



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

TUESDAY, 24 MAY 2005

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SENATE

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

Tuesday, 24 May 2005

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

Senators in attendance: Senators Allison, George Campbell, Conroy, Eggleston, Lundy, Marshall, Santoro and Tchen

Committee met at 9.01 am

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

Consideration resumed from 23 May 2004.

In Attendance

Senator Coonan, Minister for Communications, Information Technology and the Arts

Department of Communications, Information Technology and the Arts

Executive

Ms Helen Williams AO, Secretary

Ms Fay Holthuyzen, Deputy Secretary, Communications

Dr Rod Badger, Deputy Secretary, Information Economy

Ms Lynn Bean, Acting Deputy Secretary, Arts and Sport

Corporate and Business

Mr Frank Nicholas, Chief Operating Officer, Corporate and Business Division

Mr Mike Hutchings, General Manager, Information Technology and Facilities Branch

Mr Tim Cornforth, Manager, Regional Network Management Unit

Finance and Budgets

Ms Jennifer Gale, Chief Financial Officer

Telecommunications

Mr Chris Cheah, Chief General Manager, Telecommunications

Mr Simon Bryant, General Manager, Telecommunications Competition and Consumer Branch

Mr Brenton Thomas, General Manager, Enterprise and Infrastructure Branch

Ms Carolyn McNally, General Manager, Regional Communications Policy Branch

Dr Greg Terrill, General Manager, International Branch

Mr Tom Dale, General Manager, Strategic Policy Branch

Broadcasting

Mr James Cameron, Chief General Manager, Broadcasting

Mr Gordon Neil, General Manager, Licensed Broadcasting

Mr Rohan Buettel, General Manager, Public Broadcasting
Dr Simon Pelling, General Manager, Digital Broadcasting and Spectrum Management
Mr Tom Dale, General Manager, Strategic Policy

Information and Communications Technology (ICT)

Dr Beverly Hart, Chief General Manager, Information and Communications Technology Division
Mr Philip Allnutt, General Manager, Information and Communications Technology Industry Branch
Mr Simon Cordina, General Manager, Creators' Rights and Access Branch
Ms Andrea Grosvenor, Acting General Manager, Regional Communication Initiatives Branch

Information Economy

Mr Keith Besgrove, Chief General Manager, Information Economy Division
Mr James Shaw, General Manager, Strategy Branch
Mr Andrew Maurer, Manager, Online Policy Section
Mr Lindsay Barton, Acting General Manager, Access Branch

Arts and Sport Division

Mr Colin Lyons, Acting Chief General Manager, Arts and Sport Division
Mr Mark Taylor, General Manager, Arts, Regional and Governance
Mr Peter Young, General Manager, Film and Digital Content
Mr Paul McInnes, Acting General Manager, Collections
Mr Kevin Isaacs, General Manager, Sport
Ms Sally Bassar, General Manager, Indigenous Arts and Training
Mr Les Turner, General Manager, Indigenous Culture and Arts Support
Ms Kate Cowie, General Manager, Old Parliament House
Mr Andrew Sayers, Director, National Portrait Gallery

Agencies**Telstra**

Mr Bill Scales AO, Group Managing Director, Regulatory, Corporate and Human Relations
Mr Geoff Nicholson, Director, Business and Finance Services
Mr Don Pinel, Regional Managing Director, Telstra Country Wide, Queensland
Mr Denis Mullane, General Manager, Integrated Network Planning
Ms Kate McKenzie, Managing Director, Regulatory
Ms Chloe Munro, Managing Director, Human Resources
Mr Greg Adcock, Head of Business and Commercial Operations
Ms Jenny Young, Head, Consumer Segment

Australia Post

Mr Michael McCloskey, Corporate Secretary
Mr Peter Meehan, Chief Financial Officer
Mr Terry Sinclair, Group Manager, National Logistics
Mr Rod McDonald, Group Manager, Human Resources

Mr Stephen Walter, Group Manager, Corporate Public Affairs

Mr Glenn O'Bryan, Acting Group Manager, Retail

Australian Communications Authority (ACA)

Dr Bob Horton, Acting Chairman

Mr Allan Horsley, Acting Deputy Chairman

Mr Geoff Luther, Acting Member

Ms Maureen Cahill, Executive Manager, Communications Operations and Service Group

Mr John Grant, Acting Senior Executive Manager, Radiocommunications

Mr Mark Loney, Executive Manager, Corporate Management

Mr John Neil, Executive Manager, Telecommunications Analysis

Mr John Haydon, Executive Manager, Consumer

Mr Darren Hooper, Chief Financial Officer

Ms Anita Tapper, Acting Chief Financial Officer

Australian Broadcasting Corporation (ABC)

Mr Russell Balding, Managing Director

Mr Murray Green, Acting Director, Strategy and Communications

Mr David Pendleton, Chief Operating Officer

Mr Colin Knowles, Director, Technology and Distribution

Ms Sue Howard, Director, ABC Radio

Special Broadcasting Service Corporation (SBS)

Mr Nigel Milan, Managing Director

Ms Julie Eisenberg, Head of Policy

Mr Jon Torpy, Chief Financial Officer

Mr Will Berryman, Chief Technology Officer

Mr Shaun Brown, Head of Television

Mr Quang Luu, Head of Radio

Australian Broadcasting Authority (ABA)

Mr Giles Tanner, General Manager; Acting Member

Mr Fred Gengaroli, Director, Planning

Ms Jonquil Ritter, General Counsel

Ms Andree Wright, Director, Industry Performance and Review

Mr Richard Fraser, Senior Project Officer

Ms Sharon Trotter, Acting Manager, Content Assessment

Ms Andrea Malone, Manager, Industry Review

Arts and Sport

Australia Council

Ms Jennifer Bott, Chief Executive Officer

Ms Karilyn Brown, Executive Director, Audience and Market Development

Dr Catherine Brown-Watt, Director, Major Performing Arts Board

Ms Megan Coombs, Executive Director, Finance and Services

National Library of Australia (NLA)

Ms Jan Fullerton, Director-General

Mr Gerry Linehan, Assistant Director-General, Corporate Services

National Gallery of Australia (NGA)

Mr Ron Radford, Director

Mr Alan Froud, Deputy Director

National Museum of Australia (NMA)

Mr Craddock Morton, Director

Ms Suzy Watson, General Manager, Operations

Ms Louise Douglas, General Manager, Public Programs and Audience Development

Dr Mike Pickering, Repatriation Program Director; Acting General Manager

Mr Jeff Smart, Chief Finance Officer

Australian National Maritime Museum

Ms Mary-Louise Williams, Director

Mr Quentin Howarth, Assistant Director

National Archives of Australia (NAA)

Mr Ross Gibbs, Director-General

Mr James Barr, Deputy Director-General

Ms Jenny Anderson, Assistant Director-General, Corporate

Australian Film Finance Corporation (FFC)

Mr Brian Rosen, Chief Executive Officer

Australian Film Television Radio School (AFTRS)

Mr Malcolm Long, Chief Executive Officer

Film Australia (FAL)

Ms Daryl Karp, Chief Executive Officer

Australian Film Commission (AFC)

Mr Kim Dalton, Chief Executive Officer

Australian Sports Commission (ASC)

Mr Mark Peters, Chief Executive Officer

Mr Brent Espeland, General Manager, Sport Performance and Development

Ms Lois Fordham, General Manager, Business Operations

Professor Peter Fricker, Director, Australian Sports Commission

Australian Sports Drug Agency (ASDA)

Mr Kim Terrell, Acting Chief Executive

Ms Anne Gripper, Acting General Manager, Operations

Ms Catherine Rule, Acting General Manager, Strategy and Support

[9.01 am]

Australia Post

CHAIR—We will resume these estimates hearings. Today we continue the examination of the Communications, Information Technology and the Arts portfolio, in accordance with the agenda. We begin today with Australia Post. We will begin with questions.

Senator MARSHALL—I do not have Ms Helen Williams on my list, so I wonder whether she could identify herself.

Ms H Williams—I am the secretary of the department.

CHAIR—She is always here.

Senator MARSHALL—I have not noticed. I will come more often. Can we start with some questions about facility doctors used by Australia Post. Can you give me some background to this service offered to Australia Post workers?

Mr McDonald—Yes. We have some facility nominated doctors whom, when we need to check whether a person is fit to be able to resume work, people can be referred to. That is both for the purpose of their own safety and of course the safety, health and wellbeing of their co-workers within that particular facility.

Senator MARSHALL—So it is simply about return to work?

Mr McDonald—Yes, it is.

Senator MARSHALL—How are the doctors chosen by Australia Post?

Mr McDonald—I cannot tell you that specifically. We have had those doctors in place for at least three or four years.

Senator MARSHALL—Do you use some criteria for selection?

Mr McDonald—We have a senior doctor, Dr Malecki, who we talk to in relation to doctors who might be on that panel. The important thing is that those doctors understand the Australia Post workplace, which is helpful in knowing what people are able to do in returning to work. That may mean some alteration to the work they would normally do, depending on their physical condition. An understanding of the Australia Post workplaces is a benefit in that assessment.

Senator MARSHALL—Sure, but I am interested to know how doctors actually get on the panel.

Mr McDonald—I would need to get you the specifics. I can take that on notice and come back to you.

Senator MARSHALL—If you could, thank you. How many doctors have you engaged?

Mr McDonald—Are you looking at Victoria?

Senator MARSHALL—I wouldn't mind a breakdown by state, if you could do that.

Mr McDonald—I will get you those details.

Senator MARSHALL—Thank you. How much is the service used by workers at Australia Post?

Mr McDonald—Again, it is the same response: I would need to check that.

Senator MARSHALL—Is it a compulsory process to go through doctors on your panel?

Mr McDonald—If we need to be satisfied a person is fit to resume in the workplace then yes, it is.

Senator MARSHALL—So if they return to work with a certificate saying that they are fit to work from their own doctor, that is not acceptable to Australia Post?

Mr McDonald—We would normally accept a certificate from their own doctor.

Senator MARSHALL—I thought you said it was compulsory that they go to one of the doctors on the panel before they—

Mr McDonald—If we had a concern about somebody having an illness of such a nature and so significant that we needed to check that, we have the ability to do that. That includes whether they are fit to continue working into the future and whether retirement or other options should be considered. It is in those cases—which is a limited number of cases—that we would use a facility nominated doctor. Similarly, in terms of workers compensation cases, if there needs to be an assessment made of a person's fitness, we have the right to get our doctors to look at that person as well as their doctors looking at them in making that assessment as to whether or not the claim is accepted. It is a limited number of cases, but it is something that we do have a right to do in a specified—

Senator MARSHALL—You say you have the right to. Where do you derive that right from?

Mr McDonald—From the award.

Senator MARSHALL—And the award enables you to force people to see one of your panel doctors prior to returning to work?

Mr McDonald—In particular circumstances. Again, if you wish, I could get you the specific provision in answering the other questions.

Senator MARSHALL—Yes, if you could. Would that be just for WorkCover claims or workers compensation claims?

Mr McDonald—It is normally for WorkCover claims, although, if we had a concern about somebody in a long-term sense—whether they should be looked at for fitness for ongoing employment—we would have the right to have them looked at by a doctor. We have an obligation for safety, as I said, for both the person and others in the workplace.

Senator MARSHALL—When you say you have a right to have them looked at by a doctor, you mean a doctor of your choosing?

Mr McDonald—In particular circumstances. Other than that they choose their own doctor.

Senator MARSHALL—Who decides on the particular circumstances?

Mr McDonald—It is specified under the award. I would need to get you the exact wording.

Senator MARSHALL—So the award sets out certain circumstances where you may choose the doctor for them.

Mr McDonald—Limited circumstances, yes. We have the right to refer them to our doctors in particular circumstances.

Senator MARSHALL—So when you said earlier that you would accept a certificate from someone's own doctor saying they were fit to work, that is not the case in every circumstance?

Mr McDonald—No. It is the case in most, but if the situation is a workers compensation claim by that person, obviously in assessing whether the claim is accepted by Post there is a medical assessment. And in other particular claims, such as a long-term significant injury, as to whether or not a person is able to resume work, there can be a check. But with by far the majority the person is able to choose their own doctor, get a medical certificate and that is accepted by Australia Post. That is their right.

Senator MARSHALL—When someone has a workplace injury, do you send them to your panel doctors from work?

Mr McDonald—It depends on the circumstance.

