development  
Mr Greg Brown, Director, Finance & Administration

Ms Kim Ireland, Director, Policy, Research & Information

Ms Mary Durkin

**Australian Film, Television and Radio School (AFTRS)**

Mr Malcolm Long, Director

Mr Graham Thorburn, A/g Head of Film & Television

Ms Reza Bilimoria, Head of Corporate Services

Mr Derek Allsop, Head of Technology & Infrastructure

**Australian Sports Commission (ASC)**

Mr Mark Peters, Chief Executive Officer

Mr Michael Scott, Director, Australian Institute of Sport

Ms Shirley Willis, Manager, Sport Programs

Mr Simon Kidman, Manager, Finance

**Australian Sports Drug Agency (ASDA)**

Mr John Mendoza, Chief Executive

Mr Kim Terrell, General Manager, Operations

**CHAIR**—I declare open this supplementary hearing of the Senate Environment Communications Information Technology and the Arts Legislation Committee, which is considering the budget estimates for 2003-04. By resolution 13 of 13 February 2003 and 14 May 2003, the Senate referred to the committee the particulars of proposed expenditure for the year ending 30 June 2004 for the two portfolios of Communications, Information Technology and the Arts and Environment and Heritage. The Senate also resolved, on 11 September 2003, that this committee should conduct supplementary hearings over the next two days. We plan to examine the Communications, Information Technology and the Arts portfolio today and the Environment and Heritage portfolio tomorrow afternoon.

The committee has set a deadline for the return of answers to questions to be placed on notice as the close of business on Thursday, 11 December 2003, but this is yet to be confirmed. I remind senators that the deadline for written questions to be placed on notice is by lunchtime this Wednesday. I welcome Senator the Hon. Roderick Kemp, Minister for the Arts and Sport, representing the Minister for Communications Information Technology and the Arts, the Hon. Darryl Williams MP. I also welcome the portfolio officers who are appearing today. Minister, would you like to make any comments or initial points?

**Senator Kemp**—I would like to make a brief comment that I think it is in the interests of everyone if we can proceed smoothly, in a relatively calm manner, in the way in which questions are asked and information exchanged. I think it is important that, when a question is asked, the respondents be given a chance to answer that question before people butt in. I know this will not happen on this committee but there has been this type of behaviour on committees I have been on in the past. We are not trying to resist questions but we do not want to get into the situation where witnesses are hectorred. Once a question has been asked, we want them to have a chance to reply.

**CHAIR**—Thank you, Minister. I assure you that the committee will continue to conduct its hearings in its usual exemplary style.

**Senator LUNDY**—I am very conscious of the time constraints of estimates committees these days. It has come to my attention, and to the attention of others, that long-winded and



irrelevant answers are becoming a tactic in estimates. Minister, I agree with you completely; but, if we feel that someone is deliberately drawing something out, in view of the fact that we are on very tight time constraints for the next two days, we reserve the right to draw that to the attention of the chair.

**Senator Kemp**—That is fine.

**Senator CONROY**—We have an agreement, Senator Kemp—

**Senator Kemp**—We will not object to that.

**Senator CONROY**—I have a 10 o'clock plane to catch and, if I miss it, I will stay!

**Senator Kemp**—Your threat is working, Senator Conroy, so you may now proceed.

**Senator CONROY**—Mr Milan, I wanted to raise the issue of your Vietnamese language programming. Before the decision was made to broadcast the program were any transcripts of the programs obtained and studied?

**Mr Milan**—Yes.

**Senator CONROY**—Could we get copies of those—preferably translated?

**Mr Milan**—There is no reason why the transcripts cannot be supplied to you.

**Senator CONROY**—Did any Vietnamese government official or representative approach you to encourage the use of this material?

**Mr Milan**—No.

**Senator CONROY**—Were any discussions held with officials from the Vietnamese government at any stage?

**Mr Milan**—None.

**Senator CONROY**—Are there agencies or representatives?

**Mr Milan**—No.

**Senator CONROY**—Have you signed an MOU with VTV? What is the form of arrangement you have with them?

**Mr Milan**—It is simply that we sought and gained permission from the broadcaster to take their service off the satellite and broadcast it in Australia. It is by way of a letter of agreement, rather than a memorandum of understanding.

**Senator CONROY**—Can we get a copy of that?

**Mr Milan**—Yes, certainly.

**Senator CONROY**—I understand there is no money involved in that.

**Mr Milan**—No.

**Senator CONROY**—Were any discussions held between you and the board about this program?

**Mr Milan**—Yes, it was discussed at the last board meeting.

**Senator CONROY**—Without breaching any confidences, could you give us a copy of emails, papers or any information on the discussions you are having with the board on that. I

understand there will be some constraints on that, but I was wondering if we could get anything new that is available.

**Mr Milan**—I do not see any reason why we cannot let you have the minutes of the relevant part of the board discussions, so I am happy to supply that.

**Senator CONROY**—That would be great. Could we also have any supporting documentation that went towards the discussion.

**Mr Milan**—That went to the board, yes.

**Senator CONROY**—You indicated that the organisation had read the transcripts and understood the content reasonably well before the decision to broadcast. I can only assume from the fact that you are broadcasting the show that you consider that there is no propaganda style material in the show.

**Mr Milan**—The word ‘propaganda’ is very emotive. Certainly, from what we have seen, there is nothing that would breach our codes of practice. We do not make political judgments on the content. You would probably be aware that we bring in 22 services from 18 different countries. Most of them are from public broadcasters. A substantial number of them are from state controlled broadcasters. That includes two from communist China, for instance. So we do not actually make any editorial judgment in terms of whether or not it is propaganda. We do check them from time to time to ensure that they comply with our broadcast standards—in other words, that they are not inciting racial hatred and those sorts of things.

**Senator CONROY**—I understand the point you make about state control. I understand that you have been broadcasting a Chinese mainland discussion program. Do you see that as a direct parallel with this situation?

**Mr Milan**—Not necessarily an exact parallel, no. Each program is unique; it is serving a different community.

**Senator CONROY**—Do you think there is any substantive difference between the Vietnamese community in Australia and the Chinese community in Australia? Is there anything that stands out to you as being different?

**Mr Milan**—The Vietnamese community is a refugee community, whereas the Chinese community is not.

**Senator CONROY**—Really! I am glad you worked that one out. Do you think that makes a difference in terms of your assessment?

**Mr Milan**—It makes no difference to our assessment in terms of the editorial reasons that you have just outlined.

**Senator CONROY**—Why not? Don’t you think that broadcasting to a community that is overwhelmingly—some 90 per cent—refugees from a state controlled country should make any difference?

**Mr Milan**—We have now been at peace with Vietnam and had official diplomatic relations with them since 1973. Tens of thousands of Vietnamese folk visit their country of origin regularly each year. Many members of the Vietnamese community put up expensive satellite dishes so they can actually get VTV4—

**Senator CONROY**—They do like watching the culture and the musicians and that sort of stuff. I am not sure that they are so keen on just the straight communist propaganda that is pumped out. I will now come to some of the content of your program as opposed to what is possibly available if they put up a satellite dish. This is about your program; it is not about the capacity to watch the local singers and that sort of stuff. You do not think it makes any difference whatsoever, or it should not?

**Mr Milan**—Having met with a delegation—and you would be aware that there was a demonstration outside our building last week—of the leading members of the official Vietnamese community, we have agreed that our Community Advisory Committee will hear the full complaint on the basis that some hurt may have been caused. The Community Advisory Committee will be listened to by the board, whatever determination they make, and we will take those views into consideration.

On editorial grounds, we have tried with our in-language news services to reflect the composition of the Australian community. The Vietnamese are the fifth largest non-English-speaking grouping in Australia, so we are actually doing it to provide them with a service. As for the fact that a significant number of people within that community may not want it, we will have to listen to that and see where it leads us.

**Senator CONROY**—I have a few examples of material that has been broadcast here. Is it correct that the first part of the program is devoted to speeches or instructions from Vietnamese communist government officials? Is that your understanding—that there are various speeches broadcast?

**Mr Milan**—There are references to speeches, but that is not unusual in any of the news services that we put to air. The transcripts that I have read have been, if anything, rather tame by our standards.

**Senator CONROY**—From the sound of it, it would not matter if they were not. From my understanding, there was a transcript of a high-ranking Vietnamese communist government official welcoming a Cuban delegation, and they talked about the achievements of the two communist parties. Is that news?

**Mr Milan**—It is what they consider to be news. We do not make the judgment. We put these to air, unedited, as a service to the communities that they are aimed at. We do not actually make editorial judgments about the content, nor do we endorse it.

**Senator CONROY**—I think possibly there is a flaw in your process with regard to how you make an assessment. If you were broadcasting a couple of coms having a chat about how great they are, I am just not sure that falls within a discussion about—

**Mr Milan**—I do not want to get into—

**Senator CONROY**—I am sorry—that is what you are broadcasting. You might not want to get into it, Mr Milan, but your agency is broadcasting it.

**Mr Milan**—Someone may well have seen the recent visit by the President of the United States within similar lines. For the record, maybe I should read—

**Senator CONROY**—So you are comparing the leader of the US with a chat between a couple of officials of Cuba and Vietnam?

**Mr Milan**—Certainly not, Senator. All I am saying is—

**Senator CONROY**—I hope not. That is what it sounded like from over here.

**Mr Milan**—What I am saying is that news judgments are discretely made by the services that provide them. They are not made by SBS. If you are interested, I will read you the relevant part of our code of practice, which is the empowerment, if you like, by which we put these services to air. It says:

SBS Television also broadcasts, substantially unedited, news and current affairs programs from other countries. Much of the material is in non-English languages and unsubtitled. In selecting such programming, SBS endeavours to ensure a level of quality which is appropriate to the SBS schedule. These programs are drawn from a variety of overseas sources—government, commercial and public—and will often be produced and interpreted from particular editorial perspectives. Prior to broadcast, SBS will clearly identify the source of the programs so that audiences can exercise their own judgements about the way issues and information are presented.

**Senator CONROY**—What if Robert Mugabe wanted to broadcast to any Zimbabweans who were here—or if Idi Amin decided he wanted to put out a bit of a broadcast and we had a Ugandan population? Would you put out any dictator who wanted to broadcast, and that is fine as far as you are concerned? Is there any limit?

**Mr Milan**—The limit would be if we felt that the content significantly breached our code of practice. For instance, if a broadcast was regularly going to air inciting racial hatred, that would be a breach of our code of practice and the bulletin would be withdrawn. But, as far as we are aware thus far—and we are continuing to monitor the program—

**Senator CONROY**—I am not making that suggestion. I do not think anybody has made that suggestion. The issue here is: if Idi Amin, Robert Mugabe or anybody else was broadcasting a diatribe about how wonderful they were, as opposed to inciting racial hatred or any of the other points that you have mentioned, would you put it on? I just want to find out where the boundary is—whether you think a program promoting an incumbent dictatorship is propaganda or not. You say it is an emotive word, and I would say ‘possibly’, but it is also a factual description in this case.

**Mr Milan**—With respect, it is not for us to make that judgment. We are saying that if it falls within our code of practice then it is acceptable. Notwithstanding the fact that Idi Armin is dead, if there were enough Africans in this country to make a broadcast relevant, then we would judge it on the standards of the day. If it was inciting racial hatred or violence then the program would not go to air.

**Senator CONROY**—No-one is suggesting that that is involved here, but it seems to me from your answers, Mr Milan, that there is no restriction or boundary whatsoever. You will reproduce anything as long as it does not incite violence or racial hatred, irrespective of the regime that it comes from and any atrocities that the regime has committed or continues to commit. There is no requirement at all?

**Mr Milan**—None.

**Senator CONROY**—Do you think that you or the board should consider looking at this process?

**Mr Milan**—The problem we would have, in my view, if we started down that track is that we certainly would not be putting the Chinese news to air, for instance, because we would have to apply the same criterion. We would then have to ask, ‘Should we put the Indonesian news to air, because that is also a state controlled broadcaster?’ Once we went down that path we would then end up having to withdraw a service that is highly valued by—

**Senator CONROY**—Last time I checked, Indonesia did have a parliament, was a democracy and had an elected president. I do not think that quite falls into the category that we have been discussing. I accept your analogy with China, but I think suggesting that Indonesia falls into that category is a little bit rich.

**Mr Milan**—It is still state controlled broadcasting.

**Senator CONROY**—I understand from the transcripts that the presenters regularly refer to ‘our party’ and ‘our government’. Isn’t that propaganda?

**Mr Milan**—I am not going to engage on whether or not it is propaganda. It is not relevant to SBS. What is relevant to SBS is whether the community that is to be served is large enough to justify the broadcast and whether the broadcast actually falls within our codes of practice. Providing it does those two things—

**Senator CONROY**—And so whether or not they want to hear it out there they are going to hear it, courtesy of Mr Milan.

**Mr Milan**—The reason why the Community Advisory Committee has been asked to hear the Vietnamese community is exactly because of the reason that you have just articulated. We would not be so arrogant as to force a service upon people if we thought a substantive part of the community was against it—and we will hear the appeal on those grounds.

**Senator CONROY**—Okay. What consultation did you undertake with the Vietnamese community before you broadcast this program, given the position you have just described?

**Mr Milan**—I personally, and many of my staff, have met on numerous occasions with members of—

**Senator CONROY**—I said before you broadcast.

**Mr Milan**—Yes, before—I am answering the question. I was certainly aware of the president’s view of the program, but we have also had feedback from other parts of the Vietnamese community that actually feel that the service would be appropriate. What we will do is that, when the Community Advisory Committee meets on the 17th, evidence will be presented from both sides and people representing both sides of the community’s views will be able to put their case, and then the committee is obliged to make a recommendation to the board.

**Senator CONROY**—So SBS consulted with the president of what is acknowledged to be the peak Vietnamese community body?

**Mr Milan**—Yes, and certainly we were aware that there was opposition from that community group, but our experience with community associations is that, generally speaking, only 10 per cent—and it would be remarkable if it was as many as 20 per cent—of the community are actively involved in those groups, so, whilst they may be democratic within themselves, they do not necessarily represent the views of the entire community.

**Senator CONROY**—What a wonderful view! Have you received much of a response, for or against?

**Mr Milan**—Yes, we have received—

**Senator CONROY**—How is it running?

**Mr Milan**—It is a bit hard to say in terms of individuals because the no campaign is highly organised. There are coupons to cut out on the front of the Vietnamese language newspapers and send in to SBS, whereas the yes campaign is—

**Senator CONROY**—Are you suggesting that this is like *TV Week*—one person is cutting out 10 coupons and sending them in? Is that what you think is happening?

**Mr Milan**—Yes. The switchboard identified 23 calls from the same person on one evening. So it is quite an organised campaign. Up until this week, the numbers have been running substantially in favour of the no vote, probably on a 10 to one ratio, but since the demonstration and the issue getting broader community awareness, the yes vote is beginning to increase. I do not have an update on what the numbers are, but all that information will go to the Community Advisory Committee.

**Senator CONROY**—So you think the ‘yes’ vote is getting a bit organised?

**Mr Milan**—It is beginning to pick up a bit but I do not think it is organised in that sense. We get a lot of campaigns from time to time—everything from the scientologists through to other community groups so—

**Senator MARK BISHOP**—What is the new ratio?

**Mr Milan**—The new?

**Senator MARK BISHOP**—Yes, the new ratio now the ‘yes’ people have become interested? You said they had lifted. They have lifted from one per cent to two per cent or one per cent to 50 per cent?

**Mr Milan**—I would say it is more in the order of 10 per cent to 90 per cent but maybe improving a bit.

**Senator MARK BISHOP**—So the ‘yes’ campaign has lifted from minimal to around 10 per cent, so it is still 90 per cent opposed.

**Mr Milan**—We have not compiled the statistics that way. If you are interested, I am happy to look through the records and supply that information.

**Senator MARK BISHOP**—You have compiled statistics of one person who rang 23 times.

**Mr Milan**—Yes, but these are random samplings. I asked my guys for a sense of how they think the campaign is going, how organised it is—that sort of information.

**Senator MARK BISHOP**—And your sense at the moment is that it is about 90 per cent to 10 per cent opposed.

**Mr Milan**—Of what is actually coming in. But I would say that often with these sorts of things that there will be a broad section within the community that probably do not care too much one way or the other.

**Senator CONROY**—I understand there was a rally in Sydney—is that right?

**Mr Milan**—Yes.

**Senator CONROY**—What is your estimate of how many people rallied?

**Mr Milan**—Somewhere north of 2000.

**Senator CONROY**—For a relatively small community, that is a reasonable size protest, wouldn't you say?

**Mr Milan**—It is very impressive.

**Senator CONROY**—You mentioned the process you put in place—when is the consultation process with the community board?

**Mr Milan**—The community advisory committee.

**Senator CONROY**—When does that take place?

**Mr Milan**—That takes place on 17 November—that is Monday week.

**Senator CONROY**—What is the process? They make a recommendation or a suggestion?

**Mr Milan**—Yes. They obviously will hear the views of the committee. Management will explain the act, the code and the empowerment of putting the broadcaster to air and then it is up to the community advisory committee to make a recommendation to the board. The board is not obliged to act on it but obviously, I would put it to you, it would be persuasive evidence.

**Senator CONROY**—Is part of that consultation to look at whether or not alternatives are available to programming, instead of this particular program? Is that one of the issues that the board would look at or is it purely a test of whether this one should keep going?

**Mr Milan**—I think that all that has been asked by the community making the appeal is the latter, so that is the only thing that is being considered.

**Senator CONROY**—I accept the charter and the responsibility is to keep people informed about what is going on in the home country, so I appreciate that you are trying to provide information. It is just that there may be other alternatives. I understand there are a couple of other alternatives that are available: one produced in the US, possibly in Europe. Have you looked at those alternatives?

**Mr Milan**—The service is based on the country of origin, and we would not take a reinterpretation of a news service from an outside source.

**Senator CONROY**—Have there been any rallies in favour of the program?

**Mr Milan**—Not yet anyway.

**Senator CONROY**—Not yet? You are expecting one, are you?

**Mr Milan**—Not necessarily.

**Senator CONROY**—Are you organising one?

**Mr Milan**—No.

**Senator CONROY**—Are you aware of any?

**Mr Milan**—No, I am not.

**Senator CONROY**—I am also getting representations in both directions. I do not want you to feel you are the only person getting both sides of the argument. I have one particularly persistent person who emails me in support of the program, so hopefully you have heard from him as well. If the decision is taken to suspend this program or take it off altogether, would you consider getting other information or is the strict policy of only taking services sourced in the home country?

**Mr Milan**—At the moment there would have to be a change in the policy so, as far as I sit, here the answer to that question would be no.

**Senator CONROY**—Any proposed plans to put a program from North Korea on?

**Mr Milan**—I do not know the exact numbers of the North Korean community in Australia, but my sense is that, as you are not allowed to leave the country, it would not be vast.

**Senator CONROY**—There have been a few that have managed to sneak across the border over the years. I do not think there are any North Korean members, except in Wentworth possibly.

**Senator SANTORO**—Or Holt.

**Senator CONROY**—None in Holt. I look forward to hearing the results of the community consultation. I know Senator Santoro has spoken eloquently on this matter. I thought he may want to—

**CHAIR**—He does have some questions, Senator Conroy, but I will call him.

**Senator CONROY**—I just thought for the continuity of the discussion—

**CHAIR**—Senator Tchen and Senator Santoro both have questions for SBS. Who would like to lead?

**Senator SANTORO**—I have about 20 or 25 questions, most of which I will place on notice, for the good people from SBS. I will pick up on the themes developed by my colleague Senator Conroy—and I will not go on for too long. Don't you think it is stretching credulity—and I sent a copy of my speech to you and to the chair on Friday—to assume that there is no propaganda in news material furnished to you by a communist-run Vietnamese government TV network whose web site says that spreading propaganda is what it sets out to do in the interests of the Vietnamese government? Do you think that sort of attitude, which you expressed this morning, where you basically say, 'We just take a news service from the propaganda arm of a foreign country and we broadcast it', is acceptable to the broad Australian community, let alone to representatives of the Vietnamese community who are incensed by the sort of stuff they are seeing coming through? Do you think that is a reasonable attitude to have?

**Mr Milan**—Yes, I do. It was seen to be reasonable by the Australian community up until this objection. We have been pulling in a Russian news service since 1990, for instance. I have given the example of the Chinese services. I think the position we have taken is reasonable and is within our charter.



**Senator SANTORO**—Do you think that maybe what is happening here is that people are beginning to look more critically at accountability and the performance of their publicly funded broadcasting utilities? I take your point, and maybe Senate estimates committees and members of the communities that now feel aggrieved by what is happening are to blame, but we are talking about real-time situations now. You mentioned that 2,000 people from a small community rallying is pretty impressive. I am pleased to hear that the community board is going to be reviewing the situation. I have been inundated with objections. They may be organised, but 2,000 people did turn out to protest about what they see as pretty extraordinary stuff being broadcast. Do you still say that it is reasonable and that the community is willing to accept that?

**Mr Milan**—I think that what we have done is quite reasonable, but I also think it is reasonable to put it in a process for a formal review, which is what we are doing. It may well be that, if there is an appropriate recommendation from the Community Advisory Committee, the board may change its policy and may change its codes of practice.

**Senator SANTORO**—As I said, I have a good number of questions on this issue and, in the interest of an understanding that we have with members of the opposition, I will put them on notice, but I do have a couple of quick questions to ask now. I think that the issue of bias and SBS, as I have been picking it up over the last couple of months, extends beyond complaints from just the members of the Vietnamese community.

I want to preface this question by saying that from an Australian perspective the continuous round of violence in the Israeli-Palestinian dispute is profoundly depressing, but precisely because it is an unceasing round of violence, it is even more important for a broadcaster to ensure that coverage of it is scrupulous and even handed. I fear that this is also not the case with SBS coverage. I will highlight just one instance from the past month. There are others which also demand explanation, but again I will put quite a number of questions in relation to that on notice.

My question concerns a report that SBS TV news screened on the third anniversary of the start of the current violence in Israel and the Palestinian territories. I will cite one instance only, but there were in fact several around the time of the anniversary. Jane Braslin's story showed footage of Israeli tank fighter planes dropping bombs, a Palestinian car burning after a targeted killing and other material, but there was no footage of the aftermath of any Palestinian attacks. In other words, as others have pointed out, according to SBS the story of the past three years in Israel and the Palestinian territories is one of Israeli actions against Palestinians. Palestinian attacks are apparently not part of the story according to SBS. Do you think this is an accurate presentation of the facts as they unfortunately exist in the Israeli-Palestinian conflict?

**Mr Milan**—Without actually knowing the context, seeing the entire bulletin, I could not possibly answer that question.

**Senator SANTORO**—I would like you to look at the facts as I have outlined them and ascertain that they are the facts, but just assume for now that they are the facts. Do you think that that is a balanced coverage of and a balanced attitude to a story like that, assuming that they were the facts as I have explained them to you? I would like you to establish them after this for yourself, but let us assume that they were the facts.

**Mr Milan**—I am not going to be drawn on that, because the reality is that we put two English-language news bulletins, or *World News* bulletins, to air every night, Monday to Friday, and at weekends we put to air one per night, and you would have to look at the totality of coverage over a period of time before making that sort of assessment. We do not always get balance in every individual program; what we aim for is balance, as it says in our code of practice, within a reasonable period of time. Unless you can see the total context, I would suggest to you, it is an unreasonable question to put.

**Senator SANTORO**—Because of time restrictions, I will not pursue it. But what I will be saying to you is that I will be putting to you on notice over a period of 12 months a whole string of coverages of that particular conflict in the Middle East which will show that there is quite a lack of balance in the way you are covering it. I would appreciate your speedy and comprehensive response. Critics of SBS state that there is no proper complaints review procedure that ever leads to change. Are you able to detail—and perhaps you can take these questions on notice—how many complaints SBS received relating to news and current affairs program content in the financial years 2000-01, 2001-02 and 2002-03? Do you have that information at hand now, or would you like to take that on notice?

**Mr Milan**—We do not have it at hand now, but we can certainly supply it to you in a fairly timely way.

**Senator SANTORO**—Would you also be able to let the committee know in how many of these complaints for each of the financial years 2000-01, 2001-02 and 2002-03 did the complainant subsequently express a view that they were satisfied with the remedy provided by SBS? Would you be able to assist the committee by providing the details of SBS's response to each of those complaints?

**Ms Eisenberg**—It is quite unusual for a complainant after they have received a response to write back and say they were happy with it. They would tend either to not respond or to come back and say they were unhappy, so it would be very difficult to locate—

**Senator SANTORO**—Why don't you, then, provide us with the details of their responses? You have assisted me by finetuning my question. I just asked you how many people were happy with your response. Maybe you can also tell us how many were unhappy or did not answer at all. I would be grateful for your assistance there. This is a question directed to you, Mr Milan: does SBS management and/or the SBS board consider that an independent complaints reference body would provide greater accountability and more open responsiveness to the SBS audience?

**Mr Milan**—It has not been formally considered by the board. In fact, Ms Eisenberg and I have discussed our complaints procedure and a way of improving it. The problem we face is that this is the first time we have had formally from this committee concerns about editorial bias. Most of the complaints that SBS processes actually are with regard to language programs. The problem there is trying to account for the 68 different languages that we broadcast on our radio station and having a review process that would deal with that in an effective way. That is why the process does seem to be an internal one.

**Senator SANTORO**—I think you should assume that, despite the departure of Senator Alston from his portfolio, there will be continuing and growing interest in the issue of bias

and accountability not just for SBS but for the ABC also. It is not an issue that will go away with the departure of Senator Alston.

**Senator LUNDY**—Are you speaking on behalf of the minister?

**Senator SANTORO**—No, I am speaking on behalf of myself.

**Senator LUNDY**—You referred to the former minister, so I presumed you are talking about the new minister.

**Senator Kemp**—Senator Lundy will have her chance to ask questions.

**Senator SANTORO**—Yes. That is a good point.

**CHAIR**—I am sure that Senator Santoro will proceed quickly.

**Senator SANTORO**—I thank the minister and the chair for their protection—

**CHAIR**—You are quite vulnerable, Senator.

**Senator SANTORO**—The point that Senator Lundy raises is an interesting one. I want to make it clear that I speak only on behalf of myself—plus on behalf of a considerable number of your own Labor colleagues and certainly a lot on my own side when I say—

**Senator LUNDY**—You are not speaking on behalf of any Labor people.

**CHAIR**—I think that is a given.

**Senator LUNDY**—He just said he was.

**Mr Milan**—Senator, there is an opportunity for independent review. If someone is unhappy with the response they receive from SBS, they can apply under the Broadcasting Services Act for independent review from the ABA.

**Senator SANTORO**—Do you plan, particularly after today and given the number of complaints and the level of activity within ethnic communities, to present to the board a recommendation that an ABC-type mechanism—or perhaps an improved ABC-type review mechanism—be instituted by SBS?

**Mr Milan**—We are currently looking at the ABC system. I have also asked Ms Eisenberg to review the system used by the BBC, by Channel 4 and by a number of other public broadcasters. So we are in the process of looking at the issue. We recognise that public accountability is very important as a public broadcaster. We take our responsibilities very seriously but, as I have just mentioned, there are some difficulties because of the vast number of languages we are broadcasting in.

**Ms Eisenberg**—Could I add a point to reiterate the fact that there is a process of review to the Broadcasting Authority. For SBS in the last three years, I am aware of only one code of practice breach, which related to a classification issue, and one which was just a process issue where the response was out of time. Given whatever the level of complaints is, of those which have been reviewed there has not been an issue raised about persistent or even occasional breaches of the codes. There is a high level of compliance.

**Senator SANTORO**—Thank you. I appreciate that. Mr Chairman, in the interests of time, I will put the rest of my questions on notice.

**CHAIR**—Thank you, Senator Santoro. Senator Tchen.

**Senator TCHEN**—Mr Milan, most of the questions I had have already been asked by Senator Conroy and Senator Santoro, so I will not repeat them; however, in some cases their questions and your answers raise other questions in my mind. Mainly I want to sort out, to my own satisfaction, how SBS deals with a situation like this with your programming. I understand that you told Senator Conroy that SBS does not have contractual agreements with VTV to rebroadcast their news program.

**Mr Milan**—As far as I am aware—and I will supply to the committee the exact documentation that we have—it is just a letter of agreement.

**Senator TCHEN**—So it is not a binding agreement as such.

**Mr Milan**—No. We are not obliged to put the service to air.

**Senator TCHEN**—Thank you. I understand also that you said that at least 90 per cent of the responses you have received are objecting to this program.

**Mr Milan**—That is correct.

**Senator TCHEN**—Up to 10 per cent support you.

**Mr Milan**—Yes. I was asked to give an estimate.

**Senator TCHEN**—I understand. That is why I said ‘up to’. I also understand that you also described the SBS service as a service to the community, and the Vietnamese community is relatively large.

**Mr Milan**—There are about 200,000, I think.

**Senator TCHEN**—Before the service was provided, did you consult with the Vietnamese community?

**Mr Milan**—There was no formal consultation, although I was aware of the views of a couple of the leaders who have been articulate in the protest.

**Senator TCHEN**—And they were supportive?

**Mr Milan**—No; they were against it.

**Senator TCHEN**—But SBS decided that, regardless of the opinion received, you would go ahead.

**Mr Milan**—The problem is that we were receiving opinion from only one side. We have had requests from time to time, from other members of the Vietnamese community, to supply the service.

**Senator TCHEN**—From Hanoi?

**Mr Milan**—No. I think that, with the benefit of hindsight, I would be prepared to concede—because we have already apologised to the Vietnamese community leaders who came to see me—that there should have been more consultation up front.

**Senator TCHEN**—What I am getting at is that you received unfavourable comments about your intention but that you probably felt there were entrenched opinions. But did you or your management try to ascertain whether in fact there were opinions in the community actually welcoming the retransmission of the news broadcast sourced from Hanoi?

**Mr Milan**—There is no formal paper trail to substantiate that, so I think it would be incorrect to say that there was a formal level of knowledge within the organisation. But there was hearsay evidence to other people from communities generally that there were people out there that would want the service.

**Senator TCHEN**—I can appreciate that the Vietnamese community are interested in seeing a Vietnamese program, particularly perhaps one more professionally produced from other sources than can be produced in Australia. But the question in my mind concerned whether the Vietnamese community—being, as you describe them, a refugee community—were actually interested in a Vietnamese language program from Hanoi.

**Mr Milan**—I think that without question there would be members who would be interested. For instance, at any given time there is something like 5,000 students from Vietnam in this country. Education is one of our biggest exports to Vietnam, so you could assume that they would be interested, at the very least, in news from home. As I said before, tens of thousands of boat people within the Vietnamese community visit their country of origin every year.

**Senator TCHEN**—Some of them get arrested too.

**Mr Milan**—I am aware of the human rights issues within Vietnam, but I would say that it is the view of our own department of foreign affairs that that is an improving situation. But, as often is the situation in these sorts of cases, the people trying to stop things happening are far more articulate. There are people within the Vietnamese community that think that the official Vietnamese press within this country takes a very one-sided view, I suppose you could say, of the news in Vietnam and so they would maybe like to see some counterbalance and be able to make their own judgment. So we are not putting any editorial endorsement on this product; we are simply saying that it is there as a service to you.

**Senator TCHEN**—Yes, I appreciate that. It may be a very good thing to provide an alternative view. However, my question concerned whether you actually established any community support before you decided to provide that particular service.

**Mr Milan**—No, we felt that the numbers alone within the Vietnamese community supported that—we do not make political judgments as an organisation, and I do not think you would want us to. We are a non-political organisation; we are service based—

**Senator TCHEN**—Yes, but if your management—not necessarily you personally—make a decision that the majority of this community express a particular view and it is their belief that alternative views should be provided to this community, you are making a political judgment, aren't you?

**Mr Milan**—We did not make the first judgment. As I sit here, I am still to be convinced that the majority of people within the Vietnamese committee do not want this service. The community based organisation was formed immediately after the conflict. Its leadership comes from the ex-diplomatic corps from South Vietnam and it does have a certain strong view. By far the majority of members within the Vietnamese committee, in my view, do not belong to this association. They are just going about their lives as ordinary Australians. They see the war as something that happened 30 years ago and may well have an interest in community news from home.

**Senator TCHEN**—By the same standard, you have to say that the Liberal Party and the Labor Party combined do not represent the views of the Australian population because, together, I do not believe they have more than 200 or 300 members.

**Mr Milan**—I think that would make a very interesting debate.

**Senator TCHEN**—I just question whether that is a correct analogy. More relevantly, has SBS conducted any independent survey of the Vietnamese community to see what their views are?

**Mr Milan**—Yes, we have, but not on this issue. As part of our *Living diversity* report we interviewed several hundred Vietnamese, but that direct question was not put to them.

**Senator TCHEN**—So you are not sure what the Vietnamese community believe?

**Mr Milan**—As I sit here, no. That is why we put it into a formal review process. I want to assure you that SBS is not so arrogant as to actually force a service on the community.

**Senator TCHEN**—I know that you said that SBS will listen to the community. I appreciate that. However, the umbrella organisation for the Vietnamese community in Australia, whose pre-eminent position has never been challenged by anyone in the press or any other type of media, put out a press release on 8 October, which I am sure they sent you a copy of, objecting to SBS rebroadcasting a Vietnamese language news service from Hanoi. That would have been a very clear signal to SBS that the Vietnamese community objects to this particular program. This was backed up by FECCA, the Federation of Ethnic Communities Councils of Australia, in a public statement on 17 October. Is SBS taking any immediate action to respond to these objections?

**Mr Milan**—We would not normally respond directly to a press release. We respond to direct submissions to the channel. But my recollection is certainly that, because of some issues raised—and they occurred quite late in the piece; we had already announced that we were putting the broadcast to air—the board requested, as you will see from the minutes that I will be supplying to the committee, that management monitor weaker broadcasts before they went to air to ensure that they complied with our act, and indeed we did do that.

**Senator TCHEN**—You have had at least two weeks notice that this particular broadcast service is objectionable to your audience, yet you have taken no action on it.

**Mr Milan**—It is objectionable to an element within the audience. To some extent, it is only by putting the program to air that you can determine the full extent of the people who want to support as well as those who want to object. We will be hearing that within two weeks.

**Senator TCHEN**—Let us for the time being accept your assumption that the Vietnamese community organisation in Australia, because of its genesis, may not completely represent the view of the Vietnamese community. But surely the Federation of Ethnic Communities Councils of Australia is a credible body and, if the federation accepts that the Vietnamese community in Australia as an organisation is a representative organisation for the Vietnamese community, surely SBS should be taking heed of that. Yet for two weeks SBS has blithely continued to broadcast its program.

**Mr Milan**—But to be fair we have an obligation to editorial independence. The whole purpose of public broadcasting is to reinforce freedom of speech, so we do not necessarily yield to pressure from the outside.

**Senator TCHEN**—That is my initial point. What do SBS management do? You have received all these objections. What has the management done internally to make sure that what you broadcast is to the community's interest? This is a matter of concern to me.

**Mr Milan**—I understand, and it is a reasonable question. All I can say is that our process maybe did not look enough at that issue, because the decision was made on the size of the Vietnamese community, whether there was an available service and whether that service complied with our broadcasting standards. We have been looking to provide a service for some time. It is simply that it has been difficult to find a satellite that was available for us to take a program from and also there was obviously a limited availability of air time. Since those two things came together we have provided the service. So there was not a vigorous process of review, because—and I realise that you are saying that we had two weeks notice—program schedules are put in three months in advance and are very difficult to break in the short term.

**Senator TCHEN**—I am suggesting that your management or programming processes need to be reviewed. If you cannot respond to such a strong expression of community attitude on the basis that your program is prepared three months in advance, there is something wrong with this organisation. If you are providing a news service, you should be able to provide, if not an instant response, a fairly quick response. But what you have just described to me is that, once the program is set, it is set in concrete and cannot be changed regardless of whether it is correct or not.

**Mr Milan**—I am not quite saying that. What I am trying to say—but maybe I have not expressed myself very well—is that we have an obligation, and indeed a commitment, to the community towards editorial independence. We make decisions independently. It may well be in this case that that value is in conflict with our value of service to the community, and we will hear it on that basis. That is why I have asked, with the agreement of my board or certainly of the chairman of our board, to put this to the SBS Community Advisory Committee, because I think that is an appropriate place for it to be heard. But the actual guiding principles of SBS are those of editorial independence and freedom of speech. This to me is an organised campaign against freedom of speech and freedom of expression. I find it deeply troubling. But I also find that in conflict with my other value, which is the value of service to the community. I accept that there may be members of the community who may get hurt from this broadcast being put to air because the issues are still very much alive for them, but that is the process that we will hear and review. With the benefit of hindsight, should we have had a deeper consultative process in advance? Yes, given what I know now. But I can assure you that, at the time, one or two community leaders, no matter how eminent and respected, objecting was not a reason for SBS not to put a program to air.

**Senator TCHEN**—In that case, why not take the broadcast off the air while you are conducting your consultation?

**Mr Milan**—Because I do not believe that the issue has been found. Actually at the request of the Vietnamese community we—

**Senator TCHEN**—You have made a judgment already, haven't you?

**Mr Milan**—I have made a judgment?

**Senator TCHEN**—Yes.

**Mr Milan**—About what?

**Senator TCHEN**—If you are in doubt, the proper way to do it would be to take the broadcast off the air while you conduct your consultation review process. But you have said you do not believe that the opinion you have received is genuine or widespread enough; therefore you will continue to broadcast. You have made a judgment already, haven't you?

**Mr Milan**—No. By taking it off air I would be making a judgment. Because I felt the seriousness of the complaints—and, as we have already discussed, a couple of thousand people holding placards outside your building is fairly impressive—I agreed with the community leaders who came to see me to bring the review process forward, and we are literally doing it as quickly as we can gather people, because the Community Advisory Board is representative of both the diversity of community and the diversity of geography, because they come into Sydney for the meeting from as diverse places as Hobart and Darwin.

**Senator MARK BISHOP**—Senator Kemp, does the government hold the view that the organised no campaign by the Vietnamese community is in fact a campaign against freedom of speech? Does the government hold that view? Mr Milan does.

**Senator Kemp**—I am not sure that is a fair quote of Mr Milan.

**Senator MARK BISHOP**—Mr Milan just said he regarded the campaign by the Vietnamese community as a campaign against freedom of speech.

**Mr Milan**—That was a phrase I used in a long-form answer rather than a short-form answer. I think it has been quoted somewhat out of context. Certainly you could take that view, and there is an aspect of it, because clearly it is trying to stop information going to air.

**Senator MARK BISHOP**—Let us stop there. You have explained it. Does the government hold that view?

**Senator Kemp**—I think the arrangements have been well explained by Mr Milan. There is an issue which has occurred. There is a consultation process in place which will seek to provide advice to the board on how to have that issue resolved. The Labor senators are normally worried when a government minister seeks to intrude in broadcast programming. My view is that there is a process which is now under way. It is a debate I have found particularly interesting. I have been very interested in the comments of Senator Conroy, Senator Santoro and Senator Tchen. I can see now that there is a process under way, and advice will be provided to the board to help guide their decision-making process. That is an appropriate way to deal with it.

**Senator MARK BISHOP**—But I did not ask you whether it was an appropriate way to deal with it; I accept that. I am asking you whether the comments by Mr Milan—that the organised no campaign is a campaign against freedom of speech—is a view that the government holds.



**Senator Kemp**—I do not say an organised campaign is against freedom of speech. I do not think that is what he said. I think Mr Milan correctly said that your comments were taken out of the context of what he was saying. People in this country are quite entitled to have campaigns. They are quite entitled to put their view. We are a free country. That is one of the many things we treasure in this country. As far as I am concerned, they have a perfect right to put their views.

**Senator TCHEN**—Mr Milan, regarding this review process you have, the Community Advisory Committee will meet on the 17th of this month, two weeks from now. Is that as quick as you can get them together?

**Mr Milan**—Yes.

**Senator TCHEN**—Do you have any representatives of the Vietnamese community on your committee?

**Mr Milan**—Not on this committee, but they have been members in the past.

**Senator TCHEN**—Shouldn't you have some?

**Mr Milan**—Bearing in mind that there are several members of FECCA on the committee and there are certainly several Asian folk on the committee, I think it is broadly representative of community. I think various members of the Vietnamese community will be there to give advice to the committee on the day, so I do not think it necessarily would make any difference whether we have some on the committee or not.

**Senator MARK BISHOP**—Are there any representatives on this committee from the Buddhist community or the Catholic Church? They have pretty big interests in the Vietnamese community in Melbourne, Sydney and Perth.

**Mr Milan**—First of all, we recognise language; we do not recognise religious groups. We do not try and balance our committee according to religion. We try to balance it by language and representation and size within the community.

**Senator MARK BISHOP**—Earlier you were critical of some members of the committee because they represented, as you said, military and diplomatic people, and apparently their views should not have been given 100 per cent respect.

**Mr Milan**—With respect, Senator, you are again being selective with what I have been saying.

**Senator MARK BISHOP**—You said it.

**Mr Milan**—What I actually said was that at its inception 30 years ago that community group was formed by diplomats and ex-military folk, not necessarily that all those folk were still there now. It has been some time. But it was certainly set up originally as an anticommunist group, and those views have remained consistent through the history of that group. Chair, would you like us to put down for the record the process of the selection of members of the Community Advisory Committee?

**CHAIR**—That would be a good idea. I think that is what Ms Eisenberg wants to do.

**Ms Eisenberg**—I am concerned that this committee might misunderstand how it is selected. The board of SBS has a subcommittee which meets from time to time to look at the

selection process. Members of the Community Advisory Committee are recruited through public campaigns, through on air advertisements on SBS and through advertisements in newspapers. There are a set of board selection criteria, but among them are gender, the locations from which people come, regional representation and a spread of different ethnic or language communities. We also make a point of ensuring that there are representatives of groups that are newly arrived.

The point of the people from those groups is to not represent their individual communities as such but, as a group, be capable of informing the board broadly about community needs and opinions. They are not there to lobby for their particular communities. They are there to provide a broad spectrum of opinion on community issues generally. Selection is based on the suitable candidates who come forward, and from time to time the board's subcommittee reviews whether there is a particular group that might be underrepresented.

But it would be incorrect for to assume, for example, that it is done in the same way as *WorldWatch*, where you say, 'This is the percentage of this group in the population; therefore we'll have these numbers on the Community Advisory Committee.' It involves a number of different factors which are taken into account, and the composition shifts from time to time, because the appointments are staggered so they do not all retire at the same time. Usually about one to two members are replaced every year, so there is a continuity among the members of the committee.

**Senator TCHEN**—I realise that SBS does not provide a commercial service and, therefore, the same rules probably do not apply. However, I would say that, generally speaking, the phrase 'The customer is always right' should always be kept in mind. I suggest that, in this special case, SBS should look at bringing in a representative of the Vietnamese community at least as an observer or consultant. You drew a parallel between the Chinese program and the Vietnamese program; have you ever received any objections—organised or not organised—to your Chinese language broadcast?

**Mr Milan**—Not recently, as far as I am aware. There might have been one or two letters when the service went to air.

**Senator TCHEN**—But nothing of this scale?

**Mr Milan**—Nothing of substance.

**Senator TCHEN**—Did you ever receive any objections to your Russian language broadcast source from Moscow?

**Mr Milan**—Sorry?

**Senator TCHEN**—You have a Russian language broadcast source from Moscow.

**Mr Milan**—Yes.

**Senator TCHEN**—Did you ever receive any objections to that?

**Mr Milan**—There may well have been right at the beginning but, again, certainly not on this scale.

**Senator TCHEN**—Has SBS ever arranged for any broadcasts from Tel Aviv?

**Mr Milan**—Sorry?

**CHAIR**—Do you have Israeli news in your programs?

**Mr Milan**—No, we do not.

**Senator TCHEN**—But we have a fairly substantial Jewish community in Australia.

**Mr Milan**—Yes, we have a substantial Jewish community but not a substantial Israeli community.

**Senator TCHEN**—There is now a substantial Iraqi community in Australia. I think it has grown by 30,000 people since 1996. Has SBS ever thought of sourcing a broadcast from Baghdad?

**Mr Milan**—No. The last time we looked at the census figures, there were not enough numbers in the community to justify it. It is very important to distinguish another point. Whilst Vietnamese is a discreet language and is only spoken by the Vietnamese community, we actually operate the programs on language base. In other words, we recognise languages rather than borders. For instance, there are 21 countries that speak Arabic and they have a myriad of views within them. That is one the reasons why we do not make those sorts of judgments about things like propaganda; with an Arabic service you can imagine where you would end up.

**Mr Berryman**—To put it into context and be clear: there is material sourced by SBS that its journalists use for the preparation of its own news broadcasts, which is rigorously assessed and evaluated, but a lot of the other material that is put up without endorsement—sort of like the warts and all view of the world; and there is a distinction there—comes from the Middle East and is used by our journalists. The material we put forward as our own news and our own representation of the world comes from all around the world. It is not to say that it is not reflected in the network, it is just how it is reflected and how the programs are sourced and put to air.

**Mr Milan**—Just to complete the answer on protests and objections: the biggest organised campaign we have had against one of our *WorldWatch* products was from the Polish community when we changed the supplier. They felt that the new program was not of the same quality. We had several hundred complaints at that time.

**Senator TCHEN**—I thank you for that information. Just for the interest of the committee, Mr Milan, what did SBS do with the Polish program?

**Mr Milan**—We had to explain to the Polish community that it was not our choice. Our first choice program had been withdrawn by the provider because they had sold out to a pay TV supplier and were actually receiving cash for it.

**Senator TCHEN**—I see.

**Mr Milan**—I think we have got it back.

**Senator TCHEN**—Mr Milan, you said that there were 2,000 protesters, but I understand from a news report that there were 4,000.

**Senator SANTORO**—We have just been informed that the *Australian* reported 4,000 people protesting rather than 2,000. We are just throwing that into the mix.

**Mr Berryman**—I think in your example it was anything north of 2,000.

**Mr Milan**—I actually said anything north of 2,000. Our estimate was 2,000. I think the police estimate was 3,000 to 4,000. Our experience is that the police often tend to exaggerate these numbers, to say what a good job they have done.

**Senator TCHEN**—I thought the organiser usually exaggerated the numbers; the police try to downplay them.

**Mr Milan**—We do not dispute that; 2,000 is still a very impressive number, with people having to give up their day—

**Senator SANTORO**—And 4,000 would be doubly impressive.

**Senator TCHEN**—I just want to make one quick observation. Whether the figure is 2,000 or 4,000, it is in the same order of the 5,000 Vietnamese students you were talking about who might be interested in this service. However, can I point out that, with due respect to SBS, marketing Australia, particularly Australian education, is not in the SBS brief.

**Mr Milan**—That is right.

**Senator TCHEN**—The SBS brief provides service to Australian communities. However important economically the 5,000 students from Vietnam are, they are not part of the Australian community; they are guests.

**CHAIR**—I think to be fair, Senator, Mr Milan made the point that there are several hundred thousand ethnic Vietnamese in this country.

**Senator MACKAY**—I make the observation that hundreds of thousands of people demonstrated against the war in Iraq, but it did not stop the SBS running George Bush. Anyway, I hope SBS will not fall prey to the bullying by the coalition in respect of particular content that it may run in the news. This question is to the minister. Can the government outline Christopher Pearson's qualifications to join the SBS board?

**Senator Kemp**—Christopher Pearson is a person known to me. I regard him as a highly intelligent person. I am advised that he has had experience with a number of cultural institutions. He was the editor of the *Adelaide Review* and is known as a commentator on cultural affairs. I do not know whether you would like any more information than that, but in my view it was a very good appointment.

**Senator MACKAY**—I am just wondering what particular cultural qualifications he has got.

**Senator Kemp**—I just said that he was the editor of the *Adelaide Review*.

**Senator MACKAY**—You just said various cultural—

**Senator Kemp**—If you can recall, the *Adelaide Review*, certainly while he was the editor, dealt with many aspects of Australian culture. I always found it a very good read, and I think that magazine under his editorship was successful.

**Senator MACKAY**—So that is it, basically. What selection process did the government use for his appointment?

**Senator Kemp**—The appointments are typically put forward by a government minister—someone can correct if I am wrong—and are then put to cabinet. Following their

consideration by cabinet, a recommendation will go to the Governor-General, to an executive council meeting.

**Senator MARK BISHOP**—Was it an arts or communications recommendation?

**Senator Kemp**—I was not involved in it, so I would assume that it came through the communications area.

**Senator MARK BISHOP**—That is probably right; it was communications. Would there be a requirement to consult with you, with your arts hat on?

**Senator Kemp**—No. If people wish to consult with me—I am a very approachable person—I am always happy to give a view, as you know, Senator. In this case I was not asked my view; but, if I had been asked, I would have thought that that was an excellent appointment.

**Senator MACKAY**—Just coming back to Mr Pearson's connection with the Council for Multicultural Australia, beyond the *Adelaide Review*, what are his credentials in terms of multicultural Australia? I think you had a brief there. I do not know if there is anything that goes specifically to that question.

**Senator Kemp**—I think we have already stated that—

**Senator MACKAY**—No, you have mentioned the *Adelaide Review*.

**Senator Kemp**—He is a highly intelligent man.

**Senator MACKAY**—But beyond his IQ, what particular connections does he have?

**Senator Kemp**—Hold on, Senator. I have a rule that, when people ask me a question, I like to answer it before I am interrupted.

**Senator MACKAY**—Okay, that is good.

**Senator Kemp**—He has very wide interests. He has written widely on an extensive range of topics. As I said, he seems to be well qualified to be on the board of SBS.

**Senator MACKAY**—Beyond being intelligent and writing widely, what specific connection—

**Senator Kemp**—A wide commentator—

**Senator MACKAY**—Can I finish my question?

**Senator Kemp**—Sure.

**Senator MACKAY**—What specific connections does he have with multicultural affairs?

**Senator Kemp**—He is part of Australia, which is a multicultural nation. He is a cultural commentator and a political commentator.

**Senator MACKAY**—No, multicultural—

**Senator Kemp**—He is part of a wider nation. He is part of this society. Multiculturalism is part of this society, and he is quite entitled to be on that board.

**Senator MACKAY**—So beyond his IQ and his being an Australian citizen, does he have anything specific—

**Senator Kemp**—I will go through it again, Senator. He has been the editor of the *Adelaide Review*, which has made extensive comment over quite a long period of time on a wide range of issues. He has been a columnist in a newspaper and has also written on a wide variety of issues.

**Senator MACKAY**—So, having established that he has very little background in multicultural affairs—

**Senator Kemp**—On the contrary!

**Senator MARK BISHOP**—He is probably a decent fellow.

**Senator MACKAY**—I am sure he is a decent fellow, though I do not know him.

**Senator Kemp**—As a successful commentator, I believe he has a very wide understanding of Australia's multicultural society.

**Senator MACKAY**—What is his experience in broadcasting specifically? It is the SBS, after all, so—

**Senator Kemp**—As I said, he is a writer and has been a commentator. I am not sure I can go further than that.

**Senator MACKAY**—Are you aware of whether he has any experience in broadcasting? He worked for John Howard. I do not know whether or not that constitutes broadcasting. Is he still a member of the Liberal Party?

**Senator Kemp**—I am just going through the criteria, which says:

(2) In appointing a person as a non-executive Director, the Governor-General must have regard to the need to ensure:

(a) that the Directors collectively possess an appropriate balance of expertise in the areas required to govern the SBS effectively, including an understanding of Australia's multicultural society and the needs and interests of the SBS's culturally diverse audience; and

b) that the Directors collectively comprise persons with a diversity of cultural perspectives;

From my point of view, it seems to me that he is well qualified. I do not have his CV before me.

**Senator MACKAY**—Just out of curiosity, do you know whether he is still a member of the Liberal Party?

**Senator Kemp**—I do not have a clue, but if—

**Senator MACKAY**—It was just a curiosity thing.

**Senator Kemp**—I want to get this clear, because Labor senators ask this from time to time. Are you saying that, because someone is a member of the Liberal Party, they should not be appointed to any boards? You are not saying that, are you?

**Senator MACKAY**—No, I was just curious.

**Senator Kemp**—No, you are not saying that, Senator, because you cannot say that, because the Labor Party extensively appointed to board people who were members of the Labor Party.

**Senator MACKAY**—I was just curious.

**Senator Kemp**—So that was a pointless comment.

**Senator MACKAY**—Please do not overreact, Minister. It is only 10.15 a.m. and we have a couple of days to go.

**Senator Kemp**—If you make a provocative comment, I will respond.

**Senator MACKAY**—Is Mr Pearson on any other government boards?

**Senator Kemp**—He is on the board of the National Museum of Australia—he is a member of that council. He was also a member of the Australia Council.

**Senator LUNDY**—Sorry—the Australia Council?

**Senator Kemp**—He was a member of the Australia Council.

**Senator MACKAY**—He is not on the Australia Council now?

**Senator Kemp**—No, he is not on that council now.

**Senator MACKAY**—Thank you for that, Minister. Mr Milan, can SBS advise how many board members there currently are?

**Mr Milan**—Yes, eight.

**Senator MACKAY**—Eight?

**Mr Milan**—Sorry, nine including myself.

**Senator MACKAY**—Nine including yourself. Is that right?

**Mr Milan**—We will just count them to make sure.

**Senator MACKAY**—I might be able to help you with that. I have a copy here. I have 10.

**Mr Milan**—I think that may well be—

**Senator MACKAY**—There is a double count here. Yes, it is nine.

**Mr Milan**—Yes, it is nine.

**Senator MACKAY**—How many are of non Anglo-Saxon or non Anglo-Celtic ethnic origin?

**Mr Milan**—Two—if you include the chair. Carla comes from an Italian background and Joseph Elu comes from an Indigenous background.

**Senator MACKAY**—Is that two out of nine, or two out of eight? Presumably, it is two out of nine.

**Mr Milan**—Two out of nine. I would consider myself to be Anglo-Celtic.

**Senator MACKAY**—Do you know how many were born outside Australia, the British Isles or North America?

**Mr Milan**—To be fair, if you included North America then there would be me; Gerald Stone, who was born in America, I believe; and Carla, who I think was born in Italy. So, to my certain knowledge, only three, but there may be others.

**Senator MACKAY**—That is all right. Could you advise how many of your executive management team are of non-Anglo-Saxon or non-Anglo-Celtic origin?

**Mr Milan**—I would have to come back to you and answer that.

**Senator Kemp**—I think the figure often used, and which I have heard, is that one in four Australians were born overseas, and I think you, Mr Milan, said that three of your board out of eight were born—

**Mr Milan**—Out of nine.

**Senator Kemp**—Out of nine: so one in three of the board were born overseas.

**Senator MACKAY**—Could you also take on notice how many of your executive management team are not of European, Australian or North American origin? Just to sum up, in relation to people of non-Anglo-Celtic and non-Anglo-Saxon origin on the board of SBS, you have got two out of nine. Thank you.

**Senator Kemp**—Gee, that is an absolutely telling point, Senator!

**Senator MACKAY**—I knew you would be pleased.

**Senator Kemp**—It really is a telling point! Should there be a quota on the number of Anglo-Celts which can be appointed to SBS, because that is the logic of what you are saying? Very interesting.