Senator MARSHALL—So they are not just used for return-to-work processes.

Mr McDonald—No. It depends on the nature of the case.

Senator MARSHALL—I thought that was what you indicated earlier—that you used the panel doctors for return to work.

Mr McDonald—No. Are you talking about workers compensation or just normal return to work?

Senator MARSHALL—What I am putting to you now is this: if someone has an injury or an illness in the workplace, does Australia Post send those workers to panel doctors?

Mr McDonald—If there is a workers compensation claim, we may. It depends on the nature of the claim.

Senator MARSHALL—They may not have made the claim.

Mr McDonald—If there is not a claim, no. The person goes to their own doctor if they are ill. If there is a medical certificate, that is accepted by Australia Post.

Senator MARSHALL—I want to be clear about this. Suppose someone cuts a finger in the workplace. What do you do? It may need medical treatment.

Mr McDonald—They can go to our doctor or they can go to their own doctor in that case.

Senator MARSHALL—Does your management encourage them to go to your doctor?

Mr McDonald—We would tell them there is a free service available to go to our doctors and that that is a fast service. But if they choose to go to their own doctor, that is their right.

Senator MARSHALL—So it is a free service you supply.

Mr McDonald—Yes, it is.

Senator MARSHALL—How much does that service cost?

Mr McDonald—I would have to get the details for you.

Senator MARSHALL—How do you actually pay the doctors?

Mr McDonald—Again I would have to check whether that is a yearly amount or not. I do not know. I would need to find out.

Senator MARSHALL—If they are providing a free service to the patient, how does the Medicare arrangement or rebate kick in in that formula?

Mr McDonald—I would imagine that the Medicare rebate operates like any other Medicare rebate to a doctor, so that that component of the service is paid for by Medicare.

Senator MARSHALL—I am just trying to get a picture of the service you actually provide. If you send someone to one of your doctors and they agree to go, they would then use their Medicare card to pay for the Medicare component if the doctor is bulk-billing, for instance. If there is an extra charge that the doctor charges—and I assume there is—you pick up that bill?

Mr McDonald—Yes. We are not asking people to pay to go to a facility nominated doctor. As to the actual workings of the Medicare component of the billing, I would need to check. I am not sure how that operates on a day-to-day basis.

Senator MARSHALL—If you can find out about that payment arrangement with the doctors, I would appreciate that.

Mr McDonald—Yes.

Senator MARSHALL—After treating your workers or employees who decided to use them, do the doctors contact any level of Australia Post management before they determine whether they are fit to return to work or not?

Mr McDonald—The doctor makes the assessment about the person's medical condition, not Australia Post management.

Senator MARSHALL—So if someone went to one of your panel doctors and was examined, would the doctor then ring Australia Post to get some advice from Australia Post prior to determining whether or not to issue a doctor's certificate?

Mr McDonald—I do not know. I am just trying to think. Perhaps in a situation where there is an assessment being made as to whether the person is able to do their work, depending on the nature of the injury, but it is a medical assessment about the health and wellbeing of the individual by the doctor, not by Australia Post.

Senator MARSHALL—Are there any requirements at all placed upon the doctors that you engage, or that you place upon your panel, to communicate with Australia Post through the process of diagnosis and treatment?

Mr McDonald—I think it is best if I get you the details of how the process works. I cannot answer those detailed questions.

Senator MARSHALL—Is there anyone here who can?

Mr McDonald—I suspect not.

Senator MARSHALL—I imagine it is a fairly straightforward procedure, as you say, that has been in place for some time. Rather than taking it on notice and having me wait a long time, maybe someone could find out and get back to us this morning. It would not seem to me to be a difficult process to find out, would it?

Mr McDonald—You are asking me specifics about the Medicare billing cycle and under what circumstances the doctors would talk to management. I would need to check that to give you a full answer. That is all I am saying.

Senator MARSHALL—All right. See what you can do. Have you undertaken any surveys or anything similar to garner any feedback from workers who have utilised the service?

Mr McDonald—Not to my knowledge.

Senator MARSHALL—Have you done so with management?

Mr McDonald—Not in any formal sense. We have staff attitude surveys, but they do not get down to those sorts of issues.

Senator MARSHALL—Have you ever received any complaints about the competence or otherwise of the doctors prescribed by Australia Post for use by Australia Post workers?

Mr McDonald—I would need to check that.

Senator MARSHALL—Could you. And if you have, can you find out how many, detail the nature of such complaints and tell me what you have done about those complaints if you have had any and if any of the doctors that have been complained about are still being utilised by Australia Post or on the panel?

CHAIR—You can put them on notice.

Senator MARSHALL—I now want to go to a different subject. Australia Post sought the revocation of Joan Doyle's right-of-entry permit—Joan Doyle is the Victorian branch secretary of the CEPU—on 9 February. I understand that on 2 July 2004 the permit was actually revoked. Can you tell me when you made the decision to seek to have the AIRC revoke Ms Doyle's permit?

Mr McDonald—That would have been last year, following industrial action and following her behaviour in terms of access. I do not know the exact date, but it would have been early in 2004. Her permit has subsequently been given back by the Industrial Relations Commission.

Senator MARSHALL—I will come to that. Who made the decision to apply to the AIRC to revoke the permit?

Mr McDonald—Australia Post management in Victoria.

Senator MARSHALL—Specifically at what level?

Mr McDonald—That would have gone up to the head of human resource management in industrial relations in Victoria, and the head of operations.

Senator MARSHALL—What position would that be?

Mr McDonald—It is called national manager, human resources, mail and network, who is responsible for the human resources management function and the industrial relations function on the management side for the mail and networks division which is where the issues were taking place.

Senator MARSHALL—It was a decision at that level?

Mr McDonald—To seek to revoke it, yes.

Senator MARSHALL—Did you engage lawyers to assist you with that process?

Mr McDonald—I think we did.

Senator MARSHALL—Do you know whether you did?

Mr McDonald—No, I am saying that I think we did. To be absolutely accurate in answering I would need to check that out. We have engaged lawyers on a number of cases, as have the union. In terms of that specific case I would want to check to be 100 per cent sure. As I said, I think we did, but let me check that.

Senator MARSHALL—Can you find out because what I want to know is how much you actually spent on lawyers and I want to know how many lawyers were actually involved. My information is that there were nine lawyers from Minter Ellison working on the case over the period of time. Would that be right?

Mr McDonald—I do not know. I would be surprised.

Senator MARSHALL—So would I.

Mr McDonald—I do not know; I would need to check that information.

Senator MARSHALL—When do you think you would be able to get me an answer to that?

Mr McDonald—There are a range of issues you have raised. I would need to check that out and get back to you in writing, I think.

Senator MARSHALL—Surely it is not a big ask to find out whether you engaged lawyers for this case and how much it cost.

CHAIR—You could put the questions on notice.

Senator MARSHALL—I know I can but I would rather get the answers to the questions now.

CHAIR—But if they cannot do that you can put them on notice.

Senator MARSHALL—I can and I accept that I can, but the purpose of estimates is to try to get answers to questions now and that is what I am seeking to do.

CHAIR—I understand that but I said if the witnesses cannot answer the question—

Mr McDonald—Senator, you are asking—

Senator MARSHALL—I am wondering why you cannot give me the answer to that question.

Mr McDonald—I am sorry, I am just saying—

Senator MARSHALL—Is there someone here who can find out?

Mr McDonald—We can find out. What I am saying to you is that I cannot give you an instant answer to that. I would need to go back and check the files. You are asking me what costs were involved and how many lawyers, and I may need to check that with Minter Ellison. That is not something I can respond to off the top of my head. It needs to be checked and the information needs to be accurate.

Senator MARSHALL—If you can find out how much you have spent on lawyers and how much internal resources were put into the case and how much that would have cost so you can give me a complete costing of the case against Ms Doyle for the revocation of her permit. Can you do that?

Mr McDonald—The costing of external resources, yes. The cost of internal resources is very hard to do because you may have varying people involved to some degree. There is not a costing we do on internal resources. We have an in-house lawyer, we have HR people involved in varying degrees in giving industrial advice and HR advice. I cannot cost internal input.

Senator MARSHALL—You do not have any way of measuring internal costs for these sorts of things?

Mr McDonald—No. The role of the internal resources is to provide advice on HR and IR matters, irrespective of what they are on an ongoing basis, and those people would input into all sorts of decisions. We do not cost that.

Senator MARSHALL—Then how do you know what they are doing?

Mr McDonald—Because they are providing HR and industrial relations advice constantly on a myriad of issues.

Senator MARSHALL—How do you know where and what the issues are if you are not actually tracking the costs for that?

Mr McDonald—We know what issues they are dealing with. What I am saying to you is that we simply do not cost what component of time is spent by internal resources on this particular issue or that particular issue.

Senator MARSHALL—You cannot tell me how much of the internal resources was spent on this case?

Mr McDonald—I could tell you the sort of people who might be involved in issues like that, their job titles, if that is of assistance.

Senator MARSHALL—It is of some assistance. Does it not go to the effort? Surely in weighing up the decisions on whether to proceed on some of these matters you would have to determine what resources are going to be put into it, what resources would be required?

Mr McDonald—We do not measure it that way in terms of a particular issue.

Senator MARSHALL—How do you measure it?

Mr McDonald—Those people are involved on a day-to-day basis in providing HR and IR services across the mail and networks division, which is a division of around 20,000 people, in terms of whatever those issues might be. But they are not measured on a cost basis according to this particular case or that particular case. It is an in-house dedicated resource.

Senator MARSHALL—How do you measure the performance of that in-house dedicated resource?

Mr McDonald—Simply through the overall management of those resources, like most organisations would. We cost external input but not internal on an individual case basis.

Senator MARSHALL—I do not know. You say ‘most’, but most organisations I have dealt with are able to work out what resources, internally, they put into different projects, and they are able to cost them. I am surprised that you cannot.

Mr McDonald—I do not think I can answer much more than I have. We simply do not cost it that way.

Senator MARSHALL—Let me now take you to the termination of Mr Trevor Grenfell. I advised the secretariat and requested that they advise you in advance that I was going to ask questions about this particular case. I hope you have more information available than you had for the last one. Can you tell me the date on which you terminated Mr Trevor Grenfell?

Mr McDonald—Yes, he was terminated on 20 November 2002.

Senator MARSHALL—Why was he terminated?

Mr McDonald—For serious and wilful misconduct—after two years of him being non-cooperative, belligerent and opposing the implementation of VSORT.

Senator MARSHALL—How long did he work for Australia Post?

Mr McDonald—He started in 1969. He left Australia Post in 1976 and rejoined us in 1984.

Senator MARSHALL—How many years in total is that, roughly?

Mr McDonald—That would be 23 years, I think.

Senator MARSHALL—At what point in the termination process did you find out that he was mentally ill?

Mr McDonald—That got raised after the termination as an issue. It was after November 2002.

Senator MARSHALL—Did Mr Grenfell apply to the Australian Industrial Relations Commission on an unfair dismissal application?

Mr McDonald—He initially applied through a board of reference and then, subsequently, to the Industrial Relations Commission on two levels.

Senator MARSHALL—And you defended that in the Industrial Relations Commission?

Mr McDonald—Yes.

Senator MARSHALL—At what point in that process did you find out that he was mentally ill?

Mr McDonald—That was raised as an issue when the Industrial Relations Commission proceedings commenced at the beginning of 2003.

Senator MARSHALL—How did you find out?

Mr McDonald—It was one of the arguments put forward by his medical practitioner.

Senator MARSHALL—Didn’t you send him to a medical practitioner for assessment?

Mr McDonald—We had our medical practitioner look at the situation as well and make an assessment.

Senator MARSHALL—What did your medical practitioner say?

Mr McDonald—Our medical practitioner said that the illness was not of a nature that abrogated responsibility for his performance. I think both medical practitioners gave evidence before the Industrial Relations Commission.

Senator MARSHALL—Didn't your medical practitioner say that he had an adjustment disorder and an anxiety disorder?

Mr McDonald—I can quote what our medical practitioner said—it is in the transcript of the decision—if that is of assistance.

Senator MARSHALL—You may have it in front of you, as do I. Your medical practitioner said:

Indeed, I would anticipate that at times he could well have been perceived as being quite uncooperative even though, from moral and philosophical perspective he ultimately wanted to behave in a manner which he perceived as being in the best interests of Australia Post—namely through maintaining a high level of customer service which, in his perception, did not correspond with rushing through the mail sorting process with the attendant risk of mail sorting errors.