**Senator MACKAY**—Is it?

**Senator Kemp**—Yes, very interesting.

**Senator MARK BISHOP**—Mr Milan, I want to talk about priorities for the foreseeable future with SBS. There was a report in the *Melbourne Age* on Saturday, 23 August written by a Ms Kylie Miller under the heading ‘SBS looks for “younger, groovier” audience’. There seems to be a shift to what you are seeking your market to be. Is that comment, made by one of your executives, a comment that is endorsed by you and by the board of SBS—to shift direction to a ‘younger, groovier’ audience?

**Mr Milan**—No, it is not. What is endorsed is maintaining our existing audience but trying to attract a younger audiences as well. But we want to maintain our presence within the older community as well.

**Senator MARK BISHOP**—Say you would reject that comment?

**Mr Milan**—Yes, I do. The article was based around an interview, I think, but there was a lot of conjecture in that, from memory.

**Senator MARK BISHOP**—The comment was allegedly made by a Ms Glenys Rowe, head of SBS Independent, to the newspaper interviewer.

**Mr Milan**—Can I just say that Ms Glenys Rowe runs SBS Independent, which is our independent film commissioning unit. From time to time, she will be given an objective to make a discrete number of programs. But the SBS schedule is much broader than the bit that Ms Rowe is party to, so she may well have just been referring to the current round of commissioning, not necessarily to the totality of the SBS schedule.



**Senator MARK BISHOP**—So as far as you, as managing director, and the board are concerned, you are about maintaining the existing audience profiles—

**Mr Milan**—Yes.

**Senator MARK BISHOP**—and moving into new areas where you think there is a deficiency, a shortage in the marketplace?

**Mr Milan**—Yes, where we are under-representative of the Australian community. At the moment we tend to skew towards an older audience and male audience.

**Senator MARK BISHOP**—So you have more than you should who are older and more than you should who are male? Is that what you are saying?

**Mr Milan**—If you looked at the proportion of our audience relative to the proportion of that percentage of the community within Australia then you would see that we are proportionately skewed towards elderly viewers and male viewers. What we are trying to do is introduce a few younger viewers and a few more female viewers and make it a more attractive destination for those folk.

**Senator MARK BISHOP**—So, you are going into new areas—is that the younger area and the female area, or just the younger area?

**Mr Milan**—Younger and female. We are trying to address an imbalance in the audience.

**Senator MARK BISHOP**—So you want to go into the younger and female areas. What changes has the board determined to make to accommodate that?

**Mr Milan**—The board determines strategy; it does not determine programming. I think there is an appropriate separation of powers.

**Senator MARK BISHOP**—The board has made that strategic decision—

**Mr Milan**—No, to be fair, the board actually endorses the program strategy of the organisation. In strict terms, as a management team we make various strategic recommendations to the board and the board then votes to support them. That is what happened—that is the normal process. But the thrust of what we are trying to do is to lighten up the schedule, not in terms of intellectual value but in terms of the balance between entertainment programs and documentary programs. These shifts are fairly minor, I have to say. Television programming is an art of nuance.

**Senator MARK BISHOP**—Is this change in approach, which you essentially argue is on the margins, being manifested in current programming or is that something for the future?

**Mr Milan**—The new weekend schedule will be an example of the new strategic direction. We have moved the movie forward a little to start earlier so that it will attract a broader audience and we have dropped one of the documentaries in the 7.30 slot on Saturday night—but we still have a documentary at 8.30—and put an entertainment based program in. It is those sorts of things.

**Senator MARK BISHOP**—Have you been able to do any research or polling yet as to whether or not you have been successful?

**Mr Milan**—It is too early to establish a long-term trend, but I would say that the initial ratings are quite encouraging.

**Senator MARK BISHOP**—Do you have an obligation under the vision statement to reflect Australia's multicultural society?

**Mr Milan**—Yes, we do.

**Senator MARK BISHOP**—How do you make an assessment or measure as to whether you are achieving that purpose? Is it a gut reaction or something qualitative or quantitative?

**Mr Milan**—We do compile statistics—for instance, the number of countries we buy programs from that are broadcast to air and the number of languages in a given week. We regularly buy programs from over 400 different sources, so there is a tremendous diversity within the schedule. But at the end of the game it is an art more than a science with television programming. As I think you would appreciate, it is a creative process.

**Senator MARK BISHOP**—What is your overall proportion of programming in languages other than English?

**Mr Milan**—It is running at about 50-50, but much of the English language programming is actually foreign language programming that is subtitled.

**Senator MARK BISHOP**—So where do movies from France that are spoken in French, with subtitles for people like Peter Reith—

**Mr Milan**—That is a foreign language program.

**Senator MARK BISHOP**—Is that English language?

**Mr Milan**—No, that is not English language; that is French. Let me give you the actual figures: 52.9 per cent of programs last year were in a language other than English.

**Senator MACKAY**—Senator Bishop, perhaps I could ask a quick question. Just in respect of that, Mr Milan, how many of the television programs in languages other than English are broadcast during prime time—6 p.m. to 10 p.m.?

**Senator Kemp**—Are you talking about radio or TV?

**Senator MACKAY**—SBS television programs.

**Senator Kemp**—It has a radio, you know.

**Senator MACKAY**—I said SBS television programs.

**Senator Kemp**—No, you did not.

**Senator MACKAY**—Sorry; I beg your pardon!

**Mr Milan**—Our television schedule—and I think this is the point you are trying to establish—is predominantly English language in prime time. That is because English is the common language of Australia and it is common to all of the communities we are giving service to.

**Senator MACKAY**—That is okay; I was just asking the question. So do you have any figures on the 6 p.m. to 10 p.m. timeslot?

**Mr Milan**—No, we do not, but I think we can get that for you on notice.

**Senator MACKAY**—Thank you.

**Senator MARK BISHOP**—What proportion of SBS radio programming is in languages other than English?

**Mr Milan**—That would be about 95 per cent. There is only one English language program actually on SBS radio.

**CHAIR**—They have a very good French program out of Melbourne, I believe.

**Senator Kemp**—That is quite right, Chair, and I will pass that message on.

**Senator MARK BISHOP**—You can probably take these questions on notice, Mr Milan. What is the annual average percentage of programming in languages other than English since 1993 on SBS, what is the current annual percentage of programming in languages other than English on SBS's main TV channel, and what is the current percentage of programming in languages other than English outside the hours of 6 p.m. to 10 p.m. on SBS's main television channel? Please take that on notice if you do not have those details with you. Turning to SBS radio, is someone here from SBS radio? Is that you Mr Milan?

**Mr Milan**—I represent both radio and television as managing director.

**Senator MARK BISHOP**—Can you advise us which capital cities currently receive two SBS radio stations?

**Mr Milan**—Sydney and Melbourne only.

**Senator MARK BISHOP**—Only Sydney and Melbourne. All the other capital cities have one?

**Mr Milan**—Correct.

**Senator MARK BISHOP**—Can you give us the cost per annum to broadcast two SBS radio stations in Perth, Adelaide, Brisbane, Canberra, Hobart and Darwin? Have you ever done those figures?

**Mr Milan**—I think we have supplied that information. It is relatively little, in the sense that all we would need would be transmitters because we would network our existing signals.

**Senator MARK BISHOP**—Wouldn't you have a double content requirement?

**Mr Milan**—No. The national signal at the moment is a composite of the stations that we are already producing. If we actually broadcast across the nation in two channels, we would put both our existing products—

**Senator MARK BISHOP**—You would shift the Melbourne and Sydney stuff to the other locations.

**Mr Milan**—Yes. There may be some change in the balance between Sydney and Melbourne and the way we go about our programs, because we would have to take into account that we would be reaching a broader audience, but I do not believe there would be a significant manufacturing cost increase. There would be a distribution cost, which we have estimated at \$3.4 million per annum.

**Senator MARK BISHOP**—Is that for all those cities that I just mentioned?

**Mr Milan**—Yes.

**Senator MARK BISHOP**—So to extend to dual radio broadcasting in those six extra cities would cost \$3.4 million per annum?

**Mr Milan**—Correct.

**Senator MARK BISHOP**—Is any consideration being given to doing that?

**Mr Milan**—Yes. It is one of the major priorities of the organisation, and we have been trying to persuade the government to give us the additional funds to do that.

**Senator MARK BISHOP**—Are you seeking the full amount from the government or from some savings internally?

**Mr Milan**—We are seeking the full amount.

**Senator MARK BISHOP**—When did that submission go to the government?

**Mr Milan**—It was in our triennial funding submission.

**Senator MARK BISHOP**—Was that last year?

**Mr Milan**—Yes.

**Senator MARK BISHOP**—Was it rejected then?

**Mr Milan**—Yes.

**Senator MARK BISHOP**—When does it come forward again?

**Mr Milan**—We are not excluded from putting up funding submissions, so it will go in again this year.

**Senator MARK BISHOP**—It will again go in for the May budget next year?

**Mr Milan**—Yes.

**Senator MARK BISHOP**—Are you currently engaged in any dialogue with the government on that issue?

**Mr Milan**—We are constantly lobbying and in dialogue with the government.

**Senator MARK BISHOP**—You have put forward a submission in your triennial submission, and it will again come forward next May. You can obviously raise it at any time, and you obviously raise it when you see the minister or whatever.

**Mr Milan**—Yes.

**Senator MARK BISHOP**—But are you engaged in any formal, current process with the government to receive extra funding to start up the extra stations in the near future or the near medium term?

**Mr Milan**—No, other than normal lobbying and every time I meet with the minister, department officials or ministerial advisers. It is a key priority of mine and of the organisation.

**Senator MARK BISHOP**—Is it the practice of government to give reasons for rejecting a request?

**Mr Milan**—No.

**Senator MARK BISHOP**—How do you rate the prospects of capital cities outside of Melbourne and Sydney receiving a second service in the next 12 months?

**Mr Milan**—I would say it would depend on the election.

**Senator LUNDY**—I have a question on notice for SBS. Could you provide me with details of any arts sponsorships or donations SBS has made over the last three financial years.

**Mr Milan**—All of our sponsorships are nonfinancial, and they would be in kind.

**Senator LUNDY**—That is fine. Please detail them.

**CHAIR**—Thank you very much. We thank you for appearing.

[10.31 a.m.]

#### **Telstra**

**CHAIR**—I welcome the officers of Telstra to the table. You all know the rules. You have been here before.

**Senator MACKAY**—Is Dr Switkowski not joining us today, Mr Scales?

**Mr Scales**—Unfortunately he is not able to be here.

**Senator MACKAY**—Is he overseas again or unavailable?

**Mr Scales**—Both of the above I think.

**Senator MACKAY**—Is he not interested or something like that?

**Mr Scales**—He is very interested.

**Senator MACKAY**—He is always interested. Can Telstra confirm that it is seeking a \$170,000 increase in total directors' fees at the next annual general meeting on 14 November?

**Mr Scales**—Yes. A motion has been put forward to increase directors' fees at the next annual general meeting.

**Senator MACKAY**—On what basis is this 15 per cent increase in directors' remuneration predicated?

**Mr Scales**—I will ask my colleague Mr Stanhope to cover the details of it. In general, what happens in these circumstances is that—and this is not particular to Telstra—when a board finds that remuneration is getting close to the limit that has been voted for by the shareholders, directors will often ask that that limit be increased. It does not necessarily mean that there will be an increase in directors' fees. It simply means that the limit is being increased to accommodate any variation that might apply.

**Senator MACKAY**—I am sorry, I cannot hear you.

**Mr Scales**—There is generally a limit within which boards are able to provide remuneration to directors. That limit is set by the shareholders at an annual general meeting. Although a limit has been set—and Telstra has been in this position itself in the past—it does not mean that the board will in fact be recompensed for that full amount. The board, to ensure that it sticks within the authority that has been provided to it by its own shareholders, needs to make sure that it has sufficient scope to accommodate any variation from time to time. For example, if a decision was made to appoint an additional director for any particular reason,

you would need to have sufficient funds available to be able to pay for that director. Even though the board might be asking for an increase in the amount, it does not necessarily mean of itself that any additional amount will be paid. Perhaps I should ask Mr Stanhope to go into detail.

**Senator MACKAY**—Thank you very much for that. Are there any plans to appoint an additional director?

**Mr Scales**—No. I was not suggesting that there was.

**Senator MACKAY**—I know you were not.

**Mr Scales**—I was talking more about the principles as to why you do these things.

**Mr Stanhope**—I will add to the comments of Mr Scales. There has not been an increase in directors' fees for Telstra directors for four years, and part of this motion going to the shareholders is that there has been an assessment of remuneration paid to other directors. So there has been a market comparison and a recognition that the directors have not had a remuneration increase for four years.

**Senator MACKAY**—Are you saying that there has been an assessment of remuneration in relation to market capacity?

**Mr Stanhope**—No, not market capacity.

**Senator MACKAY**—I did not hear you. I am having a bit of trouble.

**Mr Stanhope**—I said: what directors are being paid in the marketplace. It was an assessment of remuneration to directors on boards generally. Telstra boards tend to be at the low end, and it is four years since they have had an increase.

**Senator MACKAY**—In the comparisons with elsewhere in the marketplace, what was broadly looked at in that assessment and who did you look at?

**Mr Stanhope**—Corporations of similar size, like Coles Myer and David Jones.

**Senator MACKAY**—Did that assessment encompass anything other than directors' fees?

**Mr Stanhope**—No.

**Senator MACKAY**—Has Telstra done any work on other comparable things in the marketplace, like, as Senator Bishop suggests, superannuation, cars, expenses et cetera?

**Mr Stanhope**—Mr Scales can probably comment more on this, but we always do market assessments when we look at the salaries of our executives. I was obviously speaking just about the directors' remuneration. We constantly do reviews of the market to ensure that we are paying our people appropriately.

**Senator MACKAY**—Do you? When was the last time you did an assessment?

**Mr Scales**—Just to answer that question about directors: when these surveys are done they take into account the total remuneration which is paid to other directors. They do take into account issues like the ones you have raised.

**Senator MACKAY**—I guess I am being tangential here. I am saying, while we are on the topic, what has been done in respect of assessments beyond directors' fees? I will come back

to directors' fees. Mr Stanhope, what was the most recent assessment, when was it done and what did it encompass?

**Mr Stanhope**—I cannot remember exactly how long ago it was, but it was probably in the last three months in order to prepare for the shareholder meeting.

**Senator MACKAY**—What was examined in that assessment?

**Mr Stanhope**—How directors are getting remuneration and what the level of remuneration was.

**Senator MACKAY**—We are talking at cross-purposes. Beyond the directors' assessment, when was the last time Telstra did an assessment of the types of issues that Senator Bishop and I just gave examples of?

**Mr Scales**—To be clear about your question, is this particular to directors?

**Senator MACKAY**—No. I will come back to directors.

**Mr Scales**—We are surveying, all of the time, issues to do with what is being paid in the market for a range of employees. We do that specifically for employees almost daily, because we are hiring people daily. We will often go to the market to try and get an understanding of what the market rate is. That market rate includes all of the things you have referred to. The total employment package for an individual includes issues like superannuation, equity schemes and various sorts of payments for performance. We are surveying those pretty well all of the time.

**Senator MACKAY**—I appreciate and understand it would be necessary for Telstra to look at this on a daily basis, but is there something a little more concrete? For example, was an assessment of comparability in the marketplace that was a little more detailed than what you are referring to done recently?

**Mr Scales**—Yes. Around every six months we look, in a very broad sense, at the payments paid to executives across the company.

**Senator MACKAY**—When was the last?

**Mr Scales**—I cannot give you the exact date, but it would be about December.

**Senator MACKAY**—December last year?

**Mr Scales**—December. We would do it generally around this time, and we would then do it again around December.

**Senator MACKAY**—So one is imminent, as it were?

**Mr Scales**—Yes.

**Senator MACKAY**—You mentioned executives and the assessment done last December. Would the committee be able to have a copy of that assessment?

**Mr Scales**—I do not have a copy of it with me. We use a number of sources. There are a number of reputable commercial organisations around which provide this information. They take a brief from us. We tell them what category of employee we are wanting to survey and they then provide us with various reports on that. We tend to try to seek information from

around three different companies, so we know we are covering the whole of the work force of Australia when we are doing these surveys.

**Senator MACKAY**—Which companies do you use as benchmarks?

**Mr Scales**—I cannot remember the exact ones, but Mercer Consulting is one and Hay Consulting is another. John Egan of Egan Associates does another. So we have some broad surveys in this area.

**Senator MACKAY**—Against which companies do you benchmark Telstra?

**Mr Scales**—We benchmark against the largest 10 and also against the largest 100, for a different purpose. There are even times when we take the top 50. We also use an organisation which has a different cut at that. For example, if we are looking for those in the IT specialty area, we might seek quite specific surveys for people employed in the IT sector. Here we might be looking not necessarily at company size, but at particular job descriptions.

**Senator MACKAY**—I appreciate that this is in respect of the broad variety of tasks performed by Telstra staff. What did last December's assessment show in respect of executives?

**Mr Scales**—It showed that, if I take the top 10 executives in the company, on balance they were about 25 per cent below the market.

**Senator MACKAY**—Presumably this is benchmarked against the top 10 companies. That would be one where you would benchmark against the top 10 companies?

**Mr Scales**—In that case, it might have been the top 20 but, in general, your point is correct.

**Senator MACKAY**—Mr Stanhope, coming back to the Telstra director, as I understand it, Sam Chisholm does not collect any director's fees—in fact, he declines them. Aside from the fact that there has not been an increase for four years, one would expect that inflation would be a factor, with normal CPI increases. Fifteen per cent is substantially higher than those two variables. What was the logic underpinning that recommendation?

**Mr Stanhope**—It was 15 per cent over four years with no increase. Market comparisons have led to that 15 per cent conclusion. They did not sit down and work out CPI and so on—it was more of a market comparison. We believe it is still set in the lower part of that market comparison.

**Senator MACKAY**—Is it in the same category as executives—25 per cent below?

**Mr Scales**—It is in fact much lower. The payments to directors are in the 25th percentile of what is paid to directors in similar services.

**Senator MACKAY**—So it is 75 per cent below?

**Mr Scales**—No. It is roughly 75 per cent of the maximum, but even that varies because the difference between various directors is something which also needs to be taken into account. For example, when we look at this issue, we look at directors who might be chairing an audit committee or similar. The point is that it is about the 25th percentile of what other directors are being paid in similar organisations.



**Senator MACKAY**—That would be benchmarked. Is that benchmarked again against the top 10?

**Mr Scales**—In general, yes.

**Senator MACKAY**—Are there any others in that top 10 where the majority shareholder is public—that is, the government?

**Mr Scales**—No.

**Senator MACKAY**—Given that the average Telstra director receives—please correct me if I am wrong—about \$100,000 for attending the nine meetings a year, I am wondering how the government, as the majority shareholder, views this potential 15 per cent increase in directors' remuneration.

**Senator Kemp**—I have got some advice from Mr Williams that I can share with the committee. The government, like all shareholders, will have the opportunity to exercise its voting rights at the AGM, which I understand will be held on 14 November. The government has not yet made any public announcement on its position in relation to the various Telstra board resolutions.

**Senator MACKAY**—What process would the government go through? Just out of curiosity, would that be a cabinet decision or be up to the individual minister?

**Senator Kemp**—The advice I have is that the type of decision on those matters I just raised would be made by the two shareholder ministers—Mr Williams and Mr Minchin.

**Senator MACKAY**—About when would the shareholder ministers be taking a view on that? Presumably it would be prior to the meeting.

**Senator Kemp**—That is a matter for them. I will draw your question to their attention.

**Senator MACKAY**—Thank you for that. Mr Stanhope or Mr Scales, what was the percentage increase in the fixed remuneration of Dr Switkowski from 2001-02 to 2002-03?

**Mr Scales**—I do not think I have the exact details of that figure. From recollection, it was around four or five per cent.

**Senator MACKAY**—From one financial year to another?

**Mr Scales**—Yes. I will need to clarify that. If that turns out to be incorrect, I will get back to you.

**Senator MACKAY**—Was that increase reflective of the average salary increase for all other non-executive Telstra employees?

**Mr Scales**—There was quite a variation across Telstra non-executive employees. For example, our staff on enterprise agreements achieved around a four per cent increase on average. Other staff, depending on the market conditions, would have achieved more than that over that period. It is actually quite difficult for me to give you that accurately. Due to the fact that we have, of our roughly 40,000 staff, around 25,000 staff on enterprise agreements, the four per cent or thereabouts would be broadly reflective of the amount which had been paid to staff over that period.

**Senator MACKAY**—Just taking the CEO as an example, I am just wondering how that four per cent figure was derived in the financial year that I mentioned. Did that vary from the previous financial year? How do you determine it?

**Mr Scales**—Do you mean for the staff or for Dr Switkowski?

**Senator MACKAY**—For Dr Switkowski specifically, as he was the obvious example.

**Mr Scales**—The setting of executive remuneration, as you would know, is an issue for the board. You would have been keeping abreast of all of the recent debates and developments around corporate governance, and there has been a significant debate around this particular issue. The issue of remuneration of the CEO is therefore not one that any other executive within the company necessarily gets involved. It is clearly a matter for the board. It has to be that way for appropriate reasons.

**Senator MACKAY**—So the board determined that figure of four per cent? Is that correct?

**Mr Scales**—That is correct.

**Senator MARK BISHOP**—This question is probably for you, Mr Stanhope. On page 127 of the 2003 annual report, Telstra's full-time employees fell by a further 3,258 in the financial year 2002-03. Can you provide the committee with a breakdown of these job losses by state and by occupation?

**Mr Stanhope**—Yes, but I would have to take that on notice.

**Senator MARK BISHOP**—Do you know what proportion of the 3,200 were customer field employees maintaining, fixing or upgrading Telstra's network?

**Mr Stanhope**—I think that will become clear in the answer that I give to your question that I have taken on notice. We will do the categorisation—

**Senator MARK BISHOP**—You would have some sort of broad knowledge of that—70 per cent, 80 per cent?

**Mr Scales**—It is nothing like that percentage. The complication comes through the differentiation you have created by talking about those employees, correct me if I am wrong—

**Senator MARK BISHOP**—I said by state and occupation.

**Mr Scales**—Not so much; it was the other categorisation: the customer field work force was involved. You used the words 'repair' or—

**Senator MARK BISHOP**—I said maintaining, fixing or upgrading Telstra's network.

**Mr Scales**—That is the dilemma we have in answering your question with any level of accuracy, because clearly we understand, in very rough terms, the number of people who would come out of the infrastructure services area would be about half of that number—

**Mr Stanhope**—It is about 1,500.

**Mr Scales**—But in terms of the exact numbers that are involved in the category of work that you have just described, that is more difficult for us to provide to you. We can only do that once we go back and have a good look at those numbers for you.

**Senator MARK BISHOP**—I understand and that is fine. Can you give us a brief description of the category of infrastructure services? What does that mean?

**Mr Scales**—It is the part of the business that is involved in maintaining and extending our infrastructure.

**Mr Stanhope**—It is installation and fault repair.

**Senator MARK BISHOP**—Of the 3,200 jobs that were cut in the 2002-03 financial year, about 1,500 came out of installation and fault repair.

**Mr Scales**—It could have been slightly more; it is about half.

**Senator MARK BISHOP**—That 1,500 or 1,600 have been taken off Telstra's books. Has that work been outsourced? It still has to be done, doesn't it?

**Mr Stanhope**—Some of it has come from productivity improvement. There is no doubt about that. I think the last time I was here, I talked about a seven per cent productivity improvement in that area—right across Telstra; it is probably a little higher in the infrastructure services area—and some of that work has been contracted out. Many ex-Telstra employees work for contractors, so I guess the employment in many cases has shifted from Telstra to contractors.

**Senator MARK BISHOP**—They have gone from being direct labour to contract employees.

**Mr Scales**—Just to be absolutely clear about this, in terms of the percentage relationships between work done internally and that done by contractors, that has not changed in any remarkable extent over that 12-month period. Mr Stanhope was saying that we have a number of work forces available to us in the way in which we organise the work we do within the company: we have our own staff and staff that are employed by contractors. The proportions between those has not changed significantly over the last 12 months. If the nature of your question is: have we taken staff out of the company and transferred that work to contractors? The answer is no, not to any discernible extent. It might be a percentage point here or there, but if your point is: have we taken out those 1,700 or thereabouts people and transferred that work to contractors? No, we have not done that.

**Senator MARK BISHOP**—That was clearly one angle.

**Mr Scales**—No, we have not done that.

**Senator MARK BISHOP**—You say that the proportion between direct employees and outsourced work has remained pretty constant over the last 12 months. Is that to a predetermined formula? Do you have some optimal rate for internal employees?

**Mr Scales**—No, it is not.

**Senator MARK BISHOP**—So that could change either way in the next 12 months?

**Mr Scales**—And it does. For example, most recently we decided that we would bring back inside the company a group called NDC—Network Design and Construction—that used to be a separate business of ours. That has created some real opportunities for work that may not otherwise have been there. We are now using that organisation as part of Telstra to extend our footprint in the wholesale area of construction. So it will vary up and down. The approach

which we take is to try to pick the most appropriate tool to deliver the most appropriate outcome. In some cases that is to do it internally and to extend our internal work force; in some other cases it is to provide a very appropriate and sophisticated contractor network outside our own business that we will draw on from time to time to extend our infrastructure footprint.

**Senator MARK BISHOP**—We agreed that there were something like 3,200 job losses in the 2002-03 financial year. You have advised that about 50 per cent of those, give or take, relate to infrastructure services. What do the other 50 per cent relate to?

**Mr Scales**—It would be across the company. For example, it would be in the areas of our sales and marketing teams or it might, for example, be around some call centres, but generally it is right across the company.

**Senator MARK BISHOP**—So there is not another major subheading of say 35 per cent that you can attribute to sales and marketing or call centres?

**Mr Scales**—No, nothing like that.

**Senator MARK BISHOP**—In addition, can you take on notice where the other 50 per cent of the jobs have been lost from direct employees.

**Mr Scales**—Yes, we can do that.

**Senator MARK BISHOP**—I have asked for it by state and occupation, but could you also do it by the internal generic descriptions you have for divisions.

**Mr Scales**—Yes, we can do that. The senator would be aware that Telstra is under intense competition. This is an issue which we are always having to look at and become concerned about. Clearly, as our market share declines, so does our ability to maintain the current level of our work force—

**Senator MACKAY**—Maybe you shouldn't be increasing your directors' fees then.

**Mr Scales**—and so, to all intents and purposes, we really are required to look at this almost on a daily basis. That varies right across the company.

**Senator MARK BISHOP**—I understand that argument. You identified 3,200 jobs internally for the financial year 2002-03. What is the forward figure for the financial year 2003-04?

**Mr Scales**—We do not have a forward figure.

**Senator MARK BISHOP**—What then is the figure for the year to date?

**Mr Scales**—The financial year to date figure would be around 1,400.

**Senator MACKAY**—That is 1,400 so far to the beginning of November?

**Mr Scales**—Can I counsel the Senate not to extrapolate numbers. Simply because there might have been 1,400 so far, it would be completely inappropriate to therefore divide that by the number of months and extrapolate that for the full year, because we simply are not in a position to be able to do that or suggest that.

**Senator MACKAY**—I understand that, but in the absence of any other information from Telstra, what should we do? You must have some ballpark planning in respect to job shedding for this financial year.

**Mr Scales**—No. As I was trying to explain, we are looking at the extent to which we are able to compete effectively in the marketplace and we have to accommodate our work force accordingly—it is a highly competitive market.

**Senator MARK BISHOP**—I remember when I was doing this job about three years ago, Mr Stanhope, you used to come in with a series of figures. I cannot remember the name of the project that the company was running where you were taking out massive costs savings on an annual basis, but I used to grill you about that and we used to get figures. What was that project called?

**Mr Stanhope**—I do not know if it had a name, but about three years ago we embarked on a project where there were fairly large staff reductions. I think you are referring to a time when we reduced our staff by about 10,000 people.

**Senator MARK BISHOP**—Yes.

**Mr Stanhope**—That project is finished and, as Mr Scales said, we do not have any specific staff reduction programs. We put our plan together looking at revenue growths and what we are trying to achieve with our earnings growth. Staff numbers are an outcome. It is not something we manage as a number through the year. We did run the program that you are referring to.

**Senator MARK BISHOP**—That is done now?

**Mr Stanhope**—Yes.

**Senator MARK BISHOP**—So you would say it is now just a management task relating to the demands of the marketplace.

**Mr Stanhope**—That is right. I would like to re-emphasise Mr Scales's point: we have recently had a conversation about the competition for contacting customers and we might have to put some staff back into the organisation. So it fluctuates up and down.

**Senator MARK BISHOP**—Where were the 1,400 job losses, by occupation and by state, in the year to date that you referred to, Mr Scales? If you do not have the information, can you please take the question on notice?

**Mr Scales**—Are you talking about the jobs lost so far this year, Senator?

**Senator MARK BISHOP**—Yes. Also, the internal generic head for the particular divisions.

**Mr Scales**—We can certainly do that.

**CHAIR**—Senator Bishop, we might have a break now and then everybody can come back refreshed.

**Proceedings suspended from 11.01 a.m. to 11.15 a.m.**

**Senator MARK BISHOP**—I want to go back to the job losses. We know that something like 3,200 customer field employees were lost in the previous financial year.

**Mr Scales**—No, that is the total number; it is not the customer field work force number. To clarify that, that is the net change in jobs over that period, of which some would be in that area and others would be generally across the company. In addition to that, we are always recruiting people at the same time. The important point I would make is that that is a net issue, and there are both additions and subtractions as a result.

**Senator MARK BISHOP**—I take that point, Mr Scales. Thank you for that. The figure for the year to date is something in the order of 1,400.

**Mr Scales**—That is correct.

**Senator MARK BISHOP**—You have cautioned against annualising that figure. Can you give us the figures in the current financial year on a month by month basis?

**Mr Scales**—I do not have them here, but we can get them for you.

**Senator MARK BISHOP**—Is it roughly equal—

**Mr Scales**—No, it is not equal. In fact, that is the reason I was cautioning against the extrapolation. While for convenience sake for accounting purposes you look at it for a financial year, we do not run the business quite like that. A relatively large number of people were made redundant in the very early part of the financial year, and there were others who were employed or re-employed during that period. There have probably been more in the first month or two than in the subsequent months. It does vary. That is why I will need to get you those exact numbers.

**Senator MARK BISHOP**—It is fair to say that that figure of 1,400 will increase for the remainder of the financial year?

**Mr Scales**—No, it is not. We cannot predict that, for the reasons I said earlier, because it very much depends on our ability to compete in the marketplace. It is not possible to be able to extrapolate that out any further. As I said earlier, we do not manage by that particular characteristic. We manage by cost and a whole range of other things, including our ability to operate effectively in the marketplace.

**Senator MARK BISHOP**—I think we meet three times a year. Certainly when I was doing the job we used to have a discussion on the net job losses three or four times a year. Over the break I went back and checked some of the *Hansard* for the last two years, and at every session since the last election there have been questions put to Telstra on the net job loss in the period. It is a recurring feature of questions asked here.

**Mr Scales**—Indeed. It makes a good headline.

**Senator MARK BISHOP**—It probably does make a good headline. It is of interest.

**Senator MACKAY**—That is why you do not want to answer it, isn't it, Mr Scales?

**Mr Scales**—No. I suspect it is why it is being asked.

**Senator MACKAY**—It is being asked because this is estimates and we want to know. Do you think we should not be asking these questions?

**Mr Scales**—No. That is a different issue. I have already tried to provide as much information as I can up to the period so far, and I think it is reasonable to accept that I should caution against extrapolating it for the full year. That is the only point that I am making.

**Senator Kemp**—Senator Bishop makes a reasonable point. I can recall the many years when this government was in the wilderness, and every estimates we would ask about the job losses at Telstra—and in those days they were huge—and the minister at the table here was arguing the case.

**Senator MACKAY**—This is the first time we have not had an answer.

**Senator Kemp**—You will get an answer.

**Senator MACKAY**—Sorry, Senator Bishop.

**Senator MARK BISHOP**—Senator Kemp referred to the period when they were in the wilderness and the period during which we have been in the wilderness. Three times a year questions have been asked as to net job losses within the corporation, and now, for the first time in the best part of 15 or 20 years, you are unable to provide ballpark figures on net job losses in the financial year. Is that what you are saying?

**Mr Scales**—That is right, yes.

**Senator MARK BISHOP**—Why is that? Why is there that change in policy?

**Mr Scales**—It is not a change in policy. We have been saying this consistently. Unfortunately, it might have changed in the three years that you have not been here. But certainly in the time I have been at Senate estimates we have been making the point that Telstra does not manage to headcount; Telstra manages in accordance with its total costs, and it manages in accordance with its ability to operate effectively in a competitive marketplace. That is what we manage to. We are in a highly competitive marketplace, and it would be misleading the Senate to provide information to you which we did not know was accurate.

**Senator MACKAY**—Can I say something here, Senator Bishop? Mr Scales, I think you answered a question previously about projected job cuts, and I think you indicated that there would be about 3,000. You were pretty much spot-on, were you not—3,200?

**Mr Scales**—It might have been my colleague Mr Stanhope who spoke about that at the time.

**Senator MACKAY**—It was pretty much spot-on, so I think we can trust Telstra in terms of the veracity at least of this bit of information. So please feel free to ballpark it.

**Mr Scales**—What we have tried to do is provide you retrospectively, without equivocation, with what have been the numbers. The issue being put to me is prospective.

**Senator MACKAY**—In the past you have been prospective, and you have been accurate.

**Mr Stanhope**—To be fair, when I did give you that number I think it was about March, and there was not much left of the year to go, so it was far easier to be prospective than it is now, only three months into a year.

**Senator MACKAY**—But if Telstra does not answer this question, Mr Stanhope, then it could be 5,000, it could be 6,000, or it could be not much more than 1,400. I think the point we are trying to make here is that Telstra must have some ballpark figure that it is working to; otherwise, it is a willy-nilly exercise whereby in terms if your competitive regime you mentioned it could be 10,000. How does the Senate deal with that type of information?

**Mr Scales**—Just trying to refer to Senator Bishop's comments earlier, we are making choices all the time about whether we will recruit people to take over roles that are currently played by contractors, for example. We are making those decisions almost across the company. These are decisions that are made in accordance with our very broad corporate objectives, and they therefore change those net numbers quite considerably.

**Senator MACKAY**—So it could be 10,000?

**Mr Scales**—It is not possible to speculate, and I certainly am not prepared to do it.

**Senator MACKAY**—You leave us no choice if you will not provide us with more information. It could be 20,000. I do not think there are 20,000 employees left, are there?

**Senator MARK BISHOP**—I am not going to quarrel with the way you choose to manage the company, and I accept your argument that you do not manage a \$1 billion corporation via employment numbers—I do not quarrel with those two propositions you are putting to me—but you have a corporate objective of reducing capital costs, you have a corporate objective of reducing variable costs, one of which is labour, and that is public information, and there is a relationship between your employment levels and your variable costs.

**Senator MACKAY**—Correct.

**Senator MARK BISHOP**—What I am asking you—

**Mr Scales**—No, that is not necessarily logically consistent, for this reason: let us just say, for example—and I am not arguing that we would do this—we decided not to provide any additional work to contractors. That would reduce our variable costs, it would reduce our total labour costs and it would have no effect on the staff employed by Telstra.

**Senator MACKAY**—But you cannot do that, Mr Scales. You cannot reduce all work to contractors, can you?

**Mr Scales**—I was not arguing that we would; I was addressing the logic of Senator Bishop's comments.

**Senator MACKAY**—I do not think that is what he meant.

**Senator Kemp**—Thanks for that, Sue!

**Senator MACKAY**—You are welcome; anytime.

**Senator MARK BISHOP**—There is a rough correlation between income and outlays in terms of your variable labour costs for directly hired employees.

**Mr Scales**—That is true.

**Senator MARK BISHOP**—You are constantly seeking to cut out capital costs. Leaving aside capital costs, you are also constantly seeking to reduce your variable costs.

**Mr Scales**—Yes, that is correct—of which labour is one part of the variable cost.

**Senator MARK BISHOP**—Of which labour is only one part—I accept that. What variable cost reduction are you seeking in this financial year—one per cent, 1.5 per cent?

**Mr Scales**—Mr Stanhope might be able to give you a more detailed explanation of it from that point of view. But we look at the total cost of the company and what we are trying to do



is reduce the waste out of our total costs—where we believe it is appropriate to reduce. So we do not look at it in the way in which you have just described it.

**Senator MARK BISHOP**—But it is on the public record that Telstra's capital reinvestment is currently being significantly reduced. The chief officer has made that point on numerous occasions, and I have seen the speeches, it has been in the press and it has been reported to the shareholders meeting—so be it. The only other costs you have got apart from capital costs are variable costs. I am seeking to find out whether the reduction in variable costs, of which labour is a subgroup, is correlated to or consistent with the reduction in capital reinvestment.

**Mr Scales**—It is probably less than the capital issue.

**Mr Stanhope**—Yes, it is. I think the capital reduction is probably around seven per cent. In our plan there is an operational expense reduction target. I can sit here now and say that I cannot tell you with any certainty that we will achieve that target. It is somewhat aspirational; so are our revenue targets. You cannot really sit here after one quarter of the year has gone and say that it is going to be X per cent.

**Mr Scales**—But there is also another reason why we have to answer this in the way that we do. I am always approving re-employment, and I am approving re-employment or employment of staff because we are making constant choices between the cost of employing, for example, agency staff and the benefits of that at a particular—to use your words—variable cost and the cost of employing our own staff, those employed by Telstra. The number of people can be in the hundreds. That is why we are not trying to obfuscate this issue; we are trying to be as honest as we can with you about how we try and run this company. We try to do it in a way which is not focused on the number of employees that we employ. That is not what we are focused on.

**Senator MARK BISHOP**—We are not arguing that it is. We are simply trying to determine what will be the quantitative consequence of the company impacting its current mission statement in a range of areas. At this stage we are simply concentrating on the net number of employees.

**Mr Scales**—I am afraid I cannot give you that number.

**Senator MARK BISHOP**—In that case, we will ask the questions again in December. You will have the figures at the end of November.

**Mr Scales**—We will certainly be able to give you what the figures are up to that point, without any question. In fact, I will come prepared with that so we can provide them to you accurately.

**Senator MARK BISHOP**—I want to turn now to the problems in the customer access network highlighted by the recent Senate inquiry into the Australian telecommunications network. There was a modest \$30 million increase in the 2002-03 CAN expenditure, as outlined on page 99 of your annual report. Has that been sufficient to upgrade and maintain your regional PSTN?

**Mr Scales**—The way in which we always look at these issues is not by inputs but by outcomes. One way by which you can do that is by looking at the ACA reports and trying to

make a judgment. I think the ACA reports will show that, over about a four-year period, there has been a constant improvement in the network and in the way in which the outcomes of the establishment of that network have been able to provide services to customers. When we look at this, the way in which we think about it is that we are looking at the outcomes. We would say, on balance, that it has been adequate. Not only are we spending more money on the CAN, as you quite rightly said, but we are also improving the productivity of the work done on the CAN. We believe that it is adequate.

**Senator MARK BISHOP**—So your current thinking is that that figure of \$30 million is sufficient and adequate. It is under review, as always, but there are no immediate plans to either increase or decrease that figure.

**Mr Scales**—It is always under review. You have raised exactly the right issue. Where we see that there is a need to spend more money in particular areas we do so. We have a history of doing that. It is always under review.

**Senator MARK BISHOP**—The figure of \$30 million comes out of your annual report. My question is: in the year to date, is that figure accurate and within expectations, or are you thinking about supplementing it?

**Mr Scales**—It might be marginally above that. I do not have the exact figure in front of me. Just to give a balance to that figure, we spend an enormous amount on the customer access network each year. The figure that you have raised is the marginal increase over that very large amount, and I think that needs to be kept in perspective. In the broader sense, when one thinks about the amount which we spend on so-called capital expenditure, a large proportion of it is spent just in that area. I think it is in the vicinity of \$900 million.

**Mr Stanhope**—Yes, it is.

**Mr Scales**—When you talk about \$30 million, that is \$30 million on top of the \$900 million which we spend simply as a matter of course.

**Senator MARK BISHOP**—This is not a trick question. When you put those figures together—your forecast expenditure of \$30 million on top of the \$900 million—that is three per cent or thereabouts. Now you are in the process of implementing those outlays. Is your experience consistent with the forecast?

**Mr Scales**—Yes, it is. But I have to add that we have this constantly under review.

**Mr Stanhope**—A lot of our customer access network capital program depends on customer demand. It does fluctuate with customer demand.

**Senator MARK BISHOP**—Does the capitalised software component of your capital expenditure budget table on page 99 of the 2003 annual report include capital expenditure on BigPond software?

**Mr Stanhope**—Yes, it would.

**Senator MARK BISHOP**—Can the downgrading of that expenditure by 17 per cent help explain some of the problems with Telstra's BigPond in recent years?

**Mr Stanhope**—Not really. Over the last couple of years, when online services have taken off, we have spent about \$250 million in that area. It is not a matter of how much we spent on

BigPond that is at the core of the issue. We can talk about that later if you wish. It is not about underspending in the area.

**Senator MARK BISHOP**—So the level of capital reinvestment in BigPond has been sufficient?

**Mr Stanhope**—I would not say that. As an outcome of the BigPond email situation, we have realised that, with the spend that we have made and the fact that a virus has impacted the system, we probably did not have enough headroom in the capacity. But we had spent sufficient money on BigPond or online services, provided that something like that event did not occur. You could argue—and we have said—that in hindsight we should have had more capacity to anticipate an attack like that on the system.

**Senator MARK BISHOP**—Because there are always new and different viruses emerging which have different degrees of ability to create damage, aren't there?

**Mr Stanhope**—Yes, that is true.

**Senator MARK BISHOP**—I would presume that in your planning process you would take into account additional capital outlays for new viruses?

**Mr Stanhope**—It is fair to say that we did not provide for that sufficiently.

**Senator MARK BISHOP**—Is that because the new virus is so radical and so different?

**Mr Scales**—This one was. This was a virulent virus, if I can use a medical analogy. To give you a sense of it, it was equivalent to us having to take on something like an additional 300,000 customers in one day, so for us this was virulent. That is not in any way to suggest that we should not have anticipated something like this or that we are trying to excuse ourselves. We are not—not for one minute.

**Senator MARK BISHOP**—I think there is going to be further discussion on BigPond, so I might leave that whole issue for Senator Lundy later. There are some technical aspects there. Can we turn to page 99 of your annual report where you state that your capital expenditure is going to be around \$3.3 billion for the financial year 2002-03. Can you give us the projected capital expenditure for 2003-04 and 2004-05.

**Mr Stanhope**—I cannot for 2004-05, but our guidance is around \$2.9 billion for 2003-04.

**Senator MARK BISHOP**—That is a reduction of a bit over 10 per cent. What is the cause of that?

**Mr Stanhope**—The way we put our capital program together is that we look at customer demand and the efficiency that we might get out of our capital program, in terms of both labour productivity and also through sourcing—how we can lower the prices. Technology is costing less as we move into different technologies, and we have various capital categories that we work out our capital program in. We have what we call a sort of baseline capex which is totally driven by customer demand, so you work out how many of these will be needed by the cost—that is the simple methodology—and, fundamentally, in the 2003-04 year about \$2.1 billion will be spent on those sorts of things: customer demand plus some asset life cycle replacement. In a capital program you will always get the need to upgrade the airconditioning plant and those sorts of thing. All that is included in about \$2.1 billion.

**Senator MARK BISHOP**—You would be able to do that customer demand and asset life cycle replacement with a fair degree of accuracy.

**Mr Stanhope**—That is right. On top of that, we have planned to spend about \$800 million—so that is how you get your \$2.9 billion—on what we call more discretionary items, such as new product development, product enhancements, operational efficiency programs like upgrading front-of-house systems and things like that. We call it discretionary. Nothing serious would happen if you did not spend it, but the point is that if you did not spend that \$800 million, you would not be as competitive and you would not have your products coming to the market. There is an investment management committee in the company which I chair and other group managing directors are a part of. We look through this program at the start of the year and that is how we decide what the capital program should be.

I believe it is a very good, strong, robust process by which we decide our capital program. The \$2.9 billion is a guide. If something were to come along whereby we needed to spend more than that, we would. The role of that investment management committee is also to look at the returns we make on the investments. It is also to look at where we should strategically spend. Not everything we spend necessarily delivers a return, because we have to do the things in rural Australia that we do and so on. We look at the total program and allocate it across those categories.

**Senator MARK BISHOP**—I understand that. Earlier you said that \$2.1 billion of capital expenditure was related to customer demand and asset lifestyle, and I understand that. This other figure of \$800 million, reduced from \$1,200 million, is what you call discretionary outlays. That is really \$400 million of savings on \$1,200 million. That is 33 per cent. Firstly, that is a huge amount as a percentage of discretionary capital outlays and, secondly, it reflects, does it not, a fundamental change in the policy approach the corporation brings to capital expenditure?

**Mr Stanhope**—You have made a simple assumption there as to all the savings in the discretionary area.

**Senator MARK BISHOP**—We are going from \$3.3 billion down to \$2.9 billion. That is a difference of \$400 million.

**Mr Stanhope**—Yes.

**Senator MARK BISHOP**—The \$2.1 billion—

**Mr Stanhope**—The \$2.1 billion is baseline capex, but you are making a simple assumption that the \$2.1 billion was \$2.1 billion last time.

**Senator MARK BISHOP**—Then what was it last year?

**Mr Stanhope**—That is a good question. It was probably around \$2.2 billion or \$2.3 billion.

**Senator MARK BISHOP**—So it is \$100 million or \$200 million off the \$2.1 billion. Nonetheless, if we take \$200 million at the outside, we are still talking about a change in discretionary outlays of somewhere between 16 per cent and 25 per cent. I would still categorise that as a fundamental change in policy approach.

**Mr Stanhope**—It does vary from year to year, and it will vary from year to year. You will go through cycles on your spend, particularly in the IT area. For example, you will complete a

system. A major system build that we have almost completed deploying in the install and maintenance area is Future Edge. That money has been spent. It will go in cycles.

**Senator MARK BISHOP**—Are these discretionary outlays being cancelled, or are they just being put off to perhaps be reconsidered in one, two or three years time?

**Mr Stanhope**—When we look through our program we will do all the things we believe are necessary to do in the year. I can give you an example in my own finance area, where we would like to upgrade the fixed assets system in the accounting system. Is that something that has to be done in 2003-04? No. So that spending will go to another priority.

**Senator MARK BISHOP**—But it does have to be done sooner or later, doesn't it?

**Mr Stanhope**—Yes, sooner or later.

**Senator MARK BISHOP**—So a lot of these cuts in discretionary capital outlay are really going to the out years, for want of a better description—into the future.

**Mr Stanhope**—That is management's job. Management's job is to say, 'What are all the projects? What are the priorities of the company? What are the cash flows of the company? What can we afford to do, and what can't we do? What shall we do first? Where do we get our returns?' This is a fairly high-powered investment management committee. It has all the group managing directors on it. We make those priority decisions.

**Senator MARK BISHOP**—Of course you do. That is what you are paid for. But you are telling us here that your capital outlays are going down. I am being given a hint to move on, so we will now move to Telstra debt collection practices. Can you outline for the committee the current practice of selling off consumer debt?

**Mr Stanhope**—We have sold off some debt to two agencies—Alliance, which is a Baycorp company, and RML—Receivables Management Limited. We sold that off in June and December last year. We believe it is a normal commercial practice to factor or sell off debt, and we sold about 1.2 million accounts—that is \$600 million worth.

**Senator MARK BISHOP**—So an aggregate of \$600 million was sold to the two companies in the two tranches?

**Mr Stanhope**—Correct.

**Senator MARK BISHOP**—And that totalled 1.2 million accounts?

**Mr Stanhope**—Yes.

**Senator MARK BISHOP**—What was the book value of that \$600 million as receivables?

**Mr Stanhope**—The book value of the \$600 million was \$600 million.

**Senator MARK BISHOP**—You did not sell it for its actual price, did you? Isn't there a discount when you sell it?

**Mr Stanhope**—Sure. We factored the debt for a commercial agreement between the two factoring companies and ourselves. What we got paid for the debt is a contractual arrangement between us and those two companies, and there will be commercial confidentiality in those contracts. Sale of debt is a competitive process.

**Mr Scales**—We have answered this question at a previous Senate estimates, and I think Mr Stanhope did say that he was able to achieve less than full book value for the debt.

**Mr Stanhope**—By a long way. I think I did say last time less than 10c.

**Senator MARK BISHOP**—Less than 10c in the dollar?

**Mr Stanhope**—Sure.

**Senator MARK BISHOP**—So it was \$6 billion worth of debt?

**Mr Stanhope**—No. It was \$600 million worth of debt, and we got less than 10c in the dollar for it.

**Senator MARK BISHOP**—I am sorry. How far back do these debts go?

**Mr Stanhope**—They go back about six years.

**Senator MARK BISHOP**—Are most of them current debts, or are they over, say, one or five years old?

**Mr Stanhope**—The oldest is around six or seven years old.

**Senator MARK BISHOP**—Are they private consumers like you and me, or are they companies?

**Mr Stanhope**—There are businesses and consumers.

**Senator MARK BISHOP**—Do you have a break-up of the two?

**Mr Stanhope**—Do I have a consumer-business debt figure? I could get you that number.

**Senator MARK BISHOP**—Please take that on notice.

**Mr Stanhope**—I will.

**Senator MARK BISHOP**—When you sell the debts to these companies, do you do due diligence to ensure that the debts are accurate?

**Mr Stanhope**—Yes, we do.

**Senator MARK BISHOP**—Or is that the job of the buyer?

**Mr Stanhope**—No. We sweep through our database several times to try and ensure the accuracy of that debt being sold. It is almost impossible to give any guarantee that it is perfect. We have a system in place called the Integrated Credit Management System. We think it is a very good system. We believe it is a state-of-the-art system. But can I sit here and say that there would not be a mistake in an account? I cannot, and some have been found. As soon as a customer disputes that they owe the money and objects to either the factoring agency or us—if they dispute it with the factoring agency that query comes back to us—we will go and check it, and if we have made a mistake it gets withdrawn.

So there are processes and contractual processes in place. For example, nothing that is less than 60 days old can get placed on a default list. It has to be 61-plus days old. That is part of the Privacy Act. Most would get put on a default list when they are around 100 days old. Remember that a whole process has been gone through inside Telstra before the debt has gone to an agency to try and recover it. We send out probably a million reminder notices a month. We go through a pretty rigorous process in credit management to try and recover the debt.

Selling the debt is the last point in that chain of trying to recover the money. Last year Telstra had bad debts of \$157 million, so it is a huge amount.

**Senator MARK BISHOP**—You said you flogged off 1.2 million of these accounts, some six years old, in June and December last year. Presumably the two companies are about recovering those moneys. How many complaints have you received that the debts that they are seeking are inaccurate, have been paid or are just plain wrong?

**Mr Stanhope**—We have received 1,044 complaints through the TIO's office. That is 0.09 per cent of those 1.2 million accounts. Of those 1,044, 331 have been escalated complaints. That means a complainant has not been satisfied with the result of their first complaint and has complained again. So I guess 734 is the real number of complaints that have come through the TIO's office. That is in relation to the sale of debt. Do we get other complaints about credit management? Of course we do. Take the eight months ended September 2002. We had 7,988 complaints. To September this year—the September just gone—we had 6,753 complaints. So those complaints about credit management have declined. What sort of complaints do we get in that nonsale of debt category? It is usually that they are denying the liability for the debt, that they have been disconnected when they think they should not have been, that they are offended at a collection letter tone, that they have not had enough time to pay or that they think they have paid and a payment has gone missing. The other thing I would like to point out—and we are trying to get more publicity about this out there amongst our custom base—is that we do offer payment options. People can phone the company and say, 'Look, I'm having hardship. I'd like to pay so much off a month,' and so on. We think—and I am not just saying this because I run the credit management group—we have a fairly robust process.

**Senator MARK BISHOP**—How many of those 734 complaints that were made relating to debt sell-off did you uphold?

**Mr Stanhope**—I do not have that answer with me, but I could get you that.

**Senator MARK BISHOP**—What is your experience? What is your thinking?

**Mr Stanhope**—It is absolute, but it is a fairly small number where we have agreed with the complainant or changed or withdrawn the debt, for example. But I can get you that number. I will take that on notice.

**Senator MARK BISHOP**—What is Telstra's response to the TIO report of 9 October, which stated that debt recovery companies to whom debts have been sold are inappropriately default listing customers, chasing debts that have been previously waived and not providing itemised accounts with total amounts owing and dates incurred?

**Mr Stanhope**—We are in constant touch with the TIO, and we are concerned about any level of complaint. There is no doubt about that. We have gone back and investigated every complaint. As I said, there are few that do have grounds to remove, but where there have been we have removed them.

**Senator MARK BISHOP**—We have had that discussion. I am talking about the deliberate conclusions of the TIO, which said that companies to whom debts have been sold are inappropriately default listing customers, chasing debts previously waived and not providing

itemised accounts. What is your response to the TIO's assertions? Do you dispute those assertions?

**Mr Stanhope**—No. There have been instances where there have been some accounts that should not have been fault delisted. In those circumstances we have talked to the customers and, if it has been proven they should not have been, the delisting has been withdrawn. As I said earlier, in 1.2 million accounts, even though we scanned through that database several times, there are some that should not have got through. But it is a very low number.

**Senator MARK BISHOP**—We are not talking about one, two or three accounts. The Ombudsman has made the point of highlighting those particular problems. There are not just one or two, are there?

**Mr Scales**—From the perspective of the TIO, it is doing the right thing. It is bringing these issues to our attention and, by the way, to other organisation's attention; it is not just Telstra. You need to take that into account. That comment was not directed particularly at Telstra. The TIO is doing exactly what it is paid to do—that is, to protect consumers in this market, to give consumers an opportunity to have another voice, another means of appeal. We completely respect that right, and we work with the TIO to address these issues when they emerge. Quite frankly, if it were one, we would be worried about it. So the number does not actually matter to us.

I personally sit down with the TIO, as does John, and we go through these issues in a way which says that, if it is only one, we want to know about it. We also try and encourage our customers to come directly to us so that we can address the complaint. Even if it were only one, we would be concerned. We have no complaint with the TIO. It is doing the right thing. It is doing what it is paid to do. Quite frankly, it is doing what we, the various telecommunications organisations, ask it to do, and that is to act as a voice for consumers in this area. So we have no complaint with the TIO.

**Senator MARK BISHOP**—The TIO has suggested that Telstra take action to ensure that the outsourced debts are valid. What procedures have you taken to give effect to that?

**Mr Scales**—I will let John cover the details of that; but, again, that is something which we value from the TIO. Even though we encourage people to come to us with their complaints, you can understand why people might prefer to go to what is clearly an independent organisation like the TIO. Certainly that is an issue which we are concerned about.

**Mr Stanhope**—In the interests of time, we have responded to the TIO, who asked the very same question: what have you done to make sure your processes—

**Senator MARK BISHOP**—What is the answer?

**Mr Stanhope**—I would be happy to provide a copy of that.

**Senator MARK BISHOP**—Do you have a response to that?

**Mr Stanhope**—In the interests of time, I would be happy to give you a copy of the response which answers the question, 'What have you done?'

**Senator MARK BISHOP**—Finally, a finance question: does the company intend to continue the practice of outsourcing consumer debts—of flogging the debts?



**Mr Stanhope**—We may well do. It is a commercial practice. Right now, I have decided to put a hold on it to make sure that those process improvements that we have told the TIO we are putting in place are in place, and when they are all in place it is likely we will do it.

**Senator MARK BISHOP**—You have a current hold on it, you are reviewing the recommendations of the TIO and you will revisit the situation when you have another accumulation of debt?

**Mr Stanhope**—We do have one. We now have an accumulation of debt, but I will review the situation as to whether we sell debt again when we have done all the process improvements that the TIO have suggested and that we have suggested to the TIO that we will do.

**Senator MARK BISHOP**—When will you review that situation for the next outsourcing?

**Mr Stanhope**—I will review that in the new year.

**Senator MARK BISHOP**—Early in the new year?

**Mr Stanhope**—Yes.

**Senator MARK BISHOP**—Okay.

**Senator LUNDY**—I would like to ask some questions about Telstra's decision to offshore 180 jobs within Infosys.

**Mr Scales**—Senator, I did not hear what you said.

**Senator LUNDY**—Can you confirm that Telstra will be contracting Infosys to provide information technology services and that the reports in the media of 180 jobs going offshore are in fact the case?

**Mr Scales**—I can confirm that we are working with Infosys, but I cannot confirm the 180 jobs.

**Senator LUNDY**—How many jobs are going offshore?

**Mr Scales**—I do not know the answer to that.

**Senator LUNDY**—We know that some are going offshore, because it has already been reported in the media that part of Infosys's strategy is to transfer some of that employment off Australia's shores. You must have some idea.

**Mr Scales**—No, we do not. That is an issue you should put to Infosys, not to us.

**Senator LUNDY**—Given that you have just directed me to ask these questions of Infosys, I presume that, when I go to ask Telstra directly about their role as an IT outsourcer through Telstra Enterprise Services, you will redirect questions about the operation of that contract.

**Mr Scales**—We will answer questions about Telstra Enterprise Services. That is one of our businesses. There is no question; we will answer those.

**Senator LUNDY**—Good. I will come to those questions in a minute. Now I would like you to tell me, given that Telstra already has as a fully owned subsidiary an information technology services provider competing in the same market as Infosys, why Telstra has chosen to contract out those services to Infosys rather than use TES to do the work and thereby keep the jobs on Australia's shores.

**Mr Scales**—They operate in different markets. They are quite different businesses. I would be quite happy to brief you in detail about the differences in the businesses if you wish.

**Senator LUNDY**—What aspects of business are Infosys taking over from IBM GSA?

**Mr Scales**—Primarily it is about the maintenance of software. There is some software development, but primarily that is the area in which they are involved. It is not an area that Telstra Enterprise Services have necessarily been involved in in the past, and it is not an area that we are likely to be involved in in the future.

**Senator LUNDY**—Can you confirm reports in the *Financial Review* that up to 1,500 jobs could be moved offshore?

**Mr Scales**—No, I cannot confirm that.

**Senator LUNDY**—Why was that information reported?

**Mr Scales**—I have no idea.

**Senator LUNDY**—It is attributed to an email from Telstra CIO Jeff Smith. Such an email also indicated that other contracts held by Deloitte Consulting would also be examined and possibly sent offshore.

**Mr Scales**—The article, if I remember it correctly, highlighted the fact we discussed the last time we were here, when Senator Murphy raised this very issue. We answered the question from Senator Murphy at the time. We certainly did not deny—it is on the public record—that we are working with a number of companies in this area. All that particular article did was confirm what we have been saying for quite some time, so it is old news. I do not think Jeff Smith made any comment about any number of staff losing jobs. Certainly we do not have any knowledge of that, and I cannot confirm that.

**Senator LUNDY**—What form of communication has Telstra had with the government in relation to this issue? Who did you speak to and precisely when?

**Mr Scales**—I cannot give you an answer to that. We have briefings with the department. For example, I conduct briefings with the department from time to time. After that announcement was made, I am sure that I spoke to the department about it. I can give you the dates when that was held, if you wish. That is a normal process we go through.

**Senator LUNDY**—An article in the *Financial Review* on 9 September 2003 says:

Mr Smith said the federal government, as Telstra's majority shareholder, had been kept informed of the Infosys business.

“There have been communications. Responsibility rests largely with Telstra management and the decision has been reviewed by a combination of stakeholders.”

The government was fully briefed on the end goal of Telstra's transformation project, which sought both to lower costs and improve quality, cycle times and business outcomes, he said.

Can you explain the nature of that communication with the department?

**Mr Scales**—That is consistent with what I have just said. Once a decision is made, we keep the government involved and informed—the same as many commercial organisations do, of course, when they are making changes like this. We certainly kept the department informed, after the event, that we were doing this.

**Senator LUNDY**—Perhaps I can ask the department. When did Telstra raise this issue with you? Have you got a record of that meeting?

**Ms Williams**—I cannot give you an absolute date now. I can probably find one. Certainly, as Mr Scales said, we have ongoing briefings from Telstra at several levels and, after the decision was made, we discussed this at one of those briefings.

**Senator LUNDY**—It has been reported in the press that these communications took place.

**Ms Williams**—They did take place. It is just that I do not have the date with me, I am afraid.

**Senator LUNDY**—Can you make some inquiries to get that detail?

**Ms Williams**—We will see if we can get a date and get back to you.

**Senator LUNDY**—Minister, the former minister's office is reported as having said that Telstra's offshoring of jobs does not conflict with the government's efforts to build a sustainable ICT industry. Can you provide an explanation as to how the exporting of potentially thousands of IT jobs—if indeed this is to occur, as has been reported—will benefit Australia's ICT industry?

**Senator Kemp**—First of all, I am not sure about that quote. I will have to check with the former minister's office to see whether he was quoted accurately. Having said that, I would ask if there are any officers who would like to comment on that observation.

**Ms Holthuyzen**—As I think you are well aware, Senator, Telstra is responsible for managing its operations in this area—

**Senator LUNDY**—I am not asking about Telstra—

**Senator Kemp**—Hold on, Senator, I think we have to wait to hear the answer.

**Senator LUNDY**—I am asking about ICT industry development policy.

**Ms Holthuyzen**—Yes, but I was simply saying that Telstra is responsible for managing its day-to-day responsibilities and for its IT outsourcing arrangements and the government does not intervene in those arrangements. At the broadest level, we do not see that that is inconsistent with the government's approach, which is in fact to put in place broad overarching frameworks in terms of supporting ICT policy.

**Senator Kemp**—I think that we are looking at IT development this evening, Senator, and that may be a better place to explore the question.

**Senator LUNDY**—Can I just flag with the department now that I would like to know exactly how much taxpayers' money the government invests in ICT industry development strategies, particularly the applications development and ICT software industry sector. I will also be asking why there is such apparent conflict with the expenditure of taxpayers' money in that area and yet complacency when it comes to allowing, as a majority shareholder, hundreds or perhaps thousands of jobs to go offshore with—as you say, Minister, if I am quoting the former minister correctly, which I believe I am—the government's full support.

**Senator Kemp**—These are decisions which are made by Telstra. The government has not involved itself, as far as I am aware, in this particular decision. If it has, I can be corrected. These are matters for Telstra to operate in a commercial way, which it does. But as far as the

overall development strategy for IT in Australia goes, I think this evening is probably is the time to deal with that.

**Senator LUNDY**—I want to now go to Telstra Enterprise Services, and Mr Scales said that he was happy to answer any questions about this. I do have some specific questions about an incident involving Telstra Enterprise Services in relation to security procedures within their Group 5 contract. The incident I am referring to is recorded in a number of answers provided by secretaries of departments affected by the Group 5 security breach. This breach of security involved TES storing backup tapes in a way that led to them being thrown out. I would like to get some detail about the incident and question Telstra about what they are doing to improve TES's operation and indeed about whether TES have paid any sanctional penalty for their slack security. Can you tell me, first of all, on what date TES became aware that the backup files for the group 5 departments had disappeared.

**Mr Scales**—Sorry, I cannot give you the exact date, but I think it was towards the end of March or in early April.

**Senator LUNDY**—Can you just confirm for me which agencies and departments had backup computer files that went missing.

**Mr Scales**—There were five agencies in this area, as I understand it: the Department of Communications, Information Technology and the Arts; the Department of Transport and Regional Services; the Department of Industry, Tourism and Resources; and the Department of Prime Minister and Cabinet—and the ACCC were also one of the group of five which you have referred to, but I hasten to add that they were not affected by this particular issue.

I do need to say right up front that we deeply regret this situation. There is no doubt that, from Telstra's perspective, our policies were not followed. As soon as we became aware of this particular issue, we notified the various agencies that were involved. There has been no suggestion of any loss of information. From our perspective, there has been a minimal security risk. However, again from our perspective, this was unacceptable. We apologised to the departments that were involved. We immediately put in place a range of arrangements to make sure that it never happens again. Quite appropriately, the head of the Department of the Prime Minister and Cabinet wrote to us, explaining to us how disappointed he was, in the most fulsome terms. We understand his concern, we recognise the points that he made, and we gave him and the various agencies our assurance that it would never happen again.

**Senator LUNDY**—Can you tell the committee exactly what happened?

**Mr Scales**—I have to preface this by saying 'to the best of our knowledge', because there is a slight gap in terms of all our knowledge in this regard. We understand that, in the normal course of events, tapes—backup tapes these are, it is not a loss of information—

**Senator LUNDY**—Can you describe briefly for the committee the sorts of information that these backup tapes contain?

**Mr Scales**—I am not aware of the information that is on them.

**Senator LUNDY**—From evidence we have had previously, a monthly backup tape contains all the files and all the data that was used on the computers for that particular month.

**Mr Scales**—I do not know what is on them. We do not have any knowledge of what is on the tapes.

**Senator LUNDY**—My question went to the type of information, not the actual information.

**Mr Scales**—Yes, of course. As you would understand, it is not our business to even inquire as to the type of information. That is an issue for the departments themselves.

**Senator LUNDY**—Can you tell me then, from TES's perspective, what types of computers the backup tapes were from?

**Mr Scales**—I cannot give you the answer to that.

**Senator LUNDY**—Could you take that on notice?

**Mr Scales**—I will.

**Senator LUNDY**—Going back to my original question, can you describe what happened?

**Mr Scales**—We understand that the tapes were taken from those computers in the normal way. They were then left on somebody's desk. They were then taken from the desk and put into a normal bin that is used for transporting these tapes from one place to another.

**Senator LUNDY**—That is a wheelie bin, isn't it?

**Mr Scales**—I do not know the exact bin that it was, but it was a normal bin.

**Senator LUNDY**—That is what has been described as the transport method of the tapes.

**Mr Scales**—If that is what has been described, I am not going to dispute that. It was left there beyond the normal process time.

**Senator LUNDY**—Left where?

**Mr Scales**—Left in the office where they were initially deposited. Because they were left beyond the normal time, we understand they were then taken away. We were not sure where.

**Senator LUNDY**—Going back a step, when you say they were 'left beyond the normal time'—

**Mr Scales**—They normally take—

**Senator LUNDY**—They are in a wheelie bin. Does the bin that they are in say on it 'computer backup tapes'?

**Mr Scales**—I cannot answer that for you.

**Senator LUNDY**—You do not know?

**Mr Scales**—I do not know.

**Senator LUNDY**—Can you take on notice what signage was on the wheelie bin?

**Mr Scales**—Yes, we will. The normal process is then to immediately register those and to have them placed in a safe place. This did not happen in this circumstance. From there, it is not clear what happened to those tapes.

**Senator LUNDY**—So they were left beyond the normal time; they were not placed in an appropriate safe place.

**Mr Scales**—That is correct.

**Senator LUNDY**—What is the appropriate safe place?

**Mr Scales**—They are locked up.

**Senator LUNDY**—Locked up in what? A room?

**Mr Scales**—I can get you the details of how they are locked up.

**Senator LUNDY**—Please provide to the committee a full description of this breakdown in security procedure. In terms of the ‘not sure what happened next’ did that wheelie bin just disappear? What can you tell me about when it was there and when it could not be found?

**Mr Scales**—That is the dilemma that Telstra is faced with: we do not know what happened to the tapes after that.

**Senator LUNDY**—In the Joint Public Accounts Committee inquiry, the documentation which was provided to that committee by departmental secretaries stated that they were presumed to have been thrown out. Does Telstra concur with that view and can Telstra tell me what would have led the departmental secretaries to form that view?

**Mr Scales**—I think the presumption is—underlining the word ‘presumption’—that they were thrown out, yes.

**Senator LUNDY**—Did Telstra provide that explanation to the agencies and departments?

**Mr Scales**—We were trying to, as best we could, ascertain where the tapes might have gone. Yes, we advised the department that that was our best guess of where they would have been taken.

**Senator LUNDY**—Can you provide the committee with any documentation Telstra provided any of those departments—and indeed any other departments—about this incident?

**Mr Scales**—Yes.

**Senator LUNDY**—Finally on this issue of security: can you tell me whether or not Telstra technically breached any guidelines on IT related security that the Commonwealth has in this area?

**Mr Scales**—I do not have that information in front of me but I can certainly get that. It will be well documented in our contract with the department, so I will be able to provide that to you.

**Senator LUNDY**—Are you aware whether Telstra has either paid any penalty through service credits or financial penalties—or indeed been sanctioned in any other way—for this serious breach of security?

**Mr Scales**—We have certainly been sanctioned—

**Senator LUNDY**—In what way?

**Mr Scales**—directly by the head of the Department of the Prime Minister and Cabinet.

**Senator LUNDY**—The letter?

**Mr Scales**—Yes, certainly.

**Senator LUNDY**—Telstra considers that a sanction?

**Mr Scales**—Very much so. It goes to the heart of our reputation. As I said at the very beginning, we take no pride out of this particular event; none at all. We tried to face up immediately to our responsibility. We tried to address it as soon as it became known to us. But we take no pride in it and we regard a letter about this issue from the head of the department as a very severe sanction.

**Senator LUNDY**—When you speculated that these tapes had been thrown out, were there any searches or investigations conducted at rubbish tips or where Telstra normally disposed of their rubbish?

**Mr Scales**—My understanding of it is yes, there was. But if there is any more detail about that I will provide it to you.

**Senator LUNDY**—Where did this occur; what physical location?

**Mr Scales**—Do you mean whereabouts here in Canberra?

**Senator LUNDY**—Where was the bin? Where did it go missing from?

**Mr Scales**—I will give you that information as well.

**Senator LUNDY**—Was it here in Canberra?

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

**Senator LUNDY**—Surely you can tell me which city it occurred in.

**Mr Scales**—I am sorry; I will take that on notice.

**Senator LUNDY**—Can you just ask?

**Mr Scales**—I will take it on notice; I am very happy to do that.

**Senator LUNDY**—I think that is ridiculous. TES—

**Senator Kemp**—Senator Lundy, you have been given the answer. The officer will take it on notice and he will see what information can be provided to you.

**Senator LUNDY**—Perhaps I could ask the department, given that they are one of the group 5 agencies, whether anyone belonging to the department is here who is aware of where this incident took place.

**Ms Williams**—I think it may have been Telstra Enterprise Services premises and groups.

**Senator LUNDY**—Here in Canberra?

**Ms Williams**—Yes.

**Senator LUNDY**—Was the department involved in any searches of rubbish dumps following the loss of these tapes?

**Ms Williams**—I will have to ask advice on searches of rubbish dumps but certainly all group 5 agencies did conduct an independent audit to look into the circumstances surrounding the event.

**Senator LUNDY**—Mr Scales, I ask you again: were Telstra employees involved in searching the rubbish dumps here in Canberra for the missing tapes?

**Mr Scales**—I think I tried to answer as best I could earlier. To my knowledge, yes. But if there is any variation to that I will come back to you. We did everything we could to try and find these tapes; we left no stone unturned. It was an embarrassing issue for us.

**Senator LUNDY**—Apparently there are a number of security agencies still on the lookout or on alert, if you like, for any of this information coming back and being used, which would subsequently indicate that the tapes were being used somewhere else.

**Mr Scales**—We advised the security agencies as soon as we knew. That was part of the process which we followed. And we would hope that any knowledge about the use of these would immediately come to our attention, because that is what we set about to try to achieve when we notified everybody about this.

**Senator LUNDY**—Have there been any other major security breaches following this? What do you now do with your computer backup tapes?

**Mr Scales**—There has been none to our knowledge. What we do now is follow the existing practices, and we have made sure that we have audited the process so that we reinforce those practices with our own staff and encourage them to make sure that they follow the practices which were in place at the time.

**Senator LUNDY**—Minister, your department was affected. What has the government's response been to this serious security breach and what has the department done to tighten up the accountability of your contractor—in this case, Telstra—to ensure that this sort of thing does not happen again?

**Senator Kemp**—Obviously any security breach is a matter of concern to the department and to the government. I will ask the secretary to the department to tell us what the department has done about this.

**Ms Williams**—Following the independent audit, in discussion with TES, TES has revised its procedures to prevent a recurrence of this in a considerable way and Group 5 is undertaking random inspections of the backup facility to ensure that it does not happen again.

**Senator LUNDY**—Can you describe the sort of information that would have been kept on the backup tapes.

**Ms Williams**—I understand that it was the information held on email servers in DCITA and three other departments.

**Senator LUNDY**—So the email server information would have been held on the backup tapes.

**Ms Williams**—Yes.

**Senator LUNDY**—So that means that if someone found these backup tapes they would be able to get copies of all of those emails.

**Ms Williams**—I presume so, yes.

**Senator LUNDY**—Was there any other information stored on the backup tapes?

**Ms Williams**—I think that what was held on the email servers was messages, file attachments, calendars and contact information.



**Senator LUNDY**—Was any file server information or database information stored on the backup tapes?

**Ms Williams**—I will hand over to Mr Nicholas, who has more detail on that than I have.

**Mr Nicholas**—The tapes were purely email tapes from the email servers.

**Senator LUNDY**—So how do you back up your other servers?

**Mr Nicholas**—We have separate environments. They are backed up separately.

**Senator LUNDY**—Does TES do them?

**Mr Nicholas**—Yes.

**Senator LUNDY**—So how come they did not go missing?

**Mr Nicholas**—You would have to ask TES about that.

**Senator LUNDY**—Over to you, Mr Scales, on behalf of TES.

**Mr Scales**—What we have tried to suggest through our answers was that this was an isolated occurrence where our processes and procedures were not followed. We have seen no evidence that our processes and procedures have not been followed in every other circumstance. This was an isolated occurrence.

**Senator LUNDY**—Mr Nicholas, would emails to and from the minister's office or interdepartmental emails have been contained on that email server?

**Mr Nicholas**—The tapes would have contained all emails that were currently on the server as at that date.

**Senator LUNDY**—So that would include communication between the minister's office and the department.

**Mr Nicholas**—It would include all communications that were on the email server at that point. That is our understanding.

**Senator LUNDY**—I think that sums up the seriousness of it. What would have happened if your systems had had a major meltdown and those backup tapes could not be recovered because they were lost—or, I should say, thrown out?

**Mr Nicholas**—There has been no loss of data—

**Senator LUNDY**—No, because you did not have a meltdown.

**Mr Nicholas**—No, because the next day's back-up then formed the monthly back-up tapes.

**Senator LUNDY**—With those back-up tapes, if the computer system had gone down that day, you would not have had a back-up? Back-up tapes are taken for a reason—right?

**Mr Nicholas**—Yes.

**Senator LUNDY**—That reason is?

**Mr Nicholas**—To ensure that we have a back-up of our information.

**Senator LUNDY**—That is right. So if the computers had stopped working for whatever reason that day—the day the tapes went missing—you would not have had a back-up.

**Mr Nicholas**—There is a process of daily back-ups and of retaining one set of those tapes as a monthly back-up, and these tapes were the monthly back-ups.

**Senator LUNDY**—So you would have had your daily back-ups.

**Mr Nicholas**—Yes.

**Senator LUNDY**—And does TES look after them as well?

**Mr Nicholas**—Yes.

**Senator LUNDY**—Do they still look after them?

**Mr Nicholas**—Yes.

**Senator LUNDY**—Are you feeling relaxed and comfortable about that?

**Mr Nicholas**—Since the incident, we have looked at the procedures that are in place. As Ms Williams said, we have undertaken spot checks to ensure that procedures have been adhered to.

**Senator LUNDY**—What is the highest classification of confidentiality that would have been on the tapes that were lost?

**Mr Nicholas**—Our network is rated to ‘protected’.

**Senator LUNDY**—Is that the highest or the second highest level of protection on the network?

**Mr Nicholas**—The network itself is rated to ‘protected’.

**Senator LUNDY**—So that is the highest level for the public service.

**Mr Nicholas**—No, for our network.

**Senator LUNDY**—For your network.

**Mr Nicholas**—Yes.

**Senator LUNDY**—I would like to ask some questions about BigPond’s email failure. Telstra’s reason for the problem seems to have changed on a number of occasions. I am particularly interested in the article that was dated on 13 October in which a Telstra spokesperson said:

Telstra had moved about half of its 1.5 million BigPond and WebMail customers to the new software, but no more than “tens of thousands” of customers would have been affected ...

Later the same spokesperson was quoted as saying:

... the software problems had been resolved and 90 per cent of emails were “getting, through first time around”.

Can Telstra explain why later reporting revealed that the virus issue had already become apparent, and why Telstra on 13 October was still persisting with the story about a software change as being the cause of the email problems people were experiencing?

**Mr Scales**—I think we were learning about this as it was happening. As I mentioned to Senator Bishop a little earlier, this was a particularly virulent virus. We thought we were—

**Senator LUNDY**—There is no mention of a virus on that date.

**Mr Scales**—As I said, I think we were learning about the issues as they were emerging.

**Senator LUNDY**—Can you clarify that? Did you know about the virus on 13 October 2003 or not?

**Mr Scales**—I cannot say whether we knew about the virus on that day. We knew there was something happening to our email system, but we were not exactly sure what the nature of the problem was. I think it is fair to say that the company went through a number of iterations of its understanding of what the real problem was. Those iterations probably took us over a period of anything up to 10 days before we were able to fully understand what was happening within our system.

From our perspective, this was something that we had not seen before. We had not seen a situation where, for all intents and purposes, we were getting such an increase in traffic—inexplicably—across the whole of our network. It is true that it took us a little while to really understand what the nature of that change in the volume of traffic was. We were doing our very best to keep people informed. It is true that when we would have made that statement that that was our best assessment at the time. As it turned out, it was not exactly what was happening to us, but we were trying to communicate the best we could at the time.

**Senator LUNDY**—Can you tell me if you have been able to nail definitively the cause of the problem? What was it?

**Mr Scales**—Underlining the word ‘definitively’, to 99 per cent we can. We think it was this Swen virus. We are reasonably sure that it affected us in Australia more than it affected a number of other countries, for a range of reasons. If you want more detail, I will get Dennis Mullane to give you some. But we are 99 per cent sure that we have the issue tagged.

**Senator LUNDY**—How many customers were affected? News reports vary from 10,000 for three days through to 1.2 million and all the broadband customers. How many were affected?

**Mr Scales**—It was a large number, not the smaller number. Whether it was the whole of our broadband customer base I am not able to definitively tell you. But we would not deny, and we have never tried to deny—as you know—that a large number of our customers were affected.

**Senator LUNDY**—Have any customers permanently lost email?

**Mr Scales**—That is quite difficult for us to—

**Senator LUNDY**—Put it this way: I have had that complaint made to me. Can you tell me if it is not the case?

**Mr Scales**—No, I cannot tell you that it is not the case but I also cannot tell you that it is the case. As we have discussed publicly also, it will very much depend on the configuration of the various computers that people had. It will also depend on the arrangements that people had with their own ISPs and the extent to which emails that were delayed for a particular period of time were then simply not delivered. So that will vary.

**Senator LUNDY**—When you say the types of computers people have, do you mean ISPs or people with email servers? Or do you mean their home computer?

**Mr Scales**—A combination of all of the above.

**Senator LUNDY**—So including people's home computers?

**Mr Scales**—It depends on their configurations.

**Senator LUNDY**—In what aspect of the technology—the configuration of their inbox?

**Mr Scales**—Generally, yes.

**Senator LUNDY**—So what is the feature of the configuration of the inbox which could potentially lead to someone having lost their emails?

**Mr Scales**—If they had in particular created a situation where emails might have been deleted for a particular purpose.

**Senator LUNDY**—Auto delete?

**Mr Scales**—For example, if you had decided to configure your computer so that any email that came to you a month or a week or two weeks after the date at which it was sent was deleted that might be an occasion.

**Senator LUNDY**—So is that auto delete feature of people's inboxes the only circumstance or are there other scenarios?

**Mr Scales**—I was talking generally and just giving you an example of the generality of the point.

**Senator LUNDY**—It is an important point because it could start to explain why people are experiencing different things.

**Mr Scales**—But we are not trying to excuse what happened at Telstra. If I am giving you the wrong impression I do not mean to be doing that.

**Senator LUNDY**—No, you are not. You are being quite helpful and I appreciate that but this is a good opportunity to help explain to customers out there who still have been, with all due respect to your efforts, unable to get satisfactory answers from Telstra even now.

**Mr Scales**—Maybe we should come to that issue. To go to the heart of the question you asked me, have a large number of our customers been affected? Yes. Have we apologised to those customers? Certainly. Have we made it clear that we will put capacity into place in the future? Yes, we have.

**Senator LUNDY**—Just on that point, what is the current state of the email network and what is the percentage of peak capacity at which it operates right now?

**Mr Scales**—I will get that last question to be answered by Dennis Mullane.

**Senator LUNDY**—Before Mr Mullane answers, the purpose of that question is to ascertain what sorts of peak loads you can now absorb before the same thing happens again.

**Mr Scales**—Maybe we should go to that particular point because it goes to the heart of what is happening right at this minute. Maybe Mr Mullane could cover that question for you.

**Mr Mullane**—I cannot give you an exact percentage, but we have adopted a two-pronged approach. We have been recovering capacity within the system—where old data has been stored and has been there for a long time. At the same time we have been adding additional

capacity and we will continue to do that. As part of the announcement that the CEO made recently, we will be adding substantially more capacity as we proceed through this year. At the time the virus hit we had about 20 per cent headroom. We have substantially more than that now.

**Senator LUNDY**—How much?

**Mr Mullane**—I cannot tell you that, but I can take that on notice. It is increasing with each week. So, whatever it is today, it will be different in a short while. We will also be adding a substantial platform change in the current financial year and the additional capacity that we are planning to add in association with that will take the total headroom up to 70 per cent. We will then continue to increase that over time.

**Senator LUNDY**—With the ISPs that Telstra wholesales bandwidth to, what is the amount of spare capacity that they are required to maintain at all times as a result of that commercial arrangement for wholesale bandwidth?

**Mr Mullane**—As far as email system capacity is concerned, I am not sure that it is specified. I can check that and come back to you on that.

**Senator LUNDY**—I am thinking not only of email specifically but also of the wholesale bandwidth that you supply to ISPs for the purposes of email, web access and all the rest of it. My understanding is that it is at least 100 per cent.

**Mr Mullane**—Let me check that in the break. I will give you a response afterwards if a quick one is possible.

**Senator LUNDY**—It raises the question, particularly in relation to email, of whether or not Telstra requires spare capacity—‘redundancy’ is not the right word here—to pick up those peaks and flows as part of your own business practices and hence why Telstra suffered so disproportionately, according to Telstra, as a result of a peak in emails that effectively brought your system down. Can you confirm for me that Telstra was particularly affected—and I am referring to comments made by Telstra here—because you did not have that sort of spare capacity in your own pipes to sustain, maintain and service your own email accounts?

**Mr Mullane**—There was no problem on the pipe side of the business—the transmission capacity feeding email into and out of the system. The issues were in the mail stores and the mail relay components of the email system. The virus that we suffered was a particularly pernicious one. It built up very rapidly and generated very large volumes of email traffic out of infected PCs. Basically it was very difficult to become aware of it actually doing this. Users generally were not aware of this unless they were monitoring their traffic particularly closely. Of course when the machines are spewing out very large numbers of emails they are then infecting the machines that receive those emails in many cases. So you have a very rapid build-up of this traffic. So you have a build-up of message traffic volumes and, at the same time, the actual volume of the attachments going with the emails was on average somewhat higher given the nature of the viral message they were sending to these machines. So we copped an increase in the volume of messages and an increase in message size. That is really what caused the problem. The problems were in the mail server complex, which is the relays and the stores.

**Senator LUNDY**—Justin Milne implied in one of the articles written about this issue that it was a industry-wide problem. Yet other ISPs, whilst they noted a rise in emails, were not affected to anywhere near the same extent as Telstra. What is Telstra's response to that?

**Mr Mullane**—There is no question it was an industry-wide issue. It has been an industry-wide issue in all the countries that this virus has attacked.

**Senator LUNDY**—In technical terms, why did it affect Telstra more than other ISPs?

**Mr Mullane**—I cannot really make a comment on how badly the other ISPs were affected, but I feel very sure that they were affected. The reason that Telstra may have been more affected probably gets down to the scale of the Telstra operation here. The size of Telstra's email customer base is more than twice as large as its nearest competitor. This is a problem—

**Senator LUNDY**—That is the Microsoft defence.

**Mr Mullane**—Let me finish and you can decide whether it is a Telstra defence as well. There are several components to this.

**Senator LUNDY**—I am sorry, Mr Mullane, we are running short of time. There is no evidence of any proportionality between other ISPs and Telstra. I acknowledge the size difference—

**Mr Mullane**—You did not let me finish the argument.

**Senator LUNDY**—but there is no evidence of proportionality of problems experienced by other ISPs, and I want to know why.

**Mr Mullane**—The point I was making was that the size of the customer base does matter because of the way the virus works. It arrived in Australia—we think from the USA. It attacks computers based on email addresses. But it does not just involve email; it also gets into computers via chat sessions and via peer-to-peer networking, which a lot of customers are involved with. Once it achieves an initial penetration into the base, it then takes every email address it can find in that computer and it blasts—

**Senator LUNDY**—I understand how the virus works.

**Mr Mullane**—Let me finish the argument. In the return-out, because of the size of the Telstra customer base in Australia, there are many more BigPond addresses that this email is then sent to. So BigPond was a much larger recipient than others and a very rapidly growing recipient due to that simple arithmetic growth there. On top of that, I would say that Telstra's broadband base is substantially larger than others. Broadband users are heavy users and have probably got a bigger percentage of email addresses in their system; they are probably engaging more frequently in chat rooms than other users.

**Senator LUNDY**—Mr Mullane, I do not mean to cut you short, but I have read all this in the newspaper. I still have a few more questions, and I am very conscious of the time.

**CHAIR**—I remind the committee that we are breaking for lunch from 1 p.m. until 2 p.m., when we will resume with the agenda.

**Senator KEMP**—I have to excuse myself just prior to lunch. A matter has come up which I have to attend to. I assume the committee will continue to work in its usual efficient manner.

**CHAIR**—I will indulge your request.

**Senator Kemp**—Thank you.

**Senator LUNDY**—I will put any questions to you on notice.

**Senator Kemp**—Thank you.

**Senator LUNDY**—At the peak of the problem, how many Telstra customers in both dial-up and broadband were affected?

**Mr Mullane**—That is very difficult to estimate; but, as Mr Scales said, it was quite a large percentage. It depended on what customers were doing at the time: how many emails they were using; what time of the day they were using them. In Telstra's case, it depended very much on which particular mail stores customers' mailboxes were associated with because, as this traffic started to grow, we did add capacity. We had mail storage servers there, which we introduced. We then had to balance loads across mail servers. So the experience of individual customers varied, depending on their particular connection arrangements. It was substantial.

**Senator LUNDY**—How did you devise the \$25 million for the compensation package? Was that a per customer amount?

**Mr Mullane**—It was based on two weeks' rental charges for every customer.

**Senator LUNDY**—Two weeks worth?

**Mr Mullane**—The standing charges for each customer.

**Senator LUNDY**—For their connection with BigPond?

**Mr Mullane**—Yes, their rental charges.

**Senator LUNDY**—Line rental?

**Mr Mullane**—Their BigPond monthly charges.

**Senator LUNDY**—The BigPond email account?

**Mr Mullane**—Not the usage charges; the other component—the fixed charges, if you like, the monthly plan rental.

**Senator LUNDY**—Which is what per customer?

**Mr Mullane**—I depends on what sort of plan you are on. There are many plans.

**Senator LUNDY**—Is that amount capped, or will you pay more if you find that people have been affected more widely?

**Mr Mullane**—Let us be clear. That rental amount is, if you like, a goodwill gesture by Telstra in the form of a rebate. We are spending a lot of money now on re-engineering that environment to get it up to a standard that we will be happy with.

**Senator LUNDY**—What does that mean?

**Mr Mullane**—To answer your question about whether we are going to give any more rebates out, it is not our intention to do that. We always consider those matters very carefully. If there are individual customers who have issues they would like to take up with Telstra, then that is something we would do as a matter of course as well.

**Senator LUNDY**—Whom do they contact? You?

**Mr Mullane**—There is a process to contact people. If they are a business customer under account management, they could come in through that channel. Otherwise, if they go through the Telstra customer complaints area, they will be put into the complaints process and processed accordingly.

**Senator LUNDY**—Going back to the amount of the rebate, can you tell me what that would average out at for a customer with a dial-up Internet account and a BigPond email service?

**Mr Mullane**—It is difficult off the top of my head, but I will have a rough stab. The average broadband—

**Senator LUNDY**—No, I am talking about dial-up.

**Mr Mullane**—The average dial-up would be around \$25 per month, so it would be about half of that.

**Senator LUNDY**—About \$12.50 for their trouble?

**Mr Mullane**—Round about. I can get a closer fix on that if you would like it.

**Senator LUNDY**—So, for an ADSL account of \$55, they would get half of that back.

**Mr Mullane**—I think typical ADSL accounts are \$60 and higher, so they would get half of whatever they are on.

**Senator LUNDY**—I wish I had my calculator handy; I will do my sums and come back to you on that. Did you work on the basis that dial-up customers get \$12.50 back and broadband customers get \$25 back to calculate the rebate?

**Mr Mullane**—I could go and check the exact formula that has been used.

**Senator LUNDY**—If you could take it on notice and come back to me, that would be helpful.

**Mr Mullane**—I will do that.

**Senator LUNDY**—In relation to the free antispam trial, what happens after the three months expires? Will customers automatically have to start paying for the service, or will it be disconnected?

**Mr Mullane**—They will be contacted by Telstra, and they will need to make a decision about whether they want to keep going with it or let it lapse.

**Senator LUNDY**—Will they be contacted in advance?

**Mr Scales**—If we cannot contact them, it will automatically be disconnected. Generally, it is an opt-in service, not an opt-out service.

**Senator LUNDY**—How much is that service worth?

**Mr Mullane**—From memory, the antispam and antivirus software are \$2.50 a month each, so that is \$5 a month combined.

**Senator LUNDY**—Can you confirm the report in the *Daily Telegraph* on 23 October that this package will have paid for itself by the end of 2004, as customers wind up paying for the new software after the initial free period?



**Mr Scales**—We cannot confirm that. That was not our intent with this particular offer. It was an honest and sincere attempt to try to address the issue. We did not do any of those calculations. I was in the room when these decisions were made, and there was no suggestion that we were doing anything else other than what we have already said we were doing with this. So we cannot confirm that.

**Senator LUNDY**—Mr Mullane, you mentioned Telstra is now investing \$100-odd million in the email system. Does Telstra concede that its email system was not up to scratch and that this investment is necessary just to get it on par with what could be considered a quality and robust email service?

**Mr Mullane**—The experience has caused us to look very closely at how we run that part of the business. The email service that we have been operating has been a very stable part of our business for quite a number of years, but it has also been subject to rapid growth as the customer base has increased very strongly over the last few years. It has had a combination of growth pressures. With any of these highly complex systems you have to be very careful as you re-engineer for growth. We were involved in making upgrades to the software in the service at the time we got the virus. Stepping back, with the benefit of knowing how dramatically viral situations can attack a system like this, we will engineer it to a grade that will provide the sort of service that Telstra is happy to stand behind.

**Mr Scales**—Our view is that, in the absence of this form of cyber-vandalism, it was adequate. Given the cyber-vandalism we have now become subject to—

**Senator LUNDY**—Well, that has been around for some time.

**Mr Scales**—we now have to go back and see if we can create additional capacity to cope with cyber-vandalism. That is what we will be doing. We did not create this situation, as you know. It was created for us and imposed upon us by people outside our company. But we will learn from that and we will increase our capacity as a result.

**Senator LUNDY**—Which will bring you up to par with other ISPs perhaps?

**Mr Mullane**—No, I think we will go past that, Senator. We are going to set up a totally dual site operation with a warm standby. We will have a stand-alone test bed. We are going to go the whole hog and have a very highly robust system which will keep us going for years and years to come.

**Senator LUNDY**—Can you tell me how much Telstra has paid out as part of the ADSL rebate since it was introduced for service slowdowns?

**Mr Mullane**—I would have to take that on notice, but we can get it for you.

**Senator LUNDY**—Can you give me a ballpark figure?

**Mr Stanhope**—I can tell you the rebates for 2002-03: ADSL were \$1.9 million and cable were \$5.4 million. For the year to date—the September quarter 2003-04—ADSL rebates were \$200,000 and cable rebates were also \$200,000.

**Senator LUNDY**—Is that within Telstra's expectations?

**Mr Stanhope**—I guess we did not have any budgeted expectations. I would have thought cable was a little higher than we would have expected in 2002-03, but cable is now performing a lot better and the rebates are a lot lower.

**Senator LUNDY**—There are no figures for prior to 2002-03, are there?

**Mr Stanhope**—No.

**Senator LUNDY**—Can you confirm when Telstra started paying the rebate?

**Mr Stanhope**—I will have to get you the exact date—I do not know.

**Senator LUNDY**—Was it January or February 2003?

**Mr Mullane**—I am almost certain it was July 2003.

**Mr Stanhope**—So, the full fiscal year.

**Senator LUNDY**—Yes, that is what I was getting to: whether that was six months or 12 months.

**Mr Stanhope**—12 months.

**Senator LUNDY**—That is a lot.

**Mr Stanhope**—Yes it is, and there were some difficulties, as the senator will recall.

**Senator LUNDY**—I still have some questions for Telstra on the broadband register and ADSL.

**CHAIR**—We will be continuing with Telstra after lunch, I suspect.

**Senator LUNDY**—We might ask Senator McLucas if she has questions to ask for a few minutes before lunch, and then we can come back after lunch.

**Senator McLUCAS**—I want to go to the software upgrade to the system that happened in Townsville on Saturday morning. I understand that about 50 per cent of the network went down for a period of about 12½ minutes while the system 12 exchange was upgraded and that that was a normal process. Can you tell me why you pick somewhere between 12.30 a.m. and 3.30 a.m. on a Saturday morning to shut down the network?

**Mr Mullane**—Whilst system 12 upgrades are not my particular area, for something which involves taking a switch out of service, we always undertake it for as short a period as possible in those early hours of the morning.

**Senator McLUCAS**—Yes. Why did you pick 12.30 a.m. to 3.30 a.m. on a Saturday morning?

**Mr Mullane**—It is better than 7 a.m. to 11 a.m.

**Mr Scales**—It is a period of low usage.

**Senator McLUCAS**—Thank you. Can you tell me what consultation occurred with the community in picking that time?

**Mr Mullane**—For planned outages, there are normal advices that go to customers, particularly business customers.

**Senator McLUCAS**—Not advice—that is my next question. What consultation do you undertake with the community broadly to make the decision that a shutdown between 12.30 a.m. and 3.30 a.m. on a Saturday morning is an appropriate time? You have told me already that that is a point of low usage, and from Telstra's point of view I can understand that. Can you now think of it from the consumer's point of view, and I am asking the question: what consultation do you do with the community to confirm that that is the right time to shut down the network for about 12½ minutes?

**Mr Mullane**—This sort of upgrade is something that has been undertaken for as long as I can remember in my long career in this company. The fact is that platforms do require software upgrades from time to time. We undertake a lot of those sorts of upgrades around the whole country, as you can imagine. They would always be selected in those early hours of the morning, because of the least impact on the most customers. That is basically the way it would be pursued.

**Mr Scales**—The approach which we normally take in this is that we do not normally have a broad ranging consultation process. What we normally do is advise customers that there is likely to be an outage period while we upgrade the system. We are doing this quite consistently, as Mr Mullane has said, but we have not, as a matter of practice, entered into consultation with communities when we do a relatively minor upgrade over a short period like this.

**Senator McLUCAS**—So you do not consult with emergency services—hospitals, the police—

**Mr Scales**—That is a separate question.

**Senator McLUCAS**—But that is what I mean.

**Mr Scales**—That is a slightly separate issue, and I am sorry if I misunderstood you. We will probably need to take that question on notice to give it a thorough examination. If your concern is about emergency services, we will come back to you about that issue.

**Senator McLUCAS**—It is not necessarily whether or not the emergency services phones are down. Let us take the example of Townsville. I understand that this happens regularly across the network, in a whole range of places. You shut down the network for about 12 minutes; and, in the case of Townsville, half of Townsville did not have a dial tone for that period of time. The concern from the emergency services sector is that they cannot contact the police, the hospital or the ambulance for that period of time—and that is a fairly high need time for emergency services. If there had been a period of consultation, you would have been able to identify that maybe Tuesday between 12.30 and 3.30 would be a better time, rather than the point of time where emergency services have high need of the network. I accept your point that Telstra does not have a high usage level at that time, but it is those individual events that could be life-threatening that are more likely to occur in the early hours of Saturday morning as the nightclubs start to empty. It may be that, instead of consulting your usage chart, it would have been better to consult the emergency services sector to make a decision about when to shut down the network.

**Mr Scales**—Senator, you make a very important point, and let me go back and check this for you to make sure that there was an appropriate consultation with emergency services. I am

sorry I misunderstood the nature of your question. I thought it was a more general point that was being made. Clearly, if the question is around how do we make sure that we do not put people's lives at risk, we need to come back to you; and we will do so. I just do not have the answer to that here for you.

**Senator McLUCAS**—The other question I have—you might want to take this on notice as well—is about communicating to the community. I understand you advise your business customers, and I also understand that you send out media releases, but I understand that the take-up of media releases by regional newspapers or national newspapers of advice that there is going to be a shutdown of the network is not high. I can understand that, but there does need to be a method of communicating to the community, without causing unnecessary concern, that there will be a shutdown.

**Mr Scales**—You raise a very important point, and we will take it on notice and get back to you as soon as we possibly can with an answer to this question—outside of the normal period of questions on notice.

**Senator McLUCAS**—Okay. The other thing I would like you to consider is whether or not that is the right time to do it, as a broader policy question. Whilst this is the event that has been brought to my attention by the hospital in Townsville, this is a policy matter that goes right across the network, and maybe we should have a look at when we shut down the network.

**Mr Scales**—You raise an important point. Thank you.

**Senator McLUCAS**—Thank you.

**Proceedings suspended from 1.00 p.m. to 2.04 p.m.**

**Senator LUNDY**—I know Senator Mackay is shortly going to ask a few questions, but I will get started with broadband questions. On what date was Telstra's broadband register launched?

**Mr Mullane**—It was Thursday, 2 October, if I recall.

**Senator LUNDY**—I recall a committee of the Senate hearing about the broadband register as far back as February this year. Why did it take so long to be launched, given the issues and frustration about accessing ADSL services were well developed by then?

**Mr Mullane**—I think any mention back in February would have been a view that it was coming. There were no particular delays. We just wanted to make sure that it was configured the right way and management was set up properly within the company et cetera

**Senator LUNDY**—Was the technology not ready to be launched or was there another reason?

**Mr Mullane**—It was a software based system that had a number of components that feed in from different parts of the business. We just had to make sure all that was configured, tested and built.

**Senator LUNDY**—Can you confirm that you did not have a broadband register operating prior to that date in October?

**Mr Mullane**—What we had prior to October was data that we were able to extract from what we call the mini SQ failure attempts. On the BigPond web site, customers lodge their phone number to see if they can get access to ADSL. Where those phone numbers were entered and they did not result in an exchange being enabled or there was pair gain system or something preventing it, we were able to take that information and process it in some way as to give us a proxy, if you like, for what we will get out of the demand register.

**Senator LUNDY**—How many people will have to register their interest in ADSL for Telstra to consider providing the service to that exchange?

**Mr Mullane**—The way it is designed to work is that we would have a threshold of interest required shown against exchanges.

**Senator LUNDY**—Which would be what?

**Mr Mullane**—At the moment we have three different thresholds on the current register: 150, which is by far the majority of the ones that have been set to date; I think there are three at 225; and one exchange at 300, from memory.

**Senator LUNDY**—Why do you set differential numbers of registered interest before you will enable an exchange?

**Mr Mullane**—It depends on the economics of particular sites. That is what it is really about.

**Senator LUNDY**—What does that mean? Does it mean that regional exchanges require more interest before you will enable them?

**Mr Mullane**—It depends on the particular exchange in question. We have set thresholds at this stage for about roughly 160 exchanges—it might be just under that number. There are a lot of exchanges on the register where it says ‘TBA’ in terms of the required entrance levels required.

**Senator LUNDY**—It says what?

**Mr Mullane**—TBA—to be advised.

**Senator LUNDY**—People are registering but they do not know at what point that will be enough.

**Mr Mullane**—We have said—and it is on the FAQs on the site—that, if we receive 60 registrations, we will go away and undertake the modelling work required to set a threshold for a particular exchange. We are saying that, if there is a good indication of interest coming in, we will go and calculate the thresholds if we have not already done that, and then we will show the threshold.

**Senator LUNDY**—Is that threshold of 60 people registering their interest a standard prerequisite or does it vary from exchange to exchange or region to region?

**Mr Mullane**—No. The 60 is only to initiate Telstra’s activity to go and calculate the actual required threshold of expressions of interest to then take the next step. So it is a multistep process. If the threshold of 150 or 225, whatever it is, is reached, the next step—

**Senator LUNDY**—But that is only established once you have 60 people registered.

**Mr Mullane**—No. We have established it for about 160 exchanges to date, so it is in the register for that number of exchanges. But we will go and establish it for more as the 60 levels are reached, or if we think it is appropriate to do so, and we will probably do some of that as well.

**Senator LUNDY**—Do you, at the point when people register, determine whether they are able to get ADSL as a result of distance from exchange network configurations, pair gains et cetera?

**Mr Mullane**—The process is that, yes, we take the telephone service number, we put that into our service qualification process and we do verify whether that service is capable of receiving ADSL.

**Senator LUNDY**—At the time of registration?

**Mr Mullane**—Correct.

**Senator LUNDY**—Is the customer advised at that point?

**Mr Mullane**—No, all the registration system is about is aggregating expressions of interest where it is possible to get that—

**Senator LUNDY**—I appreciate that but, if the customer is not advised at the time of registering their interest for ADSL that they are not going to be able to get it anyway, doesn't that mislead the customer into thinking that they will potentially get it? If it all came to fruition and ADSL were enabled, they would not be able to get it anyway, so why don't you tell the customers at the time of registration whether or not they would be able to get ADSL if the exchange were enabled?

**Mr Mullane**—I guess the prime purpose of the system is to identify the exchanges where it is going to be feasible to provide the service.

**Senator LUNDY**—I would have thought the prime motivation would have been providing better service for Telstra customers. I think they have a right to know at that time if Telstra has done the assessment because they could then go and purchase alternative services. But if they are misled into thinking that ADSL is around the corner they might delay that. So Telstra is protecting its own market.

**Senator Kemp**—Mr Chair, I would just make a brief comment. I do not think there is any cause for voices to be raised at a witness at the table.

**Senator LUNDY**—I did not think I did.

**Senator Kemp**—You did—you raised your voice. The second thing is that I think there were various implications and imputations in that question which would make it very difficult for the witness to respond. But if you wish to make any comment, Mr Mullane, please do so.

**Mr Mullane**—I would just add one further thing. We do take the information on registration attempts where customers are prevented from getting ADSL due to distance limitations or pair gain issues and feed that into our planning processes. Although it is very early days with the register, it is a case in point that we have already received quite a substantial number of registrations for a RIM device in the Armidale area of New South Wales. We had already taken some action, as it turned out, to provide a minimux in that RIM,

but this validated the sort of action we were taking. That is exactly the way that sort of information will be utilised once the thing is in wider use across the whole community. We also intend to use the register to act not just as a database but also as a communications tool back to people. It is still pretty early days, but we have the comments field in there where we can include information about particular exchange areas.

**Mr Scales**—Senator, you do raise an important question. Can we take that back with us and see if there is a means by which we can turn your point into a communication tool as well? It may be possible to do exactly that. We will take that on board and maybe we could even report back to you next time we meet about how successful we have been at doing that and also on the success so far of this register.

**Senator LUNDY**—Thank you very much, Mr Scales. Is there any weighting or priority given to areas affected by RIMs, particularly because in outer-metropolitan areas and regional areas these are quite prevalent? I know that Telstra knows where they all are now and that that itself perhaps presents an opportunity for Telstra to prioritise areas affected by RIMs, because that is where you have the most condensed group of frustrated customers—where if Telstra cannot supply ADSL then of course no other competitor can either. What consideration has Telstra given to targeting areas where a RIM exists, particularly because that is usually where an exchange does not exist, to provide ADSL services?

**Mr Mullane**—We have a separate activity, a lot of activity, going on in Telstra about providing broadband to customers in various areas. The ADSL demand register is primarily focused on identifying the exchanges that are not yet enabled—that is its prime purpose. We will get that secondary information out about RIMs and pockets of—

**Senator LUNDY**—So you are telling me that the demand register will not really help people affected by RIMs?

**Mr Mullane**—No, it will help. I am coming to the next bit: we have already established a cross-company expert team of people who are addressing the question of RIMs and other large pair gain systems. So we are in the process of prioritising the work we can do to minimise the impact of that technology on people where we are seeing broadband demand expressed. So the ADSL demand register will be a key input to that piece of work. That work is covering a number of solutions to RIMs that I have outlined here before or in one of the other Senate inquiries at least—things like transpositions, which do help. We might run some more copper infrastructure into a RIM area and then undertake transpositions. We have only had this task force going for a fairly short period, but we have enabled tens of thousands of lines as a result of the work we have already done. We have really only just started so we have a long way to go here.

**Senator LUNDY**—With respect to the CMUX and the use of the minimux in RIMs, the experience in Gungahlin showed that they did not fit into all RIMs and that, where they did, you were limited to the number of racks, units or whatever; there were a limited number of ADSL ports. How effective is the use of minimuxs in RIMs as a way of satisfying demand in RIM areas?

**Mr Mullane**—Where that is the optimum solution, they will be quite effective up until the capacity is exhausted. In some cases where the RIM is not fully loaded you can fit a second minimux in.

**Senator LUNDY**—So that could be 88 or 84?

**Mr Mullane**—No, it is 24 or 48.

**Senator LUNDY**—So the maximum you can fit into a RIM is 48 ADSL services.

**Mr Mullane**—Yes, that is right.

**Senator LUNDY**—How many services can RIMs provide?

**Mr Mullane**—They can provide anywhere from zero to 480 PSTN lines but typically they have a number of customers connected all over the place.

**Senator LUNDY**—I guess the point there is that you have a maximum saturation of about 10 per cent using the minimux.

**Mr Mullane**—That is using that technology, but there are other things coming. To be honest, copper is, in many cases, a very viable solution, and we are installing copper in many places. You may have seen an announcement recently that NEC have been selected as a second DSLAM supplier to Telstra. Part of the capability of that equipment supply will be a higher density, smaller DSLAM. We have to go through the engineering process associated with how to get that into full RIM cabinets, but we are certainly looking at that and we have high prospects that that will give us another important tool in this regard.

**Senator LUNDY**—Can you tell me what the prospects are for exchanges like that at Wanneroo in the northern area of Perth where the exchange is fully commissioned and there is no room in the exchange for any DSLAMs? What are Telstra's plans for exchanges in that position?

**Mr Mullane**—I have never been there, but I understand that the city of Wanneroo is quite a large area on the northern metropolitan outskirts of Perth. There are nine Telstra exchanges in that wider area and out of those I think eight have been provided with ADSL equipment. So the real issue around Wanneroo and ADSL availability gets back to, primarily, RIMs.

**Senator LUNDY**—But there is also an exchange there where there is no room for DSLAMs, isn't there?

**Mr Mullane**—I have not been apprised of that fact, but if you care to tell me the name of it—

**Senator LUNDY**—I have taken the time to apprise Telstra of that before.

**Mr Mullane**—Do you know the name of it? I was speaking to planners within that area last week and they did not advise me of that. However, we have many plans under way for that whole wider area of the city of Wanneroo. Something like 55 to 60 per cent of the services connected on RIMs will be provided with broadband solutions between now and the middle of next year.

Perhaps the exchange you are referring to is the new exchange building that is being constructed in Tapping, an area about six kilometres to the north of Wanaroo exchange itself. At the moment there is a UNICAN housing, a concrete shelter that has some RIM devices in



it, serving as the deployment for that particular area. I suspect that is probably the one you are referring to. There will be a new exchange building in Tapping. A contract is about to be let for that building, so we will see construction commencing there very soon and, by the middle of next year, that will solve a lot of the problems in that part of Wararoo city.

**Senator LUNDY**—Can you take it on notice to provide the committee with an update of the number of exchanges that are now ADSL enabled?

**Mr Mullane**—I can tell you that now. Last time I looked, which was within the last few days, it was 1,004.

**Senator LUNDY**—How many more are there to go under your current program?

**Mr Mullane**—I think we have about another 30 coming forward. We would expect the demand register to point us toward the next raft after that.

**Senator LUNDY**—Can you remind me how many exchanges you have all up?

**Mr Mullane**—ADSL enabled exchanges or total Telstra exchanges?

**Senator LUNDY**—Total.

**Mr Mullane**—It is about 5,000. I think it is 5,048.

**Senator LUNDY**—To follow up the question I asked Mr Scales, is there any plan to favour regional or rural exchanges with ADSL enabling, given the outcomes of the Estens and other inquiries?

**Mr Mullane**—Telstra has adopted the demand register driven approach. We are aware of government actions under way to develop some approach there.

**Senator LUNDY**—I am asking about Telstra's strategy.

**Mr Mullane**—Not especially. We will be basing our internal decisions on the economics of each individual opportunity.

**Senator LUNDY**—Can you tell me what Telstra hopes to get out of the government's Higher Bandwidth Incentive Scheme?

**Mr Mullane**—We have no particular hopes. We have had some discussions with the Department of Communications, Information Technology and the Arts, but it is a scheme that they are working on, not a Telstra scheme.

**Senator LUNDY**—So Telstra is not going to apply for any of that money?

**Mr Mullane**—As I understand the thing to be shaping up, there is some intent to look toward the retail ISPs who are providing services in terms of any subsidy. If that is the case, then Telstra would apply as an ISP.

**Senator LUNDY**—Why would Telstra be applying for money under the Higher Bandwidth Incentive Scheme when the Higher Bandwidth Incentive Scheme is designed to provide services that Telstra does not provide?