Mr McDonald—A number of comments were made by both medical practitioners. The assessment of the Industrial Relations Commission took into account that medical advice.

Senator MARSHALL—I am not wanting to retry the case, but I want to come to the cost issue. I want to know how much you spent persecuting a mentally ill person through the system. I want to come back to that, but I want to establish that your medical practitioner indicated that this guy had a mental illness.

Mr McDonald—Yes, but not of such a nature that would abrogate his ability to perform his job. That was the evidence given to the Industrial Relations Commission, and that was the assessment.

Senator MARSHALL—That is okay; I am not disputing that, but I am trying to ascertain when you became aware of it. You told me you became aware of it when Mr Grenfell's medical practitioner put up the evidence, but you must have been aware of it prior to that.

Mr McDonald—The awareness was after he was terminated.

Senator MARSHALL—Yes, we have established that but I am trying to find out when. You told me that you found out he had a mental illness as a result of his medical practitioner's evidence. I have taken you to your own medical practitioner's evidence, and you have accepted that he said that Mr Grenfell had a mental illness. You put some conditions on that but not to the extent that would have stopped you from terminating. That is okay, I understand that, but when did you actually find out?

Mr McDonald—I will have to check that.

Senator MARSHALL—The people running the case must have known.

Mr McDonald—The issue came up after he was terminated, when he was no longer in our employ. He made an application to the Industrial Relations Commission after the board of reference, and that is where the issue came up. I do not know the exact dates.

Senator MARSHALL—This is important. You sent him to one of your doctors, and he cooperated with that, so the people running this case and prosecuting this case were not taken by surprise in the commission. They would have had the medical report.

Mr McDonald—This was a case run by Mr Grenfell, not by Australia Post. Australia Post was defending the case.

Senator MARSHALL—I take that point.

Mr McDonald—Defence medical evidence was given, which the Industrial Relations Commission took into account. It then upheld the decision that his determination was appropriate.

Senator MARSHALL—Yes, I understand that but that is not the question I am asking. I do not know why you cannot assist me, because it is quite a simple point and nothing seriously turns upon it. Surely Australia Post, or those acting on behalf of Australia Post who were prosecuting or defending the case, must have found out that he had a mental illness from the medical report they got.

Mr McDonald—I cannot tell you when that was. If it is something you want to know I will seek to find out, but I cannot tell you off the top of my head.

Senator MARSHALL—We assume that they actually read the report from the medical practitioner. Would that be a fair assumption?

Mr McDonald—It is referred to in transcript, so obviously it was read.

Senator MARSHALL—Your medical practitioner said that he was a genuine, truthful and honest person. You do not dispute that, do you?

Mr McDonald—No. The transcript sets out quite clearly the medical opinions.

Senator MARSHALL—Do you agree with Mr Wolff, who is one of your managers, who conceded that if he were aware of the applicant's mental illness he would have been supportive of the applicant and would have recommended some treatment program?

Mr McDonald—I cannot comment on that. A case was run 12 or so months ago. There was detailed evidence given. I do not have all the information; I have what is on transcript. The important thing is that both cases were made and an assessment was made by the Industrial Relations Commission—as indeed it was by the full bench subsequently, which endorsed our decision.

Senator MARSHALL—I am going to go there; don't worry. You do not need to get ahead of us. This is a simple proposition. It was put by one of your managers—and I think quite properly—that, if he was aware of the applicant's mental illness, he would have been supportive of the applicant and would have recommended some treatment program. How would Australia Post deal with this?

Mr McDonald—If we have any situation where we have a concern about any of our employee's health and wellbeing, we try and assist them with medical assistance. We have external consultants, Davidson Trahaire, who we refer people to with emotional and other issues.

Senator MARSHALL—What I want to find out from you is: when you find out that someone is mentally ill what do you do about that? Do you support them? Do you assist them?

Mr McDonald—Yes, we do. We encourage them to get medical assistance. As I said, we have some consultants that we pay on an ongoing basis to provide that support to our employees. If we were concerned that that was impacting on their ability to perform their job, yes, we would definitely provide assistance.

Senator MARSHALL—So sick people should be treated rather than sacked?

Mr McDonald—Yes, of course. We would assist people who need assistance.

Senator MARSHALL—We went through the Industrial Relations Commission with the unfair dismissal and during that process Australia Post became aware of his mental illness?

Mr McDonald—It was raised as evidence in the IRC after he had left our employment.

Senator MARSHALL—So you became aware of it?

Mr McDonald—Yes.

Senator MARSHALL—You proceeded on with the case?

Mr McDonald—I say again that the case was run by Mr Grenfell and we were defending that case.

Senator MARSHALL—You did not seek then to negotiate a settlement?

Mr McDonald—There was an offer given at one point of—

Senator MARSHALL—Prior to you knowing that he was mentally ill?

Mr McDonald—I do not know whether that was prior or not. That was referred to again in the transcript, that an offer of \$11,000 to settle the matter was put by us.

Senator MARSHALL—That was early in the case. That was prior to you knowing that he had a mental illness?

Mr McDonald—I cannot answer that.

Senator MARSHALL—Can you find out? I have read the decision and that is the way it reads to me but it reads wrong.

Mr McDonald—I have the decision here but it does not refer to the date at which that was made vis-a-vis the medical evidence.

Senator MARSHALL—It says when this matter came on for hearing.

Mr McDonald—That was after procedural hearings on 28 May and 28 August. I do not know what issues were raised at those hearings.

Senator MARSHALL—How much was Mr Grenfell earning at the time of his termination?

Mr McDonald—I would need to check that and give you that information on notice.

Senator MARSHALL—Would it be less than \$22,000 a year?

Mr McDonald—Let me get the information. I am not going to speculate; I would need to give you the exact figure.

Senator MARSHALL—What, roughly, would a postal worker in his situation earn?

Mr McDonald—I cannot answer any more than I have. I would need to find out the figure for you.

Senator MARSHALL—All right then.

Mr McDonald—I do not know what his particular rate of pay was in 2002.

Senator MARSHALL—Did you engage lawyers to defend this action?

Mr McDonald—Yes, we did.

Senator MARSHALL—How much did that cost?

Mr McDonald—I do not know.

Senator MARSHALL—A lot?

Mr McDonald—I do not know. I do not know what the legal costs were. Are you talking about the particular Industrial Relations Commission hearing or the full bench as well?

Senator MARSHALL—No, I have not got on to the full bench yet.

Mr McDonald—I do not know. I could not tell you what the costs would be.

Senator MARSHALL—Do you know how much on that particular case all up?

Mr McDonald—No, not off the top of my head.

Senator MARSHALL—Did you bring the file? Can you find out? I had given you prior warning that I was going to ask questions about this case and I thought you would have come with this information.

Mr McDonald—You are getting down to detailed questions which I do not have the answers to.

Senator MARSHALL—Part of the process of the estimates is to determine how you spend the money. I would have thought that you would have brought the relevant information about the costs of these cases.

Mr McDonald—There are some questions I can answer now and there are some questions which get into a level of detail that I do not have. I will provide it to you when I check it.

Senator MARSHALL—All right. People have a right to appeal decisions of the Industrial Relations Commission, don't they?

Mr McDonald—Yes, there is a right to go to the full bench.

Senator MARSHALL—Has Australia Post ever appealed the decision of the Industrial Relations Commission?

Mr McDonald—Yes, it has.

Senator MARSHALL—Would it be normal practice that, if someone exercises their right to appeal decisions, Australia Post would attempt to intimidate them by threatening that they will try to recover costs if they are unsuccessful?

Mr McDonald—I am not sure what you mean by the word ‘intimidate’. I presume there are discussions that occur between legal counsel in relation to costs. My understanding of this particular case is that, even though it won the case, Australia Post has not sought to get costs against the other party up until now.

Senator MARSHALL—Really?

Mr McDonald—That is my understanding.

Senator MARSHALL—Are you saying your lawyers are acting without authority?

Mr McDonald—Sorry, I do not follow what you are saying.

Senator MARSHALL—An application for order for costs was made under 170CJ on your behalf by your lawyers seeking costs. My understanding is that that case was going to be heard yesterday.

Mr McDonald—In relation to Mr Grenfell?

Senator MARSHALL—Yes. You were not aware of that?

Mr McDonald—No, I am not. There is no case that I am aware of in relation to Mr Grenfell being heard yesterday.

Senator MARSHALL—No, I understand that you withdrew the application on Friday after further attempts to get him to release you.

Mr McDonald—I do not know.

Senator MARSHALL—You are not aware of that?

Mr McDonald—I am not aware of the case being scheduled for yesterday. It is news to me. I can check that. What I am aware of is the sequence of events, and the advice I am giving to you is that, as I understand it, the right of appeal beyond the full bench would be to the High Court. That is the only avenue above that. No High Court hearing has been scheduled.

Senator MARSHALL—Are you unaware that your lawyers, Minter Ellison, on behalf of Australia Post, advised Mr Grenfell that if he—these are not their words, but this is the effect of what they said—exercised his right of appeal they would pursue costs and then did so after the appeal?

Mr McDonald—This is if it went to the High Court?

Senator MARSHALL—No, this is the normal appeal to the Industrial Relations Commission. What I am trying to establish is how far you will go in persecuting a mentally ill person through this process.

Mr McDonald—We do not persecute mentally ill people.

Senator MARSHALL—Well, someone has been. I accept what you say—that you are unaware of the process.

Mr McDonald—Discussions would occur between legal counsel for the parties.

Senator MARSHALL—No, an application was made. You are unaware of that?

Mr McDonald—I am unaware of that.

Senator MARSHALL—Who would be aware of that?

Mr McDonald—I could check that situation in terms of an application being made. I am unaware of it—that is what I am saying to you. As I said, my understanding in relation to cases that have been run to date is that Australia Post has not sought costs from the other side, even though they have been found in our favour.

Senator MARSHALL—You might want to have a look at this. It was scheduled to be heard at 10 am on Monday, 23 May, but it was withdrawn, finally, after hanging around for a long, long time—since the end of the appeal—last Friday, the 20th.

Mr McDonald—By the union, I presume, or the union's solicitors?

Senator MARSHALL—No, this is your application for costs. I am amazed that you are not aware of that. Maybe you could have a look at the document. I do not actually want to table it.

Mr McDonald—I accept what you are saying. But I say again that Australia Post is not seeking to have costs imposed in relation to these particular cases to date.

Senator MARSHALL—You are not today?

Mr McDonald—No.

Senator MARSHALL—So when was the decision made not to proceed with seeking costs?

Mr McDonald—I would need to check that, obviously.

Senator MARSHALL—You are able to say with absolute certainty, based on what I have told you, that you are not seeking it today but you were not aware of the application to begin with.

Mr McDonald—No, I was not.

Senator MARSHALL—Can you tell me how much Australia Post spent on the process for seeking costs? Someone must have instructed the lawyers to do that. There must be a cost involved with that. Can you find that out?

Mr McDonald—As I said, there would be an external legal cost. I cannot give you internal costs, obviously.

Senator MARSHALL—Can you find out who made the decision to pursue costs?

Mr McDonald—Yes.

Senator MARSHALL—When do you think you will be able to give me an answer to that? That should not be difficult.

Mr McDonald—You have asked me a number of specific questions this morning. I would need to get—

Senator MARSHALL—Mr McDonald, you were previously advised that I was going to ask questions about this case. I think it is incumbent upon you to come prepared to answer questions about the case. I could understand the defence that you are using had I sprung this on you without notice, but that is not the case. These are fairly basic things about the case. To not even be aware that you were pursuing costs, up until Friday, on a case that was going to be heard yesterday, staggers me, really.

Mr McDonald—The briefing I was given on this case late yesterday, when we got the note, was that we are not pursuing costs in relation to the Industrial Relations Commission decisions—and that is factual. Whether or not and to what degree there has been discussion between the legal parties about tactics and other things, I do not know; but I am telling you factually that we are not pursuing costs in relation to that Industrial Relations Commission proceedings.

Senator MARSHALL—But you were, so there must be a cost to Australia Post in that process.

Mr McDonald—That is a level of detail that I cannot answer here.

Senator MARSHALL—It is not a level of detail. You were pursuing costs. To say now that you are not is probably technically correct. Do you need to look at the cancellation notice from the Australian Industrial Relations Commission on the title of the matter—Australia Post Corporation v Grenfell, Trevor: application for payment of costs?

Mr McDonald—That application has not been pursued. A decision was taken by the organisation not to pursue it.

Senator MARSHALL—So why was the application made in the first place?

Mr McDonald—I do not know. I suppose it is the right of any party, if they win a case, to seek costs. The decision of whether or not to pursue that is something that is subsequently made by management. I cannot speculate on what the rationale was.

Senator MARSHALL—Can you find out? Again, I just find it inappropriate that this sort of action would be taken by a corporation the size of yours, with what could be considered unlimited funds and access to a team of lawyers, to spend money persecuting a mentally ill former employee. It is a form of gross intimidation to pursue costs.

Mr McDonald—I take exception to the comment ‘persecution of a mentally ill employee.’ Mr Grenfell was terminated on the basis of his performance. Evidence given to three levels of tribunal; a board of reference chaired by a former Industrial Relations Commissioner, Industrial Relations Commissioner Smith and Industrial Relations Commissioner Holmes; and subsequently to the full bench, have all endorsed the Australia Post decision as being appropriate having regard to all the circumstances and having regard to Mr Grenfell’s unsatisfactory and wilful performance over a period of years. That was the decision and a whole range of evidence went into that. At those levels, it has been deemed an appropriate decision.

Senator MARSHALL—On 11 November lawyers acting on behalf of Australia Post said this:

Mr Grenfell was put on notice previously by Australia Post that it may pursue costs against him in the event that his unfair dismissal application was unsuccessful.

That is not the appeal, just his unfair dismissal application. They went on:

Costs were not ultimately pursued against him—

talking about that application—

The appeal is a completely different matter and Australia Post will be pursuing costs against him in the event that the appeal is dismissed.

You told me earlier that you accepted that people had a right of appeal and that you would not pursue costs for that.

Mr McDonald—No, I did not say the second part. I said people had a right of appeal and I said that in this case we had decided not to pursue costs in relation to these two previous decisions.

Senator MARSHALL—So your lawyers were not acting on your behalf when they wrote that letter?

Mr McDonald—As I told you, Senator, the decision taken was not to pursue costs. That is the ultimate decision. We have a right in any case; we can reserve our right to seek costs in any particular case, as indeed the other party can. What I am saying to you is that in this case the decision taken by us—as of today, as of yesterday—is not to pursue costs to this point in time.

Senator GEORGE CAMPBELL—What would have been the procedure that would have given cause to initiate that letter being written in the first place?

Mr McDonald—That would have been part of the negotiation between the respective lawyers.

Senator GEORGE CAMPBELL—Who would have made that decision? Would it have been made by Australia Post?

Mr McDonald—That would have been part of the negotiating with Australia Post—sorry, the decision not to pursue?

Senator GEORGE CAMPBELL—Who would have made the decision in Australia Post to initiate that? Lawyers do not make a decision to pursue a course on their own; they make it on behalf of the client. Who in Australia Post would have made the decision to initiate that letter?

Mr McDonald—I can get you the specific people. I would need to check that, but we do have an in-house legal service.

Senator GEORGE CAMPBELL—So it would have been the in-house legal service that made the decision?

Mr McDonald—In conjunction with the respective area management.

Senator GEORGE CAMPBELL—Were they responsible for running the case—or in conjunction with area management?

Mr McDonald—No, it was in conjunction—

Senator GEORGE CAMPBELL—Who was calling the shots in respect of this case?

Mr McDonald—It would be both the legal area of Australia Post and the management, but you are asking me specifics and I would need to check.

Senator GEORGE CAMPBELL—I would like you to take on notice who specifically in Australia Post gave the instructions for that letter to be written.

Mr McDonald—Okay. Yes.

Senator MARSHALL—When you wrote the letter and your lawyer said, ‘Australia Post will be pursuing costs against him in the event that the appeal is dismissed,’ based on what you have said you never really had any intention of doing that. It was simply a threat, was it?

Mr McDonald—No, I am not saying that. What I am saying to you is that a decision that is part of the negotiating in relation to a legal issue—the decision that has been taken by Post—is not to pursue the costs.

Senator MARSHALL—When was that decision taken?

Mr McDonald—I would need to check the date for you in terms of that specific.

Senator MARSHALL—So you are going to find out. There were two decisions. One decision was to pursue costs. Then there was another decision taken not to pursue costs.

Mr McDonald—Yes.

Senator MARSHALL—You are going to find out the two dates.

Mr McDonald—Yes.

Senator MARSHALL—Between the two dates you were pursuing costs? Can we at least get that? If we have to really extract this out to such basics, let us do so.

Mr McDonald—You are asking about the negotiating process in relation to a legal case. Both parties are negotiating and can exercise their rights. In terms of the date at which that position was put and the date at which the decision was taken by Post not to pursue legal costs in respect of this particular tribunal consideration, that is something that I would need to check for you.

Senator MARSHALL—Let me put this to you. The letter I am quoting from is from 11 November 2004, so we can safely assume that the decision to pursue costs was made at around that time. That is what the letter from Minter Ellison says. All right? We can safely assume that?

Mr McDonald—At that date or some time—

Senator MARSHALL—Do you agree with me on that?

Mr McDonald—At that date or some time prior to that, I presume.

Senator MARSHALL—But around that time?

Mr McDonald—Yes.

Senator MARSHALL—Around, prior to the date the letter was written. The actual cancellation of the hearing was at 12.06 pm on 20 May 2005—last Friday. So the decision of Australia Post was taken some time prior to that.

Mr McDonald—Senator, I think I have answered the question two or three times by saying that I do not know the exact dates. I can and will find out for you; but I cannot speculate.

Senator MARSHALL—But it does not fit. That is why I have to pursue this. You tell me a decision was made. You know of the decision. You say a decision was made not to pursue costs. If you are so certain of that, when was that decision made? Why can't you tell me?

Mr McDonald—Because I do not know. I said to you earlier that in relation—

Senator MARSHALL—How do you know the decision was made?

Mr McDonald—I said to you earlier that, in relation to being briefed on this issue late yesterday afternoon, I was advised that Australia Post would not be seeking costs in relation to the Industrial Relations Commission hearings.

Senator MARSHALL—We know that advice was clearly wrong, don't we?

Mr McDonald—No. That is what I am told. I said to you that the decision has been made by Australia Post not to pursue costs.

Senator MARSHALL—No, that is not what you just said. You said the decision had been made not to pursue costs.

Mr McDonald—Correct, yesterday. Yesterday I was advised that that was the state of the nation. As to what deliberations went on before, I do not know—between legal counsel, respective parties. I do not know. I am telling you what the factual situation is—as of late yesterday.

Senator MARSHALL—Do you think it was a bit cute of the person advising you that the decision had been made not to pursue costs last Friday for a case that was being heard yesterday to advise you, without giving you any further information, that Australia Post is not pursuing costs? Don't you feel a bit misled? They did not feel that it was necessary to tell you that from at least 11 November last year until last Friday Australia Post was pursuing costs?

Mr McDonald—No, I do not feel I have been misled.

Senator MARSHALL—You do not feel that they should have told you that?

Mr McDonald—I do not feel I have been misled. I was given a briefing on the current situation yesterday afternoon, and I have told you factually what it is.

Senator MARSHALL—You are a very tolerant manager, Mr McDonald. If I was taking advice from someone briefing me about an issue and they failed to tell me that they had been pursuing something for six months and had only a couple of days ago decided not to, and that was the advice they gave me and there was a six-month gap in what they were doing, I think I would be a bit disappointed in that advice. But you are not?

Mr McDonald—No. I was given a briefing on the status of the case. I did not go into the detail of what has happened over the last 12 months.

Senator MARSHALL—Can you find out for me how much money you spent on lawyers pursuing costs.

Mr McDonald—That is a question I will take on notice.

Senator MARSHALL—All right. Can you tell me how many lawyers were engaged?

Mr McDonald—I should be able to do that I think.

Senator MARSHALL—And I already know that it was again Minter Ellison that was running the case.

Mr McDonald—Yes.

Senator MARSHALL—They seem to be doing fairly well. I want to go onto another subject. Mrs Tracey Ousley, I understand, was offered a voluntary redundancy package—or retirement package? What do you call it?

Mr McDonald—Voluntary redundancy package.

Senator MARSHALL—In September 2004?

Mr McDonald—Yes.

Senator MARSHALL—Her position was made redundant.

Mr McDonald—Yes.

Senator MARSHALL—How long was she in that position?

Mr McDonald—As to the position that was made redundant, I am not sure how long she was in that particular position. She has been with Australia Post about 15½ years. If you would like to know how long she was in that area support position, I can find that out.

Senator MARSHALL—Again, let me put on the record that this is another specific case that I have forewarned you that I would be asking questions about, and I hope you have come better prepared than with the last one. I really think it would be a poor response if you could not tell me how long she was in the position that was made redundant prior to it being made redundant.

Mr McCloskey—If I may, Senator, just for clarification, we received information about your interest in pursuing those two matters at about 20 to five yesterday afternoon. We were leaving to catch the plane up here shortly after 5 o'clock. Mr McDonald had a relatively short time in which to get acquainted with the details of both of these cases. I am not sure at what stage you advised the committee, but the advice came through to us by telephone call and fax simultaneously, and the fax is timed 16.41.

Senator MARSHALL—So did you bring the file?

Mr McDonald—There is not a file as such. I have been briefed by—

Senator MARSHALL—There is no file? Come on! I have worked in the public sector. I know there is a file on all these issues.

Mr McDonald—There is not a neat file I can bring you about the whole history.

Senator MARSHALL—I did not say a deep file. There has to be a file on a process of making someone redundant.

Mr McDonald—I have a copy of the offer of the voluntary redundancy package with me. I know the circumstances in which that was given. You asked me a specific question in relation to her tenure in one particular job. I do not know off the top of my head but I can find out.

Senator MARSHALL—The job from which she was made redundant: had she filled that position on a long-term basis?

Mr McDonald—She would have been in that position, I think, for a number of years.

Senator MARSHALL—A number of years? Find out about that, would you? What was her previous position?

Mr McDonald—She worked through the delivery stream. In terms of particular positions and tenures I do not know off the top of my head. I can find that out. As I said, she has been with the organisation for about 15½ years. Her job that she was made redundant from is what is called an area support officer, classified at what is called a PM2 level. Following that, she did some interim redeployment.

Senator MARSHALL—You may have to take this on notice, obviously, but not if you can give me the answer. How long did she hold her previous position?

Mr McDonald—Again, I can get you that information.

Senator MARSHALL—How did she transfer into the position that was ultimately made redundant?

Mr McDonald—I will find out for you. I do not know whether she transferred or was promoted into that position.

Senator MARSHALL—If you could find out, I would appreciate that. Was the restructuring of the area officers within the delivery network under way prior to Mrs Ousley transferring into that position?

Mr McDonald—Again, I need to see what date she actually transferred in. We went through a network configuration exercise from about 2002 onwards, which covered a fairly significant change in both the mail processing and delivery networks in Victoria, which went really through to the latter part of 2004 and involved probably about 300 people getting VRPs over that period.

Senator MARSHALL—Who was involved in that process and were they the same people involved in determining which positions were made redundant?

Mr McDonald—A range of managers was involved in that. A state manager, delivery, has a particular responsibility over the delivery network. A state manager, mails, has responsibility over the mail processing network. There is a range of management people involved in a decision of network configuration of that magnitude.

Senator MARSHALL—Could you give me a list of those people and can you confirm whether the manager of southern operations was involved?

Mr McDonald—In which—the network configuration exercise generally?

Senator MARSHALL—Yes, of the restructuring. And would the manager of southern operations be involved in determining which positions are made redundant?

Mr McDonald—It would essentially be up to the state manager, delivery, and the state manager, mail processing, to determine the particular positions.

Senator MARSHALL—I am not familiar with what you call everybody, but is the manager of southern operations the position you are talking about? Would that position be involved in making the decision?

Mr McDonald—No. The structure in Victoria is that there is a state manager of operations, who is the overall manager for mail and networks for that state. Underneath that person there is a state manager, delivery, who looks after the delivery network, and there is a state manager, mail processing, looking after the mail processing areas, which are the big mail processing sorting areas. The position Ms Ousley was in was a delivery job, so the decision on the specifics of structuring would come from the state manager, delivery, for delivery.

Senator MARSHALL—So does the manager of southern operations report to that position, or is it a higher position?