**Mr Mullane**—You would have to put the question of how the scheme might work to the government.

**Senator LUNDY**—Then perhaps I could refer that to the government.

**Mr Mullane**—As far as Telstra goes, if the scheme is there for ISPs, we are an ISP.

**Senator LUNDY**—While Telstra are at the table, let me ask the government: what is your view on this matter? Do you think Telstra should be able to be recipients of the government's Higher Bandwidth Incentive Scheme money?

**Ms Holthuyzen**—The details of the scheme are still being finalised. At this stage, there is no intention to exclude anyone who is a service provider from being eligible for the scheme.

**Senator LUNDY**—Can you tell me what the description of broadband is under the Higher Bandwidth Incentive Scheme?

**Ms Holthuyzen**—The description of broadband is still being finalised. There was a discussion paper put out at the original forum on 7 and 8 October, which is still under discussion. Comments have come back on that, so we are still finalising that and the government is still to finalise its actual definition of what higher bandwidth is.

**Senator LUNDY**—Is it expected that Telstra's ADSL service will fit within the definition that the government determines, therefore making sure that it is eligible to apply for subsidy?

**Ms Holthuyzen**—I do not think it is a matter of making sure Telstra is eligible. It is a matter of the government deciding what the definition of higher bandwidth is for those services to be eligible.

**Senator MURPHY**—Why don't you use what Estens said about bandwidth?

**Ms Holthuyzen**—I am not quite sure what you are referring to Mr Estens as saying.

**Senator MURPHY**—Mr Estens, I think, looked at intermediate to higher bandwidth being 256 to 600 kilobits per second.

**Ms Holthuyzen**—We will get Mr Bryant to come and answer the questions on the details. If you would like to talk about the Higher Bandwidth Incentive Scheme now, we can get someone to—

**Senator LUNDY**—I am planning to ask questions specifically about that scheme when we have the department before us. I have got a few more questions to Telstra about ADSL, and then I would like to hand over to my Senate colleagues.

**Ms Holthuyzen**—Okay.

**Senator LUNDY**—There have been a few more examples of customers applying for ADSL services though Telstra's competitors and being told that they were not available but who when applying to Telstra were able to get the service. Can you tell me how Telstra handle that process in relation to their transposition strategy? Also, what is your response to the ongoing allegations that Telstra are being anticompetitive in the way they are handling inquiries about ADSL connections through competitors?

**Mr Scales**—If Mr Mullane handles the first issue, I will handle the second issue.

**Mr Mullane**—In relation to transpositions and the general question of competitors versus BigPond regarding determining whether a service can get ADSL, all the work is network based and carried out within the Infrastructure Services part of Telstra. The factor that might lead to any discrepancies always gets back to what I would call a manual service qualification process, which is used if, for whatever reason, an automated service qualification cannot take

place. The vast majority are automated service qualification checks. They are fixed: the outcome comes out and whoever the service provider is can proceed or not proceed. Where there is some discrepancy in information that makes it unclear as to whether the service can be qualified automatically, we will request a manual service qualification, and every service provider can request such. In the case of manual service qualification, the issue comes up that staff have to calculate the actual transmission loss of the cable paths, make inquiries of record systems and so on, so it is quite a complicated thing. I would say that in the limited number I have seen where there have been questions raised, sometimes I have seen a small number of examples of human error being made in assessing the records information. It is complicated, because there are lots of different types of cable out there and so on.

**Senator LUNDY**—Do you offer any compensation for customers affected by this error on behalf of Telstra?

**Mr Mullane**—It depends. Where cases are brought to our attention, we look at every case on its merits and we will make judgments and deal with the customers accordingly.

**Senator LUNDY**—Have you ever paid compensation?

**Mr Mullane**—Not to my knowledge, no.

**Senator LUNDY**—But you could if you thought it was deserving?

**Mr Mullane**—It depends. There are many different types of inquiries that come in. We certainly would never rule out anything on a carte blanche basis. You also asked me about transpositions. The transposition process is designed such that where a customer is rejected on the basis of a pair gain system, often being a RIM situation, preventing the delivery of DSL a request can be made in association with an order for Telstra Infrastructure Services to, once again, examine the cable records and see if there is existing cable available to provide such a service. That process happens from both sides—the retail and the wholesale sides—of the business. High volumes of such requests flow through. I think that the last time we spoke I mentioned that about a third of those result in a successful outcome.

**Senator LUNDY**—How do competitors get Telstra to do a transposition?

**Mr Mullane**—As I understand it, there are two types of wholesale customers. There are those who use an automated system access called LOLO. When they get a failure through LOLO, they will request Telstra Wholesale front-of-house people to put it in as a transposition request. The smaller providers who do not use LOLO just put their normal application in through Telstra Wholesale, and Telstra Wholesale will automatically resubmit it for a transposition request.

**Senator LUNDY**—Can you provide me on notice with all of the cost implications and expenses associated with the transposition for external parties, customers, competitors and Telstra retail and wholesale?

**Mr Mullane**—Yes, certainly.

**Senator LUNDY**—Is there anything in either legislation or Telstra's carrier conditions that requires Telstra to remove all pair gains that cannot provide 19.2 kilobits to customers?

**Mr Mullane**—Is there any legislative requirement?

**Senator LUNDY**—Is there any regulation that says you have to do it? Is there either regulation through, for example, your carrier licence or legislation, as in guaranteed service standards?

**Mr Mullane**—All I can say, and I am not an expert—I will pass over to others perhaps—is that this was a matter that came up as a result of the Estens inquiry. Telstra made an undertaking to the government in relation to providing an equivalent to 19.2 kilobits per second throughput. Whether that is yet translated into a licence condition I could not say.

**Senator LUNDY**—I think the answer is no. Mr Scales, could we go back to that question I asked you earlier?

**Mr Scales**—It will be part of our licence conditions if it is not technically now. I think for all intents and purposes the answer to your questions is: yes, there is a legislative requirement for us to achieve 19.2 kilobits per second. With regard to the competitive issue, Telstra is required to be even-handed with both its retail and wholesale customers. We are subject to scrutiny by the ACCC. The ACCC quite regularly takes complaints from wholesale customers where they do not believe that that is the case. We work with the ACCC to investigate every one of these issues. So the answer to your question is: no, we do not in any way discriminate against any of our customer types, and we take very seriously our relationship with our wholesale customers.

**Senator LUNDY**—Relating to Telstra's involvement in the Launceston broadband project, can you tell me how much Telstra has expended so far?

**Mr Scales**—I will ask Mr Mullane to cover that issue.

**Mr Mullane**—I will ask Mr Pinel. He may be in a better position than I am to answer it.

**Mr Pinel**—I understand the figures were recently provided in a question on notice, and I do not have an update on those figures. From recollection, a total of about \$11.8 million was expended, and that included figures to the end of June 2003. At this stage I do not have updated figures beyond those that were provided in the question on notice.

**Senator LUNDY**—How much more do you have to spend on that project?

**Mr Pinel**—As you know, the total project was \$15 million from both government and Telstra. The project has now been extended to 2006. The life of the project has been extended, and there has also been some extension of the scope on that to include some evolving technologies. We are still committed to the full expenditure of the money as necessary. I am not sure whether you want anything further on that.

**Senator LUNDY**—I will probably put some questions on notice, but I will defer now to Senator Murphy.

**Senator MURPHY**—The total expenditure on the eLab project, whether it is expenditure by government or Telstra, has been about \$30 million, hasn't it?

**Mr Pinel**—On the Launceston broadband project?

**Senator MURPHY**—Yes—on the eLab.

**Mr Pinel**—The total budget for the commitment was \$30 million. That was \$15 million from both Telstra and the government. But the expenditure to date has not reached that figure.

**Senator MURPHY**—With regard to how it is all going and the fact that it was established as a sort of developmental laboratory, I understand that there was some work done in Victoria that related to ADSL connections. I am curious. Given that the eLab does not seem to be doing all that much, why was that not done there?

**Mr Pinel**—I do not know the specifics of that. Certainly the commitment in Launceston was to develop a test platform for users of that. It is an extension of our research lab facilities, and it would depend on the nature of the work which part of it was done in Launceston and which was done elsewhere, but I do not know the specifics of the project you are talking about. If you can give them to me, I will get some answers for you. You say that it was ADSL related and carried out in the research labs in Victoria?

**Senator MURPHY**—Telstra responded to a question asked by Senator Harradine in the May estimates by saying:

Whilst subsidised access to ADSL is available to an estimated 41,000 homes and businesses in the Launceston region ...

By contrast, in the same hearings you responded to Senator Mackay by saying:

ADSL is available to an estimated 25,000 homes and businesses in the Launceston area.

Will you enlighten me as to which figure is correct?

**Mr Mullane**—The only guess I would have—and I should not put too much weight on it—is that people who participate in the eLab as customers have to sign a particular agreement. I guess there are two classes of customers: those who are participating and those who are standard customers. But, from memory, there were six exchanges enabled in Launceston, and there are a number of households in the whole of Launceston—you may know the number better than I. It would be one of those two figures, but I do not know which one.

**Mr Scales**—It is most likely that the written answer was the correct answer, because we would have gone back and checked what was said in the hearings. But we will check that out for you and get the most up-to-date and accurate answer.

**Senator MURPHY**—If you would not mind. I can tell you how many houses there are in the Launceston area. When you do get that response, please tell me exactly if you are dealing with a local government area—specifically what area we are really dealing with here.

**Mr Pinel**—I am sure it will be defined by exchange service areas in our terminology. That would be likely to correspond fairly closely to the city area, but it would not be precise at all. We can give you the two definitions and see just what is covered.

**Senator MURPHY**—That would be useful. In terms of ADSL broadband in Tassie, according to information I have received from Telstra, I understand that there are around 4,000 ADSL connections in Tasmania, of which 1,600 are through the broadband eLab in Launceston. There are nearly 176,000 households in the state, which makes the 4,000 ADSL connections a very low percentage of around 2.27 per cent. If we are talking about ADSL and its availability—I think the claim is it is available to 70 or 75 per cent of the population—that does not put Tasmania in too good a position in respect of the national average.

**Mr Scales**—Often this is about demand for a particular service. While we are trying to stimulate demand for a high-speed Internet service, we cannot force people to take it up. Sometimes we would like to and we think it is in their benefit but, if people do not particularly want that service and are comfortable with the narrowband service and it meets all of their needs, it would not be unreasonable to suggest that people are voting with their feet to some extent.

**Senator MURPHY**—I could accept that to some degree, except that I think there are about 204 exchanges in Tasmania and only 27 of them are ADSL enabled.

**Mr Scales**—Yes.

**Senator MURPHY**—I am just curious. Maybe people are voting with their feet where they have access to it, but by the same token it seems to me that there is a big percentage of exchanges that—

**Mr Scales**—That is possible, and we can get that. But our experience with Launceston eLab and all that was associated with that would suggest to us that maybe the demand in certain parts of Tasmania is not what we might otherwise have expected. I think, Senator, you quite rightly asked us about this last time we met, and you raised a question as to why there was such a low take-up of broadband in that area, even given the fact that it is at a subsidised rate. On the one hand we have the service available, and on the other hand we have it at a subsidised rate, yet even under those circumstances we are getting a relatively low take-up. I think it is fair for us to indicate that we are a bit bemused by that as well, and it has exercised our minds as to why that might be the case.

**Senator MURPHY**—There is a price issue I will come to a little later. Yes, it might be the fact that you have evidence to suggest that people are voting with their feet, but—I think I asked this question before, but I will ask it again—what plans do you have to enhance the availability?

**Mr Scales**—We will extend the exchanges that are capable.

**Senator MURPHY**—Is this to be done by the demand driven supply technique?

**Mr Scales**—No, it is a bit more than that. Allow my colleagues to answer that question.

**Mr Mullane**—The demand register is one of the factors. We will certainly get information from the customers themselves. It puts the power out there with customers to tell us directly that they are interested in the service. That is a very important input. But we do pay attention to other inputs that are not going to be brought to Telstra's attention by that means. For example, if there were some new economic development coming, where the population had not really moved to take account of it—say a new resource project somewhere—we may well consider providing a service at the early stages of such a development. But just at the Telstra BigPond level we are trying to improve the popularity of the service through informative content type provision.

**Senator MURPHY**—It would be useful if BigPond worked a bit more than it does.

**Mr Mullane**—The performance of the actual broadband network has improved somewhat over the last year or so.

**Senator MURPHY**—But we have just been discussing that a lot of people in Tasmania do not have broadband. I do not. Anyway, that is an aside.

**Senator LUNDY**—The other point I think Senator Murphy is making is that, if Telstra is not providing ADSL and those exchanges are not enabled, it does not matter what the access regime provides for because no competitor can provide ADSL either. I think that is the situation that these people in rural and regional Australia find themselves in. Until Telstra starts finding the justification for upgrading these exchanges and installing CMUXs in RIMs and all those kinds of things, these people have no choice. The alternative is satellite. If competitors were to go in and put DSLAMs in these exchanges, which I know is what you are going to say, then they have to be privy to the detail about the quality of the copper, because how can they make those assessments through Telstra if, after installing DSLAMs, they find that the copper cannot support the service? Competitors are at a distinct disadvantage in that scenario.

**Mr Scales**—I was actually going to make two quite separate points. The first point is that ADSL is but one of the technologies available to provide high-speed Internet, and Telstra provides a range of technologies which will enable that to happen. The suggestion that people cannot get high-speed Internet, or what is broadly defined as broadband, because they do not have ADSL is simply wrong. The second point is that the ACCC, as the senator and I have discussed on a previous occasion, is making Telstra provide the local loop available to wholesale providers. That does require wholesale providers to spend some of their own money and in fact to provide equipment which will enable them to meet the needs of the customers who they believe are in the area that they want to serve. Again, it is not right to say that unless Telstra enables an exchange then customers will not be able to get ADSL and that competitors to Telstra will not be able to provide ADSL.

**Senator LUNDY**—I disagree, but I will let Senator Murphy have a go.

**Senator MURPHY**—Do you have any data on the actual Internet speeds that are generally being experienced? Has there been any collection of data?

**Mr Pinel**—I guess it depends on how you frame the question. As you would be aware, Telstra operates and manages the Internet Assistance Program. That provides the capability for customers to download a standard file—this is for narrowband, dial-up services—and to determine whether they are exceeding the benchmark figure of 19.2 kilobits a second. To that extent we have some metrics that show the results of those figures—in other words, how many people pass and how many people do not pass that benchmark.

**Senator MURPHY**—But do you have any data? I asked this question of the Australian Communications Authority, and they did not have any data. I guess I am looking at the claim in respect of all of the various speeds. If you go to ISDN you can get up to 128 kilobits per second and so on and so forth. What information is available to say, ‘In Canberra we are achieving an average of this, and if it is somewhere else it is that.’ Is there any information of that sort available?

**Mr Pinel**—An ISDN connection will provide 128 kilobits per second in both directions, and that is effectively a design parameter. Wherever ISDN is available—and it is available to 96 per cent of the population—that speed is available to those who take up the option.

**Senator MURPHY**—But that is an ‘up to’ thing.

**Mr Pinel**—No, it is a fixed number of 128 kilobits per second in both directions. It is a symmetrical service. It is two 64 kilobit channels effectively bolted together to make 128 kilobits in both directions.

**Senator MURPHY**—I do not want to misrepresent another Telstra employee I had a discussion with very recently, but I may have misunderstood what was said.

**Mr Pinel**—If there are issues around that, they would be at the margin rather than anything else. That is my understanding.

**Mr Mullane**—You have to be careful here, as there is line speed and there is throughput speed, which can be different because so many components can go into the nature of a download or an upload from a computer or server all the way through an international network, domestic network et cetera. But, as Mr Pinel says, the actual line speed of ISDN is two times 64 kilobits per second.

**Senator MURPHY**—From a national point of view on ADSL broadband, in May 2001 I think it was claimed that 70 per cent of homes were able to access it. Has that increased, or is it still at 70 per cent?

**Mr Mullane**—It has certainly increased.

**Senator MURPHY**—How much has it increased by?

**Mr Mullane**—If it was 70 per cent in May 2001 and the figure at the moment is approximately 75 per cent. That is really the number of telephone lines that are able to access the service, making allowance for distance exclusions, pair gains and the number of exchanges enabled. In terms of where it is likely to go from there, I think there will be additional exchanges enabled. However, the exchanges that we are enabling now are a lot smaller than the ones that were enabled in the early part of the roll-out. So for every additional exchange you do not get that many more lines enabled, so each exchange will make only a marginal increase. I think a lot more lines will become available through the sort of program of work I talked about—addressing the pair gains situation. We also have some work going on inside Telstra looking at whether it is in any way feasible to change the distance limitation. It is too early yet to indicate where that is going to take us, but that also has some potential opportunity.

**Senator MURPHY**—Do you have any information about the extent of interest that has been or is being expressed in Tasmania regarding the demand register?

**Mr Mullane**—Not specifically in Tasmania. In general terms, the demand register is at an early stage. We put it in the market not very long ago, and we are still settling it down and getting it into shape. Once we get some momentum building—and we are seeing some early indications in a small number of places that give us some encouragement about that—it will become something that is picked up very strongly around Australia.

**Senator MURPHY**—Could you provide me with some information—just take this on notice, please—about how you determine the relevant geographic area, what mechanism you have used and how you intend to promote the demand register process?



**Mr Mullane**—I can tell you what we have done so far. We had a launch announcement jointly in Sydney and Melbourne to media in other parts of Australia who cared to dial in. There was quite a lot of pick up of that announcement; a lot of regional press and, to some extent, metropolitan press carried it.

**Senator MURPHY**—Can you provide me with when that was so I might go back and check?

**Mr Mullane**—The announcement was made by Telstra on 2 October.

**Senator MURPHY**—This year?

**Mr Mullane**—Yes, this year—a month ago. In the week or two following that period, there was quite a bit of regional press. The demand register is being managed by Telstra Wholesale but, because of the widespread presence of Telstra Country Wide, there is quite a lot of word of mouth communication to people out there about it. I have asked Telstra Wholesale marketing to begin to put together an arrangement as to how we can provide communities with support for gathering interest within the community. That is by far the most effective way for the demand to be expressed. It is quite early days, but I think we will see this move forward pretty well over the next few months.

**Senator MURPHY**—I would like to ask a couple of questions regarding ISDN—in relation to Tasmania again—and extended zones ISDN application and satellite application. In Tassie to what extent since 1999 have you extended the ISDN reach—that is, beyond the four and six kilometre range?

**Mr Mullane**—There was an important step forward probably 12 to 18 months ago when we introduced the ISDN extender to be carried as part of the standard cost of the service. An extender is a device that is placed, say, midway along a customer's line into an exchange in the premises; it would be mounted in a manhole, for example. Basically it will double the distance capability of ISDN.

**Senator MURPHY**—On notice, can you give me that information for Tasmania?

**Mr Mullane**—Yes; certainly we will take that on notice, but it is available anywhere in Australia.

**Senator MURPHY**—I would like to question you about satellite and some of the extended zones in Tasmania. As best I can judge from the map, which was about as big as a match head, the central part, the midlands and the west coast of Tasmania were eligible for satellite. I think you had a free connection to satellite?

**Mr Pintel**—In the outer extended zones there was a contract, let by the government which Telstra was successful in being awarded, that provided, firstly, local calls to the outer extended zones and then as an adjunct to that also provided an attractive proposition on two-way satellite for Internet access. That was offered to the outer extended zones throughout Australia.

**Senator MURPHY**—How was that offered?

**Mr Pintel**—By mail-out. There was plenty of publicity around it at the time. We were obliged to publicise it very broadly.

**Senator MURPHY**—Mail-outs to customers?

**Mr Pinel**—Mail-outs to our customers and advice to other ISP wholesalers and a request for them to advise their customers. We could only directly communicate with those customers who are actually Telstra customers. We were reliant on—

**Senator MURPHY**—You did not send me one.

**Mr Pinel**—I am not sure about your residential location—whether you are in an outer extended zone or not.

**Senator MURPHY**—As I said, the best I can judge from the map, I live within the area.

**Mr Pinel**—Can I take that on notice and find out what happened there—because there was a major effort?

**Senator MURPHY**—You can. I certainly cannot recall receiving it. I probably would have taken up the free offer—

**Mr Pinel**—It was a big blue envelope. You would not have missed it if it had been delivered.

**Senator MURPHY**—I do not recall receiving it, because I probably would have taken it up.

**Mr Pinel**—I guess the question is whether there are outer extended zones in Tassie.

**Senator MURPHY**—According to the ACA documentation I have, there are—despite the fact that it was a very small map.

**Mr Pinel**—I will take that on notice as well, Senator, and we will check it out. That offer was certainly made in all of the outer extended zones and it was heavily promoted. I will make a particular note to get back to you about Tassie.

**Mr Mullane**—There is a scheme called the Special Digital Data Service Obligation and, where a customer is unable to be reached with ISDN, subsidies apply to satellite installation costs.

**Senator MURPHY**—But I understand that the outer extended zones offer closed last September.

**Mr Pinel**—Yes, it did.

**Senator MURPHY**—I am interested in the DDSO matter as well, because I believe the obligation would still exist under the DDSO program for the west coast of Tassie, some of the Central Highlands and the Midlands. I have questions with regard to broadband speed into Tasmania, particularly as it relates to the AREN project, which I asked the minister a question about in terms of connectivity. The minister is not here at the moment, so I will put the questions regarding AREN to one side for a moment and I will go to the issue of kilobit per second broadband capacity available.

There are three different programs—AARNet, AREN and the one that deals with health services. It is my understanding that the broadband speed to Tasmania, which was part of the \$50 million post-Besley program, is nothing like what is needed. I do not know whether it is capacity, but when I ask Telstra in Tasmania they say that the fibre-optic cable across the

strait—and we now have two—has plenty of capacity. If it is not a question of capacity, is it a question of cost? Is Telstra being difficult in what it is trying to charge in respect of allowing these things to be put in place to the required level? As I understand it, the health program—the proper name of which escapes me at the moment—is connected but, in comparison with what is available nationally, it is about one-third the speed, if not less.

**Mr Pinel**—I am not 100 per cent sure of the question. Certainly AARNet is not a Telstra network; it is a research network. We do not have any—

**Senator MURPHY**—But it needs to use Telstra infrastructure to work.

**Mr Pinel**—It may well be connected. In relation to Tasmania's capacity, you are correct that there is now a second fibre-optic across the strait and that provides more than adequate bandwidth availability. I can only assume that the issues you are referring to come back to price, but I would have to take that on notice. Can you provide a little bit more detail regarding the specific question that you are trying to pose?

**Senator MURPHY**—I may just want to come back to it.

**Mr Pinel**—I am not familiar with AREN.

**Mr Scales**—If you can provide us with some specific questions around that issue, we will do our very best to get you the answers.

**Senator MURPHY**—I want to go back to a joint statement released by Mr Anderson and Senator Alston on 16 September this year, which said:

Senator Alston said that under the contract, Telstra would provide its Government Wideband Internet service to eight TAFE sites, ten University of New England sites and 31 health sites in the region including towns from Tenterfield to Pilliga and from Mungindi to Walcha.

'The contract with Telstra provides a minimum of two megabits per second bandwidth for a fixed annual fee, regardless of traffic. Metered calls within the network are nonexistent and a thing of the past ...

This is all very good for the residents in the New England area and university and so on, but in Tassie we have about 64 kilobits and users have to wait for it to crank up—I am not technical. Now we have got another 64 kilobits, so we go up to 128 kilobits, but if you are in John Anderson's electorate you get two megabits.

**Mr Pinel**—Once again I would have to see the specifics of what you are referring to in Tassie. The arrangements you are talking about in New England, as I understand it, were the result of a commercial negotiation, but I will take it on notice.

**Mr Scales**—Senator, is the nature of your question about whether TAFE colleges in Tasmania do not have sufficient broadband width available to them?

**Senator MURPHY**—They do not. It is not question; that is a fact.

**Mr Pinel**—The issue would not be one of availability—

**Senator MURPHY**—If you are in New England you get two megabits, but if you are in Tasmania you do not. There is supposed to be \$3 million spent in Tasmania, but it is not delivering—or has not been completed, I do not know. Senator Kemp would acknowledge this, given that he said that they were still trying to work it out in respect of AREN.

**Mr Pinel**—I am not familiar with AREN at all; I do not know what the acronym stands for.

**Senator MURPHY**—It is the Australian Research and Education Network. In the minister's response to me, which was in writing and was tabled, it says:

There will be an enhancement of the existing AARNet—

which is the Australian Economic and Research Network—

which currently provides telecommunications links between universities across Australia, including the University of Tasmania.

It does, but if you happen to be in Tasmania it is at a much slower speed than elsewhere, and I think the minister knows that—particularly if you are in the Deputy Prime Minister's electorate, which has got two megabits.

**Senator Kemp**—To clarify for the people at the table, that answer was provided by the Minister for Education, Science and Training, Brendan Nelson. If you read the matter that was tabled, my understanding is that it comes within his auspices, essentially.

**Senator MURPHY**—It does, except that you need Telstra to get it.

**Senator Kemp**—I made the point because there appeared to be some confusion at the table.

**Mr Pinel**—If I heard you correctly in that, I think the arrangement is with AARNet rather than with Telstra. That would be the contractual arrangement.

**Ms Holthuyzen**—Perhaps I can assist. The project was under the National Communications Fund, a fund set up by the government a while ago. It was a \$50 million fund, and a number of projects were allocated to states. They were major, large-scale projects, particularly in regional areas. This was one of those projects.

**Mr Scales**—My colleagues tell me that the one in New England was awarded to Telstra, and we have delivered on it. I do not think the other projects were actually awarded to Telstra, and therefore Telstra was not responsible for the delivery of them.

**Senator MURPHY**—As I understand it, Mr Scales, if it is not Telstra delivering them, Telstra is in discussions or negotiations with the people who are trying to deliver them. This is a matter, maybe, of price for access, but, at the end of the day, the government said that these things would be delivered and they have not been. I just want to know when Tasmania is going to get the level of megabits per second that seems to be the national average.

**Mr Scales**—I interpret your question to us as being: is Telstra involved in any negotiations with these organisations that are inhibiting the ability of Tasmania to get this bandwidth? Is that the nature of your question?

**Senator MURPHY**—I do not need to ask that question, because I know that to be the case.

**Mr Scales**—What is your question, therefore?

**Senator MURPHY**—Maybe this question is as much to the government as it is to Telstra. When is this going to be fixed up?

**Senator KEMP**—We are a bit unsure of the direction in which you are heading. You might like to summarise the question again for us so we can be more specific with our responses.

**Senator MURPHY**—Let me talk about AARNet. AARNet Pty Ltd is a licensed carrier. If you go to Hobart, as I understand it, you get a bandwidth of 24 megabits per second but elsewhere in the country it ranges from 66 to 123 megabits per second. If you are talking about national Internet, in Hobart it is at 5 megabits per second but anywhere else it is 10½ to 36 megabits per second. There seems to be a distinct difference if you happen to live in Tasmania versus elsewhere in the country—and even more so if you are in New England.

**Mr Pinel**—From what you have said today and as I understand it, the issue is a relationship between the university and AARNet and not one that Telstra has a retail contractual relationship with. What happens at the wholesale level I would have to take on notice. I may not even be able to find that out, given the wholesale retail. Certainly, if it is an arrangement between the universities, TAFEs and AARNet, then it is a question for AARNet, not for Telstra.

**Senator Kemp**—You have outlined the problem. I am not sure we can give you a more specific answer. We will take that on notice, and the department will work with Telstra so they are properly informed, because they well know that unless you are given a good answer you will probably ask me again in question time. We want to see if we can nail this for you.

**Senator MURPHY**—Very good, Minister. Just as a matter of interest, it was reported in February this year that Telstra was upgrading its system in Sydney and Melbourne to 10 gigabits per second. By God, that puts Tasmania even further behind! As we were discussing before, there are two fibre-optic cables across Bass Strait. I am told again by Telstra in Tasmania that the second cable is for redundancy purposes—that is, if anything goes wrong with the first one, you can use the second one. Is that correct?

**Mr Pinel**—There always was redundancy via a radio system, but with the growth in traffic to Tasmania the radio system became very close to incapable of providing that redundant link. The second fibre-optic cable provides that redundant link. How it is configured on a day-to-day basis in terms of which cable is carrying which traffic is not really an issue. But you have capacity on two routes to carry the traffic that Tasmania needs.

**Senator MURPHY**—When I previously raised this issue about capacity, I was told, ‘The cable’—it was only one cable then—‘has more than enough capacity.’ In fact, I think the figure was that only about 4 per cent of it was being used.

**Mr Pinel**—Certainly.

**Senator MURPHY**—So we have 96 per cent of it unused. Now that we have a second cable we still cannot seem to get the broadband Internet speeds up to a level that is comparable with Sydney or Melbourne, for instance.

**Mr Scales**—The other reason the second cable was put down was that, in the event of there being some catastrophic event with the first cable, Tasmania would have been in a very difficult situation. So when we think about adding extra capacity, we do it not only to cover off additional demand; we do it to make sure we are able to provide services to our customers in the event of some catastrophe—for example, if the other cable had been damaged or torn for some reason.

**Senator MURPHY**—I appreciate that, but we now have two cables and I am not sure whether there has been a dramatic increase in usage such that it has affected the capacity of

either of them. Let us assume there has been a 10 per cent use of capacity. It still leaves us with 90 per cent.

**Mr Pinel**—Senator, let me assure you that there is more than adequate capacity there to support the demand in Tasmania.

**Senator MURPHY**—I know—you keep telling me that—but, you see, we—

**Mr Pinel**—But the demand is dependent. The use that is made of it will determine the throughput. No matter how big the pipeline is, the amount that you have to equip it for is dependent on the usage you are going to have at the end, and that is dependent on the take-up rates and the applications people use. So that is certainly right: the capacity on the first cable is more than adequate; the capacity on the second cable provides a redundant link; and there is more than adequate capacity in both cables to meet the current needs and expected needs for data connectivity to Tasmania.

**Mr Scales**—In addition to that, Telstra is capable of providing substantial bandwidths to those customers who need it. So it is not as though the capacity is not in Tasmania. If there are issues around price, as is part of the debate, we understand those, but it is not a question of whether Tasmania has available to it the opportunity for high-speed Internet capability. It does.

**Senator MURPHY**—Minister, could I ask you this question? Over the past three or four years there have been four programs implemented that add up to roughly \$150 million: the advanced networks program, the bioinformatics centre of excellence, the \$50 million national communications fund and the \$42 million Australian research and education network. Presuming my research is correct, the only thing that would suggest there is anything tangible happening in Tasmania goes to the Telehealth project, which amounts to about \$3 million. Even then we still have this problem of speed.

**Senator Kemp**—I think there are, undoubtedly, major achievements out of that program, and we have a distinguished group of officers who may well be able to enlighten you as to whether there are any other particular matters that we can bring to the senator's attention. Given the fact that the question relates to Tasmania, I notice that a second reading speech given by one of our colleagues at the table was about the many communication developments which have occurred in your home state. I refer you to that speech by Senator Harradine. It struck me as a very impressive list.

**Senator MURPHY**—I am sure those online centres that Senator Harradine mentioned would also like an increased capacity in speed.

**Senator Kemp**—I think it answered very effectively some of the comments that were made earlier on in that debate. Is there anyone who can deal with the specifics of the question that Senator Murphy raised?

**Mr Pinel**—We can certainly deal with the question of capacity and provisional services across to Tasmania. As I say, it is not limited by physical infrastructure or the equipped ends. At the end of the day, people have to buy the services at the user end, and that is what seems to be the issue—take up of capacity.

**Ms Holthuyzen**—We can provide you with what programs Tasmania has benefited under.

**Senator MURPHY**—In respect of all of these things that are supposed to enhance the capacity or the speed of Internet, broadband service speeds et cetera—that is what all of these were essentially designed to do—not too much has happened on the ground.

**Mr Pinel**—From a Telstra perspective, would it be helpful if I were to arrange for a colleague to give you a personal briefing on the situations and the issues that impact on Tassie?

**Senator MURPHY**—I was actually involved in one on Friday but I am happy to be involved in another one. I can have an ongoing discussion.

**Mr Pinel**—That is probably the best way to resolve it.

**Senator Kemp**—It would be helpful, if we could carefully read the *Hansard* so we can be even more clear in our minds about the issue that Senator Murphy is driving at.

**Senator MURPHY**—Can I say, Minister, to you—and it probably is a question to the government with regard to the discussion or negotiation that has been going on in respect of the costs of getting the capacity across Bass Strait—that it would be useful if we could get an answer to that.

**Senator Kemp**—We note your views.

**Senator MACKAY**—This is a question for Mr Stanhope, I think. Can Telstra confirm that its basic access revenue increased by \$211 million in 2002-03 to \$3.091 billion on the back of large line-rental increases, despite the fact that the number of Telstra based access lines decreased from 10.4 million to 10.1 million? Can you confirm the veracity of those figures?

**Mr Stanhope**—The basic access revenue increased in the 2002-03 year by \$169 million. It went down due to volume by \$19 million and up in price by \$188 million.

**Senator MACKAY**—This seemed on the face of it to be around \$200 million straight to Telstra's bottom line, given that call costs do not seem to have come down considerably. Is that a fair comment?

**Mr Stanhope**—Call costs actually came down \$52 million in price in the local, long distance, fixed-to-mobile and international call baskets. I have explained previously that in the current price control regime, access can go up by CPI—and, by the way, CPI in that year was 2.9 per cent—so it can go up 2.9 per cent plus four per cent, which is 6.9 per cent. In calls, it is CPI minus 4.5 per cent, so 2.9 per cent minus 4.5 per cent.

The current price control regime does allow for the carryover of credits from prior years. So, over the last several years since the price control regime has been in place, Telstra have completely and fully complied with the price control regime. In 2002-03 some of those credits were used.

**Senator MACKAY**—What was the nature of those credits?

**Mr Stanhope**—In 2001-02 we did carry over, in the call basket, about \$340 million. You can tell, from what I have been saying, that we used nowhere near those credits, because we also have to take into account our competitive position. In the access area we had a carryover of about \$68 million.

**Senator MACKAY**—Given that you had credits up your sleeve as it were, why did Telstra drop the 15c neighbourhood calls? How much money was made out of that?

**Mr Stanhope**—I am not sure exactly for the specific plans.

**Senator MACKAY**—Nobody is, I think that is the point.

**Mr Stanhope**—We balance across a whole lot of various pricing plans within the call price scheme—and the access. We are balancing this all of the time. We have announced several times that we have a PSTN rebalancing going on between access and calls within the price control regime.

**Senator MACKAY**—I guess one of the critical issues that underpinned the line rental deregulation—for want of a better term—in relation to the arrangement with the Democrats, was that calls would be cheaper. My understanding of what you are saying is that you had about \$340 million credit from the previous financial year. Why was that not used to provide—

**Mr Stanhope**—Calls were cheaper in 2002-03. The price of the total basket of calls was \$52 million cheaper than the year before.

**Senator MACKAY**—What I am getting at is that you have \$200 million that has gone straight to Telstra's bottom line, irrespective of how. You have contended—and you are correct obviously; I have no more information—that \$340 million of that is a result of credits accrued in the previous—

**Mr Stanhope**—No.

**Senator MACKAY**—Okay, well you correct me.

**Mr Stanhope**—I was talking about the reason that the call basket and the access basket of revenues increased. If you look at the total PSTN rebalanced products, you see that the revenue increased by about 2.1 per cent year-on-year. The reason that is possible is that there are some credits carried over from previous years. So we have always had a price control regime where credits can carry over on from one year to the other. What that means is that customers in prior years had large call cost decreases. In fact just to let you know, from 1997-98 to the 2001-02 year—so this is not counting 2002-03—the cost of local calls went down 34.6 per cent, the cost of national long-distance calls went down 27.5 per cent, the cost of international calls went down 59 per cent and the cost of fixed-to-mobile calls went down 19 per cent. So those decreases in prior years have been far in excess of what was required in the price control regime and therefore the credits from that have been able to flow through.

**Senator MACKAY**—If the credits had not existed then what would the situation have been fiscally?

**Mr Stanhope**—In terms of basic access we only used \$32 million of credits in 2002-03 and in calls we used \$16 million of credits. So we have not used a lot of the credits in the 2002-03 year, but we still have carried forward credits for 2003-04, for instance.

**Mr Scales**—The ACCC wants us to take this approach so that you get a competitive environment in which to operate. If Telstra were to use up all of our credits on reducing prices, our competitors would say that we are dumping into that particular market and



squeezing them out of business. So this is the way in which the competition environment operates.

**Senator MACKAY**—Thank you for that, Mr Scales. Can you confirm, Mr Stanhope, that revenue in line rental fees increased by 2.11 million? Is that correct?

**Mr Stanhope**—My information is that in 2002-03 the access dollars went up by \$169 million, \$188 of it was price, and volume went down—as you said, the number of access lines—by \$19 million.

**Senator MACKAY**—So what does that give you an aggregate of then?

**Mr Stanhope**—It gives you an increase of \$169 million for basic access.

**Senator MACKAY**—How much of that has gone to Telstra's bottom line? All of it?

**Mr Scales**—No, you have to offset that against the price decreases for the delivery of the service. So that is why Mr Stanhope was making the point that, at the same time as you look at the increase in access price, you have to take into account the local call price decrease, the national long-distance price decrease et cetera, and it is the net of that that goes to the bottom line.

**Senator MACKAY**—Let us go to that then. If you have a look at your local call revenue, my reading of it is that that decreased by \$76 million or by around five per cent in 2002-03. Does that sound right to you, Mr Stanhope?

**Mr Stanhope**—You are picking up numbers that will include local call, value-added services and so on. I have the pure call numbers.

**Mr Scales**—But that sounds about right, Senator. There has often been something like a drop of five percentage points a year. So we would not dispute the generality of your point.

**Mr Stanhope**—Local calls, just pure calls, which are about value-added services like call number display and so on, went down by \$52 million.

**Senator MACKAY**—And that decreased to \$1.56 billion. The number of billable local calls also decreased by around five per cent, from 10.269 billion to 9.794 billion.

**Mr Stanhope**—Yes.

**Senator MACKAY**—Isn't it the case that the similar revenue and volume decrease in local calls leads one to contend that the reduction in local call costs in 2002-03, as required by the price controls—which require local call costs to decrease in price along with other call costs—is not necessarily being passed on?

**Mr Stanhope**—It is a call basket, so it is all calls—local, long-distance, fixed-to-mobile and international calls. The price reduction that was in that calls basket for 2002-03 was \$52 million. It was dominated by reductions in long-distance calls.

**Senator MACKAY**—I have to think about that. I might come back to it.

**Mr Stanhope**—What I am trying to explain—

**Senator MACKAY**—What I am saying is that you have not deducted local call costs.

**Mr Scales**—Local call costs are reduced significantly.

**Senator MACKAY**—I have to think about it.

**Senator MURPHY**—I have a question directed to both government and Telstra. With regard to the speed availability across the fibre-optic cables—there are now two fibre-optic cables—the telehealth program, which is operated out of LGH, as I understand it, can get up to 128 kilobits per second but it has to firstly open up at 64 kilobits per second and then keep redialling to get the additional 64 kilobits per second to have the teleconference and that can take minutes. In some cases if things are congested, as people have been told by Telstra, it can take up to 40 minutes.

They cannot get the 384 kilobits per second required for clinical services—not at all. On one occasion when they reported a significant problem to Telstra, it took eight weeks for a response to come back from an engineer to acknowledge that there was a problem. When they have asked for reports on a problem, they never get them. They have said to me that on Melbourne Cup Day—which is tomorrow—you cannot get an ISDN line at all, and they have not been able to do that for the last three years. That may be good for the punters but not much good if you happen to be working in a medical facility like the LGH in Launceston.

**Mr Pinel**—I hear what you are saying but I am not sure I understand the question. All I can do is—

**Mr Scales**—We should contact the Launceston General Hospital and talk to them about this issue. On the face of it—

**Senator MURPHY**—It is an important thing.

**Mr Scales**—Of course it is.

**Senator MURPHY**—The Elsternwick hospital in Victoria can do clinical services, video conferencing or whatever they like with anywhere else in Australia, but not with Tasmania. Once you go across Bass Strait, you run into a congestion thing. It comes down to how much capacity Telstra is letting through the cable. That is what it has to come down to.

**Mr Scales**—The cable will not be the issue.

**Senator MURPHY**—How much capacity are you releasing into the cable? You control that, don't you?

**Mr Pinel**—There is more than adequate capacity available to meet the demand.

**Senator MURPHY**—But it is not meeting the demand for the telehealth program.

**Mr Pinel**—I cannot answer the question until I get a chance to talk to the Launceston hospital about the specifics. I accept that there is an issue there. I will take it on board, and we will get it resolved—

**Senator MURPHY**—I am sure they are not telling me this for the fun of it.

**Mr Pinel**—I am sure they are not either. It is a serious issue. If it is one of our customers then I am absolutely concerned that we are not providing them the level of service that we should be. I give you a commitment that we will take it up with them and advise you of the outcome.

**Senator MURPHY**—To operate, they say that they reduce the bandwidth to 64 kilobits per second. That gets them a link, and then either they keep redialling or the nurse or whomever

at Elsternwick continues to hit the redial button until they get the additional second channel for another 64 kilobits so that they can have a conference. As I said I do not have the technical expertise to know, but I am told that you need 384 kilobits per second for clinical services. It is a concern to me that we cannot get those sorts of things in Tasmania.

**Mr Pinel**—I cannot answer your question here.

**Senator MURPHY**—It is a bit of a worry.

**Mr Pinel**—We will pursue it and make sure that you are apprised of what the issues are. Believe me, if that is an issue—and I take it that it is—

**Senator MURPHY**—It is.

**Mr Pinel**—then we in Telstra have as much interest as you in getting that situation resolved.

**Senator MURPHY**—I would appreciate your advice with regard to the claim made to me that it took them eight weeks to get an engineer to acknowledge that there was a problem and that they had requested reports on it and were not able to get them.

**Mr Scales**—Senator, would you be able to provide us with someone we could contact there, to make sure that we get to the right people that you have been speaking to?

**Senator MURPHY**—That is pretty easy because it is run by only one person.

**Mr Pinel**—We will deal through you or your office and get the details.

**Senator MURPHY**—Thank you.

**Senator Kemp**—I am not sure the problem can be resolved by Melbourne Cup day, though.

**Senator MURPHY**—I am sure it will not be, unfortunately.

**Senator Kemp**—We will pull out all stops.

**Senator MURPHY**—I am sure you will.

**Senator Kemp**—We would not want to go on the record as promising that, though.

**Senator MURPHY**—Do not let it interfere with your bet.

**Senator HARRADINE**—Would you provide the committee with an analysis of the problems that have been raised by Senator Murphy? Also, could you advise the committee of the cause, in your estimation, of the low take-up rate? Does it have anything to do with the price charged by Telstra? Is the price charged by Telstra in Tasmania higher than the price charged in, say, the city of Melbourne?

**Mr Pinel**—If you are talking about ADSL, no, it is standard pricing. It should be the same in Launceston as it is anywhere else. We can look at an analysis of the question that Senator Murphy has raised and report back to the committee. But retail pricing is consistent throughout Australia.

**Mr Mullane**—Yes, we have a uniform ADSL price right through Australia.

**Senator MURPHY**—But the price has not come down much, though.

**Mr Pinel**—The same goes for ISDN and the majority of our products. They are location independent, unless you get some very specific issues in remote areas. As a general statement, those services are not location dependent.

**Senator HARRADINE**—Chair, am I correct that the government's Higher Education Bandwidth Advisory Committee is not under this portfolio but under the education portfolio?

**Senator MURPHY**—You need Telstra to get it; it does not matter who runs it!

**Senator HARRADINE**—No, I am not getting at that.

**Senator Kemp**—A slight complication appears to have arisen which we are now working through.

**Ms Williams**—Senator Harradine, I understand that the one you are referring to is in the education portfolio, yes.

**Senator HARRADINE**—Then we will need to direct our questions to the education portfolio, and we might get some answers—not to say that we are not getting them here!

**Senator MURPHY**—I hope we can.

**Senator Kemp**—I think that is right. I think they would avoid the same mistake that Senator Murphy made in the chamber!

**Senator MURPHY**—We will see.

**Senator LUNDY**—I want to go back to the issue of the revenue earned by Telstra as a result of the line rental increases. Going to how that was accrued, could you confirm that it occurred at a time when the number of Telstra basic access lines decreased, from 10.4 million to 10.1 million? That is correct, isn't it?

**Mr Stanhope**—Yes, that is correct.

**Senator LUNDY**—At the same time, the local call revenue decreased by \$76 million, or around five per cent.

**Mr Stanhope**—Where we are having difficulty understanding each other is that you are looking at total local calls and you are looking at total basic access revenues, which contain wholesale as well. The \$211 million you were talking about does include—

**Senator LUNDY**—Does include?

**Mr Stanhope**—I know you are taking it out of the annual report. It does include wholesale. Wholesale revenues are not subject to the price cap. Wholesale revenues are subject to a whole different regime, like—

**Senator MACKAY**—So it includes wholesale?

**Senator LUNDY**—The \$211 million includes wholesale.

**Senator MACKAY**—What proportion is wholesale?

**Mr Stanhope**—It is there in the report. Let us just take basic access. Domestic wholesale basic access moved from \$359 million to \$414 million. Retail moved from \$2,521 million to \$2,677 million. Only the retail element of access and calls is subject to the price control

regime. That is why we were a little at odds about the numbers, because I was just talking about retail revenues.

**Senator LUNDY**—Can you tell us what basic access revenue was for retail? What is \$414 minus \$359?

**Mr Stanhope**—Basic access revenue actually grew \$156 million.

**Senator LUNDY**—So we are not talking about \$211 million. We are talking about \$156 million.

**Mr Stanhope**—Yes, we are. That is for retail access.

**Senator LUNDY**—Which is subject to the price cap?

**Mr Stanhope**—Yes, it is.

**Senator LUNDY**—Given that Telstra had their local call revenue decreased by \$76 million, or around five per cent—

**Senator MACKAY**—Just before you answer that, what page were you reading from, Mr Stanhope?

**Mr Stanhope**—I am reading from page 69 onwards of our annual report. It has a fairly large explanation of what has happened to our revenues in the 2002-03 year, and it actually breaks it out into retail, wholesale and total basic access. Then it goes further and breaks out access lines into residential business and wholesale. From page 69 through to page 73, you will see access and call revenues.

**Senator LUNDY**—Telstra had their local call revenue decrease by \$76 million. Can you tell the committee how much of that \$76 million decrease in local call revenue can be attributed to the reduction in the number of billable local calls?

**Mr Stanhope**—For the local call reduction—

**Senator LUNDY**—Which also decreased by about five per cent.

**Mr Stanhope**—About \$65 million was because of volume reduction.

**Senator LUNDY**—So, from that \$76 million, \$65 million can be attributed to—

**Mr Stanhope**—Local call volume reduction; the number of calls.

**Senator LUNDY**—So the difference there is \$11 million, which Telstra could conceivably attribute to a reduction in local call revenue.

**Mr Stanhope**—Right.

**Senator LUNDY**—If you take \$11 million away from \$156 million—which is what we worked out that you actually could attribute to local call basic access revenue—the total windfall that Telstra has made out of the price cap regime for local call access is \$145 million. Not bad pocket money!

**Mr Stanhope**—But what you are forgetting is that it is a total call basket, not just local calls. Basic access is a basket that sits by itself, and the call basket sits by itself. You are taking local calls in isolation.

**Senator LUNDY**—What else is part of that basket?

**Mr Stanhope**—Long-distance calls. The impact in the year of price reductions in long-distance calling was \$55 million.

**Senator LUNDY**—Are you suggesting that that be taken off the \$156 million?

**Mr Stanhope**—I am.

**Senator LUNDY**—You are still making money.

**Mr Stanhope**—And also fixed-to-mobile calls. Fixed-to-mobile calls went down in price by \$4 million, and international calls went down in price—

**Senator LUNDY**—How come fixed-to-mobile calls only went down \$4 million? That is not very much. I thought there was strong competition in mobiles.

**Mr Stanhope**—There is strong competition in mobiles.

**Senator LUNDY**—But you only lost \$4 million.

**Mr Stanhope**—This is fixed-to-mobile calling.

**Mr Scales**—That is a nominal decrease. You have to take into account CPI to get a real figure there.

**Senator LUNDY**—It is pretty complicated, isn't it?

**Senator MACKAY**—I think the issue is that ordinary customers use local calls more. That is what we are getting at.

**Mr Scales**—And if you take the period over the five years we were talking about earlier, local call prices have fallen 35 per cent.

**Senator MACKAY**—We are talking 2002-03.

**Mr Scales**—Yes, but it is appropriate to look across a period where one gets a true picture of the change over time; and over that period they have decreased by almost 35 per cent. So it is reasonable on the one hand to look at access price increases. It is also reasonable to look at local call price decreases.

**Senator MACKAY**—And you ditched 15c at the same time.

**Senator LUNDY**—So even if you took away that \$55 million—what was that for, Mr Stanhope?

**Mr Stanhope**—Long distance price reductions—

**Senator LUNDY**—Long distance price reductions. So, if we make that added qualification, Telstra are still \$95 million better off as a result of their line rental increases, and they have not delivered that back to customers through local call cost reductions. You could have given all of that money back, and you have chosen not to.

**Senator MACKAY**—And, at the same time, you ditched the 15c neighbourhood call. Why did you do that?

**Senator LUNDY**—It is profits! And rip-offs!

**Mr Stanhope**—There is an access deficit. In the price control regime, we have been permitted to rebalance to offset the access deficit. If you look at one year in isolation, you are totally ignoring all the consumer benefits that have come from price decreases in prior years.

**Senator MACKAY**—Why did you ditch the 15c neighbourhood call? Why did you get rid of that?

**Mr Stanhope**—It was part of our change to the total tariff or pricing package to deliver the right outcomes in the price control regime.

**Senator MACKAY**—But why did you ditch that one in particular?

**Mr Stanhope**—It was not a necessary part of our pricing package to be competitive in the marketplace. We also have to think about how competitive we want to be.

**Senator MACKAY**—What about the punters who were using that 15c neighbourhood call?

**Mr Stanhope**—I do not have with me how many were actually using it, but I suspect there were not many.

**Senator MACKAY**—All right. I think we have made our point there. I have got a quick question on the priority assistance program. On your answers given to question on notice No. 142, question 5 asked about the rate of assistance being provided to customers. Telstra's answer stated that all 125,000 registered customers had received assistance, and the contention was that, because they were registered, they were getting assistance. What the question actually asked was, 'Of those 125,000, how many or what percentage had received some kind of assistance that they had received priority access to as a result of the program?' This question is for you, Mr Rix, isn't it?

**Mr Rix**—Yes, it is; but I think the answer to that probably is almost all of them. They registered so they could get assistance in the first place—

**Senator MACKAY**—I have not quite finished my question. To clarify: excluding the assistance of joining the program, and presumably being competent to join the program, what percentage and number of the registered priority assistance customers have received assistance from the Telstra priority program?

**Mr Rix**—I do not have that exact number, but let me just assure you that that would be extremely high, because of the sheer nature of the way in which, in the past, people have registered for this assistance. Very few people have registered proactively; most have registered when they have actually had an issue. In that case, we have provided some form of assistance, either through the extended use of the priority assistance program or, conversely, through the use of a subsequent interim program whilst we were rolling out the priority assistance program.

**Senator MACKAY**—That is a fair comment. I do not want to verbal you, but would it be 80 per cent, 90 per cent—

**Mr Scales**—It would be almost 90 per cent. Part of the reason—Mr Rix can give the details—is that they are prompted to answer a question when they ring in—

**Senator MACKAY**—I understand. I have seen the system.

**Mr Scales**—It is a large proportion.

**Senator MACKAY**—Question 8 asked if there had been any customers who wished to register who Telstra had refused registration to. Your answer stated that all customers who

wish to register are accepted in good faith before the Priority Assistance Program applications are sent and processed. So perhaps the question should have been: how many applications for priority assistance had been rejected, if any?

**Mr Rix**—The way in which the program was designed—and we worked very closely with the government on this—was to take in good faith customers who had life threatening medical conditions, register them and act upon their request. From my knowledge, we acted upon that in good faith along the way.

**Senator MACKAY**—Has anybody been rejected?

**Mr Rix**—I am not aware of anyone. If there is some information that is contrary to that, I would certainly like to be informed.

**Mr Scales**—Senator, I think for completeness we ought to let you know that we will be fairly soon going back to those customers and asking them whether they still want to be retained as priority assistance customers. The reason for doing that would be quite obvious—that is, if we finish up with every one of our customers on priority assistance, we will never be able to differentiate between the ones who really need it from those who do not. We therefore have to try to go back and ask the question, which we will be doing. Next time we meet, I think we will be in a much better position to be able to answer your question in a bit more detail.

**Senator MACKAY**—When will you be reviewing it?

**Mr Scales**—I cannot tell you exactly, but it will be within the next month. We have already reviewed it, in the sense that we have made a decision that we need to go back out to those people who have registered themselves under the Priority Assistance Program and ask them whether they want to maintain that situation. When we register people in good faith, we ask them to send in either a statutory declaration or a doctor's certificate and we are finding that some do not, but we have still maintained them on that register. We need to start becoming a bit more specific about getting that form of registration well defined.

**Mr Rix**—For clarification—and probably more to emphasise the point I made—we have not refused priority assistance to anyone who has claimed to have a life threatening medical condition.

**Senator MACKAY**—So when you go back, Mr Rix, and institute the process that Mr Scales has outlined, will those customers who have not provided the statutory declaration, medical certificate or whatever be required to?

**Mr Rix**—Yes, they will be. There is a process that we are working through to make sure that we have adequate information and briefs for them. We will be writing to them directly and we will be giving them time to respond. We will then be writing to them again and giving them time to respond. As Mr Scales was saying, prior to the priority assistance scheme being put in place, we had a lot of people who were registered on a scheme anyway. That is part of how we are now validating our whole database to clearly identify the people who are legitimate customers with bona fide life threatening conditions.

**Senator MACKAY**—We might revisit this in February.

**Mr Rix**—Certainly.



**Senator LUNDY**—I have some questions which I will put on notice.

**Proceedings suspended from 3.53 p.m. to 4.12 p.m.**

**Australia Post**

**Senator MACKAY**—There were media reports in late September suggesting that Australia Post was satisfied that the Hansen Yuncken tender proposal for the facility at Tullamarine complied with the national code of practice. Why did Australia Post not proceed to accept the tender proposal?

**Mr McCloskey**—The particular arrangement that Hansen Yuncken have come to with the CFMEU in regard to a site specific agreement for the Tullamarine project was subject to confirmation by the Department of Employment and Workplace Relations that in fact it was compliant with the government's national code of conduct for the construction industry. We understand that there are some issues as far as the Department of Employment and Workplace Relations is concerned and that those issues are still subject to discussion between Hansen Yuncken and the department with a view to further negotiations with the union.