Mr McDonald—No, it is a higher position.

Senator MARSHALL—So ultimately they would have some say in that?

Mr McDonald—In the overall structure of the state, in a macro sense, yes.

Senator MARSHALL—Would they have a role in determining which positions were made redundant?

Mr McDonald—No. That would essentially come down to the delivery manager, if it is delivery, or the mail processing side; down to specific jobs.

Senator MARSHALL—You are sure about that?

Mr McDonald—The state manager of operations, or southern operations as you call it, is responsible for the overall management of the state. They would be aware of the structural proposals but the day-to-day decision as to person X or person Y would be at that next level.

Senator MARSHALL—Would they be in a position to modify those decisions or overrule those decisions and make different decisions?

Mr McDonald—What sort of decisions?

Senator MARSHALL—On which positions were to be made redundant or which positions were not.

Mr McDonald—Ultimately they are the head of the state.

Senator MARSHALL—Has Miss Ousley been re-engaged in any form, either as a contractor or as a part time or casual employee with Australia Post?

Mr McDonald—Not that I am aware. Our rules in relation to people entering the permanent work force are that once you take a voluntary redundancy package you cannot be re-employed by Post.

Senator MARSHALL—Whatever?

Mr McDonald—Whatever, yes.

Senator MARSHALL—In any form?

Mr McDonald—Certainly not in a staff position. I am not aware of her being employed in any sense since the VRP.

Senator MARSHALL—Can you be employed as a contractor? I can understand the difference of being employed as a direct employee, I think that is quite a sensible policy, but can you be re-employed as a contractor?

Mr McDonald—Not as a specific contractor, no.

Senator MARSHALL—As a consultant?

Mr McDonald—Not a specific consultant working directly to Post, you may work with some other organisation, perhaps, but that is a fairly distant bow.

Senator MARSHALL—Do you know if she is?

Mr McDonald—I have not heard the slightest suggestion of her being employed subsequently by Post since she took the package.

Senator MARSHALL—If you could find out I would appreciate that. Do you know if she is a stakeholder in any company that is now engaged by Australia Post?

Mr McDonald—No, I have no idea.

Senator MARSHALL—Would you know?

Mr McDonald—No, I would not. Sorry, just ask that question: in any company?

Senator MARSHALL—Is she a stakeholder in any company that is engaged by Australia Post?

Mr McDonald—Not that I am aware.

Senator MARSHALL—If you could find out on notice that would confirm that one way or the other. Who is the manager of southern operations?

Mr McDonald—Sorry, I am just hesitating on that last question. I do not know whether I could find that sort of information out if somebody is working for another organisation. We do not have access to that.

Senator MARSHALL—If you cannot, that is okay. I understand that in many instances you require for your internal processes a list of employees that other companies engage. I understand you do do that from time to time. You may not do it in every instance but you can look in your records and find out.

Mr McDonald—Obviously, anybody who is directly employed by us, in a contract or staff position, we would have details on.

Senator MARSHALL—All right. More generally, can you tell me how much you have spent on outside lawyers in the last financial year?

Mr McDonald—No, I cannot.

Senator MARSHALL—Can anyone else?

Mr McCloskey—I think we would have to take that one on notice.

Senator MARSHALL—Could you give me a ballpark figure?

Mr McCloskey—No.

Senator MARSHALL—How many different firms of lawyers do you use?

Mr McDonald—I do not know. We have, as I said to you earlier, an internal legal service that monitors the external legal providers.

Senator MARSHALL—And no-one is here that—

Mr McCloskey—No, there is not. Our—

Senator MARSHALL—Is it a lot of money? I could understand you not having that information if we are talking about a couple of thousand dollars but we would be talking about hundreds and hundreds of thousands of dollars if not more than a million, would we not, in legal services?

Mr McCloskey—Our legal services area have a panel of external companies that they use on particular cases.

Senator MARSHALL—Who is on that?

Mr McCloskey—I do not have that information I am afraid.

Senator MARSHALL—Could you get me a list and could you do a breakdown on how much each firm has been paid—

Mr McCloskey—We could certainly do that.

Senator MARSHALL—Would Minter Ellison be one of the firms used more often than not?

Mr McCloskey—Minter Ellison are certainly on the panel, I am not sure whether they are used more often than any other firm.

Senator MARSHALL—You seem to exclusively have used them in the industrial relations area.

Mr McDonald—No, not exclusively. The two major providers in the industrial relations area are Minter Ellison and Blakes in New South Wales.

Senator MARSHALL—You are going to find out how much you have spent, just summarising now because I am winding up, on lawyers for each part of the Grenfell case, defending the initial action, the appeal, and the prosecution of costs?

Mr McDonald—I will get you what details I can from the information available about the legal costs involved in the case.

Senator MARSHALL—Surely they would bill you for these things. What sort of arrangement are they on? Are they on a retainer and, therefore, you do not have to account for anything?

Mr McDonald—No, they are billed according to the amount of service they provide, but breaking it down into—

Senator MARSHALL—You will be able to provide the information.

Mr McDonald—the levels that you said, I do not know whether I will get down to each component of the case.

Senator MARSHALL—That is how lawyers bill me. Are you saying that they would not bill Australia Post that way?

Mr McDonald—I would need to check that information. I will give you what I can.

Senator MARSHALL—All right. Is there any other relationship Australia Post have with Minter Ellison? You would want to have shares in them, wouldn't you? You do not have any other arrangements with them?

Mr McDonald—We do not have shares.

Senator MARSHALL—Do any of the board members of Australia Post have a relationship with Minter Ellison?

Mr McCloskey—We have a relationship with a range of legal firms. As I indicated earlier, we have a panel of firms that we engage from time to time on particular issues.

Senator MARSHALL—You have told me that. I am just wondering whether any of the board members of Australia Post have a relationship with Minter Ellison? Do you know?

Mr McCloskey—One of our board members is a consultant, I think, to Minter Ellison, yes.

Senator MARSHALL—Who would that be?

Mr McCloskey—Mark Birrell.

Senator MARSHALL—Does he have any involvement whatsoever in the process of placing lawyers on the panel?

Mr McCloskey—No, Senator.

Senator MARSHALL—Who makes those decisions?

Mr McCloskey—Those decisions would have been made by the general counsel. It was some years ago that the panel was established—two or three years ago; I do not recall exactly. The general counsel would have—

Senator MARSHALL—What is the general counsel?

Mr McCloskey—The chief legal officer within the corporation. She conducted an extensive cost-cutting exercise, an examination as to how we handled all our legal things, and, out of that process, established a system of having a panel of expert firms with which we had negotiated particular terms and conditions for legal assistance. It is certainly more than three years ago; it is probably four to five years ago when that happened.

Senator MARSHALL—So the only person involved in making the decision on who is on or off the panel is your chief legal counsel?

Mr McCloskey—She would have made the recommendations. They probably would have been endorsed by the managing director.

Senator MARSHALL—I want to be clear about that, because I thought you had earlier told me that the decision was made by the legal counsel.

Mr McCloskey—She would have put together the panel. I was not involved.

Senator MARSHALL—It is different from who makes the decision. What I am trying to get to is: who makes the decision?

Mr McCloskey—I would have to check on the exact process, but I suspect that the decision was subject to endorsement at a higher level than general counsel—probably by the managing director.

Senator MARSHALL—If you can take that on notice, I would appreciate it.

Mr McCloskey—I would be happy to do that.

Proceedings suspended from 10.09 am to 10.18 am

Senator CONROY—At the last election the government promised to introduce a policy to prevent the delivery of unwanted junk mail. Could you advise the committee on the progress in the implementation of the junk mail policy, Minister? Does the government remain committed to it?

Senator Coonan—Thank you, Senator Conroy; I wanted to be sure about where we are up to. Our answer to that question is that we think the arrangements currently in place do meet our election commitment. There are a number of initiatives and I think Brenton has been in charge of that.

Mr Thomas—Since the election last year, we have been looking at all the election commitments. We have been working on the junk mail issue and as a group, in accordance with the election commitment, have had discussions with the Australian Direct Marketing Association. They indicated to us that perhaps we should also have discussions with a group in Melbourne called the Distribution Standards Board. So we have been talking to them, and they are directly involved with junk mail/direct mail issues as well. We are working with them either to ensure that the current arrangements in place through the DSB are appropriate—it is beginning to appear that they are appropriate—or to discover whether, in consultation with the DSB, we need to consider further action on this process. In short, we are looking at the issue and it is progressing.

Senator CONROY—So you say that you have met with the Australian Direct Marketing Association.

Mr Thomas—Yes, we have met with them.

Senator CONROY—When did those meetings take place?

Mr Thomas—That would have been earlier this year or late last year; I am not sure of the exact date. I think it probably was late last year, just before Christmas.

Senator CONROY—Please take on notice to give us that date.

Mr Thomas—Yes.

Senator CONROY—You have also mentioned another group in Melbourne.

Mr Thomas—Yes. It is called the Distribution Standards Board—DSB.

Senator CONROY—When did you meet with them?

Mr Thomas—We have had a number of telephone conversations with them throughout the early part of this year.

Senator CONROY—Have you been writing and sending letters to them?

Mr Thomas—No, we have not been sending them letters. Together we have discussed their processes and how they place restrictions on the delivery of junk mail. They are involved with the approach of ‘no junk mail’ stickers that appear on people’s mailboxes. They are well

and truly across the issues. We are working closely with them to ensure that we get a good outcome on this.

Senator CONROY—Do you get a sense of whether the industry is supportive of dealing with the public's concerns about unwarranted junk mail?

Mr Thomas—Certainly the industry is concerned about getting a bad reputation through unwanted junk mail; in fact, that is why this Distribution Standards Board exists. From our discussions with both the industry and a number of consumer groups, it appears there is quite good compliance overall in response to people's approach of putting a 'no junk mail' sticker on their letterbox. From the interaction we have had, that seems to work quite effectively in most cases. Obviously in some circumstances it does not work and junk mail is delivered. But, on the whole, it appears to us to work effectively. Certainly industry is conscious that they have to be careful in this area.

Senator CONROY—Do you think there is absolute acceptance by the industry that 'no junk mail' or 'no advertising material' signage should be respected?

Mr Thomas—It would be difficult for me to speak on behalf of the entire industry on that. But, through conversations we have had with groups such as the Major Mail Users Association, of which a number of direct distributors make up a part, they understand very precisely that their reputation is at stake if they continue to deliver junk mail where an individual has indicated they do not want it. I think they take a very sensible approach to that sort of thing because they recognise it as one of their business issues.

Senator CONROY—For the new code or framework or whatever it is that you are working on, is the enforcement mechanism self-policing?

Mr Thomas—In relation to junk mail?

Senator CONROY—Yes.

Mr Thomas—We are not working on a code or a framework at this stage. We are looking to work through, with the Distribution Standards Board, the existing arrangements that are in operation. Our policy in this area is still developing. We are testing how effective the current arrangements are and whether further measures are needed.

Senator CONROY—So, if you want to make a complaint, there is no mechanism. My office is being deluged by people who are getting all this mail and I do not know where to send them. Other than referring to Senator Coonan's election promise and perhaps giving them your name, Mr Thomas, I do not know where to send them. Is there a mechanism and, if there is, what is it?

Mr Thomas—There is a mechanism through the Distribution Standards Board. I can provide you with details on that if you would like.

Senator CONROY—What is the enforcement mechanism for the Distribution Standards Board?

Mr Thomas—The enforcement mechanism is actually through the DSB itself. I can get you the details on that. I do not have them in front of me at the moment. It would be best if I took that on notice and discussed with you the enforcement mechanism that they have.

Senator Coonan—They have got the walkers?

Mr Thomas—Yes, it is in relation to walkers. I would emphasise again, though, Senator Conroy, that we are still examining this commitment and we are just making sure that these arrangements are appropriate. So it is very much a work in progress at this stage.

Senator CONROY—I desperately do not want to verbal the minister. I am looking at the World Class Postal Services policy the coalition promised in 2004, which states:

A re-elected Coalition Government will work with the Australian Direct Marketing Association (ADMA) to establish a framework preventing the delivery of Junk Mail to mailboxes with “No Junk Mail” ...

I am looking at how we are going to prevent it and what the enforcement mechanism is to ensure it.