**Senator MACKAY**—With the Department of Employment and Workplace Relations, not with Australia Post.

**Mr McCloskey**—No, with the Department of Employment and Workplace Relations.

**Senator MACKAY**—I am a bit confused. I understand in June—and I quote from the *Hansard*—Dr Boxall claimed:

In theory, Australia Post could do it itself—

that is, approve the tender—

It does not have to ask us whether something complies with the code or not.

He then said:

But they elect to ask our advice. They ask for our advice and we give it.

So Dr Boxall is saying that you did not need to go to Workplace Relations, but you contend that you did.

**Mr McCloskey**—It is an unusual situation, because the funding for this particular project is coming straight from the Commonwealth. It is subject to a funding deed between the Commonwealth and Australia Post. One of the explicit conditions of that funding deed is that any tender projects let under this particular deed must comply with the national code for the construction industry. Late last year when the project was first tendered, Australia Post sought advice from the Department of Employment and Workplace Relations. We have continued to seek that advice, given that the process was already in place.

**Senator MACKAY**—My point is that if Dr Boxall is correct and you did not have to ask them, why did you ask them?

**Mr McCloskey**—We have to ensure that the actual EBA or particular site-specific agreement is code compliant. We ourselves are not capable of determining that. It is the government's code and the department is the department responsible for the administration of that code, so it would seem logical that we would seek their advice.

**Senator MACKAY**—But you can make the call, can you not, on whether it complies with the code? Or don't you believe you are qualified to do that?

**Mr McCloskey**—We do not have the technical expertise to do that.

**Senator MACKAY**—So you are saying that, in respect of anything where there is direct Commonwealth funding, you feel that you have to go to the department. In what other circumstances have you gone to the Department of Employment and Workplace Relations?

**Mr McCloskey**—In our case it is just for this particular funding deed which is for the specific purpose of ensuring 100 per cent screening of all incoming international mail and for all the works that have to be put in place to ensure that that is sustainable into the future. It was part of a government initiative taken just over two years ago as part of the budget and it flowed from the foot-and-mouth outbreak in the United Kingdom. They wanted to ensure that all incoming international mail was screened by both Quarantine and Customs. Australia Post merely facilitates that. The screening is done by Quarantine and Customs. What is required to make that sustainable into the future is, among other things, the construction of a new facility in Melbourne at Tullamarine.

**Senator MACKAY**—What has this got to do with workplace relations?

**Mr McCloskey**—Any of the work under this project is being funded by the Commonwealth and therefore must meet the requirements of the government's national code of conduct for the construction industry.

**Senator MACKAY**—How many times has Australia Post sought advice from the department of workplace relations on this issue?

**Mr Howard**—When we were here last we talked about the original tenders which closed in May with no successful tenderer. We then invited players for expressions of interest, and as part of that the respondents conducted relationships directly with the Department of Employment and Workplace Relations.

**Senator MACKAY**—Sorry, what was that last bit again?

**Mr Howard**—They conducted discussions directly with the Department of Employment and Workplace Relations.

**Senator MACKAY**—The companies that put in expressions of interest?

**Mr Howard**—Correct.

**Senator MACKAY**—They dealt directly with the department of workplace relations?

**Mr Howard**—Yes, to see if they could gain compliance on the national code of conduct.

**Senator MACKAY**—Did they deal with the department directly?

**Mr Howard**—As far as we are aware, they dealt with the department to discuss their compliance or attempt to comply with the national code.

**Senator MACKAY**—How many companies replied to the request for expressions of interest?

**Mr Howard**—For the Melbourne gateway, five companies.

**Senator MACKAY**—And the five companies went into direct negotiations with the department of workplace relations?

**Mr Howard**—Yes, as far as we know, because those discussions were held in relationship with the department.

**Senator MACKAY**—So it is based exclusively on their adherence or their capacity to adhere to the national code?

**Mr Howard**—From the point of view of gaining compliance to the national code, yes. So in discussions with the Department of Employment and Workplace Relations they have dealt with their compliance with the national code.

**Senator MACKAY**—Australia Post had nothing really to do with it post-May?

**Mr Howard**—Our role is managing the conduct of the contract.

**Senator MACKAY**—Yes.

**Mr Howard**—One of the conditions of our deed of arrangement is that tenderers must be compliant with the national code.

**Senator MACKAY**—It is one of?

**Mr Howard**—It is one of the conditions, yes.

**Senator MACKAY**—But in the way it has been described it would seem to be the most predominant in that the companies showing expressions of interest went directly to the department of workplace relations.

**Mr Howard**—We also have financial conditions, contractual terms and all of those as per a normal tender process, but one of the final conditions—if that is the right word—is to gain compliance with the national code.

**Senator MACKAY**—So, of the five that put in expressions of interest, was there any screening process by Post itself or did they just go straight to workplace relations?

**Mr Howard**—We conducted a screening process of the commercial conditions in total, but from the point of view of gaining compliance with the national code those discussions were held between the contenders and the department.

**Senator MACKAY**—At the expiration of the expressions of interest period, did all five meet conditions other than the national code?

**Mr Howard**—It varied in the fact that some of them elected not to continue with the tender process and some continued with the tender process.

**Senator MACKAY**—But I thought you just said that five were dealing directly with Workplace Relations.

**Mr Howard**—Yes, but from the point of view of going forward to then responding to a formal tender after the expression of interest, dependent on their decision after meeting with the department and meeting other commercial conditions.

**Senator MACKAY**—So Post was not able in this process to satisfy itself that the five fully met the contractual provisions set down by Post, other than the national code?

**Mr Howard**—On an expression of interest basis—in other words, the broad meeting of general terms and conditions, being able to provide a draft contract. But then one of the discussions they would have would be with the Department of Employment and Workplace Relations.

**Senator MACKAY**—So what you are doing is drawing a distinction between expressions of interest and requests for tender?

**Mr Howard**—Correct. The first tender process was unsuccessful, so before starting a new tender process there was an expression of interest called.

**Senator MACKAY**—So, rather than re-call for requests for tender, Australia Post called for expressions of interest and—you will pardon the pun—Australia Post was essentially a postbox on to the department of workplace relations?

**Mr Howard**—To follow your pun, after reviewing the commercial terms and conditions, yes—

**Senator MACKAY**—But you were not necessarily fully satisfied, because it was expressions of interest only and not a request for tender?

**Mr Howard**—Correct. The basis of that was not to put people through a formal tender process and so they could see if they could gain compliance with the code before entering a formal tender.

**Senator MACKAY**—Why didn't Australia Post recall the tender process?

**Mr Howard**—We did, after the expressions of interest.

**Senator MACKAY**—So whomever got past Workplace Relations presumably knew in terms of their direct negotiations with them that they had adhered to the code of conduct and therefore were able to go to what is seemingly the more secondary objective, which is the contract provisions?

**Mr Howard**—Yes, but then the contract provisions still prevail—in other words, they must meet all the terms and conditions of that tender—before they can be selected.

**Senator MACKAY**—What is the cost of these delays?

**Mr Howard**—To date we have spent about \$3.5 million on both gateway sites, on the tender process and the development of the tender process.

**Senator MACKAY**—Had the tender been recalled and awarded within the normal request for tender time lines, how far advanced would it be now had Workplace Relations not entered into direct negotiations with the companies that applied for expressions of interest?

**Mr Howard**—It is a bit hard to say, on the exact timing.

**Senator MACKAY**—I understand.

**Mr Howard**—The first round of tenders was closed in May this year. The expressions of interest were called in June. Then by about September we had people who were able to contend for a tendering process. The tenders closed again in October.

**Senator MACKAY**—When?

**Mr Howard**—October this year.

**Senator MACKAY**—When in October?

**Mr Howard**—I do not remember the exact date. It was early October.

**Senator MACKAY**—What has happened in the interim?

**Mr Howard**—From what we understand, we have one tenderer who has been negotiating with the department.

**Senator MACKAY**—Workplace Relations again?

**Mr Howard**—Yes.

**Senator MACKAY**—Even though they have already gone through an expression of interest negotiation?

**Mr Howard**—Yes—back trying to consolidate, we understand, their compliance with the national code.

**Senator MACKAY**—So Workplace Relations were not satisfied with the original set of negotiations they had with company X as a result of the expression of interest process. I do not want a verbal you; you may not know.

**Mr Howard**—My understanding is that they have had general discussions—that is my understanding; I was not party to those discussions—and they believed that the parties could go away and negotiate successful new agreements which would meet the compliance and, therefore, they would then go out and negotiate those new agreements and tender for the contract. That is my understanding.

**Senator MACKAY**—I appreciate your providing all of the information that you have. It does seem somewhat counterintuitive in terms of a normal tendering process, I would have thought. It is not the way a normal tendering process would operate.

**Mr Howard**—No, it is not. But this is not a normal arrangement for us in the process, in that we act for the parties and we have a deed of arrangement which we must comply with.

**Senator MACKAY**—Do you know whether any ministers have been involved?

**Mr Howard**—No.

**Senator MACKAY**—You do not know that?

**Mr Howard**—My only discussions have been with department personnel, which has really been on an advisory basis.

**Senator MACKAY**—I bet you they have. How much is Australia Post paying to lease the land on which this site is meant to be built, or is it owned outright?

**Mr Howard**—For the Melbourne gateway we have now paid \$3.3 million.

**Senator MACKAY**—So that is the bulk of the \$3.5 million?

**Mr Howard**—That is the bulk of the \$3½ million. That is for a 45-year lease term.

**Senator MACKAY**—With respect to the work that was meant to be occurring at the Tullamarine facility, what steps have been taken to accommodate that work elsewhere?

**Mr Howard**—I do not know if you remember the previous session in February, but as of April the year before we had brought all of the agencies around the country up to 100 cent

screening, and working in conjunction with AQIS and Customs we do an ongoing upgrade of equipment as needed, depending on volumes at each of the sites. So we have been coping at 100 per cent since April last year.

**Senator MACKAY**—What has been the cost of that process to date?

**Mr Howard**—Sorry, but I do not have those figures here. I can take that on notice.

**Senator MACKAY**—Could you give a ballpark figure, just for the sake of the editorialising?

**Mr Howard**—No, I am sorry but I cannot—we have done so much work over various sites. I am happy to provide that.

**Senator MACKAY**—Are the most recent tender proposals that were finalised in October more expensive than the earlier tender proposals, which were found by the department of workplace relations to be non-code compliant?

**Mr Howard**—Sorry?

**Senator MACKAY**—What I am getting at is whether the most recent tender proposals in terms of the successful company, which is presumably still in negotiation with workplace relations, are more expensive than the original ones.

**Mr Howard**—There has been a slight cost increase, and part of our role is to go back to a surveying group and an audit process just to confirm those processes. In the meantime, due to some changes in capacity requirements, there has been an upgrade need amounting to about a quarter of a million dollars in that facility. In other words, we have extended the terms of the conditions of that tender by about a quarter of a million dollars.

**Senator MACKAY**—I appreciate that, but is that the cost increase that you were talking about or is the final set of successful tenderers more expensive than the initial set?

**Mr Howard**—They are more expensive than the initial ones. And part of the process, as you are probably aware, is that most of the tender documents that were admitted some time earlier show a time on the commercial agreement, which is usually about 90 days. When you go back you therefore have to go through all the documentation again and find out the latest prices for all of the contract labour, all of the contract equipment and all of the suppliers. So over last year there has been an increase in the price.

**Senator MACKAY**—Am I detecting that this has been a fairly tortuous process?

**Mr Howard**—They would be your words, Senator. It is a process I have to go through.

**Senator MACKAY**—What correspondence has Australia Post had with the McConnell Dowell company regarding this?

**Mr Howard**—We have had no formal correspondence with McConnell Dowell.

**Senator MACKAY**—No formal correspondence or no correspondence?

**Mr Howard**—For those who are interested in contending, we normally have over-the-phone discussions about the general requirements of the tender and we give tenderers advice about what terms and conditions may be required and what we are looking for in the way of building capability.

**Senator MACKAY**—Are you aware that the Australian Industrial Relations Commission has refused to certify a non-union agreement for McConnell Dowell for the site?

**Mr Howard**—I am aware of that but not of the details. I am aware that they have gone forward but I do not have the details.

**Senator MACKAY**—Thank you—that is the end of that topic. Mr McCloskey, how has Australia Post productivity growth compared to CPI?

**Mr McCloskey**—I think from memory our productivity growth last year was 3.8 per cent. I do not have the CPI figure for the year—one of my colleagues may have that.

**Senator MACKAY**—I think 2.9 is right. What is the justification for increasing the price of stamps to 50c, which had initially been sourced back to increases in the CPI, to keep pace with the CPI?

**Mr McCloskey**—You are referring to the increase in the price of the basic postage rate in January this year?

**Senator MACKAY**—Yes, Australia Post at that point contended that it was to keep pace with the CPI, inter alia.

**Mr McCloskey**—I think the general purpose of the increase—and it was the first increase in 11 years in the basic postage rate—was to make that portion of the letter business that is subject to the ordinary stamp less loss making.

**Senator MACKAY**—Less loss making?

**Mr McCloskey**—Yes, less loss making. Mr Lee might want to elaborate on the detail.

**Senator MACKAY**—More profitable might be another term.

**Mr Lee**—The productivity number we gave you is labour productivity. There are of course many other costs that have been added to the business over the 11 years in which we did not increase the price. It was on the basis of profitability of the product. Even after this price increase, a basic stamped letter in a year will still lose \$30 million. That is this year after the full effect of the price increase. We obviously do this to maintain profitability of the total letter product group. The ACCC examined this in minute detail to ensure that it was an appropriate price increase.

**Senator MACKAY**—So you can now tell me, can you not, what Australia Post's profit was for the last financial year?

**Mr Lee**—Yes, we can.

**Senator MACKAY**—What was it—just to refresh my memory?

**Mr Meehan**—The profit was \$462 million before tax and \$330.8 million after tax.

**Senator MACKAY**—How much went to the government in the special dividend?

**Mr Meehan**—This year the special dividend amounted to \$104.1 million.

**Senator MACKAY**—Is there any reason to expect that post performance in 2003-04 will be less than the previous two financial years?

**Mr Meehan**—No.

**Senator MACKAY**—In relation to the \$104.1 million special dividend for the government, does Australia Post have the view that that impacts in any way at all on Australia Post's operations?

**Mr Meehan**—It obviously means that we have \$104.1 million less in cash to invest. But, because our financial situation was such and because all our capital requirements are covered from cash reserves, it was an appropriate dividend to make to the government.

**Senator MACKAY**—So Australia Post was happy with the \$100 million special dividend this year?

**Mr Meehan**—Yes.

**Senator MACKAY**—What was the special dividend last year? It was \$300 million, was it not?

**Mr Meehan**—No, it was \$116.7 million.

**Senator MACKAY**—It was basically the same as the profit, was it not?

**Mr Meehan**—Last year the profit was \$407.5 million before tax.

**Senator MACKAY**—So it was about a third?

**Mr Meehan**—Yes.

**Senator MACKAY**—So it is trending at about a third per financial year?

**Mr Meehan**—It has not always been that way. Since 1993-94 we have paid either special dividends or capital repayments to various governments, and the special dividend has been something that has been an agreement between the shareholder and the board under the financial circumstances at the end of each year.

**Senator MACKAY**—Could it have been higher without impacting on Australia Post's bottom line?

**Mr Meehan**—It could only have been \$19-odd million higher, on the basis that we can only distribute our current year's profits after tax. It could only have been higher if it had been done on the basis of capital repayments, which had been done in 1993-94 through to 1996-97.

**Senator MACKAY**—Really briefly, can you take me through how Australia Post comes to the figure? Does the government actually put a figure to Australia Post and Australia Post says, 'No, that's unreasonable,' and there is a negotiating process or does Australia Post offer it up?

**Mr McCloskey**—We have a corporate planning process in place each year. Within the corporate plan, which the board approves—it is really the contract between the board and the government—the board will include projections of its dividend expectations for the particular year ahead. In terms of making recommendations, there is an interim dividend and a final dividend, and in February of each year the board will make a recommendation to government or to shareholder ministers what it believes is an appropriate interim dividend to be paid and then, in August of each year, once the final accounts have been signed off, the board will make its final dividend recommendation.

**Senator MACKAY**—What are the projections for the financial year we are in now?



**Mr McCloskey**—Those projections are contained in the corporate plan which is agreed between the board and the government. Under the legislated governance framework, it is regarded as confidential between the shareholder and the board.

**Senator MACKAY**—But the figure does exist, though?

**Mr McCloskey**—There is a figure within the plan, yes.

**Senator MACKAY**—Is Australia Post basically getting used to a special dividend of \$100 million to \$170 million a year? Could that happen routinely every financial year from now in perpetuity? Is Australia Post going to demur at any point? And what if every future government decided to take about one-third of Australia Post's profits, would that be a problem?

**Mr McCloskey**—The process is that the board makes a recommendation. The minister has a particular period within which he may accept that recommendation or, if he wished, he could direct the payment of a different amount. If he were to give such a direction, then he must table it before parliament.

**Senator MACKAY**—How does Australia Post come up with its recommended figure? Do you want to take me through the process, Mr Meehan?

**Mr Meehan**—Certainly; it is worked out through our total profit for the year—what we would expect to pay. The difference between an ordinary dividend and special dividend is a procedural issue. It has been set down as a guideline that the normal dividend would be 60 per cent of after-tax profits, even though most corporations would pay somewhere between 70 per cent and 75 per cent as a norm. What has happened in times when we have had good returns and extra cash reserves is that discussions between our board and the government have led us to pay these special dividends.

**Senator MACKAY**—Fairly willingly, it seems.

**Mr Meehan**—From our viewpoint, Post is a completely self-funding GBE and we find it quite useful and good to be able to provide governments with extra capital.

**Senator MACKAY**—I am very pleased to hear that.

**Mr McCloskey**—Senator, I might just make an additional point. In formulating its dividend recommendation, under the legislation the board has to take a number of particular factors into account. Among those are the expectations of the Commonwealth that Post will pay a reasonable dividend. The board also has to take into account the need to maintain Australia Post's financial viability, the need to maintain a reasonable level of reserves for future demands and the cost of meeting the corporation's CSOs. They are the four key ones out of a broader number. But there are particular legislative requirements that the board must go through before making its recommendations, and so it must satisfy itself that its recommendation does all of those things.

**Senator MACKAY**—It sounds like you could have kicked the tin for another \$20 million this time around, or am I misquoting you, Mr Meehan?

**Mr Meehan**—No, Senator. If that had been an agreement between the shareholder ministers and the board then, yes, that is correct.

**Senator MACKAY**—I think Mr McMullan will be pretty interested in those figures. What if the minister asks for more? Does that happen? You said that he or she has to present a statement to parliament.

**Mr McCloskey**—The minister, under legislation, has the ability to direct the payment of an amount other than the amount recommended by the board.

**Senator MACKAY**—It would be a rare occurrence, presumably, because there would be a negotiated outcome.

**Mr McCloskey**—It has not happened since we were incorporated in 1989, and there has been no instance since then of a minister making such a direction.

**Senator MACKAY**—It is a bit like the ministerial power to direct communications in Telstra provisions, I would have thought. It would be a brave minister that would not negotiate with Australia Post and then had to put a statement of reasons to parliament, wouldn't it? The trends indicate Australia Post's profitability in this current financial year is expected to be approximately the same. Are there any particular factors that may impact on that, do you think?

**Mr McCloskey**—As always we would be aiming, as any major commercial organisation would be, to see if we cannot improve on previous performances.

**Senator MACKAY**—I understand that, but we are now almost halfway through this financial year. You answered the question earlier: there are no particular factors that may impact on Australia Post's profit that have come to light so far in the financial year.

**Mr McCloskey**—No, nothing has come to light so far, but there is still a long way to go. The Christmas trading period in particular is always a very important one for Australia Post, as I am sure you would appreciate.

**Senator MACKAY**—Were there any other cost increase measures instituted on consumer products by Australia Post in the last financial year?

**Mr McCloskey**—Do you mean in the pricing of products?

**Senator MACKAY**—Yes.

**Mr McCloskey**—There were some adjustments.

**Mr Meehan**—There were price increases in many of our competitive products. There were price increases within parcels and there were significant price increases within international products—not significant but certainly at a level that had been backing up for a few years.

**Senator MACKAY**—Let us take the increases in international post and parcel post—the two you have mentioned—in particular. Why did Australia Post choose to increase those costs against a background of a fairly healthy profit margin?

**Mr McCloskey**—The international increase that Mr Meehan referred to was a 50c increase on the cost of international air parcels, and that particular amount was designed to recoup, in part, the additional security costs that Post has to meet as a result of the additional security arrangements imposed by the Department of Transport and Regional Services late last year. That particular increase took place on 1 September.

**Senator MACKAY**—In retrospect, you did not actually need to increase it, did you?

**Mr McCloskey**—We were faced with additional costs in relation to that particular product, and we have to ensure that all of our competitive products are fully profitable in their own right. We had an additional cost of over \$4 million as a result of these security arrangements. The 50c increase, from memory, would yield us about \$3 million in a full calendar year.

**Senator MACKAY**—If I were a member of the public listening to this I would be pretty bemused. Australia Post is continually making a healthy profit at the end of every financial year, of which approximately one-third is given to the Commonwealth in special dividend, and at the same time it is putting up prices for a range of products, using issues such as increased security and so on. What about parcel post? Why did you increase that? So that every category Australia Post operates in makes a profit.

**Mr McCloskey**—The parcel price went up by five per cent on 1 September. It is a fully competitive product. It would have its own targeted rate of return, which would be a commercial rate of return, and it must continue to deliver that rate of return.

**Senator MACKAY**—But at the same time Australia Post is regularly making what you described as a fairly healthy profit, year on year.

**Mr McCloskey**—We make a good commercial profit, which is what we have to do under our legislation.

**Senator MACKAY**—I understand that. But to the point that you are able to kick in extra money to the Commonwealth government? It is counterintuitive. An ordinary punter would ask, 'How about putting some of that profit back in and not increasing parcel post?' What is the answer to that?

**Mr McCloskey**—We are operating as a commercial organisation. Under legislation, we must provide a commercial rate of return. If our financial position, having achieved that commercial rate of return, is such that we have a strong balance sheet and we do not have particular investment requirements for the coming period, then there is additional money available at that particular time that might be returned to the government by way of dividend.

**Senator MACKAY**—Why not return it to the people of Australia by not increasing the cost of parcel post, for example?

**Mr McCloskey**—Because the parcel business must continue to operate in its own right as a commercial business, delivering its own rates of return.

**Senator MACKAY**—I can understand what you are saying, but I bet there are a whole stack of people who do not.

**Senator MARK BISHOP**—Why not use the money paid in dividends to reduce prices? That is the question Senator Mackay is putting. You have a choice. You have surplus profit which you choose to return to the government by way of special dividend. Another way of using the surplus profit is to reduce the prices of the goods you offer for sale. You operate, virtually, in a monopoly. You are taking rents. Why not return the rents to the consumers who use you?

**Mr Meehan**—Whilst, as you say, we operate as a monopoly, in excess of 66 per cent of our profits come out of the products we have to be completely competitive in. Post, operating as a government business enterprise, runs like any other entity that needs to make a

commercial return, and we try to increase our shareholder wealth and provide whatever extra dividends we can. That is one of the reasons why Post is recognised as probably one of the best postal institutes, if not the best postal institute, in the world, with one of the cheapest postal rates in the world and some of the best service performance.

**Senator MARK BISHOP**—You are extracting rents. If Senator Kemp were still in opposition, he would be asking the same questions. You are extracting rents in a monopoly market, and you did prior to the 1996 election.

**Senator Kemp**—Senator Bishop, now that I am a wiser person, I probably would have said, ‘Well done, Australia Post.’

**Senator MACKAY**—We are saying, ‘Well done, Australia Post,’ too, might I say.

**Senator MARK BISHOP**—Didn’t the Business Council put that proposition to you prior to the last election—that the prices on offer of products you sell be reduced?

**Mr McCloskey**—Are you saying to Australia Post, Senator?

**Senator MARK BISHOP**—To the government as part of their budget submission.

**Senator MACKAY**—Was it?

**Senator MARK BISHOP**—Yes.

**Senator MACKAY**—You are handy to have around. What have you got to say to that, Senator Kemp?

**Senator Kemp**—What I say to that is that it probably is not a surprise that the Business Council would say that. That comes as no surprise to me. I must admit I was not totally across that as well as you are, Senator Bishop. It does not come as a surprise, but I think the point has been well made: Australia Post has to achieve commercial rates. That apparently is exactly what is happening.

**Senator MARK BISHOP**—But it does not have to achieve monopoly rates.

**Senator Kemp**—On many previous occasions there has been this type of special payment to governments—

**Senator MACKAY**—And you are quite happy with that?

**Senator Kemp**—of all persuasions, so I do not think this is a special deal which has been done with this government.

**Senator MARK BISHOP**—A special dividend, though.

**Senator Kemp**—A special dividend, but the point I was making is that this is not the first time there has been such a special dividend paid.

**Senator MARK BISHOP**—No, it has become a regular event.

**Senator MACKAY**—It is becoming routine; it is not becoming special.

**Senator Kemp**—It was paid to previous governments, I am sure.

**Senator MACKAY**—I think it has gone beyond the bounds of special.

**Senator Kemp**—I would have to ask you, Senator: what do you think the government spends its money on?

**Senator MACKAY**—It is a mystery to most of us.

**Senator Kemp**—It gets the money and it is spent in relation to a whole host of matters that benefit the wider community.

**Senator MARK BISHOP**—You do not think it is an appropriate goal for government that the prices it offers, basically in monopoly environments, be reduced to business users?

**Senator Kemp**—Senator, I am happy to engage you but I think the point was made that 66 per cent of the revenues are obtained from areas which are in fact highly competitive areas. I think a throwaway statement of the kind you have made probably does not give the full and true picture.

**Senator MARK BISHOP**—No, we are talking about the areas in competition.

**Senator Kemp**—I will put your views to Mr Daryl Williams—he is the operative minister here—and I am sure that he will read them with great interest.

**Senator MARK BISHOP**—I bet he will.

**Mr McCloskey**—In relation to the issue of actual prices I might just make the point that the cost of bulk mail letters has decreased by approximately 10 per cent in actual terms over the last decade in a period when CPI has increased by around 30 per cent.

**Senator MARK BISHOP**—Mr McCloskey, I am not arguing that you did not keep your letter rate at 47c or whatever it was for 10 years. I am not arguing that you do not have productivity gains. I am not arguing that you are not returning an adequate dividend to government. The only point I am making is that in certain areas of your business you are extracting, essentially, monopoly rents. I am asking the government why it doesn't return that to business users by way of lower costs as opposed to making the choice of returning it to government by way of extra dividend.

**Senator Kemp**—I think that has been answered, Senator. We can go around the mulberry bush again, if you like. If you are stating a new policy for the Labor Party—if you are saying that the Labor Party if by some mischance it ever gets back into government will not be seeking a special dividend from Australia Post—I think that is an important statement. Are you able to say that, Senator?

**Senator MARK BISHOP**—I think this, Senator Kemp: I think that when we were in government we did not take special dividends.

**Senator Kemp**—Is that so?

**Senator MARK BISHOP**—Yes. I think you will find that Australia Post took upon additional loan requirements.

**Senator Kemp**—I think what you did when you privatised things was put the money into general revenue.

**Senator MARK BISHOP**—But we did not take special benefits; we took loan requirements.

**Senator Kemp**—I think if you ask where the Qantas money and the Commonwealth Bank money went, you will find it did not go to retire debts; it went to finance current expenditures. It was very naughty of the Keating government to do that—very irresponsible.

**Senator MACKAY**—We might reconsider that policy now, Senator Bishop. If Australia Post can cough up \$120 million a year, we might be able to find some use for it. But we will look forward to any coalition backbencher or shadow minister not criticising us if we were ever to do it.

**Senator Kemp**—I think you may not have the opportunity. It could be a long time.

**Senator MACKAY**—That is that old arrogance you have been warned about, Senator Kemp.

**Senator Kemp**—If Senator Bishop is serious and he is saying it is Labor Party policy, that is an important statement. But I do not think you are saying that, Senator.

**Senator MACKAY**—No, he is not.

**Senator MARK BISHOP**—We know it is government practice.

**Senator MACKAY**—Yes, we know it is government policy.

**Senator Kemp**—If you are not saying that, it does seem—if you do not mind me saying so—a trifle hypocritical. But, on the other hand, if this is Mr Tanner's policy—

**Senator MACKAY**—Hang your head in shame, Mark!

**Senator Kemp**—or Mr McMullan's policy—

**Senator MARK BISHOP**—I am just observing what government practice is: to extract monopoly rents in non-competitive areas and defend that practice.

**Senator Kemp**—Our government practice is always prudent—

**Senator MACKAY**—It is like double taxation, Senator Bishop.

**Senator Kemp**—is always to operate the authorities at maximum efficiency. That is our policy.

**Senator MACKAY**—Does Australia Post have any plans to sell the old Launceston post office building?

**Senator Kemp**—That one came out of left field.

**Senator MACKAY**—It did.

**Mr Howard**—I would like to take that on notice. We do not have any direct plans that I am aware of.

**Senator MACKAY**—No direct plans you are aware of? Does anybody else here know?

**Mr Howard**—We can take that on notice.

**Senator Kemp**—Senator Mackay, are you proposing that, or are you opposing it?

**Senator MACKAY**—Of course I am not proposing it! I am asking a question. Does anybody here know?

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

**Senator MACKAY**—I have got a whole stack of questions around that, so they will have to go on notice as well. That is a bit sad. What impact will the Australia Post franchised Post shop concept have on existing licensees?

**Mr Jackson**—The franchising concept should have no impact whatsoever on existing licensees in terms of operations or value of licences.

**Senator MACKAY**—Will the franchised Post shop set-up take staff away from LPO support and corporate post office support at all?

**Mr Jackson**—I am not quite not quite sure what you mean by ‘support’.

**Senator MACKAY**—Will the franchised Post shop set-up take staff away from licensed post office support and corporate post office support? Will there be a commensurate decrease? Will there be any decrease? Will it impact to the point where there are fewer people or resources in those areas?

**Mr Jackson**—I would not generally think so. The franchised Post shop model is run by small business people, and in some instances they can have family members as part of their staff. It should not dramatically change the total number of staff servicing customers.

**Senator MACKAY**—Has there been any modelling done by Australia Post?

**Mr Jackson**—Yes, there has—indicative modelling at some trial sites. There are some minor adjustments. Generally speaking, that is not significant, but there is certainly in a couple of instances part of a full-time equivalent staff member.

**Senator MACKAY**—Let us go to something a bit more concrete, then. In a previous Senate estimates question Australia Post responded that the budget for franchised Post shops was around \$150,000.

**Mr Jackson**—That was the budget in terms of the fit-out CIP—capital investment program—budget.

**Senator MACKAY**—As I understand it, there are dedicated staff at Australia Post at headquarters and in Sydney looking after the four pilot sites for franchised Post shops. Is that right?

**Mr Jackson**—There are area managers, but they also have functions in terms of looking after licensed post offices at the moment.

**Senator MACKAY**—Is it correct that that \$150,000 figure went simply to the issue of fit-out?

**Mr Jackson**—That is fit-out of a Post shop.

**Senator MACKAY**—So there was no modelling for recurrent costs?

**Mr Jackson**—No. What happens with the model is that we have a franchise service fee in which the franchisee would be paying back the amortisation of that fit-out cost and large-scale maintenance back to Post. The recovery, in other words, would be coming through a franchise service fee.

**Senator MACKAY**—What is that franchise service fee? Does it depend?

**Mr Jackson**—It is a mathematical calculation in terms of a proportion of the revenue earned by the franchisee.

**Senator MACKAY**—What is the proportion?

**Mr Jackson**—I could not be exactly sure but, from memory, it is in the order of 45 per cent. That includes, by the way, not just the recovery of the fit-out costs but also a contribution to other things, like technology, marketing et cetera. So it is a total fee recovery, rather than just a specific one for the shop amortisation.

**Senator MARK BISHOP**—That figure of 45 per cent: what is that of?

**Mr Jackson**—The gross revenue earned by that franchisee.

**Senator MARK BISHOP**—Effectively you make a loan, which they repay over time?

**Mr Jackson**—It really is just the mechanics of how we pay them. Rather than pay them the net, we pay them the gross and then recover an amount. With licensees, we actually pay a net, which is based on fees, commissions and discounts et cetera. It is just a reverse way of doing it.

**Senator MACKAY**—In the current financial year how much has Australia Post budgeted to buy back licences from post office licensees in order to convert them to franchised post shop operations?

**Mr Jackson**—In the current financial year we are looking to buy back a number—and it is a small number, probably in the order of 10 or so. We have not provisioned a specific budget for that because we will be rebadging them and selling them as franchised outlets. There would be a neutral or slight beneficial impact for post anyway, and so we have not budgeted there on a cost factor as such.

**Senator MARK BISHOP**—Can a franchisee purchase more than one franchise outlet?

**Mr Jackson**—No; they are limited to one.

**Senator MARK BISHOP**—Why is that?

**Mr Jackson**—Until we got going with it, we just thought it would be prudent to maintain it as one so that we do not create another competitive network out there by having somebody with a lot and who could look at other things in terms of competition to Post.

**Senator MARK BISHOP**—Once you have bedded down the pilot, so to speak, is it an option that could be revisited?

**Mr Jackson**—We intend to. But we certainly will get rolling with the initial ones and it will be limited to one for a period of time.

**Senator MARK BISHOP**—Take McDonald's and Hungry Jacks. A franchisee might have six, eight, 10 or 12 outlets. There is no reason in principle why your franchisees could not have a series of outlets, is there?

**Mr Jackson**—We are trying to keep the franchisee close to the shop so that we have them involved. Multiple franchisers tend to be more hands off and, as far as we are concerned, it does not keep the focus on running the business.

**Senator MACKAY**—How many will Australia Post be buying back in, say, Melbourne and Sydney?

**Mr Jackson**—In round figures, we are probably looking at about 10 in the current fiscal year.



**Senator MACKAY**—What was the 10 figure you referred to previously?

**Mr Jackson**—About 10 licensed outlets bought back in both Sydney and Melbourne this year. That is what I meant.

**Senator MACKAY**—I did not actually mention Sydney and Melbourne, but it is Sydney and Melbourne?

**Mr Jackson**—Yes.

**Senator MACKAY**—How much has Australia Post budgeted to convert corporate post offices to franchised post offices in the current financial year?

**Mr Jackson**—We do not have any budget because we do not intend to be doing that in the current financial year.

**Senator MACKAY**—What about 2004-05?

**Mr Jackson**—We have not put any budget figures in there for that at that time.

**Senator MACKAY**—Have you any idea how many corporate post shops will be franchised?

**Mr Jackson**—We did have an indicative figure over the next few years of around 100. Currently we have a conversion policy that probably would restrict us to less. Until we change that, it would be much more limited.

**Senator MACKAY**—Is it correct that the franchise post shops can only offer attractive commercial returns to prospective franchisees by cutting wages and conditions of employees currently working in post shops?

**Mr Jackson**—The franchises are small businesses and typically small business people selected for those franchise licences would be entrepreneurial people. Entrepreneurial people like that usually are able to generate good income streams compared with corporate staff where they do not have their investment in it. From our experience, with having small business people running that scale of outlet, the returns are improved in a general sense over what we achieve in our corporate outlets.

**Senator MACKAY**—What is the answer to the question?

**Mr Jackson**—I am saying that you can generate more revenue through the fact that you have people with an investment there with an entrepreneurial approach to running those businesses.

**Senator MACKAY**—So the answer to my contention is no?

**Mr Jackson**—I think you were talking about staffing et cetera. I do not think the staffing aspect of it is a huge amount in terms of the ability to generate higher profit.

**Senator MACKAY**—So there is no necessity, then, for wages and conditions of employees to be cut?

**Mr Jackson**—Basically. The award for the franchises and licensed outlets is very close to the corporate award. In other words, there is an award with provisions for conditions et cetera. Those people are obliged, under the Workplace Relations Act, to conform to paying under an award, so there would be no ability for them to cut conditions.

**Senator MACKAY**—What about wages?

**Mr Jackson**—Wages would be based on the number of hours, so they could be if they run their outlets to have a very close trim of their labour to their customer service requirements. That is what we would expect of all outlets and franchises. That is a normal expectation we have.

**Senator MACKAY**—So they could in fact cut hours?

**Mr Jackson**—They could cut them if there was an ability to do so—in other words, if the demand was not there. They certainly have the ability to be flexible in their resourcing, like we do in our corporate outlets.

**Senator MACKAY**—What impact will franchising have on the number of employees employed in Australia Post shops?

**Mr Jackson**—I could not really say that until we know how many outlets will be involved. Generally speaking, there may be marginal differences in the total level of staff in an outlet depending whether it is franchised or corporate. Until I have a clear picture of the number of corporate outlets that might be franchised, I am not able to give you an overall figure on that.

**Senator MACKAY**—What impact will franchising have on the terms and conditions of employment of employees retained by the franchisees?

**Mr Jackson**—There is a CPU award, and there are various other awards. The terms and conditions for that are generally what corporate staff get.

**Senator MACKAY**—Are they?

**Mr Jackson**—There are a whole lot of conditions that are very similar, I understand. I am not an expert on that award, but I understand it is relatively similar. It might not be identical, but it is similar.

**Senator MACKAY**—If, for example, you were aiming for 100 corporate post shops to franchise, what job cuts would you expect? You say it is very difficult to determine because you are not aware of a number. Let us say it is 100.

**Mr Jackson**—When you say job cuts, it might be that the people pass from being in corporate employment to being employed by individual franchisees, so I am not sure about overall job cuts. It would be very marginal per outlet—less than one per outlet. Again, it would depend on which outlet and where it stands today in terms of its resourcing.

**Senator MACKAY**—Will you have a better picture in February?

**Mr Jackson**—We might not. We have some work to do yet on the corporate conversion side. By February we might just be embarking on getting down to a little more detail. We need to be clear on conversion policy aspects before we look at that in detail.

**Senator MACKAY**—I understand that. What consultative processes have been put in place with the relevant union to discuss the impact of franchising on employees?

**Mr Jackson**—There has been a significant amount of exchange of information, either written or in face-to-face forums, on well over 30 occasions in the last 2½ years or so that we have had dialogue with the CPU on this. They have raised a number of issues, and we have given a number of responses to them on those issues. Indeed, there were tentative plans to

have some discussions at our office in Melbourne today with members of the CPU. So there are ongoing discussions, and there has been quite comprehensive discussion on this aspect for some time.

**Senator MACKAY**—I have a copy of a letter from Mr Brian Bauk to Graeme John. Inter alia, he says:

The issue of terms and conditions of employment and the conversion policy have never been addressed by Australia Post despite the union making its concerns crystal clear.

Similarly, he asserts that the joint letter with POAAL has not been acknowledged.

**Mr Jackson**—I think it has been in the last few days. When we are talking about franchising we are talking about conversion policies—they are two separate issues. We have a conversion policy agreement with the CEPU which outsources corporate outlets, subject to their meeting certain criteria. It currently outsources them to the LPA model; therefore, as provider outlets meet that criteria, whether we outsource it to an LPA model or a franchise model probably makes very little difference. Discussions on conversion policy, which is separate to franchising, are yet to take place. We are endeavouring to arrange for a workshop with the union late in November, but it has been deferred for a couple of months because of availability of people. We will address the conversion policy at that meeting. We responded to the joint letter you mentioned from POAAL and CEPU in the last week or so, and we have invited discussions as a part of that response. Some of the issues have been raised before and, as far as we understood, there had been satisfactory responses, but we have invited further discussion.

**Senator MACKAY**—You are saying that there is a workshop due to be held with the CEPU late this month?

**Mr Jackson**—Yes, that is our aim.

**Senator MACKAY**—Tell me precisely what that will be dealing with.

**Mr Jackson**—It was to look at the conversion policy issue in terms of the appropriateness of the current conversion policy.

**Senator MACKAY**—You said that there were some delays with the workshop you are referring to because of people being overseas or whatever. How long has the delay been?

**Mr Jackson**—It had been scheduled for a couple of months back, but some of the people involved were unavailable so we put it back. In the last few weeks we have started to discuss when it would be appropriate. We have written to the union, as well as having verbal discussions, suggesting the last week of November. We are proposing 25 November. Some members of the union are overseas at the moment, and we are not able to confirm it at this stage.

**Senator MACKAY**—Let us revisit this in February and see how the workshop goes. That is it.

[5.16 p.m.]

### **Australian Broadcasting Authority**

**Senator HARRADINE**—Professor, are you aware that last month at an international crimestoppers conference in Melbourne Detective Senior Sergeant Chris O'Connor from the Victorian sexual crime squad said that 3G technology will mean that more and more people will be able to get hold of material like child pornography? Further, the detective said that the people accessing child pornography are going to get younger and thereby, from a behavioural perspective, this will increase the potential for them offending. Are you aware of that?

**Prof. Flint**—I was not aware of the comment, but I am aware of the substance of it and the general concern in this matter. It is a matter which concerns the ABA, which is having discussions with the ACA in that regard. My colleagues could inform the committee, if you wished, of the substance of those discussions to progress the question of 3G mobiles.

**Mr Tanner**—The ABA is aware that this—and the terminology we prefer is Internet enabled mobile platforms, of which 3G is an example—poses some new regulatory issues or variations of regulatory issues which we are familiar with from the Internet to date. We are aware of that from several sources. Generally, the ABA is aware of that through its international work with other hotlines. A couple of countries—Japan and the UK—are ahead of Australia in having already introduced these platforms and encountered some of the problems. We are certainly keen to learn from what is occurring overseas. Andree Wright has more information about that, if that is of interest.

More specifically, the ACA is currently grappling with some particular issues around SMS and MMS, which stands for multimedia messaging service, premium numbers and has sought help from the ABA, or drawn the ABA in to considering some of the emerging content regulatory issues that it sees around those technologies. The ABA will continue to work with the ACA on that. So there are some specific issues which have already arisen, including the ACA's premium number SMS and MMS. But we are also aware, from international experience and our knowledge, that there are families of issues that this potentially raises.

The ABA is quite keen, in the months to come, to try to better understand those and make sure that, to the extent they are within its existing jurisdiction—that is, to the extent we are talking about Internet being received on mobile platforms—the ABA is able to work with the Internet Industry Association to make any modifications to the code that may be necessary. We are talking about a convergence problem and other problems that are perhaps not Internet problems but are similar and raise similar concerns, and we need to understand what those are and work with our partner agencies within the portfolio to pick them up.

**Senator HARRADINE**—How?

**Mr Tanner**—That depends on the problem. If we are talking about some of the issues around paedophile contact which are raised by international experience of mobile platforms, then it may very well be that the appropriate enforcement authorities are the police, rather than the ABA. But the ABA needs to understand those issues, as we have already developed a fair bit of educational material through Net Alert. We may need to update that and learn from the lessons overseas. In the case of content access issues, the ABA has a more direct interest again, because we are already responsible for the regime on Internet content. We would be

very concerned if the same or very similar content were accessible by some means other than the Internet but there were other principles that were incompatible with the principles that underlie our legislation.

What we would do with the information depends a bit on what the problem is. The early indications we have are that Internet enabled mobile platforms raise their own family of issues. It is not just one, simple issue. This is a new technology which potentially takes the Internet outside the home, which has been the focus of a lot of our educational attempts to help families manage their children's Internet use. It has a number of features that I think we need to understand better and some potential problems. It would be good to think Australia could learn from overseas experience and head those problems off before they arise.

**Senator HARRADINE**—Mr Tanner, we have heard all of this before, and nothing has been done about it. It is a growing problem, is it not, with mobile phones more readily in the possession of teenagers?

**Mr Tanner**—Yes—

**Senator HARRADINE**—I have heard this time and time again, but there does not seem to have been anything done about it. You talk about the ACA. If you are talking about the consumer's association, they are not a regulatory body. And the Internet Industry Association is not a regulatory body. One might consider that they have a vested interest, in any event.

**Mr Tanner**—Perhaps I should qualify that a little. The regulatory remit of the ACA is not clear, at least in my mind, at this stage. It certainly has a number of regulatory roles in relation to carriers—

**Senator HARRADINE**—Not the content regime.

**Mr Tanner**—As I said, I am not yet confident that I understand the limits or the exact qualities of their content regime. They certainly are taking an interest in some access to content issues in connection with SMS and MMS premium numbers, and the ABA is working with them as the expert content regulatory authority. The Internet Industry Association certainly does have a role in content regulation of the Internet. It is responsible for the codes of practice and, to the extent that Internet enabled mobile platforms raise separate issues—if they do—it is completely within jurisdiction for the IIA to do something about that by proposing to vary its code and seeking registration of varied code.

As I said, the difficulty I am having in answering your question is to signal that we are aware that these much more sophisticated Internet enabled mobile platforms do raise new groups of issues than mobile telephony has done to date but, depending on what the issue is, the correct regulatory response may lie with this person or that person. The issue for us is that the ABA can see that a number of issues have emerged in the UK, to use another example, that are going to either be within our remit here or have some potential relevance to our remit—at least to our educational remit; we are keen to understand that, and it is not totally within our jurisdiction to work with other agencies to ensure that is understood.

**Senator HARRADINE**—At the last round of estimates the ABA stated that it had flagged its concern with the service providers and the Internet Industry Association over third generation mobile services and their potential to transmit child pornography and pornography.

When did those discussions take place? How deep were those discussions? What is the outcome of those discussions?

**Ms Wright**—We met about three to four weeks ago with the Internet industry's content task force, which is working in conjunction with AMTA on policy issues to do with mobile platforms. We had discussions with them about how, in the forthcoming code review this month, additional safeguards could be built into the codes so that, for example, when phones are sold parents will have the opportunity to have phones that only provide services suitable for children and that there is some sort of adult verification process so that there is an awareness of who the phone is being sold to and who the user will be.

Mr Tanner pointed out that we have been actively looking at the situation in the UK. We think that the draft code of practice that has been out for public comment is instructive, because it does two things that we find particularly interesting. Given the fact the companies that have put out this code are, in many instances, the parent companies of companies that are looking to release Internet enabled platforms here next year, we are also aware that the solutions that they are proposing are likely to have a flow-on effect in Australia. Compared to the Internet roll-out, where you could say English-speaking content was led by the United States, take-up of mobile platforms is not strong in America. It has been much stronger in the UK.

To move to the two things that we find particularly interesting, that code has looked at mechanisms for the handling of illegal content such as child pornography, which you have mentioned. The carriers have been working very closely with our sister hotline body, the Internet Watch Foundation, for the way that illegal material can be handled. That body has also worked with those carriers to look at the hardware and software as they are being developed so that problems can be minimised—children will not be seen as the canary down the mineshaft. The industry is looking to take a more proactive approach.

Additionally, they are also looking at demarcation for 18-plus content and content that is suitable for minors. They have called for organisations to come forth to put that regime in place. The Internet Content Rating Alliance probably is one that is being considered; the BBFC may well be another. I believe they are looking at announcing the outcome of who will be the classification body later in the year. They are also looking at a way of classifying 18-plus material, for example, so that it would carry a metadata tag that could be blocked by a filtering device that carriers would offer on your phone. It would, therefore, be programmed so that, if the user were under 18, they would not be able to pick up the 18-plus material.

Also, if under-18 material was labelled, that would mean potentially illegal content would not be preclassified by the industry and would be more easily locatable and referred on to enforcement jurisdictions. So we are aware that the metadata tagging and the decisions made on the 18-plus and suitable for minors threshold should have a flow-on effect here, given that companies like Vodafone and Hutchison are the parent companies of the companies here. So we are actively working with them. We form part of an international working group that involves the Internet Watch Foundation, the Italian hotline and Childnet International in the UK so that we can closely track what the Home Office and the industry body in the UK are doing, and see how applicable those outcomes are here and what else we need to do. But, as I

said, we had discussions airing those types of issues with the Internet industry content group and with AMTA.

Giles Tanner also spoke about the work we are doing with the Australian Communications Authority, which would go around the premium numbers. It would seem that particular carriers would look to offer product that would mean that you would want to subscribe to their service rather than that of another carrier and that those numbers may be the billing pathway to accessing that material. We have been in discussion with the ACA about the types of community safeguards that would need to be in place so that, when parents bought a mobile phone for their child, there would be a similar regime across that content—even if it were not Internet enabled—so that parents could look at the platform and think that there were safeguards in place and, ‘My child is not exposed to material suitable only for adults, or illegal material.’

**Senator HARRADINE**—So, that would be a precondition in selling mobile phones?

**Ms Wright**—That is one of the areas that we are looking at—the point of adult verification, if you like, of the user.

**Senator HARRADINE**—No, I did not quite mean that. You mentioned that the parents would be able to deal with the mobile phone in such a way that it could not access this sort of material. How would you do that?

**Ms Wright**—There are a number of ways that it could be done. We would point out the parallel in the current codes of practice whereby Internet accounts cannot be made available to minors without parental authorisation or authority. We have had discussions with Childnet about one of the ways of dealing with this, which is verification of the service through the SIM card in the phone. That means the SIM card would carry the information that the user was a minor or the user was an adult. So it can be built into the phone, if you like. However, we are also aware that Britain appears to be about six months out from deciding what types of filters or blocking access and adult verification systems they will use, but they are aiming to have that decision in place by mid next year. But we are looking at the possible options now that could be put in place here.

**Senator HARRADINE**—Is it correct that there is a review commencing this month with the Internet Industry Association about content codes?

**Ms Wright**—That is correct, yes, and we have already had some meetings with them ahead of that process to look at matters that we think need to be updated from the previous codes. The mobile platform has been identified by both IIA and us as an area of particular interest.

**Senator HARRADINE**—I think at the last estimates you may have indicated the following—it is certainly in your annual report, which says:

The review will commence when the Department of Communications, Information Technology and the Arts has completed its review of the Online Content Scheme.

Has that been completed?

**Ms Holthuyzen**—The review is fairly close to completion. A report will be provided to the minister shortly.

**Senator HARRADINE**—How close is it?

**Ms Holthuyzen**—A report was prepared for the previous minister, and we now have a new minister so further advice will shortly be provided to the new minister.

**Senator HARRADINE**—Will that be made public?

**Ms Holthuyzen**—I think that is a matter for the government, but I would think so.

**Senator HARRADINE**—How can it be a matter for the government? This review of the Online Content Scheme is conducted by DCITA. It is removed from cabinet documents or anything like that.

**Ms Holthuyzen**—I expect it will be made available. I just said that it was a matter for the government to decide.

**Senator HARRADINE**—Mr Chairman, can I ask through you whether the department would provide the committee with a copy of that review when it is available?

**CHAIR**—Yes, we can request that. I do not think that is a problem.

**Senator HARRADINE**—Thank you. I now turn to research into community attitudes to violence on free-to-air television, which concerns the commercial television industry codes of practice. A study was undertaken by ACNielsen that investigated community attitudes. How much did that study cost?

**Ms Wright**—I would frame reference to that study by saying—and I would need to check the exact figures of the research—there were some savings, shall we say, in that research. It endeavoured to measure the movement over time of community attitudes in this area. Our predecessor organisation, the Australian Broadcasting Tribunal, ran research into violence on television in 1989. From memory, the budget then was \$150,000, which was a solid budget for a piece of research at that time. It ran both a survey and focus groups.

Last year, when we reran the research, we endeavoured to look at how attitudes had moved—or had not moved—and where the issues were over that period of time since 1989. Therefore, we did not need to make provision in the budget for focus groups. However, we did not rule out having money available for focus groups in the event that issues, new concerns or things that were not easily understood came to light when we updated and reran the survey. As it was, I think the survey cost us \$80,000 and it was substantially the same as the survey that was run in 1989. There were some changes to questions that had been asked in relation to particular programs in 1989, and we endeavoured to choose what would be seen as roughly equivalent genre programs. Also, we needed to ask questions which went to the heart of how aware consumers were of the classification system and consumer advices that were offered, because that situation had not really been in place in 1989.

**Mr Tanner**—That figure of \$80,000 is my recollection. We will confirm that when we get back to the office. If it is slightly out, I will send you a revised figure.

**Senator HARRADINE**—Thank you.

**Prof. Flint**—The concern about violence, I think, has to be associated with the context that there seemed to be a greater awareness of classification guidelines and consumer advice. That



may have impacted on the attitudes of those who were surveyed in relation to violence in programs on television.

**Senator HARRADINE**—I want to go to another question, and it is a very important one, because what you have in your annual report is that the ABA recommended the findings of the 2002 study to Commercial Television Australia as part of its review of the code in 2003. In other words, what you are recommending to them is to loosen up on violence. That is what you are saying here. It says in your annual report that the national survey ‘found that the level of concern about the portrayal of violence on free-to-air television has decreased over the past decade’. That is an interesting point. What you are really saying is that there has been a loosening up of violence since 1989. If you have a focus group, how can they say that they are more, or less, concerned about the content of violence and the nature of that violence on television if there was a change in the standards from 1989 to 2002?

**Prof. Flint**—I suppose you have put your finger on the weakness of surveying. But we have certainly not suggested to CTVA that they should in any way relax the present standards in relation to violence. When we receive whatever is their next proposal concerning the draft, we will carefully examine the submissions which have been put to CTVA by members of the public on the various proposals that CTVA has which are in relation to classifications, changing the time zoning for G-rated programs and so on. All of these are going to be very carefully considered, and we will definitely want to consider what the public has put in to CTVA in terms of their submissions. But I would not like it thought that we in any way suggested to CTVA that they should in any way relax the present standards concerning violence.

**Ms Wright**—My communication with CTVA was very clear. We, in a sense, commended the report for them to consider its ramifications for the code of practice not in the context of allowing more violence but in the context of saying that we understood this still to be the key concern for Australians—it still polls ahead of the other classifiable elements—and that we thought there was every need to be particularly vigilant on both our side and their side. I think that we wrote and that is what we said. We also confirmed that in meetings with them. I think the words of the annual report might not be perhaps as focused as they could be to reflect what we had intended in all the discussions that we had, but we particularly wanted them to look at the findings to see how important it is to provide information to consumers and to remain vigilant in this area. That was my understanding of the way the material in the annual report was to be framed. That is what it was meant to reflect, and that was certainly in the discussions that we have had with CTVA to date. I think we also emphasised that there is continuing concern in the community about violence in the news, and that does not go away either.

**Prof. Flint**—I should also point out that the previous minister did write to the ABA, saying that he was concerned that a revised code of practice should not result in reduced community safeguards, and in fact one of the matters he mentioned was violence. So we are well aware of the government’s view. We are very well aware that there have been a lot of submissions on a range of matters to CTVA, and when CTVA puts up its proposed form of the code we will certainly have regard to our duty to make sure that the code reflects community standards.

**Senator HARRADINE**—Thank you. That encourages me somewhat more than does the annual report. I refer to page 50, under the heading ‘Community attitudes to classification and ratings and consumer advice’. It says:

The ABA, in partnership with the OFLC, funded a market research study examining how Australians feel about classification ratings and consumer advice for television, films, videos, DVDs and computer games. A cross-section of the Australian community was recruited to participate ...

How did you go about choosing them?

**Ms Wright**—I emphasise that we were a junior partner in relation to that research. We wished to be involved because our own research understanding is that, while consumer advice for television is not as extensive as it is under the OFLC scheme, in some cases the consumer advice lines on television are seen by consumers to be more helpful. Our interest was to have a dialogue in relation to those issues, especially in the context of the CTVA code review, and to determine whether a better and more consistent outcome could be achieved for both television and film. We were a junior partner and a junior funding partner, and those decisions that you asked about were primarily made by the OFLC. I am unable to shed light on it from the ABA’s perspective, because, as I said, we were a junior partner in relation to that research.