Senator Coonan—It is, as has just been said, a work in progress. We have been examining options for the effective implementation of our election commitment. Enforcement can be in all sorts of different ways, including discouragement, monitoring and things of that kind. We do have some expert input with the Distribution Standards Board and we are currently working on how we can have the very best way of ensuring that unwanted mail is not delivered to households. Households that do not wish to receive any unaddressed advertising material can contact the Distribution Standards Board on a free call hotline number—I just might mention it for the *Hansard*, just in case anyone is following this line of questioning; it is 1800 676 136—to obtain free ‘No Advertising Material’ signs as a first step. We are working on how we might strengthen it.

Senator CONROY—That is probably going to be one that I will follow up with you to see how it is going over the coming months. I would like to return to the issue that I discussed with Mr O’Bryan in February relating to attempts by Multimedia International Services to install its screens into LPOs. I would like to clarify the circumstances where they can install the products, because unfortunately there still seems to be some confusion. I am hoping that we can clear it all up.

In February Australia Post indicated that Multimedia International Services can only deal with licensed post offices that have an in-conjunction business. After the hearing you provided a list of the in-conjunction businesses. Thank you for that. We have been contacted by number of LPOs querying the list. Are you absolutely confident that that list is accurate?

Mr O’Bryan—That list would be the most accurate list we would have. As I think I previously mentioned, from time to time licensees can apply for whatever reason to change the configuration of their outlet. So there might be some movement between ‘said to contain’ and what we call ‘stand alone’, which we went through.

Senator CONROY—Sure.

Mr O’Bryan—But largely I would accept that that list would be accurate. If there are any concerns, we will definitely look at them.

Senator CONROY—I understand that at least two of those on the list have actually been closed—Watsons Bay in New South Wales and Karoola in Tasmania. It has been put to me that they are on your list but have actually been closed. The following LPOs think they should

be on the list: Burrum Heads, Biggera Waters, Boat Harbour, Berrima, Campbelltown, Marrickville Metro, Goovigen, Main Beach, Bonnyrigg, Revesby North, Exeter, Leyburn, Hagley, Narellan, Athol Park, Keith, Rose Bay North, Burleigh Town, Margate, Pipers River, Westbury and Ravenswood. So there does seem to be a little bit of a discrepancy between what they think and what you think.

Mr O'Bryan—We will get those names from you.

Senator CONROY—They will all be in *Hansard*—that was why I read them out.

Mr O'Bryan—A couple of those names ring a bell for me. They are obviously the ones, like Biggera Waters, that we are in dispute with at the moment—we maintain that they are a stand alone office and therefore we will not approve the installation of a screen. So there are obviously contentious issues between Australia Post and the licensee, and we are working through those. I will certainly follow up on those ones myself.

Senator CONROY—I guess it is going to come down to what Australia Post means by an in-conjunction business. Can we go through your definition? Does it include any business that does not exclusively sell Australia Post products?

Mr O'Bryan—It is mandated that, on every licence agreement, we have attached a floor plan, if you like—a floor plan description of the outlet. It would indicate, in the case of an in-conjunction office, that it would have a hatched area for Australia Post business and the in-conjunction business would be summarily marked as well. There is no clear definition to say that, if you are in this location, you need to be a stand alone. However, if there is a significant throughput of Australia Post customers—if there is a significant turnover in Australia Post business—we would not look favourably on an outlet wanting to change from a stand alone outlet to host another business. We do from time to time have licensees who want to move down that track, and we talk to them and work through those issues with them. I cannot give you a definition per se to cover them all and say, 'These are definitely in-conjunctions and these are stand alones.'

Senator CONROY—That must make it a little difficult in a legal sense. I remember that the last time we were talking there was a problem, with record keeping more than anything else, about some uses or floor plans that were not attached and those sorts of things. There is a lot of confusion, simply because of record keeping as much as anything else.

Mr O'Bryan—Yes. I estimated at the last Senate estimates that I was confident that about 80 per cent of licensees had this floor plan attached. I went back to my office and checked, and that seems to be about the mark. We have a steady process of catching up that other 20 per cent. Obviously, when you talk about 3,000 outlets in total—

Senator CONROY—Twenty per cent is quite a lot.

Mr O'Bryan—then 20 per cent is a few outlets to get around to.

Senator CONROY—As I said, I am trying to get an understanding of the definition of 'in conjunction'.

Mr O'Bryan—To give you a sense of probably our biggest other business in an in-conjunction, we have about 400 licensees who are in conjunction with a newsagency. The next biggest group may be something like a chemist. We may have a couple of hundred in

conjunction with a chemist. Then it ranges down through general convenience stores and what have you. Obviously, as I indicated, at least half of them we maintain are in a stand alone format—so there are 1,500 in a stand alone format. Those are obviously what we imagine to be solely Australia Post.

Senator CONROY—You mentioned Biggera Waters earlier. I understand that they now have a floor plan. Is that right?

Mr O’Bryan—I understand we are working through that one—sorry, Biggera Waters now has a floor plan.

Senator CONROY—I thought that one was now finished.

Mr O’Bryan—Yes, we have sorted that one out. Biggera Waters has a floor plan. It is an in-conjunction business and it has—

Senator CONROY—It is now defined in that ‘in conjunction’ category.

Mr O’Bryan—Yes, and it has one of these Multimedia screens installed, as I understand it.

Senator CONROY—But it was not on your list when you sent it, which was a few months ago. Obviously, there has been a bit of work since then.

Mr O’Bryan—Yes, that is right.

Senator CONROY—I am just trying to understand this. An in-conjunction business involves, as you said, a newsagency, a chemist et cetera. Would you define an in-conjunction agency as not exclusively selling Australia Post products, or would that capture virtually every store or LPO?

Mr O’Bryan—I am trying to think of the wording in our agreement. It talks about the fact that you are able to have approved third-party products in your store. There can still be a stand alone store where we have given approval to have third-party products in that store.

An example I can give you is the business Steve Parish—they make calendars, cards, all sorts of books and items like that. Steve Parish is an approved supplier and licensees are free to stock their merchandise. Whether you are an in-conjunction or a stand-alone outlet you are allowed to stock Steve Parish merchandise. Australia Post has signed off an approval and licensees are free to stock those in a stand-alone or an in-conjunction—

Senator CONROY—I am trying to get a sense of whether or not your definition of a licensee is the same as a franchise—I know you are actually moving into franchise, so I am avoiding what you have recently been doing. Can they in fact do anything other than sell what you tell them they can sell? That would be a franchise-style arrangement, where Australia Post says to outlets, ‘Here is the product—all you do is work with it,’ as opposed to the sort of LPOs which are clearly stand alone. Almost all LPOs would sell some third party merchandise, would they not?

Mr O’Bryan—Yes, most definitely.

Senator CONROY—They are not constrained to selling just Australia Post products?

Mr O’Bryan—Most definitely not. Going back to the example I just gave, you would not classify Steve Parish’s merchandise as Australia Post product. But they are an approved supplier and we happily encourage licensees to stock that merchandise if they wish. There

would be hundreds of suppliers like Steve Parish that we would endorse and actively promote to licensees as endorsed suppliers that they can use for third party product.

Senator CONROY—Could an LPO sell merchandise that was not on your approved list?

Mr O'Bryan—In a stand-alone outlet, and even in the Australia Post part of an in-conjunction outlet, they should not. They would need to have approval from Australia Post.

Senator CONROY—Is that written in absolute black-and-white in these contracts?

Mr O'Bryan—Yes—in the LPO agreement.

Senator CONROY—But it can only be something you have approved?

Mr O'Bryan—Yes, that Australia Post has given approval for.

Senator CONROY—Does that apply in the Australia Post section of the in-conjunction business?

Mr O'Bryan—Yes.

Senator CONROY—But they are free to do what they like in the in-conjunction part?

Mr O'Bryan—The other business, yes.

Senator CONROY—Unfortunately, I have not visited a lot of these LPOs. Do they all have separate counters? Is that a requirement under the LPO agreement? In the newsagencies, for example, do customers have to go to a separate counter with separate staff? I am looking at the physicality issue here. Is that a requirement?

Mr O'Bryan—No, it is not set in stone.

Senator CONROY—That must make it hard to have a floor plan.

Mr O'Bryan—Not necessarily. If it is shared counter—a long counter for example, such as the one you are sitting at today—we can show clearly on a floor plan that one part is, say, the newsagency part and the other part is the Australia Post part. I have seen examples where that is the case. You suggest that there are separate counters, and there are certainly outlets that have separate counters. Australia Post would lean towards or favour separate counters, but the physical layout of the outlet may not allow that to happen. Providing the counter meets our satisfaction, it can be a shared counter with a delineation that can be shown on a floor plan and recognised in reality.

Senator CONROY—I am thinking of a situation where, say, Australia Post wants to put up one of these screens in a single-counter outlet. I understand that the maximum benefit from one of these screens is that it is over the counter so that people who are queuing can watch it. I am trying to work out whether or not if you put the screen over the counter—

Mr O'Bryan—That is what our argument has been with Multimedia. In situations where you are putting the screen above the counter, we believe the reason that people are visiting the in-conjunction business is that the postal section of the outlet is attracting the vast majority of customers. In our overall network, we have 1.1 million customers a day; in effect, the host business is trading off the throughput that Australia Post provides for that in-conjunction business.

I think I raised the example last time of the plumber who thought there was an association with Australia Post when he was sold the advertisement on one of these screens. Subsequently, I must say, we have discussed this with Multimedia and they have followed that up and made sure that that does not happen again. But that is what we are concerned about—putting a screen that has other third party people that are not endorsed by Australia Post or what have you—

Senator CONROY—I understand you wanting to protect your brand—not an argument. What I am trying to gain an understanding of is how you can do that without drawing a line across a shared counter. Even then, if they put it on the other side of the line on the shared counter, how could you stop the erection of a screen? Short of requiring them to have two separate counters so that only newspapers and things go through one counter and only Post items go through the other one, I do not know how you can enforce that. I appreciate all the points you are making, but in a legal sense how do you hope to enforce or win that argument?

Mr O’Bryan—There is a misconception around, which is shared by some licensees, that I have become aware of: when they talk about what is the Australia Post part of an in conjunction, they talk about the counter and behind the counter. That is a fallacy. It cannot possibly just be the counter. People are walking up and are queuing—hopefully looking at other products that are for sale, like postal products or express post and all that sort of stuff.

Senator CONROY—Perhaps you could supply blinkers when they stand in the queue.

Mr O’Bryan—There has to be a portion on the public side of the counter that is dedicated to Australia Post. It is not just simply—

Senator CONROY—That is what I am trying to get an understanding of. This is the most practical, I suspect, issue that you will confront. If it is that you go to the one counter to purchase all products, whether they are in the Post designated area or the non-Post designated area, you would have to be able to win your argument in a legal sense, I suspect, to ensure that the counter was deemed to be purely, totally—on top, behind, on the sides—part of the Post designated area for you to be able to say, ‘You can’t put that up above the counter.’

Mr O’Bryan—If you wish, I could get some examples of an array of floor plans for you and take some photographs of the outlets—

Senator CONROY—That would be very helpful.

Mr O’Bryan—and just show you the difficulties and even take some—

Senator CONROY—I am agreeing with you. This is the difficulty you are just getting dragged into a morass on, because each time you concede a centimetre here there is going to be another example somewhere where you need a second centimetre, and on it goes. I understand why you have to try to draw a line at the edge of the counter, so to speak, but it becomes harder and harder to legally enforce. I would think that is the issue. I understand what you are trying to do—protect the brand and make sure that you are not being traded off.

Mr O’Bryan—As I said earlier, where an outlet is showing strong throughput of customers, actually increasing revenue and sales, we really talk long and hard to those licensees who think they should be contracting their business when it is in the growth phase, who want to go the other way and shrink the outlet for the postal business when clearly the

postal business is increasing in that outlet. However, there are some outlets that we know are shrinking in some areas and we would be quite amenable to them, say, shrinking the Australia Post part. But that is not in the main; in the main our business is going strong, licensees' revenue is increasing, customers through licensees are increasing more through the licensees part than through the corporate part at the moment, so we do not find it logical that licensees would want to contract the Australia Post part when it is—

Senator CONROY—No, this is potentially a win-win. I do not think there is any argument that this is a winning model if it can be made to work right. I am a big supporter of it. It is just that I can understand where what is on which side of the line, particularly when it comes to the counter, is a really tough one.

Mr O'Bryan—I will give you some examples of photographs and I will take some photographs of Biggera Waters and those types which seem to come up all the time. I am sure Biggera Waters is an example of where they have got a screen and it is an in-conjunction business with the counter byplay. We will work through that with you.

Senator CONROY—How does a screen that is attached to the roof above a counter fit into a floor plan? Is it a roof plan? You have the cubic metreage; is that the way it works?

Mr O'Bryan—The way the floor plan works, it is obviously the floor and things that fit on the floor—

Senator CONROY—I am waiting for your legal case where you try and define the actual ceiling as part of the floor.

Mr O'Bryan—We do extend it up.

Senator CONROY—I am really looking forward to that one. That will be groundbreaking.

Mr O'Bryan—We do claim the walls too.

Senator CONROY—The floor plan includes the roof—okay! You would say that the walls and the roof in your designated part of the post office are also part of the floor plan?

Mr O'Bryan—Yes, I would.

Senator CONROY—That comes to the issue of what the floor plan actually shows. A floor plan, can I put to you quite seriously, by definition cannot show the roof.

Mr O'Bryan—It is only a flat piece of paper. It does not show the roof.

Senator CONROY—I do not know how you are going to enforce something hanging off a roof and say, 'It's on the floor plan.'

Mr O'Bryan—However, we do.

Senator CONROY—I appreciate you can make the claim. I am just looking forward to you trying to enforce it.

Mr O'Bryan—I do not know how we write it up in the agreement. I will see if I can find the appropriate part and try to attempt to—

CHAIR—Senator Conroy, we have actually reached the scheduled morning tea break.

Senator CONROY—I am happy to stop there.

CHAIR—Is it the feeling of the meeting we would like to have a break now?

Senator CONROY—If we stop there we can chat about the floor.

Proceedings suspended from 10.46 am to 11.02 am

CHAIR—If Senator Conroy is ready, we will resume.

Senator CONROY—We were just discussing walls, roofs and floors. Are there any updates you can give us?

Mr O’Bryan—I just checked with the office. We make reference to space in the LPO agreement, which is reflected in the floor plan. We do not claim specific ownership over the ceiling or walls, but that is our intent anyway. That is the way we have been operating over the number of years and talking to licensees on those terms.

Senator CONROY—I understand that; I just look forward to that first legal case. You mentioned that you are updating and talking with all the 20 per cent that have not got a floor plan space plan. How are we going? Have we worked our way through them? I mean 20 per cent, as we said, is about 600.

Mr O’Bryan—I would have to take on notice what we have reduced it to, and I will have to take on notice what the actual quantum is. I am happy to do that; I do not know that specifically.

Senator CONROY—I understand you have activated a dispute resolution process in relation to the Helensville LPO.

Mr O’Bryan—It is Helensvale.

Senator CONROY—Helensvale, sorry. Can you outline the nature of the dispute?

Mr O’Bryan—We maintain that Helensvale is a stand-alone outlet and, therefore, we do not approve the use of the Multimedia screen. That is the essence of that dispute.

Senator CONROY—How does the dispute resolution process work? Can you take us through the actual practical process before we get to the issue?

Mr O’Bryan—Either party can initiate a dispute so it is incumbent on whichever party. For example, if we instigate the dispute in this Helensvale case we would notify the licensee and then there are a series of stages that we work through with the licensee. We try to resolve it at the local level rather than escalating it up the line. We are in the process with Helensvale, if my memory serves me correctly, where we set down a committee. There is a committee that will meet, with an independent chairman, an Australia Post representative and a representative of the licensee that would hear the arguments on both sides and come to a determination regarding this matter that is non-binding to everything else, it can just pertain to Helensvale. I understand that we have had several attempts to try to get that meeting set up but the licensee representative has not been available. In fact, the licensee has not been available at some times so I think there are some issues there. I understand that we will have that meeting within the next two weeks. It has gone on for a rather long time but it is due to the availability of some people on the licensee side.

Senator CONROY—Is Helensvale an in-conjunction business?

Mr O'Bryan—As I said, we maintain that it is a stand-alone business. It is quite a busy little outlet. It is one of these outlets that is increasing in numbers and increasing in postal revenue over the years. We would maintain with a business that is growing why would you cut back the amount of floor space allocated to that—

Senator CONROY—You say 'cut back'.

Mr O'Bryan—Yes.

Senator CONROY—Is there some suggestion that they have recently reduced the Post floor space?

Mr O'Bryan—In order for us to, in effect, approve the use of the Multimedia screen in there they would have to be an in-conjunction business and place the screen—

Senator CONROY—The point you made was 'cutting back'.

Mr O'Bryan—That is what the licensee would have to do, yes, cut back on the floor space.

Senator CONROY—Is there some suggestion that in recent years, or even recent weeks, that he has reduced the size of the Australia Post area?

Mr O'Bryan—He is seeking to.

Senator CONROY—But you are defining that as the fact he wants to hang a screen is an automatic trigger that he is seeking to reduce the space. Firstly, there is a floor plan, I understand?

Mr O'Bryan—I understand, yes.

Senator CONROY—For this particular area. The licensee purchased the LPO three years ago, does that sound right?

Mr O'Bryan—That sounds about right, yes.

Senator CONROY—Has he changed the configuration of the store in any way that you are aware of in the three years?

Mr O'Bryan—Not that I am aware of, no. He may have.

Senator CONROY—He just bought it and continued to operate it?

Mr O'Bryan—As I understand it, yes.

Senator CONROY—He disputes that there was a floor plan attached when he purchased it?

Mr O'Bryan—I am sorry?

Senator CONROY—I understand he disputes that there was a floor plan attached. He says he has never seen a floor plan.

Mr O'Bryan—Yes. I understand that there was not a floor plan attached to the agreement when he took over, yes.

Senator CONROY—But in your head office there was a floor plan?

Mr O'Bryan—No, it is like one of these 20 per cent where there is no floor plan. However, where there is no floor plan we are asking the area management to negotiate or discuss with the licensee an acceptable floor plan. In the LPO agreement it says that the floor plan must be mutually agreed so we cannot arbitrarily come in there and say, 'This is the total area.' We are in the process—

Senator CONROY—But from your earlier description it sounds like you do not support any reduction in this particular store.

Mr O'Bryan—No, not at Helensvale. That is our position and has been our position. That is why we instigated the dispute, because we maintain that even in the absence of a floor plan that outlet is solely Australia Post. We view that it is set up solely for Australia Post and therefore the floor plan, and that is what we are trying to negotiate with the licensee and hence the dispute, is a stand-alone outlet.

Senator CONROY—Sure. So we agree then that the new owner of Helensvale never saw a floor plan because there was not a floor plan. This is one that requires that negotiation process.

Mr O'Bryan—Correct.

Senator CONROY—And he is not seeking to change the current configuration? I mean your argument is that by definition, if he wants to attach something to a wall, he is changing the configuration.

Mr O'Bryan—Yes. That is what we are maintaining.

Senator CONROY—Do you know how much of his store is dedicated to Australia Post products and how much is dedicated to, if you like, third-party material?

Mr O'Bryan—Maybe this is an outlet that I could actually get a floor plan—

Senator CONROY—But there is not an agreed floor plan. You can give me an actual floor plan of the store, but that is not the agreed floor plan.

Mr O'Bryan—No. But perhaps I could take it on notice and at a suitable time to you work through that particular issue. I know generally about the issue, our position and all that, but to say how many square metres, how many Australia Post products and if there are any other third-party non-approved products in there, I would have to get—

Senator CONROY—Thirty per cent of his business is third party and other bits.

Mr O'Bryan—Yes. But we have also got this dispute resolution process—

Senator CONROY—You would not be requiring him to withdraw any of those other materials?

Mr O'Bryan—At this stage we are just focusing on—

Senator CONROY—You would cut his throat if you did that.

Mr O'Bryan—We are just focusing on the Multimedia screen. That is the one that has been brought certainly to my attention at the national level. But certainly there would be flow-on if that does become an agreement, that it is a stand-alone outlet.

Senator CONROY—He thinks he bought an in-conjunction store and has been running an in-conjunction store. Thirty per cent of his overall take is from the non-AP part of the store. So if you were to win your argument as you have put it to me, that it is 100 per cent not in-conjunction, you will cut his throat—that is 30 per cent of his take; he has got to take the stock out.

Mr O'Bryan—If there is an LPO agreement, the licensee would have to do the agreement with the floor plan. That would be the natural outcome of saying that it was a stand-alone outlet.

Senator CONROY—But it has been operating and the way he has been running it since the day he purchased it has been in his mind as an in conjunction.

Mr O'Bryan—It is clearly unfortunate that we did not have a floor plan there and that was not made painfully clear.

Senator CONROY—There are rules about the transmission of business. He bought a business that is running in this particular manner and you are trying to come in and suggest that in fact he has been in breach of his conditions since the day he bought it.

Mr O'Bryan—I suppose that is where the dispute process comes in, where we put our side and the licensee can put his or her side to the story. We will go through that stage and go through the stage of having that independent chairman have a look at it. Hopefully after that we will come to a decision. Maybe we can revisit this after that decision is made, because the licensee will be there.

Senator CONROY—I understand that. I am just assuming that if he purchased this store in a particular configuration, he is entitled to rely on that, particularly as you have no supporting documentation to backup your claim that it is a stand alone. There is no floor plan to indicate that it is a stand alone. If there was a floor plan, if you said, 'Look, there is actually one' or if the bloke who had sold it to him had lost it, that would be a different issue. But we are agreeing that there never was a floor plan.

Mr O'Bryan—Equally, there are no floor plans to suggest that it is an in-conjunction business.

Senator CONROY—But he has bought it in good faith. He walked in, saw this business that is configured in a particular way at the moment, which includes non-approved stuff, I suspect, and he has not done anything to change it. He is just continuing his business. If he had not decided to put a screen in you would have let him keep going. Other than when you eventually got around to chat with him about the fact that he was one of the 600 that did not have a floor plan you would never have noticed. So it is not like he has done anything. To me, this should be a negotiation. You have negotiated other floor plans and outcomes without having to go through a dispute.

Mr O'Bryan—And we are in the process of negotiating.

Senator CONROY—The point is that you cannot negotiate and have a disputes mechanism at the same time. They are distinct things, I would have thought: there has been a breakdown in negotiations; therefore we go to a dispute. It would make more sense if there was no dispute.

Mr O'Bryan—We have tried to negotiate and we have failed to get anywhere in the negotiations, so we have implemented a dispute process. The dispute process will lead us to continue discussions—maybe I will not call them negotiations—and it will be put in front of an independent chairman, with representatives from Post and the licensee there. Hopefully, out of that there will be an agreement—if that is the right word—that both parties can live with.

Senator CONROY—But it is negotiating with a gun to your head, being dragged into a disputes settlement process. Wouldn't it be better just to try to sort it out, a proper negotiation? There are other cases that you have indicated and that I am aware of where you have been able to negotiate a change of configurations. This is not even negotiating a change; this is just enforcing the existing configuration.

Mr O'Bryan—I think that augurs well for us in that we have shown in other examples that we have been able to negotiate with the licensee a change to the floor plan to facilitate putting in a screen. We have not taken a belligerent stance in those other cases. We feel strongly about this particular case. In fact, this is the first dispute Australia Post has instituted. All the other disputes over the many years that this has been going have been instigated by the licensee. As I said in February, we are very protective of our brand and we see this multimedia screen as something that would not portray our brand well.

Senator CONROY—Why are the screens okay in some of your stores where you have admitted that you have negotiated changes to accommodate a screen but apparently not okay in this one? Or is it your absolute position that this is not an in conjunction store?

Mr O'Bryan—That is our position on the Helensvale one.

Senator CONROY—But you do not have a floor plan that supports that.

Mr O'Bryan—No, we do not have a floor plan to support that. To answer to your previous question: in those outlets that we say are in conjunction and the licensee is free to put whatever he or she likes in the store, we believe that they have shown this clear distinction between what is the Australia Post part of the business and what is the other part of the business that happens to have this screen in it. What we object to is having a screen in the Australia Post part that brings over—

Senator CONROY—That is where we get to the argument about one counter.

Mr O'Bryan—the association with Post when there is clearly not an association with Post.

Senator CONROY—As I said, I understand that—and avoiding the argument about whether the floor is the roof—but where there is only one counter in a business it is hard to imagine how Post can claim the counter. By definition, people are going to be purchasing items from the 'in conjunction' part of the business across the counter.