**Senator HARRADINE**—That study has been done. Could the committee be provided with a copy?

**Ms Wright**—My understanding is that the OFLC has not finalised it yet and that we will be receiving a version to comment on before it is finalised.

**Senator HARRADINE**—Your annual report says the outcomes of the research were passed on to CTVA in the context of the review of the commercial television code of practice.

**Ms Wright**—I understand that both the OFLC and ourselves have had discussions about the consumer advice. As I said, we have a particular interest in any commonality between the schemes and in seeing that the best advice used for television and the best advice used under the OFLC scheme are melded. Certainly the discussions we have had have gone to that point.

**Senator HARRADINE**—Again, I would be obliged if the committee could be provided with a copy of the outcome.

**Prof. Flint**—We will use our best endeavours to get it and provide it to the committee and also to find out, if we can, the way in which the people who were participated were chosen. We will provide that information to you, as far as we can.

**Senator McLUCAS**—My question goes to the change of licence provisions for regional broadcasters, particularly in Queensland, following the inquiry that the ABA did when we lost Southern Cross Broadcasting out of the Cairns and Townsville markets. The additional licence condition was to become effective six months from the date that it was made. Can you remind me when that will kick in?

**Prof. Flint**—Certainly. It is effective, but the counting period—the period when they have to satisfy the points system—begins on 1 February. There is a six-weekly period for reporting, and they have to satisfy that system. The reason for that was that it was put to us that they needed time to employ people, to find premises and to work out a strategy, because we gave a broad number of options within the points system to satisfy the purpose of the condition. The

purpose of the condition was to significantly increase the amount of local content—that is, content relating to the local communities about their issues, problems and things they were very interested in—on television.

When we looked at it more closely, we realised that just having head-to-head local news programs did not necessarily rate, particularly for the non-incumbent broadcaster. You get the incumbent coming in with high ratings and the other two just did not get those. Sometimes when they cut it out and substituted something else, even a cartoon program coming from Sydney, they got higher ratings. But we wanted to make sure that they put on something, so we gave them broad options and that is why the point system allows them effectively to range between current affairs down to straight news—if I can call it that—but rewarding news. They get more points for news. Effectively, there will be 60 minutes of more news or 120 minutes of current affairs and similar programs or some mix of that a week. That is what we are aiming for. That begins on 1 February. They are all reporting their implementation programs now, and that will take effect, the viewers will see something, from 1 February—in fact, they will see something beforehand because they are trying them out, I gather.

**Senator McLUCAS**—Just to confirm, you said that 1 February is the start-up date. Is that the first reporting date of the six-week period or is that the date by which each licensee has to be providing this mix of local content?

**Prof. Flint**—It is really both. That is when they start having to accumulate points, so that means that programs will definitely appear by 1 February. We have information that the Seven Network, in addition to the three local news services, is going to be adding local news services in Cairns and Townsville; WIN is providing local news services in Cairns, Townsville, Toowoomba, Rockhampton and the Sunshine Coast; and Southern Cross is providing local news updates and a weekly composite regional current affairs program to five of the seven local areas.

**Senator McLUCAS**—Let us go to Southern Cross, because that is the one I have had concern expressed to me about. The intention of the ABA in bringing down the changed conditions was, I understand, twofold: it would encourage not only diversity but also competition in the market. Those two elements are required to have functionality in a small regional news market. I understand that Southern Cross is going to put on one-minute news updates on Monday to Friday. I cannot see how that will provide the competition in the market, given the services that WIN certainly is providing by continuing with their service, and that it would seem Seven is going to provide. It is the issue of competition.

**Prof. Flint**—We did give a wide berth to all of them, firstly because we wanted to allow them to innovate to get ratings. We think this will rate, but some of the broadcasters did not think so. We have different views. We also were conscious of the financial cost of this and we have a legislative policy that tells us not to impose unnecessary burdens. We know that they have all had to pay substantial fees to the network providers for the feed coming from the network. We know that they also have to pay licence fees to the Commonwealth, but then they have the digital rebate. We know also that it is costly the way we live in Australia to provide television programs, because you have to really break the signal to pick up high street advertising, which would be considered unusual in other countries, to get the money to put those programs on. So they are saying they are going to have a mix of news updates—short

news updates, as you have indicated—plus this regional current affairs program. We will be watching this to see that it not only complies with what we have said but also works.

**Senator McLUCAS**—I do not believe the issue of competition has been addressed and I do not know that this actually suggests anything different.

**Mr Tanner**—The chairman's comments about the decision not to mandate that this was about news but that it was about a wider definition of content, I think, really go to that. The ABA was not seeking to get competition between three service providers in each market with the provision of news. The decision was taken that that was not a reasonable intervention, given the hard evidence we had that second or third news services may be unattractive to viewers in a market where, for example, most typically the incumbent—the original service that was in that market in the first place before aggregation—is still covering news pretty well. Rather, the intention was to move away from the current situation where we typically have in a market—if I can generalise, and there are exceptions—one network which is still putting in a lot in terms of local content but with 1½ or two passengers. The intention was to set a minimum benchmark for locally and regionally relevant material which each of the three would have to comply with. The ABA's goal was never maximising competition between news services. If that is an outcome, then that will be a market decision.

**Senator McLUCAS**—My criticism with the ruling is that it does not ensure that competition will be a result of the changed licence provision. If you have been watching the service that regional areas have—I think you would agree that competition is an important element of any media market—you will find that in those markets we do not have the level of competition that we used to have, and there is a result. I do not want to be critical of WIN, because they have stayed when others have gone. You make the point that licensees are interested in their ratings; my constituents are interested in their news service. They may be in conflict, and that is what concerns me—that, whilst we have done this work, we do not have that outcome in terms of competition; we may have it in terms of diversity.

**Prof. Flint**—One thing that drove us was the fear that you might just end up with one news broadcast in all of the regional areas around Australia. This means that the second broadcaster would certainly be increasing their news broadcasts and the third, Southern Cross, is going to present a mix. We made suggestions, and in my naivety I thought, 'Why couldn't you have something like the *Insiders* but in a local context?' Say there is an environmental issue in a particular town; why couldn't you bring in your local journalist, your MP and your local alderman and discuss that issue? Everybody said that that would not rate. I thought it would rate, because these issues obviously do. But they also said to us—and I think they do have a point—that, if you live in Sydney at, say, Bondi or on the North Shore, how often do the issues of those areas get onto television? You only get issues that relate to the whole of the metropolitan area or the state on television.

**Senator McLUCAS**—I am not critical of what could be the outcome; we are yet to see what the outcome will be.

**Prof. Flint**—Yes.

**Senator McLUCAS**—Has Southern Cross advised the ABA when on the weekend that half-hour bulletin will be broadcast?

**Prof. Flint**—I do not think so. We would be ready to give you that information when we have it as it is released.

**Senator McLUCAS**—Thank you. The other question goes to your comment, Professor. You have used the words ‘local content’, but the amended ruling actually says ‘matters of local significance’. How does the ABA assess matters of local significance?

**Prof. Flint**—We tried to set that out in the decision. We gave a broad description; perhaps Mr Tanner might recall some of that.

**Mr Tanner**—I do not have the actual wording of the condition. It is not a requirement for locally made content; it is a requirement for a specific local angle in the story. Let us suppose that we are talking about a regional area with sugar growing as one of its industries. A general story showing farmers demonstrating in Brisbane outside parliament will not be locally relevant. If, however, with the way it is presented there is an angle for that local community—an emphasis on the fact that this included people from Cairns or a Cairns spin or whatever—it becomes local. It is intended to be fairly wide but also to ensure that the content is specifically and recognisably badged, viewed or presented from the point of view of the local area.

**Senator McLUCAS**—Have you had any complaints recently about the changed nature of items that are not locally produced?

**Mr Tanner**—We really went out during our inquiry and elicited a fair number of people’s grievances about broadcasting. I am not aware of complaints we have received since those calls for submissions, except responses to our proposed course of action. Perhaps you could clarify a little bit more what you mean?

**Senator McLUCAS**—It has been brought to my attention there are increasing numbers of stories being run in specific submarkets that are generically produced across the state and are not badged as emanating from, let us say, Toowoomba. They are being constructed so that they are somewhat generic. You could argue that they are matters of local significance, but you could also argue that they are not. I am trying to get to the point of how do you, as the ABA, ascertain whether or not something is of local significance?

**Mr Tanner**—There is a clear statutory test that requires that it is more than merely arguable relevance. A lot of things are of relevance; clearly, if I am living in Cairns or in Launceston, I am going to want to know that the Prime Minister has announced the election for a month’s time. That is not local enough. It is that local angle—the local response, the local member—which actually makes it a Launceston story or a Cairns story or whatever, although Launceston is not in the scope of the condition, so it is a bad example. That definition is clear, and I am happy to provide you with that part of the condition and to pick it out for you.

During the consideration of comments and criticisms of the first proposed condition, we moved from an initial requirement that it was entirely about material that passed this test of local area relevance—so pre-aggregation market relevance—to a situation where we will accept up to, but not over, 50 per cent of the points in a market being made up by regionally relevant material. Our definitions allow us, we hope, to clearly distinguish between the sort of material you are describing, which is of regional relevance but not of local relevance, and material which is of clear local relevance—although we have given some standing to that

regionally relevant material. We have done that for a number of reasons, not the least of which are around submissions we received on the likelihood of getting current affairs material for local areas. It seemed to be extremely low unless we were prepared to admit more widely rural Queensland relevant material. We are still requiring 50 per cent minimum to be that specifically badged, locally relevant material. I am happy to provide you with those definitions.

**CHAIR**—Senator McLucas, we are going to have to wrap up there, because we are now over time.

**Senator McLUCAS**—I know we are over time, but I want to ask one more question.

**CHAIR**—Very quickly, if you would.

**Senator McLUCAS**—What is the technical way that you, as the ABA, will be monitoring the local content of each program?

**Mr Tanner**—There are two levels to this. One is routine compliance. We are putting together a regime in which we take an active interest in and record whether or not each station is able to show, by its own account, that it is complying. As to the question of how we will decide whether we think the material really is compliant, we have not yet resolved how we will do it, but we will certainly invest energy and resources in doing it. It is a hard one, because there are so many local areas and so much material that we are going to have to use some sort of sample based, audit based or investigation based technique—or a combination of those. We are actively working on that, but we have not yet decided how it will be done. It will be done; otherwise, the condition has no credibility.

**Senator McLUCAS**—I agree that it is very difficult.

**Mr Tanner**—It is a little like the Australian content regime. With that, we really monitor what the broadcasters say they are doing; we can look at the programs and there is no controversy about whether a particular program is an Australian drama. This is totally different. We are talking about looking at what the broadcaster says are news items that are locally relevant, and we are going to have to check up on that. There is an issue for us about how large-scale that will be, how large the samples will be and how frequent the sampling will be, because it will be fairly labour intensive to do that. But unless we credibly do that, obviously the danger is that we will start to get the backlash—the rumblings that it is just not working.

**Senator McLUCAS**—I will leave two things on notice: one is to confirm that you, Mr Tanner, are going to send me the definition of regional significance—

**Mr Tanner**—I will give you the definition of both regional and local.

**Senator McLUCAS**—The other is that, when you have the methodology of keeping track of monitoring the programs, can you provide that to me?

**Mr Tanner**—We will take a note of that question. That may take a little longer, but we will take note of your interest and respond.

**Senator McLUCAS**—Thank you.

**CHAIR**—I am afraid that we are going to have to call the ABA back after dinner, because there are still questions here. Whether you are all here is another matter.

**Proceedings suspended from 6.06 p.m. to 7.11 p.m.**

**CHAIR**—Let me just make some changes to the agenda, to make the evening more interesting. We will finish the ABA. We will then move to DCITA on communications, then to DCITA on IT and then to NOIE. We expect to finish by about nine o'clock. We will then move to the ABC and then to DCITA on broadcasting. Unfortunately Senator Lundy is not well and is going to go home early, so we are rearranging the program to fit in with her. We will begin with the ABA.

**Senator LUNDY**—I have a number of questions for Professor Flint about his recent publication called *The Twilight of the Elites*. I would like to ask Professor Flint if he concurs with Tony Abbott's view that he is a public intellectual and thereby commentator.

**Prof. Flint**—A public intellectual. I suppose that is not a bad description.

**Senator Kemp**—There are worse things to be called, Professor.

**Senator LUNDY**—There is a point to my question which will all become clear.

**Senator Kemp**—Oh, good. I thought you were being sneaky!

**Senator LUNDY**—I thought I had better explain that.

**Senator Kemp**—We assumed there was a point to your question.

**Senator LUNDY**—It was for your benefit, Minister.

**Prof. Flint**—We could have a debate about that but that description does not worry me. Whether it is accurate or not, I do not know.

**Senator LUNDY**—Professor Flint, you make a lot of observations in the book, but it is generally an essay in support and in sympathy of the Howard government. In fact, I would go so far as to say that it is an apology for the Howard government and all of the policies they have put in place. You have taken the time to comment on numerous occasions about the role of the media. I ask: how do you reconcile your role in the ABA and these very public comments about the role of the media in Australian society? In particular, I put to you that you have a direct conflict of interest in conducting yourself as a public commentator while still holding an official position with the Australian Broadcasting Authority. What is your response to that?

**Prof. Flint**—I do not think I have a conflict of interest. In fact, in that essay, as you graciously called it, I do reflect on the proposition that all of the governments, state and federal, have eschewed the elite agenda, so I do not think it is a party political view. In fact, I say that in the book, that all state governments and territory governments have eschewed the elite agenda. I do not think in any way I have a conflict of interest. If I did have a conflict of interest in the particular case then I would take appropriate action in relation to that conflict, but I do not see how I have a standing conflict of interest.

**Senator LUNDY**—Can I put to you that if the Liberal Party and perhaps Senator Santoro or others brought to you complaints about the ABC that they have brought before the authorities—

**Senator Kemp**—Or Senator Stephen Conroy.

**Senator LUNDY**—Indeed. Professor Flint has made very specific observations about the ABC and bias in this book which to me very clearly says that Professor Flint has a view that there is bias in the reporting of at least one media organisation and, indeed, many more media organisations. Wouldn't that automatically exclude you from having any role in any inquiry into any matter relating to bias of any media organisation in Australia, given that you have articulated a series of very definitive and strong views about the presence of an ongoing and systemic bias, that is, with what you call the views of the elites, in this publication?

**Prof. Flint**—The thrust of that chapter was, I thought, a strong argument that what Professor Henningham revealed in his research—that is, the tendencies of journalists vis-a-vis the general population—was of no consequence whatsoever. What was important was that news be objective and that news be clearly distinguished from comment. That is what I was really arguing in that chapter. That was once accepted. That is a theme that you find in all ethical codes. I am not at all worried by the fact that commentators have views, but I do think it important that we distinguish between news and comment because the evidence seems to suggest that the public does have a difficulty in distinguishing between that. I think that where there is comment in public broadcasting, then that should be balanced.

**Senator LUNDY**—In chapter 4—'A Commonwealth without borders'—you go to great lengths to defend and argue the government's policy. On page 77 you state:

The government's action was met with howls of disapproval from the elites. What further enraged them was the government's actions and the overwhelming support of the nation.

This was in reference to legislation relating to asylum seekers. You go on to say:

With the exception of a handful of commentators, Alan Jones, John Laws, Piers Akerman, Michael Duffy, Andrew Bolt, Brian Wilshire and Jim Bull, almost all political commentators expressing an opinion on this issue attacked the government.

Professor Flint, I put to you that all, except the ones you name, argue that case. Given you have supported those commentators in the stance that they have taken because you happen to agree with their opinion, why should you now be able to not have a conflict of interest in pursuing complaints about any of those commentators in your role as chairman of the ABA? You have articulated a view that you think those commentators are the only ones who are getting it right, and all the others are getting it wrong. Doesn't that imply some sort of formed opinion about their conduct in the media and rule you ineligible for participating in any inquiry?

**Prof. Flint**—No, because I am talking about a specific matter. That is not saying that the other commentators, the majority commentators, are always wrong. I am talking about a specific matter in which both the government and the opposition were in agreement—that is, in relation to the legislative policy following *Tampa*, and both government and opposition were in agreement. What I am saying is that, although the general population supported the government and the Labor Party's position, it was an interesting phenomenon that so many commentators in the media took a position different from that of the Liberal Party, The Nationals, the Labor Party and the overwhelming majority of the people, and I thought it was a comment worth making. That does not mean that I say that those commentators are forever



wrong. I would deny that I am in any way biased in relation to complainants. For example, on one occasion I recall distinctly having a complaint brought by the secretary of the state branch of the Labor Party, in which I was the only member who supported the thrust of that case. I cannot, of course, disclose that but I think I am quite capable of addressing a problem before me and addressing it independently and making an independent judgment. But if there were a conflict of interest which was drawn to my attention in relation to a specific matter before me, then I would have to carefully consider my position. Of course my position would be reviewable by the Federal Court, for example, or the AAT, so it would not be a decision I would make without somebody having a remedy if I made the wrong decision.

**Senator LUNDY**—Who at the ABA investigated and cleared 2GB and Alan Jones on complaints regarding its potential breach of radio standards previously?

**Prof. Flint**—The decision which we took recently in relation to 2GB involved a process which involves the officers of the ABA. We had outside counsel and recommendations came to the full board of the ABA. The final decision was accepted, if I recall correctly, without any dissent whatsoever by any member.

**Senator LUNDY**—But did you actually do the investigation?

**Prof. Flint**—I did not conduct the investigation. We had outside counsel to conduct the investigation.

**Senator LUNDY**—Was there a reason you did not conduct the investigation?

**Prof. Flint**—That is not the way we do it. We have our own internal counsel. She ran the investigation. She used an outside QC and reported regularly to the board. I did not run it because, as chairman, I did not think it was necessary for me to do that when we have people to do that sort of thing.

**Senator LUNDY**—In 1999 you had to stand down from the cash for comment investigation because of an interview you did with Alan Jones and John Laws at the time. In the light of that circumstance, obviously investigations were done differently then. Isn't the reason you have done it differently now that you are concerned about the potential for conflict of interest arising again?

**Prof. Flint**—I did give an interview to John Laws. It was the most public thing that you could do because it would have been heard by a lot of people. It had nothing to do with an ABA matter. As a result of that certain people decided that they thought I should stand down. I thought carefully about it and I sought legal advice. The advice I received was that I could quite successfully defend it and that it was not a conflict of interest. What I decided was that if I did that it would delay the process. I thought there was nothing served by my trying to defend my position as chair of a panel and that the matter would best go on. It would have been delayed by an application to the Federal Court, with the potential to appeal to the full Federal Court. It could have gone on for 18 months. I decided that, in all the circumstances, my pride in defending this was not worth putting the ABA to considerable expense but, more importantly, putting those people who were involved to the difficulty of having something over their heads for 18 months. Although legal advice told me that I had a good case to resist it, I decided voluntarily to stand down and I did stand down voluntarily.

**Senator LUNDY**—Can you tell me how much getting outside counsel to run this most recent case cost the ABA, given you were so concerned previously about expenses?

**Prof. Flint**—I cannot tell you, but that can be provided. That was done not because of me; that was done because the advice of the ABA—and this was the feeling of all the members—was that if you have senior counsel asking questions they are more competent, they know how to run these things and they have experience in doing this. If there is something to find, it is better to have outside counsel than to have your own counsel doing it.

**Senator LUNDY**—Wasn't that just a direct reflection of the loss of credibility that the ABA suffered through the previous inquiry?

**Prof. Flint**—Not at all.

**Senator LUNDY**—Is that the first time it has happened like that?

**Prof. Flint**—In every investigation where we conduct examinations that I am aware of, we always have outside counsel to ask the questions. For example, we just appeared in the AAT and we had outside counsel. That is a practice which is the preference of all the members of the ABA and the advice of our internal counsel.

**Senator LUNDY**—In your book you described the *Littlemore* program as the media elite. How would you classify *Media Watch*? Do you think *Media Watch* is part of the media elite, as you describe it in your book?

**Prof. Flint**—The concept of having an ABC program which examines the media is excellent.

**Senator LUNDY**—Do you think that David Marr is a member of the media elite, as you categorise them in your book?

**Prof. Flint**—David Marr, when he last referred to me, referred to me as the 'languid chairman of the ABA'. One of my lawyer friends said, 'That's defamatory,' so I would rather not engage in—

**Senator LUNDY**—Are you threatening him?

**Prof. Flint**—No, not at all. I do not think public figures, except in the most exceptional circumstances—

**Senator LUNDY**—Do you think he is part of the media elite though? Does he fit into your definition?

**Prof. Flint**—I would rather not pass a comment on my good friend David.

**Senator LUNDY**—You have commented on everyone else. Can you tell me whether you think Alan Jones and John Laws are the media elite?

**Senator Kemp**—I think the professor is saying that other people will draw their conclusions.

**Senator LUNDY**—Would you categorise Alan Jones and John Laws as not being part of the media elite, as the book implies?

**Prof. Flint**—I think I have to explain that the word 'elite' was chosen because of Christopher Lasch, the American writer, who wrote the book *Revolt of the Elites*. He decided

to use that word which, in England, becomes ‘the chattering classes’ or ‘commentariat’. He decided to use that word to describe the views of upper middle class small ‘l’ liberals who are left wing on social and cultural issues. That is the terminology which this book uses. If you use that terminology then obviously, I would say, neither Mr Jones nor Mr Laws falls into that class.

**Senator LUNDY**—What was your definition of elite—left wing?

**Prof. Flint**—It comes from Christopher Lasch who wrote the book *Revolt of the Elites*. He used that as his term, I suppose, similar to the descriptions, sophists and stoics. These are words which have taken on a particular meaning to describe a philosophy whereas they once had a different meaning. He used it to describe upper middle class left wing people—people who are left wing not on economic issues, but on social and cultural issues.

**Senator LUNDY**—Does that mean I am an elite?

**Prof. Flint**—I do not know your views, Senator. We would have to have a longer discussion for me to examine that issue.

**Senator LUNDY**—Under your definition I would say probably, yes. I am a builders labourer and I am very, very far from the elite.

**Senator Kemp**—I would say you would be a pretty good candidate, Senator Lundy.

**Senator LUNDY**—It just proves the point that this book is a piece of very political commentary that Professor Flint has published while he is also on the payroll of the government as an official of the Australian Broadcasting Authority. Minister, do you have a problem with this or do you think it is perfectly acceptable for Professor Flint to be the only statutory office holder who behaves in this way? Do you think he should choose between being a public commentator and an official of the Commonwealth government?

**Senator Kemp**—I do not know if he is the only public officer. I think we have a remarkably free and robust society. There are many judges that make comments on issues which are highly political. I do not know whether you are calling for the judges to step down.

**Senator LUNDY**—I think Professor Flint has a go at judicial activism here. It says somewhere ‘Say no to judicial activism.’ The back of this book is very interesting. It states:

They just don’t get it. Australia’s media and legal elites want us to vote for a republic in 1999. We didn’t. They wanted us to change the flag. We wouldn’t. They wanted the Prime Minister to say sorry. He wouldn’t. They wanted us to hand over power to international elites. We won’t. They wanted us to kick out John Howard in 2001. We didn’t. They wanted us to support unlimited illegal immigration. We didn’t. But they still live in hope that they can get around Australia’s system of democratic checks and balances to impose their own agendas: secularism, hard multiculturalism, judicial activism, an end to individual responsibility and big government.

A pretty big political comment. Do you do it on the taxpayers’ payroll?

**Senator Kemp**—Hold on. I will make a comment here.

**Senator LUNDY**—Do you do it on the taxpayers’ payroll?

**Senator Kemp**—Hold on, Senator. You have asked a question. I think I am entitled to answer it. If you are able to point to any area where Professor Flint has not fulfilled his

statutory obligations in a conscientious and impartial manner, that should be the substance of the debate around this table I would have thought, rather than making what I regard as highly political comments yourself. Professor Flint has political views; you have political views.

**Senator MACKAY**—How would you feel if Russell Balding wrote a book on the media elite accusing Alan Jones and John Laws of being elite? Do you think that would be acceptable, Minister?

**Senator Kemp**—Let me make a point. Of course there are many people in the ABC—

**Senator MACKAY**—So that would be all right, would it?

**Senator Kemp**—There are many people in the ABC who make political points. I remember a former MD of the ABC—

**Senator MACKAY**—I am interested in your views.

**Senator Kemp**—Hold on, Senator. You all get so worried when I am about to make a point.

**Senator MACKAY**—It takes so long.

**Senator Kemp**—You know what I am going to say. That is why you do not like it.

**Senator MACKAY**—We are shivering with trepidation over here.

**Senator Kemp**—David Hill was a very active member of the Republican movement, an advocate for it. He was running the ABC.

**Senator MACKAY**—And that was all right?

**Senator Kemp**—I am asking you.

**Senator MACKAY**—You are the government. Answer the question. Was that all right with you?

**Senator Kemp**—No.

**Senator MACKAY**—No?

**Senator Kemp**—Let me finish. You asked me for examples of members of statutory authorities who are active in the political process. I mentioned David Hill. I cannot remember one Labor member of parliament complaining about that. I will recheck the records. Maybe they did. David Hill was not only an active member of that movement, if I remember correctly—and if I am wrong, I am sure I will be corrected—but a member of the Labor Party as well.

**Senator LUNDY**—Chairman, I have a few more questions.

**Prof. Flint**—Could I just say that the piece that you read, Senator, were not my words. They were the publisher's words.

**Senator LUNDY**—I know, but that is what is on the back of the book. I am sure you ticked it off.

**Prof. Flint**—Indeed. I must take some responsibility.

**Senator SANTORO**—Is the book selling well?

**Prof. Flint**—Yes.

**Senator SANTORO**—I have a copy of it. I am going to get a second copy.

**Senator LUNDY**—He is inspired to read it. If you hurry, you will be able to get Professor Flint to sign it for you.

**Senator SANTORO**—In fact, I made a speech about it in the Senate, so impressed was I.

**Senator LUNDY**—Professor Flint, did you attend book launches for your book around the country?

**Prof. Flint**—Yes.

**Senator Kemp**—You didn't. I cannot believe—

**Senator LUNDY**—Did you do any of that work on the ABA payroll, either flight or travel costs or during time for which you were being paid by the ABA?

**Senator Kemp**—Professor Flint attended a book launch for his own book.

**Prof. Flint**—My flight costs and other costs were paid by me.

**Senator LUNDY**—Did you take leave for those days that you were launching your book?

**Prof. Flint**—As I explained to your colleague, I work more than what would be regarded as the minimum amount of time for the ABA. The rest of my time is my time. For example, I was in this city at a conference—

**Senator LUNDY**—So you took time off in lieu?

**Prof. Flint**—That is not how it works. I took time off. I was in this city at a conference over the weekend at my own cost. I found that I was spending some hours because people were approaching me and asking me about ABA matters. It is impossible to say, 'This is ABA time. That is my private time.' They get mixed up. I know when I am working for the ABA. I know when I am a private citizen.

**Senator LUNDY**—When you were launching the books, it will show on the time records of the ABA that you were earning your salary for that time? You did not clock off?

**Prof. Flint**—There are no time records at the ABA.

**Senator Kemp**—Could you tell us when the books were launched? Was it at half past five in the afternoon or 6.30?

**Senator LUNDY**—I think you understand the point I am making. The books were launched without Professor Flint having taken leave.

**Senator Kemp**—I think this is the most trivial form of questioning I have heard at Senate estimates for a long time, I would have to say—and that is saying something; that is a big statement.

**Prof. Flint**—The books were launched usually in lunch hours or evenings.

**Senator LUNDY**—I will be placing some questions on notice to ascertain the full details, because I see we are not going to get very far tonight with the minister's interruptions.

**Senator Kemp**—Did Professor Flint attend a book launch for his own book? That is one of the ripper questions that I have heard.

**Senator LUNDY**—He is on the Public Service payroll, Minister. It is a political book.

**Senator Kemp**—In all my years of Senate estimates, that is one of the great questions—

**Senator LUNDY**—He is on the Public Service payroll.

**Senator MACKAY**—I bet you have not even read it. Professor Flint, do you think Alan Jones is part of the political elite?

**Prof. Flint**—I did answer that question.

**Senator LUNDY**—No, he does not.

**Senator MACKAY**—You don't. Sorry, I missed that.

**Senator LUNDY**—John Laws and Alan Jones are not.

**Prof. Flint**—On the definition that Christopher Lasch uses, it is like saying, 'Is so-and-so a stoic? Was so-and-so a sophist?'—only when you use the definitions of Christopher Lasch, which I use.

**Senator LUNDY**—The names I read out before, you do not consider them part of the media elite; you do not categorise them in your definition?

**Prof. Flint**—I am saying that, on the definition of Christopher Lasch, I do not consider them part of the elites, as used by Christopher Lasch.

**Senator LUNDY**—So all of the right-wing commentators in the country are not media elites, but all those you do not like are?

**Prof. Flint**—We would have to go through them one by one.

**Senator Kemp**—I think that is a pretty broad statement, Senator.

**Prof. Flint**—It would require a more detailed response.

**Senator LUNDY**—Professor Flint has vindicated it, Minister. That is all I need to do tonight.

**Senator MACKAY**—I look forward to your dissertation on the bias of the ABC, Senator Santoro. I will be able to just wave this book around. I am going to ask Russell Balding to write a book.

**Senator SANTORO**—It is going to be a lot more constructive than this.

**Senator LUNDY**—That is all I have, Chair.

**Senator MACKAY**—I think consistency is probably the axiom of the day, Senator Santoro.

**CHAIR**—I thank the ABA for appearing.

[7.37 p.m.]

#### **Department of Communications, Information Technology and the Arts**

**Senator LUNDY**—In the budget estimates you said that BARN funding, Building Additional Rural Networks, was rephased from 2002-03 to 2004-05. The department's annual report says that this money has been cut from the program. Can you explain that discrepancy,

when you said it had been rephased and then it was cut from the program and reallocated to the government's broadband strategy?

**Ms Williams**—Senator Lundy, were you talking about the Building Regional Networks program?

**Senator LUNDY**—Yes.

**Ms Williams**—That has been not cut from the program. That has been wrapped up in the response to the RTI.

**Senator LUNDY**—The BARN money was originally \$70 million and \$35 million of that was not spent and has been reallocated to the—

**Ms Williams**—It was to be rephased. This is before the RTI decision was taken. It has increased the amount that was put to the RTI program.

**Senator LUNDY**—You can say it how you like. It has been cut from the BARN and allocated to a different program. Isn't that correct?

**Ms Williams**—No, the two have been absorbed together. It has been added to that; it has not been cut. The two have been absorbed.

**Senator LUNDY**—The government announced—

**Ms Williams**—Or combined, I should have said.

**Senator LUNDY**—The government cannot have it both ways, with all due respect. The BARN funding was announced as part of the social bonus allocation of funding. A sum of \$70 million was designed specifically for that purpose and there was a budget allocation on that.

**Ms Williams**—Yes.

**Senator LUNDY**—Many times we have been through the description, across this table, of how that money was going to be spent and the progress of that money. Following this year's budget we asked a question about BARN funding and we were told that it was rephased from 2002-03 to 2004-05. Now the annual report says that the money has gone from that program; it is not listed in that program any more.

**Ms Williams**—No, because—

**Senator LUNDY**—Please let me finish. It is now part of another program which was announced by the minister as part of the broadband response. So it is used for a different purpose now. It was used politically to give substance and a greater amount of dollars to the government's broadband response, as part of the Higher Bandwidth Incentive Scheme.

**Ms Williams**—Rationally the two are alike and they were put together.

**Senator LUNDY**—They were just rebadged.

**Ms Williams**—The BARN money had not yet been spent.

**Senator Kemp**—Senator, you have asked a series of questions. I would like to hear the response from the secretary. If we could have a little bit of shush, perhaps the secretary could respond.

**Senator LUNDY**—Then I will ask you what you know about this.

**Senator Kemp**—Good.

**Ms Williams**—The BARN money had not been spent; it had been rephased. When the response to the RTI was produced, what happened was that the BARN money was brought together with the money that the government decided to provide in response to the RTI. Rationally, they have been coordinated; otherwise we would have one program running in one direction and another running in another. They have been brought together. That overall response has taken into account the money that has already been put aside for BARN. Obviously, the government's response on broadband needs to be a coordinated one across the board.

**Senator LUNDY**—We are going to have to describe it differently. Through my eyes it looks like there was an underspend in the BARN program and it was useful and expedient for the government to reallocate it and rebadge it under a new program they were trying to flesh out.

**Ms Williams**—There was a delayed expenditure in the BARN program but it was taken together with that to have a more coordinated response to broadband.

**Senator LUNDY**—Was the \$35 million that was taken from BARN deliberately not spent in anticipation of the broadband response?

**Ms Williams**—No, certainly not.

**Senator LUNDY**—Was it just underspent?

**Ms Williams**—A delayed spend, yes. That is why it was rephased.

**Senator LUNDY**—In terms of the BARN program itself, how much money had been spent before the \$35 million was hived off? Was it fully spent up to the previous \$35 million?

**Mr Barr**—The funds in BARN had been committed by the NTN board to about \$30 million.

**Senator LUNDY**—Is there still \$5 million unallocated in BARN?

**Mr Barr**—Not entirely. There are running costs that have to come out of that as well.

**Senator LUNDY**—How much are the running costs?

**Mr Barr**—They are \$2.7 million.

**Senator LUNDY**—That would still mean you have \$2.3 million unallocated in BARN. Is that true?

**Mr Barr**—There has been a little bit of rounding in all of the numbers, so it is not quite as high as that.

**Senator LUNDY**—How much is it?

**Mr Barr**—I cannot give you an exact figure but it is not quite—

**Senator LUNDY**—But \$2.7 million and \$2.3 million added together equal \$5 million.

**Mr Barr**—Yes.

**Senator LUNDY**—See, my maths isn't so bad!



**Mr Barr**—The figure is not over \$2 million.

**Senator LUNDY**—Somewhere there is at least \$0.4 million that we need to account for.

**Mr Barr**—It is presently uncommitted in a number of senses. As projects finish and they have not consumed all of the funds that had been approved, then money tips back into the bucket. That will continue to happen right up until the end of the program.

**Senator LUNDY**—What is the difference between the criteria for BARN funding and the criteria for the Higher Bandwidth Incentive Scheme?

**Mr Bryant**—Senator, they are fundamentally different approaches. The BARN program, as you know, is a competitive grants program. That was really about providing grants up-front for alternative infrastructure.

**Senator LUNDY**—Couldn't it be provided to support existing infrastructure higher bandwidth services?

**Mr Bryant**—The general purpose of that program was building additional rural networks, so it was about providing funding for new models for additional infrastructure.

**Senator LUNDY**—Infrastructure that would compete, for example, with Telstra's existing infrastructure.

**Mr Bryant**—Yes. The Higher Bandwidth Incentive Scheme has a different approach. It is about providing incentive payments on a per-customer basis to service providers. That is fundamentally aimed at equalising access to higher bandwidth services in terms of their functionality and, most importantly, their price. It is more a program that is aimed at filling in the gaps in terms of access to services.

**Senator LUNDY**—Can you describe to me the sorts of projects that were funded under the Building Additional Regional Networks grants, the \$30 million or so that was allocated, and point to a couple of examples where additional regional networks were built?

**Mr Bryant**—Mr Barr is probably better placed than I am to answer.

**Ms Williams**—Senator Lundy, you mentioned before that you thought there was a total transfer of the underspent BARN money to the incentive scheme. In fact, it was to the Broadband Strategy, which is more than just the incentive scheme.

**Senator LUNDY**—But it has the notional effect, from my understanding of it. If we look at the breakdown of the broadband funding bill, there is \$2.9 million for the National Broadband Strategy Implementation Group, \$8.4 million for the demand aggregation brokers, \$23.7 million for catalytic funding over four years through the coordinated communications infrastructure fund and the \$107.8 million Higher Bandwidth Incentive Scheme. Is that correct? Is there anything else?

**Ms Williams**—I was not following as you spoke, but they sound right.

**Senator LUNDY**—So we have \$35 million from BARN going into all of that stuff.

**Mr Bryant**—Yes, \$142 million.

**Senator LUNDY**—It is \$142 million all up; that is right. Given these funds operate through special accounts, can you nominate how you transferred the funding that had been

dedicated to one particular purpose across all of these strategies? Then I will come back to my specific questions.

**Mr Barr**—The BARN funds are an annual appropriation. They are not channelled through the special accounts.

**Senator LUNDY**—You have freedom, in other words, to change their purpose; unlike the RTIF and others.

**Mr Barr**—We have, provided there is due process. Then funds can be redirected to higher priorities.

**Senator LUNDY**—The point is that, with that particular aspect of the social bonus called Building Additional Regional Networks, those funds were not managed through a special account. Can you confirm that?

**Mr Barr**—Yes, I can confirm that.

**Senator LUNDY**—Can you confirm what the due process was that the government engaged in to transfer their original purpose to a new purpose?

**Ms Holthuyzen**—Senator, in its response to the Estens committee it considered how it wished to respond to all the recommendations. In responding to the recommendations and in putting the programs together, it made the decision to reallocate that money across.

**Senator LUNDY**—Effectively it is a policy decision by government that is then put in place by directing the department and we all get to know about it through a press release.

**Ms Holthuyzen**—It is a policy decision of the government.

**Senator LUNDY**—That is due process.

**Ms Holthuyzen**—Yes.

**Senator LUNDY**—That is the same for all of those aspects of the National Broadband Strategy? None of those funds go through a special account?

**Ms Holthuyzen**—I do not think so.

**Senator LUNDY**—To go back to where we were, it is still a valid question, given that some \$107.8 million of the Broadband Strategy is on the Higher Bandwidth Incentive Scheme and that \$35 million has just been pulled out of the Building Additional Regional Networks, which was a fund to build additional regional networks and competing infrastructure per se. It has now been transferred, at least in part if not all, into a program that is designed to create incentives on a per customer basis. Going back a step, can you tell me whether Telstra was eligible or indeed successful in obtaining any funding under BARN and for what?

**Mr Barr**—I am not able to provide that information right now, but I can take it on notice, Senator.

**Senator LUNDY**—Mr Barr, can you tell me if you are aware, off the top of your head, whether Telstra was successful in obtaining any of the BARN funding?

**Mr Barr**—No, I cannot tell you off the top of my head.

**Senator LUNDY**—You don't know?

**Mr Barr**—No, because the grant recipient is a not-for-profit organisation in the main. That funding recipient may in turn have put contractual relationships in place which could involve Telstra. It is entirely possible that that would have happened but I would not know across the stock of all the BARN grants.

**Senator LUNDY**—If you could take that on notice—

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

**Senator LUNDY**—and provide the committee with details of all the circumstances that you are aware of. With respect to HBIS—the Higher Bandwidth Incentive Scheme—will Telstra be eligible to access any of that funding directly?

**Mr Bryant**—Yes. It is our own intention that the program be open to all service providers who can meet the appropriate targets for services in target areas. That reflects the recommendations and the overall description of the RTI—the Regional Telecommunications Inquiry—in what they felt should be appropriate for this kind of scheme.

**Senator LUNDY**—Have you determined a definition of ‘broadband’ for the purposes of HBIS?

**Mr Bryant**—No. We have deliberately steered clear of trying to define what broadband is. The recommendation of the RTI was:

The Government should establish an incentive scheme for the provision of higher bandwidth services to regional, rural and remote areas, to enable all Australians to have access to services at prices comparable to those prevailing in metropolitan areas.

The key issue there is to try and provide that equitable access to comparable services. It is benchmarked against what is available in metropolitan areas, rather than any theoretical or otherwise definition of what broadband might be. The way the scheme will work is to benchmark what is available in metropolitan areas and then to establish that benchmark as the basis for registering service providers and their services in target areas.

**Senator LUNDY**—How many carriers, other than Telstra, would be eligible for this?

**Mr Bryant**—It is not our intention to provide it to carriers per se. It will be provided to service providers, resellers of services, so that it includes all ISPs who are reselling services or providing services in target areas, in areas where there are no comparable services at the moment.

**Senator LUNDY**—Would Neighbourhood Cable be eligible?

**Mr Bryant**—If they wanted to go into target areas, certainly.

**Senator LUNDY**—What is a targeted area?

**Mr Bryant**—We are defining targeted areas as being those areas, from the start of the program, where services at prices and functionality comparable to what is available in metro areas are not available to consumers. In practical terms, it is where ADSL is not available but it could be other services as well.

**Senator LUNDY**—It could be, if you paid Telstra to install it. Is that what you mean?

**Mr Bryant**—I do not quite understand the question.

**Senator LUNDY**—You just said that, for example, this could operate where ADSL is not currently available. What are you proposing to do to make ADSL available?

**Mr Bryant**—That is the whole purpose of the scheme. It is an incentive scheme to provide a payment to any service provider who can provide a service in the target areas at prices and functionality comparable to metro areas. It can be paid in two different ways. Firstly, where the price problem is relating to CPE—which is essentially satellite, but it could be wireless local loop as well or other technologies—we will allow the registered service provider to allocate that incentive payment, or a portion of that incentive payment, towards subsidising the cost of the CPE in order to bring the price down. Where there is a business case for whatever technology to roll out where the actual price of the service is comparable but the infrastructure is not, then we are saying that those service providers could allocate that incentive payment to rolling out local infrastructure.

**Senator LUNDY**—It could be used to roll out ADSL?

**Mr Bryant**—Yes, it could.

**Senator LUNDY**—Given the current debate about the structure of the telecommunications industry and, in particular, the regional local loop, Telstra pretty much has a monopoly on that, apart from the few areas covered by Neighbourhood Cable, for example. Why is the focus now being changed to creating incentives to effectively deliver through existing infrastructure, rather than build alternative networks and create competition in these areas and use competition as a way of lowering prices?

**Mr Bryant**—The HBIS program has been very much designed to try to encourage competition. We are intending to provide funding for service providers who want to roll out local infrastructure. That need not necessarily be confined to ADSL at all; in fact we have had a lot of interest and enthusiasm from service providers to provide alternative services—wireless local loop and various permutations of satellite.

If I can go back to the design of the scheme and take you through some of the key points: one of the issues that providers other than Telstra have put forward over the years, as you well know, is that for programs and projects that are really trying to go for the large tender approach, in rural and regional Australia, Telstra has won the majority of those tenders. That is an undeniable fact. In the broadband space, particularly on the retail side, there are a lot of providers in at least two technology platforms and more coming in, we think. There are a lot of resellers providing all sorts of value adding services. It is a competitive space and the way we have designed the program is such that you do not have to have the large scale to participate; you can be as small as you like.

**Senator LUNDY**—Can you give me five examples of alternative local loop infrastructure that established a business case and is operating profitably in competition with Telstra in regional Australia?

**Mr Bryant**—I would be struggling to do that.

**Senator LUNDY**—Can you name one?

**Mr Bryant**—Neighbourhood Cable.

**Senator LUNDY**—Another?

**Mr Bryant**—It depends what you mean by ‘new infrastructure’. People like Agile Communications in South Australia have some very interesting models which use part of Telstra’s infrastructure but are value adding to that in quite interesting ways.

**Senator LUNDY**—But Telstra are still able to get their standard wholesale or retail price on their bandwidth as part of that infrastructure. Are there any which are completely independent of Telstra that you are aware of?

**Mr Bryant**—There are the satellite providers, of course, and there are quite a number of them providing satellite services.

**Senator LUNDY**—They are not cost competitive, are they?

**Mr Bryant**—No, but they are serving parts of the market where Telstra cannot get to.

**Senator LUNDY**—Will this subsidise the users of satellite?

**Mr Bryant**—Yes.

**Senator LUNDY**—In full?

**Mr Bryant**—It will provide a subsidy or an incentive payment that is intended to make the price comparable, at least to the base level.

**Senator LUNDY**—Everyone who is outside of the reach of, for example, ADSL in a regional town but inside the extended zones will be potentially eligible for a full subsidy for satellite service?

**Mr Bryant**—I should perhaps make the comment that we have not finalised details of the program yet. There are draft guidelines, and we will be finalising the details in the next three or four weeks. We are saying in the draft guidelines that we recognise that in some remote areas there are additional costs that warrant higher incentive payments and we are proposing higher incentive payments in those areas.

**Senator LUNDY**—There are also some really non-remote areas that are stuck in a no-man’s-land because of the attributes of technologies like ADSL.

**Mr Bryant**—In response to the draft guidelines, it has been put to us that creating that distinction between higher costs and standard areas is difficult. We are reviewing that and are yet to make a decision. There are also satellite services that are not two-way services and which are more expensive than ADSL, but not significantly. That could be applied to them as well.

**Senator LUNDY**—Thank you for those comments and thank you for your hearty optimism about the level of competition in broadband and other emerging areas. The ACCC have a different view; they think competition is getting worse. How do you reconcile a very detailed articulated view from the ACCC that competition is going to reduce in emerging markets like broadband with the fact that you are creating a new scheme that will, for all intents and purposes, on my reading of it, further entrench a persistent monopoly in regional Australia?

**Mr Bryant**—In terms of our program, I can only go on the response that we have had back at this stage to the concept of the program and the draft guidelines, and it has been positive.

We have had well over 20 expressions of interest from providers to be involved in the scheme, and that is encouraging.

**Senator LUNDY**—Have Telstra expressed an interest?

**Mr Bryant**—Yes, they have.

**Senator LUNDY**—Why don't you rule Telstra out from being eligible, given they are the cause of the problem in the first place?

**Mr Bryant**—If I go back to the original objective of the program, it is to enable all Australians to have access to services at prices comparable to those prevailing in metropolitan areas. That is really saying that where there is a problem, where the market is not working efficiently and there are higher costs and, as a result, higher prices and consumers are paying, we need to try and equalise that.

**Senator LUNDY**—Can I put to you a different scenario, and it might be a better question for the minister, because I think it does go to policy. Minister, do you think it is better to subsidise an existing monopoly where they choose not to lower their costs or to use taxpayers' money to increase competition to create market pressure to lower the cost of the services?

**Senator Kemp**—If we are relating it to a particular issue, what I would want to do is get a proper briefing and advice from the relevant people, Senator, but you can be assured that the government will always do what is in the interests of Australians.

**Senator LUNDY**—I thought you were going to say 'Telstra' then!

**Senator Kemp**—You are the ones who want to keep Telstra, of course, Senator.

**Senator LUNDY**—There is nothing I am saying that conflicts with that, Minister.

**Senator Kemp**—You love that company so much that you wish to keep it, so I think that as a form of attack on us, that is a fairly weak form of attack.

**Senator MACKAY**—Tough love.

**Senator Kemp**—No, it is not tough love. It is just obstreperous and time-wasting.

**Senator LUNDY**—Minister, do you think it is appropriate for taxpayers' money to be spent on subsidising Telstra in regional Australia?

**Senator Kemp**—I would want to get some proper advice on that, Senator. I am not the responsible minister. I assume that the government will be reaching a very sensible policy on this and undoubtedly all matters will be taken into consideration.

**Senator LUNDY**—Can I ask whether the department has established any caps on the percentage of the HBIS that Telstra can access or whether it is indeed feasible that they could get 75 per cent of the funding or 70 per cent of the funding, as they did with NTN?

**Senator Kemp**—I should backtrack here a little bit. We have had representations from other service providers that have argued that there should be restrictions on Telstra's involvement. We have to balance that against consumer outcomes. As I said, the primary objective is to try and get price equity across the country. But, having said that, we recognise that there are some issues there. In the draft guidelines we have proposed that there may be a cap on the overall amount under the program and in any one year that Telstra can get. We

have suggested 60 per cent and we are waiting for comment back on that. That would work, we think. In any particular year, if Telstra reached that 60 per cent cap and the rest of the industry were pro rata to achieving their 40 per cent, then Telstra would be unable to get any more out of the scheme.

**Senator LUNDY**—We will watch this unfolding folly as it develops. Can you tell me, with regard to NTN funding—given that many of the projects are due to conclude at the end of this current financial year, particularly the regional connectivity centres—what plans the Commonwealth government has to ensure that those facilities are sustainable? And, Minister, just in case you are not aware: the Commonwealth is trying to push responsibility for these centres on to the states, and the states are clearly articulating the view that they are indeed a Commonwealth responsibility. They stand to be closed down because the Commonwealth is not going to provide any further funding. What is the Commonwealth going to do about that problem?

**Dr Hart**—I think we are talking about online access centres. Is that right?

**Senator LUNDY**—Yes, and aren't they called something else in Tasmania?

**Dr Hart**—They may be. One of the things about online access centres is that they cover a multitude of different kinds of models and one of the tasks, with the work that is under way with state and local government, is to look at the different kinds of centres that there are and the different kinds of functions that they perform. A recommendation in the RTI report was that all tiers of government would work together to look at ensuring that the centres would remain viable, and that is what is happening. We are working with the states through the Online Council mechanisms, which involves both state and territory governments and local governments, and the minister recently agreed that that work would be expedited, so we are looking to develop strategies by the end of the year.

**Senator LUNDY**—Are you telling me that this was on the agenda of the last Online Council meeting?

**Dr Hart**—Yes, it was.

**Senator LUNDY**—What was resolved?

**Dr Hart**—The decision that it was important enough to be expedited.

**Senator LUNDY**—With the other projects funded under NTN, what strategy does the government have to assess the sustainability or otherwise of those initiatives and any future funding plans? Minister, I think this is one for you: is it the Commonwealth's intention to invest further funding in online access centres and national connectivity generally?

**Senator Kemp**—Dr Hart may wish to throw some light on that matter.

**Dr Hart**—Obviously the NTN program is, as James was saying earlier, at various stages of completion. The program is being evaluated. Certain aspects of it have been taken through other initiatives, some of which we have been talking about, like the RTI. Mobiles, for example, is an area where there is further work under way.

**Senator LUNDY**—Mobiles?

**Dr Hart**—Mobiles.

**Senator LUNDY**—But that is not going to give people public access to the Internet at a PC in a community centre.

**Dr Hart**—Sorry. I thought you had moved into broader considerations of what was happening with follow-through on NTN.

**Senator LUNDY**—No, my mind was still on the access centres. I will come to those other issues as well.

**Dr Hart**—In terms of online access centres, one of the things that happened recently was that there was a Regional Communications Forum at which a lot of possible approaches were discussed. An issues paper has been released, inviting comments on some of the strategies and approaches that were suggested in the paper, and those are some of the things that we will be working with state and territory and local governments to investigate.

**Senator LUNDY**—Can you tell me what aspects of the National Broadband Strategy are being managed by this part of the department and what is being managed by NOIE?

**Mr Bryant**—Essentially, Senator, the HBIS is being managed by DCITA, by my branch, and the coordinated communications infrastructure fund, the demand aggregation brokers and the Coordinating National Broadband Strategy Implementation Group are all being managed by NOIE.

**Senator LUNDY**—How do you coordinate between yourselves?

**Mr Bryant**—Through regular meetings. We have fortnightly meetings. In fact, we have weekly meetings of officers at the operational level and fortnightly meetings at the SES level.

**Ms Williams**—Senator Lundy, obviously this is a one-broadband strategy. As Mr Bryant says, we have these two-weekly all-in meetings chaired jointly by Mr Rimmer and me, just to make sure that we have got the coordination across the two agencies.

**Senator LUNDY**—What is the rationale, then, of having it jointly managed? Why aren't you doing it all? Why isn't the department doing it all? What is NOIE's role in that area?

**Ms Williams**—NOIE was involved in a number of these things; it is involved in broadband. Again, John Rimmer and I spoke about it, and we spoke to the minister, and it seemed that it would be useful to have both agencies involved. This is a very important program.

**Senator LUNDY**—Did Telstra have a view on how it should be managed?

**Ms Williams**—We did not ask them. I do not know.

**Senator LUNDY**—In the annual report, on page 204, it refers to substandard financial statements which have been referred to ASIC. Can you elaborate on how many were substandard, and I think it was in reference to acquittals of various grants, like NTN. Tell me why they have been referred to ASIC.

**Mr Barr**—Senator, under each of our funding agreements, the funding recipient is obliged, where the grant is more than \$100,000, to provide an audited statement that says that the funds have been used for the purpose for which they were provided. In looking at some of those audited statements, we were not happy with the quality of them. In one instance there were obvious fundamental errors so we have sought to remedy that problem.



**Senator LUNDY**—How many dollars worth of problem is there? What were the grants worth that you were having problems acquitting?

**Mr Barr**—There was one grant where we had taken it as far as ASIC.

**Senator LUNDY**—Which one was that? Are you able to say?

**Mr Barr**—It was a grant in South Australia.

**Senator LUNDY**—Is there any confidentiality attached to who the grant recipient was?

**Mr Barr**—I must confess I do not recall the actual grant recipient's name.

**Senator LUNDY**—You can take it on notice, then, to provide the full details of that. Is that the only one that has been referred to ASIC?

**Mr Barr**—Yes. That is the only one that has been referred to ASIC.

**Senator LUNDY**—Have you had any other problems in acquitting the grant funding?

**Mr Barr**—Not of that same order, but there are some discrepancies that come up from time to time and we like to ensure that the process is rigorous, so we continue to pursue them.

**Senator LUNDY**—By negotiation?

**Mr Barr**—Yes, in the main.

**Senator LUNDY**—Just out of curiosity, the original NTN funding and social bonus funding that was linked directly to, obviously, the proceeds from the previous sale of Telstra, can you tell me whether or not that funding was derived technically from the proceeds of the sale of Telstra or from general revenue?

**Ms Holthuyzen**—Senator, I think it was an allocation from parliament.

**Senator LUNDY**—General revenue?

**Ms Holthuyzen**—I think so.

**Senator LUNDY**—Yes, I think so, too. So when the government says, 'We're going to sell Telstra and you can have that money,' it comes from general revenue and the government notionally—

**Ms Holthuyzen**—But I think it was linked to the sale. I think the money would not have been provided unless the legislation was passed.

**Senator LUNDY**—They made that very clear.

**Ms Holthuyzen**—At the time, yes. I think that is why they—

**Senator LUNDY**—I think we call it blackmail but, anyway, that is beside the point. I just wanted to clear up that technicality. Can you specify specific outcomes as far as new telecommunications infrastructure that has been built resulting from NTN funding.

**Mr Barr**—Certainly. There are some references in the annual report to the evaluation work that has taken place so far, and there will be further work in evaluating the outputs and outcomes of the NTN program in the period ahead. You have asked for infrastructure. One particular example: we invested something like \$40 million in mobile phone towers, base stations or repeaters.

**Senator LUNDY**—And who benefits most significantly from that investment, besides the consumers? Which businesses run the services on those towers?

**Mr Barr**—They would be Telstra CDMA towers. Again the grant recipient was the community and the community went through a tender process to secure the carrier. It is a result of that process, not as a direct relationship with Telstra.

**Senator LUNDY**—Can you point to any infrastructure funded by NTN funding that has resulted in the business case for a non-Telstra company getting up and running and being viable? I am happy for you to take it on notice.

**Mr Barr**—One example would be the Southern Phone Company based in Moruya.

**Senator LUNDY**—Are they providing local call access to residents?

**Mr Barr**—Yes, they are.

**Senator LUNDY**—Are they?

**Mr Barr**—Yes.

**Senator LUNDY**—If you could detail that response. I have some other questions I would like to place on notice in relation to this. I will just run through them, but I need to move on.

**Mr Barr**—Sure.

**Senator LUNDY**—I would like the department to confirm when the Networking the Nation money runs out. I presume that relates differently to different projects.

**Mr Barr**—Yes.

**Senator LUNDY**—But you will not be able to allocate any further funding beyond this current financial year?

**Mr Barr**—That would be the case for the NTN general funds, but it would not be the case for the residual BARN money or the very small amount of residual local government fund money. Those last two being annual appropriations, it would be possible for them to be allocated next financial year as well.

**Senator LUNDY**—I think the best way for me to handle the rest of them is to place them on notice.

**Senator MACKAY**—Minister, do you know whether the government is still intending to reintroduce the Telstra sale bill into the Senate next year, or again this year and then next year, thereby making it—

**Senator Kemp**—The bill has just fallen over last week, as you know. It was voted against by the Labor Party and one or two others, and what the government decides will be a matter for the government to announce at a time of its choosing.

**Senator MACKAY**—I am wondering whether you can confirm that it is the government's intention to spend the proceeds on debt reduction or funding Commonwealth liabilities. Can you confirm that?

**Senator Kemp**—Senator, this is a matter for Senator Minchin. It is not a matter for me. Those are matters that should be addressed to him.

**Senator MACKAY**—Have you any idea when the government intends to reintroduce the communications legislation amendment bill (No. 2) into the Senate? The department might be able to help the minister.

**CHAIR**—Senator, I do not think that bill has been withdrawn. I think it is a matter of whether it is going to come up for debate again.

**Senator LUNDY**—Minister, when will it come up for debate?

**Senator Kemp**—I am seeking advice, Senator.

**Ms Holthuyzen**—We don't know the answer.

**Senator LUNDY**—You don't know the answer. That is all I have for the comms section.

[8.22 p.m.]

### **ICT Industry and Intellectual Property**

**Senator LUNDY**—I would like to ask some questions about the current negotiations on the US free trade agreement and obviously the significant amount of public comment that has been occurring around the future of copyright and intellectual property under the FTA and, in particular, the issues relating to Australian content and the protection of Australian content.

**Dr Hart**—As you know, Senator, with the US FTA arrangements, negotiations are taking place in a number of chapters. So there are a number of different officers involved in different areas. We may need to bring some other people to the table.

**Senator Kemp**—Which particular areas do you wish to discuss, Senator? Some of this probably will relate better to what is appearing tomorrow, under arts and sport, I suspect.

**CHAIR**—Some of it might also relate to policy issues, I suspect, but we will see how it goes.

**Senator LUNDY**—Yes, that is true.

**Senator Kemp**—Just tell us what you want to do and we will see what we can accommodate.

**Senator LUNDY**—I think you are absolutely right, Minister. In relation to some of the cultural content industries that would be for tomorrow. But the other issue discussed is the extension of copyright, as I understand it, to be extended from 50 years to 70 years. Is that correct?

**Senator Kemp**—We can deal with copyright here.

**Senator LUNDY**—Can someone update me as to what the government's policy is currently in relation to the possible extension of copyright from 50 years to 70 years?

**Senator Kemp**—Senator, the brief I have here from the minister indicates the government's objectives in the US FTA negotiations include ensuring that Australia remains free to determine an appropriate legal regime for implementing internationally agreed intellectual property standards, maintain a balance between the holders of intellectual property rights and the interests of users, consumers, communications carriers and distributors and the education research sectors. That is the objective.

**Senator LUNDY**—Is that the official policy?

**Senator Kemp**—That is the objective.

**Senator LUNDY**—Is the issue of the extension of the copyright regime from 50 years to 70 years an item for negotiation as part of the discussions in the US FTA?

**Dr Hart**—It has not been discussed to date, but to the extent that it has been an issue which has come up in other agreements that the US has signed, it is something which is there in the background.

**Senator LUNDY**—I am trying to establish the public status of this issue in the context of the FTA. Are you saying that the US have not requested that Australia make that extension as yet?

**Dr Hart**—I understand it was mentioned in the first round because, again, it had come up in the US-Chile text. But it has not been a focus of the negotiations.

**Senator LUNDY**—No, I appreciate that; that is why I am interested, because I have not read much about it. Perhaps, Minister, you can tell me whether or not the government has articulated a public view on this matter?

**Senator Kemp**—As has been said, it really has not been raised in the recent rounds. We have a policy in place. If I take what the officers have said as being reasonably all-encompassing, the issue has not been raised. I do not know what else I can add.

**Senator LUNDY**—I understand that. The problem is, though, if it comes out—as the negotiations are finalised—that this is something Australia has agreed to, then I think that will surprise a lot of people.

**Senator Kemp**—We can all raise a whole host of hypothetical questions, but I do not think it is the role of a minister at this table, nor officers, to respond to every hypothetical question. We have a policy in place; it has been a reasonably longstanding policy. As I understand it the Americans have not pursued this to any substantial extent and so I do not propose to comment on a hypothetical issue. I do not know whether the officers feel—

**Senator LUNDY**—I am not after a hypothetical issue. I am trying to see if there is anything on the public record I have missed and then I will ask you specifically about the directions of the government policy.

**Senator Kemp**—I do not know if there is anything anyone else can add, but, Senator, I cannot assist.

**Senator LUNDY**—All we know is that it was mentioned in the first round of negotiations. We also know that it is a feature of other US free trade agreements and a point of negotiation, or an element that the US pursues, but at this stage the coalition government has not either agreed or rejected that proposition. Is that a fair reflection on the state of things?

**Senator Kemp**—I think Dr Hart or Ms Browne may correct me if I am wrong, but in the latest discussions we are having with various chapters, this was not raised as an issue. There is not much we can add, Senator.

**Senator LUNDY**—That tells me, if it has not been raised, because of the nearness of the conclusion of the FTA if the press reports are to be believed, that in fact it will not be a condition insisted upon by the US as part of the negotiations.

**Senator Kemp**—Senator, I am not at the table. I am not dealing with this on a day-to-day matter. It rests outside my particular ambit and I do not think I can go further than the briefing I have received. I do not think public servants can either. In fact, I think they have already been remarkably frank.

**Senator LUNDY**—Thank you. We will move on to IT in the department. I have a few questions about the computer data tape backups. One is the issue of the location of the tapes, which was mentioned before with Telstra, that it was in fact at TES's facility in Bruce in Canberra. Can the department shed any more light than what has already been shed on the process of the tapes going missing? In particular, the authority—that the department is aware of—that is still investigating or was investigating this matter. Who did you notify as a department and what was the process of investigation into the loss of the tapes?

**Ms Williams**—Senator Lundy, I do not know, I am afraid, any more than we have already discussed this morning. I will see if Mr Nicholas or Mr Morton know any more.

**Mr Nicholas**—We advised DSD of the incident, but it had already been advised by TES when it occurred.

**Senator LUNDY**—All right. When does DCITA's contract with Telstra Enterprise Services expire?

**Mr Nicholas**—On 30 June 2004.

**Senator LUNDY**—What is the status of the negotiations, or perhaps otherwise, of continuation or termination of that contract on that date?

**Mr Nicholas**—We have been through a market testing process and have signed new contracts with KAZ Technology for provision of IT services from 1 July.

**Senator LUNDY**—So you won't be re-signing Telstra Enterprise Services.

**Mr Nicholas**—No.

**Senator LUNDY**—Does that make you unique in the Group 5, or have other Group 5 departments joined with you in the contract with KAZ Computing?

**Mr Nicholas**—No, all agencies are undertaking their own market testing arrangements.

**Senator LUNDY**—Group 5 will be no more.

**Mr Nicholas**—That is correct.

**Senator LUNDY**—I bet you will give a big sigh of relief. How much has it cost you?

**Mr Nicholas**—To?

**Senator LUNDY**—Let us put some parameters around that. What is the value of service credits or financial penalties attributed to Telstra Enterprise Services over the life of their contract with DCITA? And how much is it going to cost you to get your IT assets back?

**Mr Nicholas**—I will answer that first. Our assets are in a mixed situation at the moment. We have the lease on all of our desktop equipment already. That is under the control of the department. From the TES side they currently have the back-end server environment and some of the printers. The bulk of the assets are already under the department's management.

**Senator LUNDY**—So you have been negotiating that with Telstra Enterprise Services as the current contract proceeds.

**Mr Nicholas**—We are getting information on the current equipment and we will make decisions then.

**Senator LUNDY**—So you will then make an assessment on its market value and perhaps negotiate a transfer.

**Mr Nicholas**—Its market value and its ongoing usefulness.

**Senator LUNDY**—When was the contract with Kaz signed?

**Mr Nicholas**—In September.

**Senator LUNDY**—Last month—two months ago.

**Mr Nicholas**—Yes.

**Senator LUNDY**—Was Telstra's outrageous security debacle involving the loss of computer tapes a factor in your decision?

**Mr Morton**—No, Senator, we in fact decided to test the market prior to the loss occurring.

**Senator LUNDY**—Are you able to give the committee an insight into what motivated you to do that? Were you dissatisfied with TES?

**Mr Nicholas**—The contract was coming up to its conclusion in June 2004 and we looked at the options that were available to us and market testing was the most appropriate option.

**Senator LUNDY**—Could you take on notice the question about the financial penalties or service credits?

**Mr Nicholas**—Yes.

**Senator LUNDY**—I have some questions about the Building on IT Strengths program. Could you give me an update on the status of all aspects of BITS funding as allocated and what proportion of the funding has been spent to date of each program funded under BITS?

**Mr Allnutt**—The BITS program has three components. There is the incubator program, which has \$76 million allocated to it. The ANP program has \$40 million allocated to it and the Intelligent Island program has \$40 million.

**Senator LUNDY**—What proportion has been expended in each case.

**Mr Allnutt**—First of all I will deal with the Intelligent Island program. The \$40 million has been entirely expended in the sense that it has been passed to the Tasmanian government. It is held in trust by the Tasmanian government. In terms of the actual expenditure, the figure we have is \$7.5 million up until 30 June.

**Senator LUNDY**—Isn't a proportion of that \$40 million in another fund—a development fund?

**Mr Allnutt**—The entire \$40 million is in a trust fund.

**Senator LUNDY**—And only \$7.5 million—

**Mr Allnutt**—has been expended, yes.

**Senator LUNDY**—How much of that has been expended on the ELAB, or is that different again?

**Mr Allnutt**—That is a different program. That was the Launceston broadband program. With the Advanced Network Program, the amount expended to date is \$32.7 million.

**Senator LUNDY**—Is the remaining funding in the ANP program yet to be allocated as opposed to yet to be spent?

**Mr Allnutt**—No, the money has been entirely allocated. The correct figure is \$37.2 million for the ANP program. So \$32.7 has been spent and \$37.2 has been allocated. That has been done with funding deeds with the three organisations.

**Senator LUNDY**—Will all of that funding have been expended by 30 June?

**Mr Allnutt**—By 30 June, 2004.

**Senator LUNDY**—But that is not the case with Intelligent Island, is it? That is in a trust and that can be expended over a longer period.

**Mr Allnutt**—Yes.

**Senator LUNDY**—The incubators—I thought the original allocation was \$78 million, not \$76 million?

**Mr Allnutt**—The \$78 million includes \$2 million dollars running costs.

**Senator LUNDY**—With the issue of the future of the BITS program, I understand there have been two reports. The government's initial pilot report by Allen Consulting and the subsequent report by Econtech on the incubator program. I wanted to ask the Minister a question in relation to the future of the BITS incubator program, particularly in the context that you can only describe both reports as being favourably disposed to the role the BITS incubator program has played. What is the government's current consideration about the future of the BITS program and are you able to rule out cutting this program, come the end of funding next year?

**Senator Kemp**—The government is considering the future of the program and obviously those two reports you mentioned will be taken into consideration.

**Senator LUNDY**—Minister, can you tell the committee whether or not there is a possibility that the BITS incubator program will have continued funding?

**Senator Kemp**—I don't think I can go further than I have, Senator. I think that is the appropriate answer. I don't have direct responsibility in that area.

**Senator LUNDY**—I understand that, Minister. I am just relying on the fact that your officers may be able to shed some light, through you, on the issue.

**Senator Kemp**—If the officers can fill in any blank spaces, they are entitled to do it.

**Senator LUNDY**—Minister, can I interpret by that that you are not therefore prepared to definitively rule out future funding for the BITS program?

**Senator Kemp**—Senator, you should not interpret anything from what I said. The words speak for themselves.

**Senator LUNDY**—I am trying to get you to answer a question. I should know better.

**Senator Kemp**—You have tried for three years. You have always failed. I think it is far too late at night to be trying new initiatives.

**Senator LUNDY**—Is Allen Consulting doing a final evaluation now, given that they were the authors of the pilot evaluation?

**Dr Hart**—Yes, they are.

**Senator LUNDY**—Can you tell me when that final evaluation is due to be delivered to government and whether the government is planning on making that a public document.

**Mr Allnut**—It is due to be delivered to the government in the next week or so.

**Senator LUNDY**—Can the Minister give some indication as to what will be the status of that report; whether it will be made public or what will be the timing of the government's response?

**Senator Kemp**—Senator, the advice I have is that the government will consider releasing the evaluation report when it is finalised, subject to the protection of any commercial-in-confidence issues.

**Senator LUNDY**—Minister, I am sure you are aware of a newspaper report recently which said that one of the prominent and successful programs—certainly I would consider them so, given they did have some successful graduates emerging—Item 3, is reported as saying they have ceased operating and shut down two of their technology start-ups because of the uncertainty about future funding. Obviously this has been a problem for a while with many of the incubators concerned that without knowing what their funding future will be, they are forced to start winding down their operations in the lead up to the end of this current financial year. I think that places the onus on the government to make decisions about funding sooner rather than later. Because, chances are, if you do fund them some of them will have closed down as a result of your timing. Can you respond to that, please?

**Senator Kemp**—Senator, I am sure that the responsible minister and the public servants are very well aware of these issues and they will always act in a responsible manner.

**Senator LUNDY**—Are you concerned that Item 3 has had to cease operating?

**Senator Kemp**—No-one likes anyone to have to find themselves with difficulties and problems, Senator. I would not like to comment on the particular reasons for that. I am not aware of them.

**Senator LUNDY**—But you would agree it is unfortunate if all the incubators were shut down and then you decided that they deserved more funding?

**Senator Kemp**—Maybe Dr Hart can shed some light on this issue.

**Dr Hart**—I think it is perhaps worth saying, as you know, Senator, that the BITS incubator program was an experimental program. There are lots of different kinds of models. There are 10 different kinds of incubators and 10 different kinds of business plans and 10 different kinds of approaches. There has been quite a lot of movement across the incubators as they have developed, as they have got to know each other, as they have got to compare their different approaches. Item 3 arguably was slightly more vulnerable than some of the other incubators



because of its particular approach. That is just one of the things that has happened as the program as progressed.

**Senator LUNDY**—Why has the final evaluation been delayed, given that originally it was expected in September? That was evidence we heard in this committee.

**Dr Hart**—Yes, we did say that. Basically it is because it was a complex piece of work and we wanted to make sure that we could get the best possible product.

**Senator LUNDY**—Is the future of the BITS incubators being considered in the context of future Backing Australia's Ability initiatives and the second tier of those initiatives?

**Ms Williams**—There are obvious things that would join it to that, but at this stage really that decision has not been made.

**Senator LUNDY**—From my sums, the ticking around of the five-year Backing Australia's Ability arrives in the financial year after this current financial year. This is going to be a little bit hypothetical just for a minute, Minister, so bear with me.

**Senator Kemp**—I have warned you about being hypothetical!

**Senator LUNDY**—Is one of the problems that consideration of what happens with the second tier of Backing Australia's Ability? You have one more year to work with, as opposed to this particular aspect of the BITS program, which reaches its conclusion at the end of the next financial year? Is that contributing to a difficulty in getting an early decision on future funding for the BITS program?

**Ms Williams**—No, I do not think that is the case, Senator Lundy.

**Senator LUNDY**—I do not think I can go any further with that. In terms of the Econtech report prepared in relation to BITS, what involvement has the department had—that is, can you tell me if the department has considered that report in your consideration of the future of the BITS program?

**Mr Allnutt**—Yes, that has informed consideration of the program.

**Senator LUNDY**—One of the particularly strong points of that program is that it filled a gap where there was market failure. Is that a significant factor for the government's consideration, regarding the future of the BITS program?

**Dr Hart**—It was a comment made by Econtech. It is also a comment that has been made in the draft Allen Consulting Group report. Certainly it would be a consideration which would be factored into any decision about future funding.

**Senator LUNDY**—The other argument put forward was that with all of the lessons learnt from these incubators over the years—and like many people I have always thought that funding lots of different incubators was a good idea, even though they performed differently and have had different challenges through their time—what is now a very important body of knowledge about the function of incubators in Australia could be lost if they are either allowed to fold because of delays in funding or, indeed, the program is not funded in the future. Is the department concerned about that?

**Dr Hart**—The incubators themselves have said on the record, I think, that they got funding on the understanding that there was no certainty about ongoing funding and we proceed from

that basis. Clearly there are some things that would support an argument for ongoing funding, some of which you have mentioned. One of the facts is that the conditions, when the program started, were not exactly the ones that were anticipated when the program was designed. They are some of the factors which the government will need to weigh in making any decisions about whether it should continue. What the government has always said is that the incubators should not proceed on that premise. When the program was announced, it was announced as a one-off round.

**Senator LUNDY**—The Econtech report was on a DEST web site. Why did the department not put it on the BITS web page, or the BITS incubators web page?

**Dr Hart**—I did not know it was. It is also on ours, is it not?

**Mr Allnutt**—The Econtech? No.

**Dr Hart**—It is not?

**Senator LUNDY**—It is?

**Mr Allnutt**—The Econtech report was prepared by the incubators, of course, so it is their report.

**Senator LUNDY**—I was just curious, because that is where I found it. So you have not got it on the government's web site?

**Mr Allnutt**—I do not think so.

**Senator LUNDY**—Why not?

**Mr Allnutt**—It was the incubators' report. It was prepared by them and it belongs to them.

**Senator LUNDY**—But if it forms part of your—

**Mr Allnutt**—If they requested us to put it on, we would have put it on, but there was no request from them, as far as I know.

**Senator LUNDY**—Okay. Can we expect a commitment from the government, one way or the other, on the BITS incubators this side of Christmas?

**Ms Williams**—We cannot say that, Senator Lundy, because we do not know.

**Senator LUNDY**—I would like to ask some questions about IT outsourcing and the monitoring of industry development provisions. Will the new IT outsourcing monitoring system referred to in the DCITA annual report accompany the existing annual industry development progress reports system?

**Mr Allnutt**—The answer to your question is that the report for the five IT outsourcing contracts will be prepared separately from the report on the commitments under the new arrangements.

**Senator LUNDY**—And will the new system have an annual public reporting mechanism?

**Mr Allnutt**—Our current plan is that we would place the results on our web site in that public way, and that we would do that on an annual basis.

**Senator LUNDY**—By what date each year?

**Mr Allnutt**—We are still finalising the details but I imagine we would do a report probably at the end of each financial year.

**Senator LUNDY**—Perhaps to accompany the annual report of the department?

**Mr Allnutt**—It could be timed with that, yes.

**Senator LUNDY**—I am sure you appreciate my wanting to be specific, given the appalling record of the progress reports for the other aspect of industry development. That is not just the fault of the department. I know you have had problems getting that data in from the outsourcers themselves, but can you take on notice providing the details of the public reporting mechanism associated with the government's new IT outsourcing monitoring system. Will this system apply to all government ICT outsourcing contracts or ones that are currently in place at the moment, whether they are clustered or whether they are stand-alone contracts, for example, the new one with Kaz Computing with the department.

**Mr Allnutt**—It will apply for new contracts. It will not apply to the five IT outsourcing contracts because they have their own reporting mechanism. It will apply to any other contracts taken into account after June 2002, so it will be new contracts after 2002, and contracts over the size of \$20 million.

**Senator LUNDY**—Why June 2002?

**Mr Allnutt**—That was the date of the announcement of the new policy.

**Senator LUNDY**—Are there any contracts that fall prior to that date that are not the clustered contracts, that therefore have no system of IT industry development attached to them at all?

**Mr Allnutt**—Yes, there are a few contracts before that period.

**Senator LUNDY**—Which ones are they?

**Dr Hart**—This was the subject of a question on notice, I think, Senator.

**Mr Allnutt**—I think I have the reference here.

**Senator LUNDY**—What number?

**Mr Allnutt**—Number 232.

**Senator LUNDY**—So we are talking about—

**Mr Allnutt**—Those four contracts.

**Senator LUNDY**—Computer Associates at Customs, Acer at Centrelink, Dell at Centrelink and Optus for cluster 3?

**Mr Allnutt**—Yes.

**Senator LUNDY**—And that is all?

**Mr Allnutt**—Yes, they are the only contracts we are aware of.

**Senator LUNDY**—That is about \$170 million worth of IT work. Has the government any plans to require industry development obligations for those contracts or is that opportunity gone?

**Mr Allnutt**—No formal requirements have been imposed on those contracts.

**Senator LUNDY**—What happened to SPIDA? Wasn't that the interim plan between the old system and June 2002?

**Mr Allnutt**—The SPIDA program was replaced in June 2002 with the new arrangements.

**Senator LUNDY**—What did SPIDA require of those particular contracts? Anything?

**Dr Hart**—They did require a monitoring for commitments over a certain figure. I think it was \$10 million.

**Mr Allnutt**—Yes, \$10 million dollars.

**Senator LUNDY**—Can you tell me what monitoring has been done of those contracts because they are all over \$10 million.

**Mr Allnutt**—The intention was that they would be monitored in terms of the commitments of the companies under the SPIDA arrangements. When the SPIDA arrangements were superseded by the new arrangements, then the obligation ceased.

**Senator LUNDY**—The obligation ceased. Once SPIDA fell apart, these companies were not obligated to do anything. Did they do anything while the SPIDA agreements were in place that you can demonstrate?

**Dr Hart**—The SPIDA agreements were not in place. The arrangements were out for consideration but it was never formally instituted as a program.

**Senator LUNDY**—There was never an obligation on these companies? Is that what you are telling me?

**Dr Hart**—It was never formally established.

**Senator LUNDY**—I think there is a difference there. Was there an expectation or any discussion with the department and these companies that there would be industry development—

**Dr Hart**—During that interim period when the guidelines were being developed and we were in discussion with people about the possible arrangements, we were actively seeking advice from agencies on developments, and that is how we came to be aware of these five contracts that were being let at the time. We were tracking them.

**Senator LUNDY**—But nothing was ever stitched up. Can you clarify with me when that void period was. Obviously it was prior to August 2001.

**Dr Hart**—It was between January 2001 and June 2002.

**Mr Allnutt**—Yes.

**Senator LUNDY**—Have any of the IT outsourcing companies breached their ID requirements in the last financial year, and when will we be seeing that progress report?

**Mr Allnutt**—We are currently receiving the reports from the five contractors.

**Senator LUNDY**—You have them?

**Mr Allnutt**—We are currently receiving them. We have received two, and there are three in draft form we expect to get.

**Senator LUNDY**—Are there any breaches there?

**Mr Allnutt**—We are still analysing the reports.

**Dr Hart**—I think overall, the trend is very positive.

**Senator LUNDY**—You have always said that, though. When will that report be released?

**Mr Allnutt**—We would expect early in the new year.

**Senator LUNDY**—So it will be late again.

**Mr Allnutt**—We collect the reports around September. It takes us a few months to write the report and clear the report with the—

**Senator LUNDY**—But if you only have three out of the five—

**Dr Hart**—I think we are still on track to have something by the end of the year.

**Senator LUNDY**—A progress report by the end of the year?

**Dr Hart**—No, to actually have the full report.

**Mr Allnutt**—We will have the final report.

**Senator LUNDY**—Sorry. The full report is the progress report.

**Dr Hart**—Sorry, yes.

**Senator LUNDY**—So you are hoping to have the progress report on industry development published by the end of the year?

**Dr Hart**—The actual report as opposed to the interim, yes.

**Senator LUNDY**—I will look forward to that. I will place the rest of my questions on notice and call NOIE, thank you, Chair.

**CHAIR**—Thank you. We thank the officers for appearing. We now call NOIE.

[9.02 p.m.]

#### **National Office For The Information Economy**

**Senator LUNDY**—I would like to turn first to the Broadband Strategy, if you could summarise what NOIE's role is in coordination of the demand aggregation brokers, the coordinated communications infrastructure fund and the National Broadband Strategy Implementation Group.

**Dr Badger**—Essentially we are responsible for the implementation of those three activities. As you know, NOIE played a major role in the work of the Broadband Advisory Group and we have continued to work with the department on the government's activities which form a series of responses to the types of issues that were raised in those reports. We have worked on the National Broadband Strategy in conjunction with the states and will continue to take that forward with the National Broadband Strategy Implementation Group. As I said, we are responsible for the design and implementation of those programs you mentioned: the CCIF and the demand aggregation brokers program.

**Senator LUNDY**—What is it envisaged that the CCIF will be spent on?

**Dr Badger**—There is a discussion paper out at the moment which we can give you access to if you do not already have it.

**Senator LUNDY**—Is it on the web site?

**Dr Badger**—Yes.

**Senator LUNDY**—Just tell me in 10 words or less what you are going to spend the money on.

**Ms Lansdown**—The CCIF program is modelled on the NCF program which we found, in consultations with the Broadband Advisory Group, was very highly regarded amongst the states and territories. We expect that the eligible expenditure under the CCIF program will be very similar to the eligible expenditure under the NCF.

**Senator LUNDY**—How much funding was in the NCF?

**Ms Lansdown**—Around \$50 million.

**Senator LUNDY**—The CCIF is \$23.7 million?

**Ms Lansdown**—Yes.

**Senator LUNDY**—Can you tell me whether the ITOL program is funded through a special account or through annual allocation?

**Dr Badger**—The ITOL program is an annual appropriation.

**Senator LUNDY**—Can you tell me what the status of the ITOL funding is and how long that program has to run?

**Mr Besgrove**—I believe the program has two more years to run. It is funded to a total of \$2.5 million per annum.

**Senator LUNDY**—What is the conclusion date; June 2005 or 2004?

**Mr Besgrove**—It is 2005-2006, Senator.

**Senator LUNDY**—June 2006?

**Mr Besgrove**—That is correct. It was funded under the Backing Australia's Ability program for an additional four years.

**Senator LUNDY**—Which is why it has that extra year. Is there a review going on about the future of that funding?

**Mr Besgrove**—There have been several reviews of the ITOL program. Because it is one of the Backing Australia's Ability programs, there is a review process under way at the moment.

**Senator LUNDY**—When will that review be concluded?

**Mr Besgrove**—I believe that is part of the general review process which is being undertaken for all of the elements of Backing Australia's Ability.

**Senator LUNDY**—Are you involved in that directly or are you just the implementer of the program?

**Mr Besgrove**—We have some involvement in the development of the Backing Australia's Ability to process, particularly in relation to ITOL.

**Senator LUNDY**—Any other things?

**Mr Besgrove**—NOIE is sometimes asked for input into questions that arise that are considered by DCITA. As we have indicated in previous estimates, we work very closely with DCITA on a range of innovation issues.

**Senator LUNDY**—Can you tell me whether NOIE is familiar with the *Emerging markets* report prepared by the ACCC and whether NOIE is concerned, in relation to broadband, that according to that report competition is not as strong as it could be and is in fact going backwards in the area of emerging markets. Do you concur with the ACCC's findings?

**Dr Badger**—I do not know the detail of the ACCC report.

**Senator LUNDY**—Why not? It is about broadband competition.

**Dr Badger**—The government has made it clear, in a series of statements about broadband, that it considers the roll-out of broadband to be a high priority and that is the work of the National Broadband Strategy. The program responses we have discussed already are part of the government's response to that. The focus of the government's response to broadband in the spending programs has been to provide funds for expenditure predominantly in regional and remote areas of Australia.

**Senator LUNDY**—Does NOIE consider issues relating to market structure, like those raised in the *Emerging markets* report, as being policy considerations NOIE needs to consider in your involvement in the National Broadband Strategy Implementation Group?

**Dr Badger**—Our objective is to ensure that, to the greatest extent possible, broadband take-up is accelerated throughout Australia. There are a number of considerations—

**Senator LUNDY**—So the answer to my question is 'No'?

**Dr Badger**—No, the answer to your question is that part of the consideration is the extent of competition in various areas of Australia. The extent to which the issue of competition is dominant in any part of Australia is very much one in the eye of the beholder.

**Senator LUNDY**—Thanks. I have one more question. Can NOIE confirm reports in the *Canberra Times* on 27 October that at 10 a.m. on 2 August 3,378 government Internet domains became deregistered and hence unavailable to the Internet community? If so, what happened, and is it NOIE's fault?

**Dr Badger**—It is certainly true that the domain jurisdictions that you refer to were down. As soon as we were alerted to the fact, action was taken to get them up again. Mr Grant might like to explain in a little more detail the somewhat complex story involved.

**Senator LUNDY**—It has to be really quick. But while you are answering that question I would like to know how long they were deregistered and why it came to be so.

**Mr Grant**—On 2 August at 10 a.m. 3,378 domain names did become unreachable. NOIE took immediate action when it became aware of the event. What happened is that the sites became unavailable as they had reached an expiry date that was applied to gov.au domains which were transferred to AusRegistry in August 2002. NOIE was not aware that any such expiry date had been applied. We immediately responded to the expiry. We had most back on within three hours of initial expiry. We have taken action since then to ensure that this does not recur.

**Senator LUNDY**—Was edu.au also affected?

**Mr Grant**—No. It was just gov.au.

**Senator LUNDY**—What steps have you taken to make sure this does not happen again? How on earth are Australians going to be confident that this government can manage Internet policies when fundamental issues like this occur? This is one thing; the absurd web site debacle last year was another thing. How often do big mistakes have to be made before this government gets the message?

**Mr Grant**—Senator, first, it was not a huge problem because a lot of information was cached.

Our view is that, in fact, very few people were unable to reach the domains they were looking for. Second, we discovered the problem immediately and contacted AusRegistry immediately. Within three hours we had the domain names back on board in most areas.

**Senator LUNDY**—How did you find out?

**Mr Grant**—Through one of our technical people, who reported it to the manager of the domain system.

**Senator LUNDY**—He just said, ‘Oh, it’s not there any more,’ or, ‘I can’t get in,’ or something like that.

**Mr Grant**—I do not know the precise detail, but it was discovered. We have been in contact in AusRegistry to ensure that no further such expiry provisions exist and, if they do, then we are informed well and truly before any expiry would take place. Secondly, because we are a second-level administrator, we have reported to auDA—the .au Domain Administration—about the process and, thirdly, we will continue to monitor what happens. We do not think this will happen again. We have also ensured that our agreement is much better understood by both parties.

**Senator LUNDY**—I am sure you know the agreement back to front now.

**Mr Grant**—We knew it back to front before, Senator. This was a transition error which simply did not appear in a way that we could have identified.

**Senator LUNDY**—Thank you for that explanation. That is all I have. I will place further questions on notice.

**CHAIR**—Thank you, Senator.

[9.16 p.m.]

#### **Australian Broadcasting Corporation**

**Senator SANTORO**—Welcome, Mr Balding, and the good people from the ABC. Thank you, Mr Balding, for replying to my letters and for inviting me to meet with you. I did appreciate your invitation. However, I thought that, given my obligations to the Senate and my responsibility to contribute to public accountability of our institutions, including the ABC, it would be better for us to meet after I had had the opportunity to put some further questions to you tonight and also some that I will put to you on notice.



I want to say before we start that I intend to pursue the matters that I raised at the May Estimates and hearings and subsequently, where these issues have not been satisfactorily answered, until I am satisfied that I have got to the bottom of things. As I proceed with my line of questioning tonight, I think you will understand why I am making the statement. I would not want you to think that, because of events since then, including the retirement of a very good minister, Senator Richard Alston, that these matters will be dropped or new matters will not be taken up by myself and, indeed, other people who have an interest in the way that your corporation—our ABC—operates.

I am personally most interested in what the ABC does and how it goes about doing it, particularly in its reporting of the news and its presentation of documentaries. As we commence this exchange, I am told that *Media Watch*, in fact, is about to go to air and the suggestion is that it will address some of the issues that I am about to raise with you. I suspect, however, that they and us here will be addressing the issues from different perspectives, which is the major line of questioning that I want to pursue this evening.

Mr Balding, do you regard it as a little unusual that the producers and presenters of *Media Watch* have, in the past few weeks, either written to or telephoned myself, Senator Richard Alston, Ralph Zwier of the International Committee for Jewish Solidarity, and others, inquiring as to who had helped Senator Richard Alston compile a dossier of complaints about ABC news and current affairs bias and lack of balance?

**Mr Balding**—No, Senator, I do not see it as unusual. The remit of the *Media Watch* program is to inquire into all aspects of the media and the reporting of the former minister's complaints against the ABC was an issue occupying quite a significant amount of space and time in the media and it was a relevant issue.

**Senator SANTORO**—Including *Media Watch*? Did it occupy a lot of time in the life and particularly the broadcasting of the program *Media Watch*?

**Mr Balding**—Sorry? Could you repeat that?

**Senator SANTORO**—Do you believe *Media Watch* took an extensive view or reporting of the dossier—if I can put it that way—of Senator Alston?

**Mr Balding**—In examining it as an issue that has been discussed—

**Senator SANTORO**—I am talking about *Media Watch* going to air tonight, taking up issues that have been raised by Senator Alston.

**Mr Balding**—I have not seen the program.

**Ms Levy**—The role of *Media Watch* is to analyse the media, not to analyse the underlying issues; to discuss and look at the way that the media reports on certain things. It would only be dealing with the reporting in the media of the matters, not going to the heart of the matters themselves. They are not reporters in that regard.

**Senator SANTORO**—Ms Levy, why do you think *Media Watch* is so interested in finding out who was involved in the drafting of Senator Alston's questions? If they are interested in commenting on what the media reports, why would they be interested in who framed the questions?

**Ms Levy**—I am assuming that they are interested because it was reported in the media.

**Senator SANTORO**—Do you not find it somewhat obsessive, Mr Balding, that *Media Watch* also submitted an FOI request in pursuit of information on who helped Senator Alston compile his dossier?

**Mr Balding**—No, I do not believe so. Again, as we have said, *Media Watch* is a program that is there examining events that have occupied the media and that was a significant event in the media.

**Senator SANTORO**—It seems to me from what you have said that you believe *Media Watch* should be concerning itself with finding out what the process was involving the compilation of the complaints about ABC news and current affairs bias?

**Mr Balding**—It is an issue that was examined in the media. I am comfortable with the remit of *Media Watch* to examine that, yes.

**Senator SANTORO**—Given that the ABC's internal complaints system dismissed all but two of Senator Alston's complaints as baseless and considered only minor infractions on the two it had to confess to, and given that the independent complaints review board to which these complaints were eventually submitted found 12 serious instances of bias and upheld a total of 17 complaints, do you think that the program should be focusing almost exclusively on who put together, or helped put together, a dossier of complaints about the ABC? The real story, the genuine investigation, given what we now know came out of the eventual investigation, should be focusing on the fact that the ABC's own complaints process, when it was finally forced to act, established 12 serious cases of bias. Do you think that the paucity of coverage by *Media Watch* is excusable?

**Mr Balding**—The director of television would be across this in a bit more detail. The *Media Watch* program is not about the coverage of a particular media event; it is the way that media event came about and how other media covered that particular event.

**Senator SANTORO**—You basically say that *Media Watch* can be the judge of how other media covers events but as one of the judges—public opinion eventually is the ultimate judge—you say that it is not subject to the same rules?

**Mr Balding**—No, I cannot see where your line of argument is coming from, Senator. I am sorry. Would you like to express that question again?

**Senator SANTORO**—You have *Media Watch* not commenting in any extensive manner on the fact that the ABC has got it wrong in terms of the review of complaints initially by a lesser—

**Mr Balding**—But, Senator, that is not *Media Watch*'s role. *Media Watch*'s role is not to comment on an internal complaints processing system. It may comment on the way the media is covering a particular event but it is not its role to comment on the accuracy or otherwise of the ABC's complaints handling processing system or anyone else's complaints handling processing system.

**Senator SANTORO**—Let me pursue that a little bit further. *Media Watch* describes itself as:

... Australia's leading forum for media analysis and comment—  
which has the purpose of—

...turning a critical eye on the media in general and journalism in particular.

Are you aware that *Media Watch*, despite its purported willingness to turn a critical eye and despite devoting considerable time and money to such issues as mobile phones at petrol stations, has never reported on the findings of the Joint Committee of Public Accounts and Audit review of corporate governance at the ABC, which noted serious shortcomings at the ABC? Do you regard such an omission as being consistent with *Media Watch* goals?

**Mr Balding**—Again, Senator, I do not see it as their role to comment on that. The director of television may have a bit more to say on that. Again, it comes back to how a particular item is covered in the media and *Media Watch*'s role is to monitor the way the media is covering a particular event.

**Senator SANTORO**—When the ABC does not focus on that particular negative finding in relation to the ABC and *Media Watch* does not comment in any way, in particular in an unfavourable way, in relation to ABC coverage, you don't find that unusual?

**Mr Balding**—No, not particularly, but if you are leading down a path which says *Media Watch* is not critical of the ABC then I am sure I can find a number of instances where *Media Watch* has been very critical of the ABC, in particular of the way it has covered certain media items. The ABC is not excluded or isolated at all from the criticism of *Media Watch*.

**Senator SANTORO**—I want to get back to the issue of bias, particularly in relation to the war in Iraq. Would you comment on the fact that *Media Watch* have only once referred to complaints by the then minister for communications, Senator Alston, and they have in fact referred to those complaints about bias in the ABC coverage of the war in Iraq, only to say that, 'Sadly'—that is their word, then there is a reference to the minister's question which it described as 'editorial interference'.

What I am saying to you is that *Media Watch* have touched on the issue of bias in terms of reporting on the war in Iraq. They said that it was not intended as a joke, so they referred to that whole situation. Do you believe that it is appropriate that *Media Watch* has not reported on the outcomes of those complaints, be it by the ABC's Internal Complaints Review Panel or by the Independent Complaints Review Panel? Do you regard such an omission as being consistent with *Media Watch*'s goals, particularly given that they were prepared to make a fairly derisory remark in relation to the minister's intentions?

**Mr Balding**—Senator, again I do not see it as their remit to report on those sorts of things. The director of television has some other comment in that regard.

**Ms Levy**—Again, I would back up what Mr Balding is saying. The complaints process within the ABC is one path for people to pursue concerns that they have about ABC coverage. That is a quite separate process to the program called *Media Watch*, which sets out to analyse and discuss and comment on what is being reported, and the methodology, by the media. It is concerned with the wider media and what it is saying, whereas the complaints process is an internal ABC matter and a matter which deals entirely and quite separately with grievances from the community or from particular complainants. The two processes do not come together at all. The only time *Media Watch* might deal with it is if it were reported in the press or in other forms of media and they may choose to comment on that coverage of it. But it is not their role to deal with complaints. That is a whole other process inside the ABC.

**Senator SANTORO**—Ms Levy and Mr Balding, you're saying that it is okay for *Media Watch* to say that, 'sadly, the minister's question', which it described as editorial interference, 'was not intended as a joke'? It is okay for them to pass a fairly derogatory, cynical, dismissive comment or comments like that, yet then not go—I would suggest—one reasonable step further and report on the fact that his comments were in fact upheld by an independent tribunal?

**Ms Levy**—To hear that one line, taken entirely out of context and without looking at the rest of the program, is a very difficult thing to ask us to respond to, but their brief is very clear and the internal complaints process is also very clear. They are two quite separate processes. I think that is the appropriate response for us to make.

**Senator SANTORO**—What do you think *Media Watch* will be saying tonight about this topic, then? If they are not meant to be commenting on the issue of bias—on the complaints by Senator Alston—what are they doing phoning up, putting an FOI request to members of parliament, and writing letters demanding that we get back to them by, in my particular case, 12 noon on Friday so that we could help meet their production deadlines?

**Ms Levy**—The role of journalists is to check sources and to find information. That is part of the process of journalism.

**Senator SANTORO**—But it was not just that. They wanted to get this information so that presumably they could be broadcasting something which is perhaps going on tonight.

**Ms Levy**—That is indeed the role of journalists: to check the facts and to prepare programs to go to air. Presumably they were doing what they normally do. For whatever the program is that the journalists are working on, they go to various sources to try and compile information, check their facts and prepare the program.

**Senator SANTORO**—They may be reporting tonight, perhaps, that in 12 instances 17 of the complaints were in fact upheld?

**Ms Levy**—I think it would be pointless for us to speculate on what might or might not be on the program. The program is completed and on air and the transcript would be available from tomorrow.

**Senator SANTORO**—Are you aware that *Media Watch* has not once addressed the question of whether the gap between the findings of the Complaints Review Executive and those of the Independent Complaints Review Panel casts doubt on the quality of the Complaints Review Executive and, more generally, on the quality of the internal mechanisms for handling complaints?

**Mr Balding**—Again, Senator, you are raising a question about the role of *Media Watch* and why it has not commented on the outcome of a complaints processing system. That is distinct from what I see as *Media Watch's* role, which is commenting on and analysing issues from other media outlets, including the ABC, where those issues have had media coverage.

**Senator SANTORO**—If you say that *Media Watch* does not have to report on the dossier by Senator Alston and the allegations of bias that he made, some of which were subsequently upheld, why is it that—despite, from your particular perspective, not having to report on the findings of the panel—*Media Watch* has recently devoted substantial time and public moneys

to try to find a conspiracy behind Senator Alston's complaints? What could then be the motive for phone calls, letters, demands to perform according to their deadlines—in Senator Alston's case, by the way, Thursday; in my particular case a Friday deadline? From your perspective, and maybe from a more expert operational perspective, Ms Levy, why such intensity?

**Mr Balding**—Again, Senator, this issue has received extensive media coverage. I can only assume—and again Sandra might be closer to it—that *Media Watch* is checking the issues and the facts, as reported in the print media and other electronic media, upon which to base the program tonight.

**Senator SANTORO**—We will read the transcript tomorrow?

**Mr Balding**—Yes.

**Ms Levy**—Yes.

**Senator SANTORO**—I suspect that it will not be as attractive a story as you are hoping it will be. Mr Balding, I refer to a letter dated 23 July 2003 from Dr Colin Rubenstein, the Executive Director of the Australia/Israel and Jewish Affairs Council, to yourself in which Dr Rubenstein refers to the online magazine, crikey.com, as claiming that a senior and credible person within the ABC had alleged that Dr Rubenstein met with Mr Balding and was responsible for the complaints made by Senator Alston about the ABC's reporting of the war in Iraq. Is it correct that, in contrast to what is stated by crikey.com, Dr Rubenstein never met with you?

**Mr Balding**—I do not believe I have ever met the gentleman, and I cannot even recall the letter.

**Senator SANTORO**—So you cannot recall him meeting with you?

**Mr Balding**—No.

**Senator SANTORO**—Have you then contacted crikey.com to correct their assertion?

**Mr Balding**—Senator, I was not even aware it was on crikey.com. I do not visit that site. Sorry.

**Senator SANTORO**—But when Dr Rubenstein in fact made you aware of that in his correspondence to you, did you contact that particular publication and ask them to correct the record?

**Mr Balding**—Senator, sorry, I cannot even recall the letter—unless Mr Crawford can recall it.

**Mr Crawford**—No. I have a memory that we replied on behalf of the managing director saying that in fact he had not met the gentleman you mentioned.

**Senator SANTORO**—Did you make contact with crikey.com to—

**Mr Crawford**—I am not aware that we did, but I will check.

**Senator SANTORO**—Do you think it would be a reasonable thing to do?

**Mr Crawford**—I will check. I cannot remember details, to be honest.

**Senator SANTORO**—But would you think that if an assertion is made that in fact Mr Balding did not meet with—you do not think that it is a reasonable thing to—

**Mr Crawford**—Let me check the circumstances. I really cannot recall the detail, Senator.

**Senator SANTORO**—Does the ABC agree, Mr Balding, that it would be a matter of the gravest concern and completely inconsistent with professional ethics if it were the case that the claims made by crikey.com as to the origin of Senator Alston's complaint came from a senior and credible person within the ABC?

**Mr Balding**—Senator, I would have to have a look at that.

**Senator SANTORO**—But if those claims were made, would that not be something of great concern to you?

**Mr Balding**—There is a difference between making a claim and having that claim proven.

**Senator SANTORO**—I want to turn to some of the issues of stereotyping. I refer to correspondence to me dated 15 September 2003, in which you address the question of whether the ABC should label organisations when reporting their comments. You say, 'I believe that if the ABC were to label groups we could rightly be accused of oversimplification and stereotyping.' Is it correct that Mr Stephen Crittenden, an ABC presenter who had written an article on the clash of civilisations, received an email on ABC management that referred to the extreme sensitivity of Islamic issues for the ABC generally and for the religion report in particular?

**Mr Balding**—Senator, I am not aware of that particular issue.

**Senator SANTORO**—Would you care to inform yourself, to see whether that email—

**Mr Balding**—Yes, I will take that on notice, Senator.

**Senator SANTORO**—'In the light of that extreme sensitivity, ABC management was concerned about comments being expressed by Mr Crittenden that may be seen as critical of Islam.'

**Mr Balding**—Senator, I will take that on notice and have a look at that.

[9.35 p.m.]

**Senator SANTORO**—Is it correct that in a recent *Four Corners* program entitled *American Dreamers*, ABC presenter Jonathon Holmes, in claiming to look behind the oft-cited reasons for war, found—and I quote—'a tight-knit group of Washington hawks'—page 1 of the transcript, and the so-called 'neo-cons' who are described as being 'almost all Jews'—page 4 of the transcript?

**Mr Balding**—Senator, I would have to have a look at that in detail.

**Senator SANTORO**—Does the ABC accept that this statement is factually incorrect, as there are many neo-cons, young and old, who are not Jewish?

**Mr Balding**—Senator, I would have to have a look at that in the total context of the story.

**Senator SANTORO**—And is stereotyping at its worst as there are very many Jews who are not neo-cons and overall it is deeply offensive to many Jewish-Australians.

**Mr Balding**—Senator, again, I will have to have a look at that.

**Senator SANTORO**—Does the ABC believe that statements of this kind made on air by taxpayer funded presenters are consistent with the ABC editorial standards, should you find that those particular quotes are correct?

**Mr Balding**—Senator, again, I will have to have a look at that in the context of the story itself and in relation to our editorial policies.

**Senator SANTORO**—Would you be able to perhaps provide for the benefit of the committee—and you would have to take this on notice—specifically who approved the use of these terms in the *Four Corners* program?

**Mr Balding**—I will have a look at it for you, Senator.

**Senator SANTORO**—Is there any correspondence or instructions, which are on lines similar to those cited above in respect of Mr Crittenden, which highlights the need to be aware of sensitivities and to maintain professional editorial standards?

**Mr Balding**—Again, Senator, I will have a look at that.

**Senator SANTORO**—I also draw your attention to a statement that you made in a letter to the *Daily Telegraph* dated 28 August 2003, that a commentator for the *Daily Telegraph* quite simply lacks the capacity for impartiality. Would you comment, Mr Balding, on the implications for the capacity for impartiality of *Four Corners*, and the fact that a researcher for that program was involved in the launching of a campaign that involved elements in the Victorian Trades Hall, the CFMEU and the National Union of Students, seeking to secure expressions of support for that program, so as to offset what this researcher viewed as negative comments from radical right wingers?

**Mr Balding**—Senator, I will look into that for you.

**Senator SANTORO**—That for your information, if it is of any assistance, is in an email from #Amada Tattersalls of the Victorian Trades Hall Council, 28 May 2003 at 9.22 a.m. Do you believe it is appropriate for ABC staff to be engaged in such conduct? If not, and it is proved that what I said is correct, what action do you think should be taken?

**Mr Balding**—Again, Senator, let me have a look at it before I come to any conclusion as to what action should be taken.

**Senator SANTORO**—Let us make an assumption—which may be a wrong assumption—but if that was proven to be true, do you think it would be a serious—

**Mr Balding**—I think it is difficult to make those assumptions and to speculate. Let me have a look at the facts in respect of that issue and then let us make a conclusion and a finding from that.

**Senator SANTORO**—Mr Balding, I refer to the answer the ABC provided at question 22 that I put in this committee with respect to *AM*'s coverage of the Iraq war. In its answer the ABC referred to its complaints review executive as an independent officer and said that the CRE had employed rigorous standards of research and investigation of complaints. The CRE only upheld two of the 68 complaints referred to it. In contrast, the panel found 12 instances of serious bias. Additionally and separately, in 16 instances it criticised the behaviour of the journalists involved. Moreover the panel noted that the CRE, though only upholding two complaints, was grudging in respect—and 'grudging' is a quote—of even one of those. Does

the ABC still believe that the CRE employed rigorous standards of research and investigations of the complaints?

**Mr Balding**—Yes, Senator.

**Senator SANTORO**—What do you base that on, given the subsequent results of further investigations into the complaints?

**Mr Balding**—Senator, you base it on the rigour and the in-depth analysis that the CRE undertook; you base it on the way he came to his conclusions and the way he articulated those conclusions.

**Senator SANTORO**—With respect to the outcomes of the panel's review, what specific actions have been taken in respect of journalists involved in instances of serious bias and of the numerous criticisms of *AM*'s reporting contained elsewhere in the panel report?

**Mr Balding**—Senator, senior news and current affairs management have spoken to both the journalists concerned and reminded them they have to be vigilant in these types of periods. They have brought to their attention the findings, not only of the CRE report, but the findings of the Independent Complaints Review Panel report and the issues arising out of that report.

[9.40 p.m.]

**Senator SANTORO**—I refer, Mr Balding, to an article—and I want to be a little bit specific here—in the *Australian*, dated 18 October 2003 in which Linda Mottram states that she was not asked or directed to change any aspect of her reporting on comment following the panel's review. Specifically Ms Mottram states, 'Nobody is telling me to do anything differently on the basis of it.' In view of what you have just said, are Ms Mottram's comments correct?

**Mr Balding**—Senator, I have taken that up with the management of news and current affairs and I am still speaking to them about that.

**Senator SANTORO**—So you will ascertain if her comments are correct and let us know?

**Mr Balding**—That is correct, Senator, yes.

**Senator SANTORO**—If she said that, in view of what you just said, that they were spoken to, somebody is not obviously not telling the whole story.

**Mr Balding**—Again, Senator, let us not speculate. Let us get to the facts before we draw any conclusions.

**Senator SANTORO**—If they are correct, how would this be consistent with the statement by yourself: 'I have instructed senior news and current affairs management to take note of the ICRP review?'

**Mr Balding**—Senator, that is the issue I want to get to the bottom of.

**Senator SANTORO**—Will you report back to the committee once you have conducted that investigation?

**Mr Balding**—Yes, Senator.



**Senator SANTORO**—I refer to the program *Correspondents Report*, which was broadcast on 4 August 2002. In this program an ABC reporter described the events in Jenin in April 2002 as a massacre, even though the UN and Human Rights Watch had already concluded there was no evidence of such a massacre. A complaint was made to the CRE about the program and dismissed. Do you believe that because of the fact the ICRP refused to consider the complaint that taxpayers can have any confidence in the current review process, as it indicates the complaints may only be dealt with through consideration by a member of the ABC management team?

**Mr Balding**—Sorry, Senator, can you explain that again?

**Senator SANTORO**—Do you believe, because the ICRP refused to consider that complaint, taxpayers can have any confidence in the current review process, as it indicates that complaints may only be dealt with through consideration by a member of the ABC senior management team?

**Mr Balding**—The terms of reference for the ICRP are fairly specific in respect of what complaints they can take on. It may be this one was outside their terms of reference. I would ask Mr Crawford if he is aware of it.

**Mr Crawford**—I think they felt it was outside their terms of reference. I think the ICRP's remit broadly covers cases of serious bias, lack of balance or unfair treatment. My understanding was that their view was that the Jenin massacre or the story about it fell outside their remit.

**Senator SANTORO**—That that was proper coverage; that it was balanced coverage of an event that never really happened.

**Mr Crawford**—I cannot speak on behalf of ICRP, but that is what they informed us.

**Senator SANTORO**—Obviously it was pretty well known to senior programmers and senior ABC people that in fact that event did not happen. Do you believe the fact that the ABC has persistently refused to retract the statement made by the correspondent that I referred to, despite the record in respect of Jenin being so corrected in all major democratic countries, can provide Australian taxpayers with any confidence in the ABC's impartiality? Obviously all of you clearly know, as do most people in most other democratic countries where that particular reporting was corrected. But the ABC has never retracted. Do you think the public can have any confidence, in the absence of retractions of blatant misreporting such as that?

**Mr Balding**—I believe the public has full confidence in the ABC's impartiality and balance. That is due to the rigour of the system. You are talking about a particular instance there. I am more than happy to have a look at it. To address your issue—do I believe the Australian community has confidence in the ABC's processes and system, in particular in respect of impartiality and imbalance—the answer is affirmative: yes.

**Senator SANTORO**—Mr Balding, I have described myself in the parliament and elsewhere as a true friend of the ABC. You and I must be talking to a totally different set of people. Obviously some people do support the ABC in a blind sort of fashion, but I can assure you that your statement is not supported by many people within the community.

**Mr Balding**—Obviously we may beg to differ there. But, if you want to look at the issues of the number of complaints or audience contacts the ABC has and the percentage of complaints as far as balance and impartiality are concerned, I believe the public and our audience do believe that we are balanced. If you want to look at the reporting period from 1 July 2002 to 30 June 2003, it is set out in our annual report. The ABC received some 186,000 audience contacts via telephone, email and letter. Complaints about party political bias represented 0.6 per cent of all contacts to the ABC and 2.3 per cent of all complaints.

I believe that you need to go to the audience themselves and see what they believe in respect of the ABC and the way it conducts itself: look at other independent measures. I think they are worth noting. I made public Newspoll research conducted in June 2003. That research showed that 89 per cent of Australians believe the ABC provides a valuable service to the community. It also showed the vast majority of viewers or listeners, ranging from 85 per cent to 93 per cent, believe the 7 p.m. news, the *7.30 Report*, *The World Today*, *AM* and *PM* do a good job of being balanced and even-handed. Newpoll found that there is little evidence of any perceived bias among users of ABC services.

**Senator SANTORO**—But your own independent review process found differently.

**Mr Balding**—You asked a question about the general public and the community having confidence in the ABC being balanced and impartial. I am trying to address that, and I am trying to address it from the public perspective. The Australian Broadcasting Authority's survey in May 2001 found that public television and public radio in Australia provides the most credible reportage of all news and current affairs media and that people respect the quality standards applied to the research and presentation of news and current affairs on the ABC.

The Mansfield report in 1997 noted that the vast majority of submissions to it did not mention the issue of bias at all. Out of a total of 10,600 submissions only five per cent commented that the ABC exhibited bias, while 12 per cent specifically expressed the view the ABC was unbiased in its presentation of issues. There are other surveys, Senator. There are recent findings, ABA investigations, I can draw your attention to.

The recent audit by the Australian National Audit Office found that the ABC's procedures and practices were effective in assisting the ABC deliver news and current affairs programs that reflected the charter requirements of independence, accuracy and impartiality. Furthermore, the ANAO found that the ABC's approach to the control of standards of political and electoral broadcast was robust and effective. I think you will find that the vast majority of the community, the public of Australia, does believe in the ABC and does believe that they are impartial.

**CHAIR**—Senator Santoro, do you have any other questions?

**Senator SANTORO**—Mr Chairman, in accordance with the agreement that we made with the opposition, I will desist now and I will put the rest of my questions on notice. One of the things I will try to do is set up a mechanism to channel to you the many complaints that people like me get sent to me in relation to bias. You may have some different statistics in the future, Mr Balding, but thank you for your answers.

**Mr Balding**—Thank you, Senator.

**Senator SANTORO**—We will keep on with the dialogue.

**Senator MACKAY**—On the question of bias, Mr Balding, do you think—and this is a serious concern of the Labor Party, may I say—this sort of relentless attack by members of the coalition is having any effect on the way your journalists are reporting?

**Mr Balding**—I do not believe so. Our journalists are very professional in carrying out their duties and responsibilities, particularly in respect of fulfilling their obligations under the charter. They take very seriously their charter obligations, particularly editorial balance. I believe they are professional enough to do their job regardless.

**Senator MACKAY**—You would have to admit it must be difficult, because it has been relentless. It must be difficult—we are all human beings—in terms of how journalists interview people. When you have the minister of the day being so public with criticism of the ABC, that surely must have some impact on journalists; if not consciously then certainly subconsciously. We have noticed a change, from the Labor Party perspective.

**Mr Balding**—I have not spoken to individual journalists to see it from a personal perspective, but obviously it comes back to the professionalism of the journalist.

**Senator MACKAY**—Let me give you an example. On the day that the Telstra sale bill was defeated, the abc.net.au article included quotes from Minister Williams, Senator Minchin, Mr Anderson and Senator Shayne Murphy. There was no quote from Labor. I am just attempting to counter some of this, so that is the first thing I would say. *Inside Business* has, as I understand it, interviewed the coalition communications minister three times in a row, but, sadly, there has been no interview with Mr Lindsay Tanner. Also, Alan Kohler's soft interview of Daryl Williams last Sunday, when Alan Kohler effectively provided a dorothy dixer about the government being the owner and regulator of Telstra, was, one could say, evidence of ABC bias.

**Senator SANTORO**—All you are doing is adding to my litany of complaints and bias. I thank you for your support.

**Senator MACKAY**—The ABC kept a story on Simon Crean's leadership on the Internet politics site for weeks before the opposition rang up and asked for it to be removed because it was not news. I think it would be true to say that this kind of attack, this sort of McCarthyism that is being shown here, is starting to have an impact, from our perspective, on the independence of the ABC. I am not necessarily blaming the ABC; I am blaming this mob over here on my left.

**Mr Balding**—I am more than happy to have a look at those instances, but I would be very disappointed if that was the case.

**Senator MACKAY**—We would appreciate if you did, because we are detecting that attitudinal shift. I can understand why, to some extent. If you are being kicked to death by your own minister day after day and being subjected to this type of nonsense, I can understand why it is impacting on specific journalists—not necessarily you, Mr Balding. We have noticed a change. Anyway, have a look at those specific examples. If we can think of any others we will perhaps forward them to you. You mentioned the audit a minute ago. How is that going? What will happen with it with respect to the ABC and the issue of bias? What is it recommending?

**Mr Balding**—There is currently a follow-up audit from that initial performance report on our governance. That audit was commenced back in September, I believe. The audit is still current. I am expecting the audit to be completed by the end of December and a report some time in the new year. It is a follow-up audit to the previous governance audit.

**Senator MACKAY**—There were some questions on notice, I think, with respect to bias and the war in Iraq. What was the response there?

**Mr Balding**—There are a number of questions on notice.

**Senator MACKAY**—Yes. It is the issue of what the audience were interested in that I am going to specifically. The complaints during the Iraq war: what were they and what was the response?

**Mr Balding**—I believe you will find that it is set out in the annual report. From memory, I think it was pretty well the same number of complaints on both sides. Mr Crawford will have the numbers. There were about 144 complaints.

**Senator MACKAY**—Does anybody have the figures? I used them in a speech, which I do not have with me, I am afraid.

**Mr Crawford**—There were roughly 7,000 contacts, of which more than 5,500 were complaints. Of those, 4,200 or 76 per cent related to scheduling changes. There were 144 complaints, or 2.6 per cent, alleging anti-US coverage and 147 complaints, 2.7 per cent, alleging pro-US coverage. They are on page 32 of the annual report.

**Senator MACKAY**—That is good. Thanks for that. The nature of the complaints on scheduling: what were they about—just out of curiosity?

**Mr Crawford**—I think a lot of them were interruption to children's programming and things like that.

**Senator MACKAY**—Minister, this is to you in your capacity as representing Mr Williams. Maybe the department will be able to assist. Does the government consider the matter of Senator Alston's complaints to the ABC regarding alleged bias on the *AM* program as closed or will the government be pursuing it further—irrespective of the actions of individuals, that is.

**Senator Kemp**—Senator, there may be some people at the table who are better informed than I am.

**Senator MACKAY**—I understand.

**Senator Kemp**—The government has been through the figures on the various assessments that were made of bias, and there was a first report and then there was a second report. The second report I think quoted a figure of 12 particular incidents. I think most people would feel that there was an issue there that should be properly addressed. The government is keen to ensure that the complaints handling processes of the ABC are as independent as possible, and we are happy to work with the ABC towards that goal. I understand the ABC knows the government's position well, and, if my briefing note is correct, we are awaiting a response from the ABC on that level. I want to make a couple of comments about your remarks. To suggest it is McCarthyist is of course just complete nonsense.

**Senator MACKAY**—I did not say the government was being McCarthyist.

**Senator Kemp**—To say it is a McCarthyist-like attack is just complete nonsense, and that sort of extreme language I do not think helps the consideration of issues. The ABC is one of the robust bodies involved in public debate in this country, and people will naturally have the capacity to respond if they wish to. I have been at Senate estimates now as a minister and as a member of the opposition and I have seen really quite disgraceful assaults by the Labor Party on institutions. A more recent one was during the GST with the assault by your colleagues on the tax office. I think that, when the history of this period is written, a number of your colleagues will come out rather poorly on that as an attempt to intimidate an independent authority.

**Senator MACKAY**—Were you at the table?

**Senator Kemp**—I was at the table, yes.

**Senator MACKAY**—Did you try and stop the line of questioning?

**Senator Kemp**—I was the Assistant Treasurer and I spent a lot of time debating this issue. This rather precious approach that you have adopted, I have to say, does not do you any credit or the Labor Party any credit.

**Senator MACKAY**—Can I ask a question. When you were at the table, did you attempt to defend the tax office?

**Senator Kemp**—Of course I did.

**Senator MACKAY**—Why aren't you defending the ABC?

**Senator Kemp**—You have asked me a question and I have responded to that question.

**Senator MACKAY**—You are the minister representing the minister for communications, and you are sitting here allowing this kind of drivel to go unquestioned. You are not protecting the witnesses at the table but you went in to bat for the tax office.

**Senator Kemp**—I have to say, Senator, you are ranging far and wide now—

**Senator MACKAY**—You raised the tax office, not me.

**Senator Kemp**—I am not going to respond, Senator. You made outlandish comments. I sat quietly and listened to them and now I am going to respond.

**Senator MACKAY**—Yes, you sat very quietly.

**Senator Kemp**—I sat there very quietly. There was quite a range of questions from Senator Santoro—

**Senator MACKAY**—And you let him go.

**Senator Kemp**—Hold on, Senator; I am going to respond. These were handled by Russell Balding and, on most of the questions, Mr Balding felt he had to get more information. He is quite entitled to do that. There was no aggressive, unpleasant exchange. He sought more time to get more information. I think that was entirely appropriate. But when you launch forth with some drivelish attack about McCarthy-like tactics, of course I will respond.

**Senator MACKAY**—Mr Balding, given that the ABC's Independent Complaints Review Panel is considered to be one of the most independent complaints panels in Australia—I think

it has been lauded by the coalition today with respect to SBS—what is the ABC planning to do in response to the government's requests? The minister gave us some information.

**Mr Balding**—Senator, I presume you are referring to the ABC's complaints handling processing system as distinct from the complaints review panel—

**Senator MACKAY**—Yes, I beg your pardon. Sorry; it has been a long day.

**Mr Balding**—which is a separate body, so it is all in its entirety. Our complaints handling processing system is, as I believe I have said a number of times at this committee, very robust and very fair. We have benchmarked that system against other public broadcasters around the world and other media organisations around the world. Since we introduced significant enhancements to that system about 15 months ago, we are of the view that it is second to none. Notwithstanding that, that does not mean that you stop reviewing with the purpose of improving any system. We are continuing to look at our complaints handling processing system and, where we can identify any improvements to that, we will seek to bring those improvements forward and implement them. We are currently reviewing it now.

**Senator MACKAY**—When the minister indicated that the government or the department—whomever—were in discussions with the ABC with respect to that, what precisely did that mean?

**Mr Balding**—I presume that the minister is referring to correspondence between the former minister and the board, which spoke about improvements to the complaints handling processing system. The minister had made some suggestions. The ABC was already formulating some ideas of ways to improve that. We want to go through that in a very transparent and open way, and that is what the board is looking at at the moment.

**Senator MACKAY**—Do you think the findings indicate that that level of review is required? What is wrong with the current processes?

**Mr Balding**—There has been public criticism of the complaints handling processing system, in particular—

**Senator MACKAY**—By whom?

**Mr Balding**—By the previous minister.

**Senator MACKAY**—That is right; one person.

**Mr Balding**—There were other media comments on it as well, by other commentators in the media. I believe we have an obligation to have a look at our system again to make sure that we are striving to achieve best practice. And, where there are opportunities to improve it—to improve its transparency, to improve other processes which are part of the entire complaints handling processing system—then I am more than happy to have a look at them.

**Senator MACKAY**—That is fair enough. Minister, there was an article in the *Bulletin* dated 28 October by Fred Brenchley entitled 'Bias minder'. Are you aware of that or perhaps somebody from the department could show it to you. I do not know whether the department is able to assist you here, but this seems to suggest that the government is about to institute an independent monitoring system for the ABC. Is anybody from the department able to assist the minister with that?

**Senator Kemp**—Senator, this is the first time I have seen the article—

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

**Senator Kemp**—I cannot shed any light on it.

**Senator MACKAY**—Does anybody from the department know whether the government is intending to institute an independent monitoring system for the ABC? Hello, the department? Ms Williams?

**Ms Williams**—Senator, my brief here really just says, as Mr Balding has already said, that the government has had discussions with the ABC about mechanisms by which the ABC assures itself of compliance with the requirements of its act and the fact that its presentation is impartial.

**Senator MACKAY**—Are you aware of any plans to establish an independent monitoring system for the ABC?

**Ms Williams**—I think the government is talking about how the ABC can improve its—

**Senator MACKAY**—That was not my question. Are you aware of any plans?

**Ms Williams**—No.

**Senator Kemp**—Senator, I do not know if this is correct. If you read the article, there were comments from Mr Williams in it. I think you should read on a bit.

**Ms Williams**—I think this discussion is under way about how the independent complaints handling process can be improved.

**Senator Kemp**—Senator, have you read the article?

**Senator MACKAY**—Yes.

**Senator Kemp**—Have you read the comments that are quoted from the new communications minister?

**Senator MACKAY**—Yes.

**Senator Kemp**—I am a bit surprised that you are bothering to ask the questions.

**Senator MACKAY**—What do you mean?

**Senator Kemp**—The exact answers to your questions are in the article. I do not think you have even bothered to read the article.

**Senator MACKAY**—I have read the article.

**Senator Kemp**—If you had read the article, I do not think you would have been asking the questions.

**Senator MACKAY**—Maybe we have other sources of information, Minister.

**Ms Williams**—Senator Mackay, the discussion is continuing about how these processes can be improved.

**Senator MACKAY**—Has any work been done on an independent monitoring system for the ABC by the department?

**Ms Williams**—There were lots of discussions previously about how this process could be improved.

**Senator MACKAY**—Inter alia was that option raised?

**Ms Williams**—I am struggling a little bit about what an independent monitoring system is. There have certainly been discussions with the ABC about how to improve its independent monitoring process, yes.

**Senator MACKAY**—Did that include setting up an independent monitoring system of the ABC? I just want to know; that will do.

**Senator Kemp**—We are in discussions with the ABC. That is what I have said. The government is prepared to work towards an independent complaints tribunal. What more do you want?

**Ms Williams**—A lot of options have been looked at with the ABC. ‘What is an independent system?’ is what I am struggling with. But no decisions have been made. The government has talked to the ABC about things; the ABC, as Mr Balding said, is also looking at its own system.

**Senator MACKAY**—I understand that the definition of what might be an independent system is in the eye of the beholder but, in the broad, was there ever an option contemplated, or is it live, that there might be an independent monitoring system for the ABC? Yes or no?

**Ms Williams**—There is what is called now an independent monitoring system. There is a range of issues. What is an independent monitoring system in your terms? I am sorry, Senator Mackay; I am not being difficult here. Yes, the government is certainly interested in upgrading what is now called an independent monitoring system and it is looking at options. The ABC is also looking at its system. Discussions are continuing.

**Senator MACKAY**—Let me give you an example. I will go to Mr Brenchley’s article and quote from it. Mr Brenchley said:

The model being examined is the right-wing Fraser Institute in Canada, which regularly makes quality assessments of the Canadian Broadcasting Corporation.

Has that type of option been contemplated?

**Ms Williams**—We certainly looked at that option.

**Senator MACKAY**—Thank you.

**Ms Williams**—We have looked at all kinds of options. But there is no sort of—

**Senator MACKAY**—I understand that. So you looked at that option—the option of an institute actually making written assessments. What else did you look at as a department in terms of options?

**Ms Williams**—We looked at that option. We looked at the option to, for example, have the ABA look further at independent complaints.

**Senator MACKAY**—The ABA?

**Ms Williams**—Yes. At this stage discussions are continuing.



**Senator MACKAY**—Did you look at using a company like Media Monitors to monitor ABC broadcasting? Was that ever contemplated?

**Ms Williams**—As far as I know, the department has not put up anything.

**Senator MACKAY**—No, I am not asking what the department put up; I am asking whether that was ever contemplated.

**Ms Williams**—A number of things have been contemplated.

**Senator MACKAY**—I understand your constraints, but is it a yes or no? Was the issue of using a company like Media Monitors ever contemplated?

**Ms Williams**—Yes.

**Senator MACKAY**—Thank you. That was not put up by the department, so I presume that came from somewhere in government. Is that correct?

**Ms Williams**—There have been lots of things discussed.

**Senator MACKAY**—Yes, you have said that a lot. We have confirmed that there are two things now which were contemplated.

**Ms Williams**—No, not contemplated—discussed.

**Senator MACKAY**—Discussed.

**Senator Kemp**—Senator, there is a very big difference, so do not try to put words into people's mouths, please.

**Ms Williams**—The department has obviously looked at a range of options.

**Senator MACKAY**—What else was looked at or discussed?

**Ms Williams**—Ranges of issues, Senator Mackay. I cannot really decide, from my department behind me, what particular options. I think here we are probably straying into policy issues. The department did a lot of research into this entire issue. We have talked to the ABC; the ABC, I am sure, has also done research into this entire issue. No decisions have been made and I think, if I get any more into this issue, I will be straying into policy advice.

**Senator MACKAY**—We have established that there were two options discussed. Right? We have; you said yes.

**Ms Williams**—We looked at a range. Sorry, Senator Mackay, but you really are trying to put words into my mouth.

**Senator Kemp**—You are trying to verbal people, Senator. That is what I think you are trying to do.

**Senator MACKAY**—Shocking, isn't it?

**Senator Kemp**—It is shocking, actually.

**Senator MACKAY**—Was there a proposal for regular monitoring of ABC TV and radio at all for bias? That is a broad question.

**Ms Williams**—All this that we are talking about is monitoring.

**Senator MACKAY**—So that would be a yes?

**Ms Williams**—No. I am not too sure what you are asking me and I really think we are getting into issues here where I am afraid if I say a word it will be misinterpreted.

**Senator Kemp**—Which it is, actually.

**Senator MACKAY**—Okay; that is fair enough. Minister, does the government have a view of whether there is a need for a government monitoring system of the ABC?

**Senator Kemp**—Senator, I cannot shed any more light than the briefing that I have here. The briefing says that we are working with the ABC towards having discussions about an independent—I cannot shed any more light on it than that.

**Senator MACKAY**—I understand that. That is fair enough.

**Senator Kemp**—That is the brief I have and that is what I am saying.

**Senator MACKAY**—Has the department worked on any papers with respect to any monitoring system? You said you had done a lot of research and you assumed that the ABC had done so, too.

**Ms Williams**—As departments do, when this issue came up we did a lot of monitoring on what happens in other places in the world. But no, no papers.

**Senator MACKAY**—No papers?

**Ms Williams**—No.

**Senator MACKAY**—Were any companies at all approached with respect to undertaking monitoring of the ABC by the department? Did you approach any companies?

**Ms Williams**—No.

**Senator MACKAY**—Have there been any discussions about monitoring SBS within the department or between the department and government?

**Ms Williams**—We tend to think of the national broadcasters as the national broadcasters, so if we are doing work on what monitoring is done, it could apply.

**Senator MACKAY**—So it necessarily may include the SBS as well as the ABC?

**Ms Williams**—If you are looking at monitoring, you tend to look at the national broadcasters, but that does not mean to say we have done particular work on the SBS. We have really done work on what happens around the world.

**Senator MACKAY**—In respect of Australia, in terms of national broadcasters, there is SBS and the ABC.

**Ms Williams**—Yes. We know what happens at the ABC; we know what happens at the SBS. But when this issue arose we did some work on what happens elsewhere.

**Senator MACKAY**—In the work that you did, did you determine whether communist regimes monitor their news services?

**Ms Williams**—No, we did not look at communist regimes.

**Senator MACKAY**—Which governments in the world, in terms of your global research, monitor their national broadcasters? Did you come across any?

**Ms Williams**—You mentioned Canada.

**Senator MACKAY**—Apart from, yes, Canada.

**Ms Williams**—We looked at the UK.

**Senator MACKAY**—Did you look at anywhere else?

**Ms Williams**—South Africa, I understand.

**Senator MACKAY**—You looked at the systems in those three countries in terms of the research that you undertook.

**Senator TCHEN**—Mr Balding, I have a couple of questions following from your answers to Senator Santoro's questions. However, I do have something else which I want to bring to your attention. Last Friday night, 31 October, I received an email message from Mr Ralph Zwier. It was addressed to me. The message said:

The ABC have been badgering me in relation to our ICJS dossier. They are running a Media Watch Monday night "examining ABC bias". The producer was dredging for information on who was behind Senator Alston's dossier of complaints.

I have attached to this email my first response to them on Tuesday, and a stronger response written today. You'd have to ask yourself what business the ABC program on "the media" has in attacking ordinary members of the public who have made complaints!

I would like to table this message and most of the attachment.

**Senator MACKAY**—Now leap to the defence of the ABC, Senator Kemp.

**Senator Kemp**—Senator, I have to say that I know the hour is late, but your humour is getting weaker and weaker. The truth is that there is a question. Why are you so worried about a question being asked and why do you butt in all the time?

**Senator MACKAY**—No, I am not.

**Senator Kemp**—Yes, you are.

**CHAIR**—Can we just deal with this issue of the tabling of the documents. Senator Tchen has asked to table the document. Is the committee agreeable to that? He has an email and a response.

**Senator MACKAY**—I will have a look at it.

**Senator TCHEN**—While Senator Mackay is looking at that email, can I ask: do you know, Mr Balding, whether *Media Watch* has analysed the way the ABC has reported the Iraq war? You said *Media Watch* analyses how the media reports stories. Do you know whether *Media Watch* analysed the ABC's reporting of the Iraq war?

**Mr Balding**—I would have to ask the director of television whether she is aware of any particular instance. I am sure there would have been some coverage of it.

**Ms Levy**—There has been, yes. There have been a number of programs.

**Senator TCHEN**—Earlier, Mr Balding suggested that he could find instances of *Media Watch* being critical of the ABC. Perhaps you could look into this. How long would it take to get the information?

**Ms Levy**—There have been quite a few programs and it would not take very long to get the information.

**Senator TCHEN**—Would you take it on notice?

**Ms Levy**—We will try and give you the numbers of the programs, yes.

**Senator TCHEN**—Mr Balding, at the centenary meeting of the federal parliament, the Prime Minister said in his speech that he attributed the strength of Australia's democracy to—apart from the separation of power, independent judiciaries and so on—a fourth element, which he described as an independent and sceptical press. Do you agree with him?

**Mr Balding**—I would have to look at it in the full context, but I would like to think it is an independent and an examining media, a searching media, and I think it is a very fundamental part of our democracy.

**Senator TCHEN**—Searching for what?

**Mr Balding**—For the proper truth; the facts behind the story. To not merely accept media releases from the government or even the opposition of the day: to properly analyse the current affairs issues that make up every part of our daily lives in this democracy that we have here. It is a fundamental part of our democracy.

**Senator TCHEN**—And independent searching?

**Mr Balding**—Independent searching, examining, analysing—and, most important of all, the freedom of speech.

**Senator TCHEN**—How far do you think the independence should go in the organisation? How far down the line?

**Mr Balding**—That is a very hard question. How long is a piece of string? It depends on the issue itself, but independence is independence. It is a finite item. You are either independent or you are not independent, so it is very hard to talk about how far independence should go.

**Senator TCHEN**—It is necessary to talk about it, though: for example, you are independent of the minister for communications, obviously.

**Mr Balding**—The ABC is editorially independent of the government, yes.

**Senator TCHEN**—That is right, and your news executive would have editorial independence from you, obviously.

**Mr Balding**—They have to adhere to our editorial policies and guidelines. They are accountable to me as editor-in-chief, but they have very rigid editorial policies and guidelines that they have to adhere to in their code of conduct.

**Senator TCHEN**—In whose judgment?

**Mr Balding**—Ultimately it is in my judgment and the board's judgment.

**Senator TCHEN**—Then the independence goes down but the judgment comes up?

**Mr Balding**—You have to have some elements of upward referral and some areas of accepting responsibility and accountability. The managing director's role at the ABC is one of editor-in-chief, and the managing director is accountable to the ABC board. The ABC board is independent in itself. The legislation requires that.

**Senator TCHEN**—Exactly; so the buck stops. There is a stage at which every buck stops.

**Mr Balding**—Ultimately the ABC board, in fulfilling its obligations and duties under the ABC Act, is accountable for the independence of the ABC.

**Senator TCHEN**—Yes, and who is responsible to the parliament for the ABC Act?

**Mr Balding**—The board is responsible for fulfilling the duties and functions of the ABC Act and responsible to parliament for that.

**Senator TCHEN**—Not the minister?

**Mr Balding**—I do not think we can hold the minister accountable for the ABC board fulfilling its—

**Senator TCHEN**—That is fine. Earlier, Mr Balding, you mentioned a survey showing that only five per cent of the people surveyed regard the ABC as being biased. Can you tell us something about that survey? Who were the subjects?

**Mr Balding**—It was a Newspoll survey. It was our annual audience appreciation survey that we conducted. We conduct it every year. There are about 2,000 people surveyed throughout Australia, across various demographics. It is an independent survey conducted by Newspoll. I have released that survey publicly and it is available on our Internet site.

**Senator TCHEN**—Of ABC audience.

**Mr Balding**—Both.

**Senator TCHEN**—Of general population or ABC audience?

**Mr Balding**—Both. There are various questions which take it down either path; whether they are an ABC viewer or listener or they are not an ABC viewer or listener.

**Senator TCHEN**—And the five per cent consists of ABC listeners?

**Mr Balding**—Yes, when you are examining, questioning or surveying someone in respect of whether they view an organisation's perceived bias, then obviously the first part of the question is: are you a listener or are you a watcher of ABC news and current affairs services? It takes you down a different path. Once you establish that they are a listener or a watcher of ABC, then there are further detailed questions. All the detailed results of that survey are available publicly, Senator. I would be happy to send you a hard copy.

**Senator TCHEN**—Yes, if you would; I would appreciate it. Mr Balding, you were called to give evidence at 9.15.

**Mr Balding**—I was called to give?

**Senator TCHEN**—To come into this hearing at 9.15, weren't you?

**Mr Balding**—It was about 10 past or a quarter past nine; that is correct.

**Senator TCHEN**—Yes, a quarter past nine. You were originally scheduled to come in at two o'clock.

**Mr Balding**—That is what we were initially told, yes.

**Senator TCHEN**—If you were in here at two o'clock—I know you had nothing to do with the scheduling—then Senator Santoro's question would have made the evening news, wouldn't it?

**Mr Balding**—That is up to the media, Senator. I had no control over when I was called before this committee.

**Senator TCHEN**—No, I am saying you had nothing to do with scheduling. But the fact was that had your hearing been heard at two o'clock as per the original schedule, Senator Santoro's question would have made the evening news, would it not?

**Mr Balding**—That depends on the newsworthiness and the news of the day. That is up to the various editors of the media.

**Senator TCHEN**—I say again; I am not saying that you had anything to do with the scheduling of the time.

**Senator MACKAY**—A point of order, Chair. The committee made these decisions. I wonder whether Senator Tchen is reflecting on the committee.

**Senator TCHEN**—Thank you, Mr Balding.

**Senator MACKAY**—I think you, as chair—

**Senator TCHEN**—I have no more questions, Mr Chair.

**Senator MACKAY**—actually went through the reasons for the rescheduling. The first one was to accommodate Senator Harradine. The second scheduling change was to accommodate Senator Lundy, who was ill. I do not know what bizarre type of paranoia Senator Tchen is exhibiting here, but they were the two reasons given for the rescheduling change.

**Senator TCHEN**—Senator Mackay, I do not know what bizarre thought is going through your head. I am just asking—

**Senator MACKAY**—I think it is reflecting on you, as chair, Senator Eggleston, to impugn the motivation of the committee.

**CHAIR**—I do not think the motivation of the committee is being impugned. I think that is quite clear. Senator Tchen is just making an observation, I think. We will leave it at that. Senator Mackay, would you like to proceed?

**Senator MACKAY**—I think Senator Santoro alluded to the situation with Stephen Crittenden, who was suspended, as I understand. I wonder whether the ABC can provide an outline to the committee of the suspension and then reinstatement of Stephen Crittenden, who—just for completeness—was recently suspended and reinstated for writing an opinion piece in the *Sydney Morning Herald*.

**Mr Balding**—Yes, Senator.

**Senator MACKAY**—Can you provide an outline, Mr Balding, of what happened?

**Mr Balding**—I can provide a general outline. I would be happy to provide more detail on notice. But generally it was to do with the process of receiving approval before an item is published. Mr Crittenden had not, I believe, received that approval and the item was subsequently published. It was an issue of process, not necessarily the editorial content of the article.

**Senator MACKAY**—Is this a process that is applied to all ABC journalists?

**Mr Balding**—Yes, it should be.

**Senator MACKAY**—It should be or is?

**Mr Balding**—It should be.

**Senator MACKAY**—Say it is someone like Phillip Adams, for example, who writes opinion pieces all the time—

**Mr Balding**—There is a difference between a full-time employee and those who are not full-time employees.

**Senator MACKAY**—What is the procedure for a full-time employee of the ABC in terms of writing opinion pieces?

**Mr Balding**—If a full-time employee wishes to engage in other activities—and in particular if they are paid activities or other editorial activities—they would need the approval of their immediate supervisor before engaging in that activity.

**Senator MACKAY**—You say it should apply. Are you saying that this has not been policed assiduously?

**Mr Balding**—No, I am not assuming anything. I am saying it should apply. There may be instances I am not aware of where it may not have applied. I am saying they are the rules, that is the policy and that is what should apply.

**Senator MACKAY**—So it is policed presumably in every case, is it? There was some equivocation on your part. I do not want to verbal you, though.

**Mr Balding**—It would be. It has been a longstanding policy. It is nothing new.

**Senator MACKAY**—When was the last time somebody was suspended for failing to notify their immediate supervisor of an opinion?

**Mr Balding**—Other than Stephen Crittenden?

**Senator MACKAY**—Yes.

**Mr Balding**—I would have to take that on notice. I am not aware.

**Senator MACKAY**—Okay. I would be interested in who has contravened and what has happened to them. You can take that on notice. Is it the case that the ABC hired a private law firm in its internal investigation regarding Mr Crittenden?

**Mr Balding**—I do not know that it is ‘investigation’. The ABC engages private law firms in respect of a number of HR industrial matters. We retain a number of law firms. I am happy to take that on notice, yes.

**Senator MACKAY**—Okay. Nobody here is competent to let you know now?

**Mr Balding**—No.

**Senator MACKAY**—Can you take on notice how much it cost. If this did occur, I wonder whether the investigation—or whatever term one wishes to use—can still be considered internal if outside law firms are hired. This may simply be a process issue. I do not know.

**Mr Balding**—Again, I would need to look at that. But any internal investigation is subject to our enterprise agreement and it would be in accordance with that agreement.

**Senator MACKAY**—How much money has the ABC spent on legal firms for legal advice and action in employee relations cases over, say, the last two years? Just pluck something out of the air.

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

**Senator MACKAY**—Would it be minuscule, substantial?

**Mr Balding**—I really would not know.

**Senator MACKAY**—No idea?

**Mr Balding**—No, I would not like to place a figure on it. I would rather take it on notice and provide a full answer for you.

**Senator MACKAY**—With respect to ABC 3LO presenter Red Symons appearing in commercial advertisements, does the ABC have a policy regarding ABC presenters appearing in advertisements?

**Mr Balding**—Yes, it does. It also takes into account any pre-existing contractual arrangements that presenters may have had prior to coming to the ABC. Again, the ABC looks at those particular issues to make sure there is no conflict with the ABC.

**Senator MACKAY**—Was there any in this circumstance?

**Mr Balding**—I believe Mr Symons already had a pre-existing contract to do commercials prior to signing the contract with the ABC.

**Senator MACKAY**—If one has a pre-existing contract then it falls within your guidelines?

**Mr Balding**—Yes.

**Senator MACKAY**—Are the guidelines in writing?

**Mr Balding**—I believe they are.

**Senator MACKAY**—That would seem to be somewhat of an obvious statement.

**Mr Balding**—They would be in writing. It is ABC policy, yes.

**Senator MACKAY**—Would the committee be able to have a copy of those?

**Mr Balding**—Yes.

**Senator MACKAY**—Thank you. With respect to the decision to axe *Behind the News*, what other options did the ABC have to operate within its budget, given the rejection of the triennial funding submission? Why *Behind the News*?

**Mr Balding**—You will recall on 4 August I announced program and non-program cuts totalling some \$26 million. In arriving at those decisions the ABC board considered a whole range of other options. Each of those options was fully costed and financially modelled by management. However, I do not think it is of any benefit here tonight to canvass or go through those options that may have been considered and then rejected. But I can assure the committee—

**Senator MACKAY**—Why not? It was an extraordinarily popular program. Were there any other options canvassed?



**Mr Balding**—Senator, there were many options canvassed at the beginning of the process. As outlined to this committee, all programs and services were under review at the start of the process, in trying to address the issue of the \$26 million funding shortfall that we had in our budget. We went through, as I said, a whole range of options that were fully costed and modelled. There were many options.

**Senator MACKAY**—So there were alternatives to the axing of *Behind the News*?

**Mr Balding**—There were lots of alternatives to the axing of *Behind the News*.

**Senator MACKAY**—So why did you pick that one in particular?

**Mr Balding**—Why did we pick any one in particular? There were other programs cut as well as *Behind the News*. There were issues in respect of *Behind the News*. When we started looking at the options one of the criteria that we had, as far as evaluation was concerned, was to have least impact on our staff. Where we cut a program or cut a service that has a high impact on staff, it results in high redundancy costs. Again, that was not going to help our funding situation, so my objective initially was to minimise the impact on staff. The other one was to ensure that it delivered a cash flow in the budget year required, and *Behind the News* did fit that criteria. But it is wrong to talk about program cuts; one program versus another program. The other issue in respect of program cuts is that it is difficult. We should not be cutting any programs and services.

**Senator MACKAY**—I appreciate that point, but were there any other cuts contemplated at that point that fell within the two criteria that you have outlined?

**Mr Balding**—Not to the same extent, no. Other options that we looked at required a much higher level of staff redundancies, and at this stage we do not anticipate any redundancies as a direct result of the axing of *Behind the News*. Other initiatives, as painful as they were from an editorial and programming aspect—as *Behind the News* was—had a much higher redundancy cost which we just could not afford to cash flow.

**Senator MACKAY**—Are you considering ways to get *Behind the News* back on air?

**Mr Balding**—In the absence of identifying a new, additional source of funds, no, we are not.

**Senator MACKAY**—Why not?

**Mr Balding**—Again it comes back to a funding issue. As I have said publicly a number of times, without an identified additional new source of funds, it would be very difficult to revisit any of those budget decisions.

**Senator MACKAY**—Is the ABC contemplating some resource rearrangements whereby it might be able to look at restoring *Behind the News*? Are you saying there is no money in the kitty at all?

**Mr Balding**—It was very difficult to find the \$26 million that we had to find.

**Senator MACKAY**—Yes, I understand that.

**Mr Balding**—And it would be very difficult to revisit any of those programming budget decisions, because again we would then have to reassess the other options that we looked at that have a significant redundancy cost that would result in a significant loss of staff and a

significant cost to the corporation. So again, in the absence of any identified additional new source of funds, it would be very difficult to revisit that decision.

**Senator MACKAY**—Are there any other cuts to ABC programming planned and not yet announced?

**Mr Balding**—At the moment there are no planned major cuts for this financial year. What I would like to bring to the attention of the committee, however, is that the costs of broadcasting, program acquisition and production are increasing at a faster rate than our base funding is increased by. Having said that, there are always cost pressures on the ABC's budget and those cost pressures will need to be addressed at some point in time if no additional funding is forthcoming. But at this stage there are no additional major cuts planned for this year.

**Senator MACKAY**—No additional major cuts planned? No additional cuts planned? Which one is it?

**Mr Balding**—There are no major cuts planned for this year.

**Senator MACKAY**—No major cuts planned?

**Mr Balding**—No.

**Senator MACKAY**—Are there cuts planned that may not be major?

**Mr Balding**—There are ongoing budget pressures that we are looking at that are being addressed within each of the divisions and, as I said, in the event of additional funding not forthcoming at some point in time, those cost pressures do build up and we need to have a look at them.

**Senator MACKAY**—Not to put too fine a point on it, Mr Balding, you may be giving us a bit of a sneak preview, may you not, of cuts that may occur?

**Mr Balding**—Not at the moment, Senator; sorry.

**Senator MACKAY**—You are. You are saying, 'There is increasing cost pressure; therefore we cannot guarantee,' or words to that effect.

**Mr Balding**—Yes, at some point in time. If those cost pressures are allowed to be built up and there are no additional funds to address them, then inevitably the ABC again will have to address them. We have no option other than to operate within the funding levels provided by government.

**Senator MACKAY**—And, secondly, you have flagged that there may be cuts but they may not be regarded as major.

**Mr Balding**—There are no further programming cuts that I am aware of.

**Senator MACKAY**—There are no further programming cuts? What else is being contemplated?

**Mr Balding**—We are forever looking at efficiencies in respect of management and administration and other areas of our operations to improve the way we do things.

**Senator MACKAY**—We will come back to that next time. Thank you, Mr Balding. I also want to ask some questions with respect to the National Interest Initiative. The ABC's

triennial budget funding bid was rejected, and the bid for continued National Interest Initiative funding will cease from mid-2005, which has placed some ABC regional radio and television services under threat from mid-2005. Will the ABC be required to commence winding up these services if the National Interest Initiative funding is not extended beyond 2005?

**Mr Balding**—Yes, we would. You are correct in saying the National Interest Initiative goes through to the end of June 2005. However, in the event that the ABC does not receive a renewal of commitment from government before the beginning of that financial year, the ABC will need to take action to wind back those services during the last financial year of that program to ensure that the cost of any redundancies or the wind-back of any programs is met from within the funds that are available.

**Senator MACKAY**—My understanding is that it is a fairly modest ask. Is that \$17.8 million per annum?

**Mr Balding**—The program is \$17.8 million per annum.

**Senator MACKAY**—I am advised that this supports around 50 full-time regional jobs. Is that correct?

**Mr Balding**—It does. I can give you a list of the activities that it does cover. It covers the expanding of regional radio content. There are 57 new full-time equivalent positions. There are also two new regional radio stations. One, you will recall, was at ABC Ballarat in Victoria. The other one recently opened was ABC Great Southern in Wagin, Western Australia.

**Senator MACKAY**—Yes.

**Mr Balding**—It also has produced through that initiative some 7,260 additional hours per year of radio programs. We have established a regional radio production fund. We have commissioned 110 hours of additional television programming. We have introduced a daily business program on ABC television. We have also reintroduced weekend evening news services in the Northern Territory and the ACT. In the absence of commitment to the renewal of that funding, all those activities would be under review.

**Senator MACKAY**—I take it they would pick one that you indicated just then: the Ballarat or Wagin regional radio stations. Are you saying they would have to close?

**Mr Balding**—All of them would be under review because we would not be able to sustain all those activities without the renewal of that funding.

**Senator MACKAY**—When would they have to close?

**Mr Balding**—What we would be looking for is commitment from government for the renewal of the NII prior to the beginning of the financial year 2004-05.

**Senator MACKAY**—Minister, I appreciate you are the representing minister. Given this, is the government contemplating renewing the funding?

**Senator Kemp**—I think, as Mr Balding has said, it will be considered at the start of that financial year; I assume in the budget process, which is a normal process for terminating a program. The government then has to make a decision whether it will continue the program. But this is a very normal process of government, Senator.

**Senator MACKAY**—I think the issue is if the funding for this initiative is not confirmed soon for 2005-06, the sorts of activities that Mr Balding has referred to will need to commence. He is saying at the beginning of 2004-05. What they are saying is that it needs to be considered prior to that.

**Senator Kemp**—Senator, the government is aware of these particular issues and they will be considered by the government when it considers its particular priorities. But I think Mr Balding has given you the general time scale which is involved here.

**Senator MACKAY**—Thank you for that, Minister. Mr Balding, I refer to the ABC's planned roll-out of ABC radio services to around 50 regional towns. Did you have that in your list?

**Mr Balding**—It was in the last triennial funding submissions, and it was rejected.

**Senator MACKAY**—With the 2003 triennial funding?

**Mr Balding**—Correct.

**Senator MACKAY**—Given that that was not given the tick, is there any chance of this going ahead without further funding?

**Mr Balding**—No, no chance at all.

**Senator MACKAY**—What towns and regions may miss out if that funding is not forthcoming?

**Mr Balding**—I can provide that on notice. It is a public document. What we are seeking to do is to take NewsRadio and Triple J to all population centres of greater than 10,000. We have also picked up a number of enhancements to transmission which covered some black spots on Radio National and Classic FM as well, if my memory serves me correctly.

**Senator MACKAY**—Yes. That is absolutely right. Amongst others, Senator Santoro has claimed that the ABC is 17 per cent better off in real terms—he is not the only one; he just happens to be here—under the coalition, compared to the former Labor government. Has the ABC done any work on this assertion?

**Mr Balding**—We have. We have looked hard at Senator Santoro's claim that ABC funding is 17 per cent better off today in real terms. We cannot see how the senator came to that conclusion. We have modelled our funding since 1996-97. We have done it in a number of ways and I can assure this committee we are certainly not better off in real terms today.

**Senator SANTORO**—I will send you a paper, Mr Balding.

**Mr Balding**—Yes.

**Senator SANTORO**—It is quite a substantial paper that backs that up. I also asked for some independent advice on it.

**Mr Balding**—I would appreciate that.

**Senator SANTORO**—You may care to respond to it.

**Mr Balding**—I am happy to have a look at that and respond to it. I will have to take that as a question on notice from the committee because, at the end of the day, we also had our model looked at by the Macquarie Bank. Macquarie Bank undertook an independent analysis of our

funding. They used similar methodologies to ours and they also used the CPI as the index factor.

**Senator SANTORO**—I will send it to Macquarie Bank as well as to you, in that case.

**Mr Balding**—At this stage we are certainly of the view that we are not 17 per cent better off today compared to 1995-96.

**Senator MACKAY**—Has the department seen Senator Santoro's paper? Have you considered that?

**Ms Williams**—We have not seen it.

**Senator MACKAY**—That is fine.

**Senator SANTORO**—Would you like me to send it to the department, Senator?

**Senator MACKAY**—Yes, sure.

**Senator SANTORO**—There you go. I will send it to you too.

**Senator MACKAY**—What is the situation from the ABC's perspective then? How do you regard yourselves now compared to—

**Mr Balding**—Based on our methodology—and the issue of difference may be in respect to the indices that are used to index the funding in real terms—as at today our model tells us we are some \$10 million worse off in real terms compared to where we were in 1995-96.

**Senator MACKAY**—Are you able to provide that modelling to the committee?

**Mr Balding**—Yes, we can.

**Senator MACKAY**—Thanks for that. We can all have a good look at it. Have you run up the white flag on further funding increases or are you going to have another crack at it in this triennium?

**Mr Balding**—I do not give up. We are in the process now of finalising a submission to the minister. That submission will include the issue we discussed in respect of the renewal of NII and some other funding issues.

**Senator MACKAY**—Will that also look at some of the flagged issues here today in terms of the cost pressures that you alluded to?

**Mr Balding**—It may do. We are still finalising that.

**Senator MACKAY**—Can the ABC confirm reports in the *Australian* media section that Sandra Levy purchased Tiffany jewellery for the producer of *Enough Rope*?

**Ms Levy**—It is quite standard in the television industry that at the end of a production run a small gift is given to some of the key participants. I have given gifts to almost every production in the entire organisation at the end of their production run. It is part of the nature of the production process. I have given gifts on numbers of occasions and, yes, I gave some small gifts to the people on *Enough Rope*.

**Senator MACKAY**—Was ABC money used to purchase that?

**Ms Levy**—It was ABC's money used to purchase all of the gifts for all of the participants on ABC shows. The ABC, as you know, pays its participants in programs very little. One of

the things we try to do is show our appreciation, at the end of the production, of the work they have done for us. On many shows the key participants get small gifts.

**Senator MACKAY**—What was the cost of your appreciation?

**Ms Levy**—It might be hurtful to the producer but it was less than \$200.

**Senator MACKAY**—What is the marketing budget for *Enough Rope* per annum?

**Ms Levy**—The ABC Television division lost its advertising budget in the budget cuts. We have no money for marketing at all.

**Senator MACKAY**—There is no marketing budget for *Kath and Kim* either?

**Ms Levy**—No, not at this point. Television Division has no marketing budget at all.

**Mr Balding**—There is no money in the television marketing. There is still an element of money from a corporate marketing perspective.

**Senator MACKAY**—What is the ABC's response to recent claims on the much-maligned *Media Watch*—sorry about my hackneyed humour here, Minister—that the ABC marketing department—

**Senator SANTORO**—It is a little bit obsessive.

**Senator MACKAY**—Obsessive, moi?

**Senator SANTORO**—Yes.

**Senator MACKAY**—The marketing department staged a Kath and Kim party for the *Daily Telegraph*. That was on *Media Watch*.

**Ms Levy**—The ABC did not stage the party. The participants themselves chose to have a party at their own expense in their own home.

**Senator MACKAY**—Was there any concern by ABC management that this may reflect on the integrity of the ABC brand?

**Ms Levy**—It was not that sort of process at all. What happened was that anecdotally we had heard about lots of people having parties. The publicity department mentioned it to some journalists. They then came back to Publicity and said, 'Do you know any of the participants?' One of the people that was having parties worked for the ABC and she said she would be happy to invite them to her next party. We did not stage the party and it was entirely between the participating journalists to do it. The *Kath and Kim* program does not need us to set up false publicity. It is an enormously successful program and journalists were eager to try and find ways to get more stories.

**Senator MACKAY**—You are not saying that *Media Watch* was wrong.

**Ms Levy**—I am saying that *Media Watch* commented on it but it was not a concern that it violated our editorial policies or that there was anything substantially wrong with the process.

**Senator MACKAY**—All right, thanks. Can you provide, probably on notice, information on all staff who have travelled overseas in the last two years; the cost, the purpose and duration of the overseas travel for ABC staff. Take that on notice, obviously, Mr Balding.

**Mr Balding**—We can, Senator.

**Senator MACKAY**—Thank you. I wonder if the ABC can outline briefly its current policy on arts television programming and whether there has been a reduction in arts programming in recent times.

**Ms Levy**—Not only has there not been a reduction but there has been an increase in our arts content. We have increased our arts programming from—

**Senator MACKAY**—You thought they were all Dorothy Dixers, Minister, didn't you? I have just proven you wrong.

**Senator Kemp**—You are slowly trying to recover, I can see. There is a long way to go, Senator.

**Ms Levy**—ABC Television broadcasts over 300 hours of arts programming. We have increased it from 179 to 244 hours of first-run arts programming. The arts has not been in any way downgraded, as there was a concern in the press recently. We combined two portfolios, arts and entertainment. Over the years at the ABC it has been a combined portfolio and separate portfolios over a period of 20 years. Sometimes it has been together; sometimes it has not. We have now combined them and have just advertised for a new executive producer of arts entertainment to add to that team. We are adding an additional executive producer and we are continuing to increase our arts content.

**Senator MACKAY**—Thank you for that, Ms Levy. This question is on notice. Using the ABC charter to categorise programs as best as possible, can the ABC estimate how much of the ABC's television programming budget is being used to inform Australians, to educate Australians and to entertain Australians? Is that not possible?

**Mr Balding**—We will need to have a look at that. We may be able to provide the information across the genre and it may be subjective as to interpreting what constitutes informing and what constitutes educating. I am more than happy to provide the content across the various genres.

**Senator MACKAY**—All right. Why don't you have a crack at it?

**Ms Levy**—We hope to do all three in many instances in the one program. They are not necessarily separate categories. To inform, educate and entertain does not necessarily mean to do those things separately and exclusively.

**Senator MACKAY**—This is the last brief for the ABC from me. This is on digital multichannelling. Is it true that to meet your HDTB quota, the ABC is up-converting standard definition into high definition, which is often the same quality as standard definition and therefore wasting, I would contend, precious spectrum?

**Mr Balding**—It is certainly true that under the legislation we are permitted to up-convert our standard definition to high definition, and we are doing that. In respect of the quality of the picture, I will ask Mr Knowles to give you a technical overview of that.

**Mr Knowles**—While we are up-converting material, we in fact are picking material which is of high quality to start with and we up-convert it on much better equipment than you would find in your home. Our viewing experiences are that it is technically better for the viewer who has the right equipment than a standard-definition picture.

**Senator MACKAY**—Do you accept the contention that it is wasting precious spectrum?

**Mr Knowles**—We are required by law to transmit both the standard definition and the high definition, irrespective of where the source of that program comes from—whether it be high definition or up-conversion.

**Senator MACKAY**—Are there any plans to reintroduce multichannelling at the ABC?

**Mr Balding**—Not at the moment. As I have said publicly a number of times, in order to reintroduce multichannelling we would have to find an additional source of funding. Multichannelling was not funded. We sought that funding in the triennial funding submission but it was rejected.

**Senator MACKAY**—Have you received the \$32 million outstanding from the government for digital conversion, as outlined in the ABC's press release dated 28 October 2003?

**Mr Balding**—Yes, we have received that money.

**Senator MACKAY**—So it is not all bad news.

**Mr Balding**—The money is in the bank.

**Senator MACKAY**—Were there any special conditions attached to the funding?

**Mr Balding**—We are not aware of any at the moment. Mr Pendleton might be aware. I believe the money was just transferred to the bank account.

**Mr Pendleton**—The money has just been appropriated at this stage. I am not aware of any conditions.

**Senator MACKAY**—We can revisit that in estimates next time. Chair, that's it for the Labor Party for the ABC. I am happy to put my questions on notice.

**CHAIR**—There is only one outstanding matter. That is the tabling of Senator Tchen's documents.

**Senator MACKAY**—I do not want to be difficult, but it is a bit unusual to table this sort of thing. Can we decide tomorrow?

**CHAIR**—No, I think we should decide now, because we are dealing with this at the moment.

**Senator MACKAY**—I do not want to be seen to be obstructive, but it is odd to table emails.

**CHAIR**—If you are saying that you would prefer it not to be tabled—

**Senator MACKAY**—I am not saying no. Is this normal, Chair? I am seeking your guidance.

**CHAIR**—People do table documents.

**Senator MACKAY**—Do they table emails of this nature?

**CHAIR**—Many documents.

**Senator Kemp**—What do these documents say?

**Senator MACKAY**—It is a memo that Senator Tchen has from a constituent.

**CHAIR**—Senator Tchen has asked for an email and a letter to be tabled.



**Senator MACKAY**—He has an email from a constituent, with an attachment.

**Senator Kemp**—Assuming there is nothing defamatory in it, the normal thing—

**Senator MACKAY**—All right, that is fine.

**Senator TCHEN**—Mr Chairman, I have no problem if it is not tabled.

**CHAIR**—You have seen it, Sue.

**Senator MACKAY**—Yes, I have.

**CHAIR**—You are not worried about it?

**Senator MACKAY**—No, it is okay. That is fine. I agree.

**CHAIR**—It is agreed that those two documents be tabled. Thank you.

**Senator SANTORO**—It is really an email relating to some questions.

**CHAIR**—The matter has been dealt with. It is finished now.

**Senator MACKAY**—We are in screaming agreement.

**Senator SANTORO**—I would like to ask at least one other question in relation to the Middle East, Israel and the Palestinians, and to put some statements to Mr Balding before I ask what will probably be the final question for this evening. The ABC, like SBS—of whom I asked similar questions this morning—has a record of presenting documentaries which are unfavourable to Israel. In the second half of this year, it showed *The Killing Fields of Gaza* on *Four Corners* on 23 June, which asserted that Israel deliberately targets international peace activists and journalists; *Israel's Secret Weapon*, which was on *True Stories* of 21 August, which attempted to say that there was something sinister about Israel's weapons program but completely without context; a sympathetic interview with Hanan Ashrawi on 16 September before, to the applause of Premier Carr and others, she was announced as the winner of the 2003 Sydney Peace Prize; and a story about Israeli soldiers refusing orders on 1 July.

Both stories were from former SBS correspondent Jane Hutcheon, and yet when the ABC was offered the documentary *Incitement* about Palestinian incitement, which would have partly redressed the balance, it refused, saying that the documentary was not sufficiently balanced. Do you think that that is a balanced approach by the ABC, in terms of the choice of documentaries on the Middle East conflict, or can you point to other documentaries or substantial outlines of the conflict that maybe balance the balance sheet?

**Mr Balding**—You need to look at each of the documentaries to see if they meet our editorial guidelines. I will pass to Sandra Levy, if she is aware of the other documentary that was passed over.

**Ms Levy**—The documentary that you are referring to, I believe, is called *Relentless*.

**Senator SANTORO**—*Incitement*—when the ABC was offered the documentary *Incitement*.

**Ms Levy**—I do not believe it was offered to Television. We were offered a documentary called *Relentless*, which we viewed and assessed, but I am not sure that we have ever seen anything called *Incitement*. I have no knowledge of such a documentary being offered to us.

**Senator SANTORO**—What did that documentary that you have just referred to deal with?

**Ms Levy**—It was a documentary about Israel and it was putting an argument that Israel had behaved better than the Palestinians on a number of issues in recent years, and it was called *Relentless*. That is the only documentary that we have seen and assessed.

**Senator SANTORO**—Did it go to air?

**Ms Levy**—No. It was seen and assessed by us. We have a long answer here on the reasons why we did not buy that particular documentary, but we have not seen the documentary *Incitement* and it has not been offered.

**Senator SANTORO**—Can you understand why, when I put that list of documentaries that are pretty much one-sided, somebody like myself and others would in fact be concerned.

**Ms Levy**—Some of those documentaries might have gone to news and current affairs, but the only documentary we have screened is *Israel's Secret Weapon* and the only one rejected was *Relentless*. I only have knowledge of two of those programs. I do not have knowledge of the others.

**Senator SANTORO**—Mr Balding could you give an opinion? I do not want to put in an official complaint which would probably then progress like Senator Alston's complaints have progressed. I really do find that to be a very disturbing trend.

**Mr Balding**—I am more than happy to take that on notice and to give a considered opinion.

**Senator SANTORO**—Can you see where my line of questioning is leading? I have about 60 to 80 questions there which point to allegations and instances of bias. I will distil those and maybe get 20 or 30 to you. Can you see where people like myself are getting to, when we just come up with instance after instance, and you in a very moderate and in a very seemingly constructive way come back and say, 'Yes, I'll take it on notice,' and then it just keeps on happening; along the same pattern subsequent to every estimates committee? Can you see where I am coming from?

**Mr Balding**—Partially, Senator. Again, I think you will also appreciate that we need to look at each of these issues that you are raising in the context in which they have been raised. We cannot just talk about a particular program in isolation of the many programs that go to air, not only on television but our coverage on radio and online as well.

**Senator SANTORO**—In that case, I look forward then to more comprehensive answers than you have provided to me and to Senator Alston, so that the full and rich context within which these editorial decisions are made by the ABC can perhaps be better understood by myself and the other people who complained, because a brief and cursory set of answers just will not satisfy.

**CHAIR**—Thank you, Senator Santoro.

**Ms Levy**—ABC Television, and that is not news and current affairs, assesses about 900 documentaries a year that are on offer to us. We have had one on offer to us called *Israel's Secret Weapon* which we bought, and one on offer to us called *Relentless* which we did not buy, so out of 900 we have only had two documentaries—

**Senator SANTORO**—I am talking about what you broadcast.

**Ms Levy**—That might have been news and current affairs as well, and I am just trying to set the record straight on those documentaries that have been offered to us and bought by ABC Television for documentary, and there only have been two offered to us out of 900 documentaries in the last 12 months.

**Senator SANTORO**—But I want to stress I am talking about what you broadcast.

**CHAIR**—We have come to an end of our time, and Senator Mackay, Senator Tchen, wishes to ask Ms Levy to table—

**Senator MACKAY**—Can you table that statement of reasons in our relentless search for the truth here.

**Ms Levy**—On the *Relentless* program?

**Senator MACKAY**—Yes.

**Senator TCHEN**—I understand that the documentary *Relentless* was offered to you without charge and you said ABC decided not to buy it.

**Ms Levy**—The ABC assessed the program *Relentless*, along with 900 programs they assessed, and it was rejected for purchase.

**Senator TCHEN**—It was not a matter of cost?

**Ms Levy**—No, it was not a matter of cost.

**CHAIR**—I conclude the Communications IT section of these estimates. I thank the witnesses for appearing.

**Committee adjourned at 11.03 p.m.**