Mr O'Bryan—In an in conjunction business they are meant to have an Australia Post counter and an 'other business' counter, if you like.

Senator CONROY—But you said there can be one long counter with two different registers.

Mr O'Bryan—And it will be clearly marked.

Senator CONROY—Isn't this a debate about where you draw the line on the counter in this store ultimately?

Mr O'Bryan—Yes.

Senator CONROY—If the licensee wants to put up a screen on the part of the counter that is designated not as the Post part—and you have to give him a bit of the counter where there is at least room for a cash register—then you cannot have an argument.

Mr O'Bryan—No. If we accept that it is an in conjunction business, no, we do not have an argument.

Senator CONROY—But it has been running as an in conjunction business.

Mr O'Bryan—I might show you some photographs of various outlets where we have a single counter.

Senator CONROY—This is Helensvale in particular that I am talking about. Have you inspected that or seen photographs of that?

Mr O'Bryan—Personally, I have not.

Senator CONROY—Have you seen photographs of it?

Mr O'Bryan—No, I have not seen photographs of it. I have had it described to me.

Senator CONROY—Are you able to describe it to me? I have not seen it, and I have no photos. I would appreciate what you believe is your description. Does your description coincide with the fact that I understand that it has been running effectively as an in conjunction for all the period that this gentleman has owned the store? Tell me if you think that is not right, please, and I will stop harassing you.

Mr O'Bryan—I could not describe to you the floor plan as I have seen it, but I have seen a floor plan of the outlet. Perhaps it would be better if I take it on notice, get some photographs for you and show you the floor plan so that we can talk with a common—

Senator CONROY—Sure. You must have a belief that it has not been running as an in conjunction. The whole basis of your position that you are having a dispute over is that it is not an in conjunction.

Mr O'Bryan—That is correct.

Senator CONROY—That must be based on somebody walking into the store, looking around and saying, 'Right; this has been like this today or like this yesterday.' You must have some history of the store. This suggests to me that this gentleman has not changed a thing. The only change is that he has attempted to hang a screen. All I am asking you is whether it is right that he has not changed anything. If it has been running for three years—and I contend from that that it is longer, because he is just the owner from this point, but he has not changed anything. Before that it ran for the previous three years, so it has been running for a long period in this manner. You do not have a floor plan.

Mr O'Bryan—It is only through Multimedia that it has been brought to my attention, and that is the only position that we are taking. If this licensee has other products that are not approved and are within the store, that is not my focus in this issue. That has not come to our focus. These other items that you are suggesting are non-Australia Post items must not be of a

visual nature or of significance or whatever to warrant the particular notice of previous local area managers who have walked into the store and think that it is causing us a problem. With 3,000 outlets, even the 1,500 standalone outlets, I would be silly to suggest that all the products in Australia Post are all approved third party products.

Senator CONROY—I understand that 30 per cent of his business is, if you like, in conjunction.

Mr O'Bryan—The only figures we see from businesses are postal business—the business they transact through us. I will just have to take your word that he is getting 30 per cent of his revenue through other items that we certainly do not have any knowledge of and do not track through our point of sale system or anything like that.

Senator CONROY—Main Beach is not listed as in conjunction business, I understand.

Mr O'Bryan—I will take your word for it, yes.

Senator CONROY—But it sells handbags. Do you approve handbags?

Mr O'Bryan—I would not imagine so, but I would have to take that on notice. It would seem odd that we would.

Senator CONROY—It would seem a little out of your range, normally.

Mr O'Bryan—It would seem odd that we would. However, if you talk about handbags, I know we sell the Bratz or Barbie type for kids.

Senator CONROY—I understand it is handbags in the more traditional sense.

Mr O'Bryan—A fashion thing, a ladies thing.

Senator CONROY—I am not going to name any names at this point, but I understand somebody's wife happens to work in this store, and they are a senior person in your organisation in Queensland.

Mr O'Bryan—And they sell handbags? I would have to follow that up.

Senator CONROY—As I said, I am just saying that this has been put to me. I am not going to name any names, so we can avoid anything like that. But, in terms of consistency, it seems a little odd. I am happy for you to come back to me at a later date and say, 'No, we have investigated this and that is not true.' But if it is true, there does seem to be a double standard applying.

Mr O'Bryan—At this point in time, the only thing we are pursuing on a national level as non-approved items for sale or for advertising is the multimedia screen.

Senator CONROY—But handbags are okay?

Mr O'Bryan—That has not been brought to my attention until now.

Senator CONROY—I have just brought it to your attention, possibly, and I am hoping you are going to be able to give me an answer.

Mr O'Bryan—I will certainly investigate it, see what position we take and come back to you on it.

Senator CONROY—We understand that some LPOs sell products for years without intervention. How do you ensure that you are consistent? A lot of this is about consistency.

Mr O'Bryan—By years without intervention, do you mean years without people going and visiting their outlets?

Senator CONROY—No, years without anybody objecting to it.

Mr O'Bryan—As I said before—

Senator CONROY—I will clarify that: have you done a stocktake to ensure that every one of your stores is not selling unlicensed products?

Mr O'Bryan—No.

Senator CONROY—So it can become a bit of a lottery as to whether someone notices or, alternatively, just chooses to think, 'It's just a small bit in the corner; I'm not going to bother chasing it up.'

Mr O'Bryan—No, we encourage all our area managers or all our LPO managers to be aware of the LPO agreement that talks about sale of items that are not approved. Over the years, in my experience, I am aware of many licensees who have been spoken to and asked to withdraw product from sale, and they comply with that.

Senator CONROY—I am trying to get a consistent pattern so that I can make sure that consistent fairness is being applied.

Mr O'Bryan—Without doubt there would be hundreds of examples where management go into outlets and request removal of items that are on sale.

Senator CONROY—How many post offices are the multimedia screens installed in now?

Mr O'Bryan—I do not know. I understand it to be fewer than 20, but it is not something that we keep a record of at the national level.

Senator CONROY—You seem to be pejorative about a screen in this particular store, going back to Helensvale—

Mr O'Bryan—Yes.

Senator CONROY—whereas you are not pejorative about the other 20 stores.

Mr O'Bryan—The ones that we know about, as I said, we are happy with them. They are an in conjunction business and they are in the in conjunction part; they are not in the Australia Post part, so they are fine to be installed. We have not got any problems with those being installed in there. Those other 20, if there are 20, we maintain are in conjunction outlets.

Senator CONROY—Does Australia Post have any plans to introduce a product similar to that offered by Multimedia International Services in their offices?

Mr O'Bryan—No.

Senator CONROY—I have a range of other questions—not on those, you will be pleased to know—but I am conscious of the time and that we are running a little behind. You have had a good grilling from some of my colleagues, so I am happy to put the rest of my questions on notice. Thank you very much. I can give you that name if you want to grab me in a second.

Mr Thomas—Senator, I have an answer to one question you raised. You asked the department earlier about when we met with ADMA on junk mail. It was 15 December 2004.

Senator CONROY—Thank you very much.

CHAIR—Where are we going now? Are you finished with this group?

Senator CONROY—Yes; onwards to Telstra.

CHAIR—I thank Australia Post for appearing.

[11.29 am]

Telstra

CHAIR—I welcome Telstra to estimates, but before we proceed I would like to make a comment about Mr Bill Scales, who is the group managing director. I believe he is appearing before us for the very last time—

Mr Scales—That is correct.

CHAIR—having had the pleasure, I am sure, of appearing before estimates for the last six, seven or more years—that is a lot of estimates you have appeared at before this committee. On behalf of the committee, I would like to thank you for the fact that you have always given us very clear and helpful answers and we wish you well in the future.

Mr Scales—Thank you very much. Can I also convey to the committee my thanks for treating me, without exception, with due respect and dignity. I have appreciated that. I will go away from this forum with many memories.

CHAIR—I am sure that will be the case. All the best.

Senator CONROY—Mr Scales, you are responsible for human resources in Telstra, aren't you?

Mr Scales—Yes, amongst a number of other things.

Senator CONROY—You have many other responsibilities, I know. I have a few human resource questions. I want to go through the rules on termination payments for employees. Are there rules in Telstra concerning employees' entitlements to payments for redundancy and other termination situations?

Mr Scales—Yes, there are. It depends on the nature of the employee. I may ask Chloe Munro to give us some of the detail in a minute. There are differences in the rules. If an employee is on an enterprise agreement or subject to an enterprise agreement there are quite defined rules around that. There are rules for employees who are on AWAs. Then there are others who are on what would be described as common law contracts. So we do have rules around those issues.

Senator CONROY—Could I get an outline of each of those circumstances?

Mr Scales—I will ask Chloe Munro to give a run-down on that.

Ms Munro—The basic arrangements are in Telstra's redundancy agreement, which applies to all our employees under enterprise agreements and applies in most cases to those with AWAs. The sum payable depends on the circumstances but it is a minimum of eight weeks pay, including notice, and can be as much as 84 weeks of salary. The provision is for four

weeks pay for each completed year of continuous service up to five years, three weeks for each completed year of continuous service thereafter and a pro rata payment for each completed month of continuous service since the last completed year of continuous service—so for that partial year.

Senator CONROY—That was for enterprise agreements?

Ms Munro—That is right but it also applies in most circumstances to our staff on AWAs, unless there is a different provision.

Senator CONROY—You have not been pattern bargaining with your AWAs, have you?

Ms Munro—No, but obviously most of them have some standard terms in them.

Senator CONROY—I did not think standard terms were allowed; I thought it had to be an individual contract. It must be me. I am sorry, I should not interrupt.

Ms Munro—That is really the heart of it. As Mr Scales said, on common law contracts we have a variety of arrangements but I can honestly say that our redundancy provisions are, by most standards, very generous. We treat our employees very fairly under those conditions. We also have provision for them to participate in programs that will assist them to consider their future options, so they get a lot of support during that period.

Senator CONROY—I am particularly interested in the employees on contract rather than on awards and AWAs. Who sets the rules that are in those contracts? Are they board decisions? Is it Mr Scales? Is it Dr Switkowski?

Mr Scales—To use the nomenclature of Telstra, those common law contracts generally apply to level 1s, 2s and 3s and, to some extent, level 4s. But primarily they apply to the level 3s and above.

Senator CONROY—Just so I do not get confused, level 1 is the bottom of those and then it goes upwards?

Mr Scales—Level 1 is the top. A person like me would be level 1. Ziggy Switkowski is the CEO above, so he might be called a level zero. The level 2s are our managing directors. Level 3s generally are general managers and level 4s are our managers. Our general managers, managing directors and group managing directors are subject to quite specific and well-defined redundancy provisions.

Senator CONROY—And the provisions for level 2s and 1s are also very defined and specific?

Mr Scales—Yes, well defined.

Senator CONROY—And the level 4s are not as well defined?

Mr Scales—Yes. Chloe might help with this one, but with the level 4s it is a slightly variable situation. Whereas some of our level 4s are on various sorts of contracts, in general they would be on a common law contracts. Chloe, do you want to add anything?

Ms Munro—That is right. There is a mix. But I think also that one of the things worth pointing out is that a lot of these contracts go back a long time, so the terms were settled in some of Telstra's predecessor organisations and have been continued in contracts to this day.

Senator CONROY—Who sets the specific redundancy provision?

Mr Scales—For each of those categories, they are set primarily by level. There is a standard procedure for every employee at that level. To all intents and purposes, that is set by the HR group, taking a range of things into account. In most cases they are quite standard provisions of a contract. They rarely vary.

Senator CONROY—For level 0, that would be ultimately the board that makes—

Mr Scales—Yes. The CEO roles and the provisions there are associated with the board. As you are aware, when Dr Switkowski was asked to leave the company, we made quite public all of the details of the so-called redundancy provisions. They are quite well defined, and any new—

Senator CONROY—How far down does the board reach in terms of having those individuals?

Mr Scales—That is the only one.

Senator CONROY—That is the only one—level 0?

Mr Scales—That is the only role—

Senator CONROY—To borrow your description.

Mr Scales—The board also is involved in discussions around the terms and conditions of employment of me and my colleagues. Dr Switkowski would normally take those details to the board. There have been times when those provisions have varied. All of the employment benefits and all of the terms and conditions of employment, certainly for level 1s, are often quite specifically defined to meet the circumstances of the individual, but then below that the board does not get involved.

Senator CONROY—How many level 1s are there?

Mr Scales—There are seven or eight.

Senator CONROY—If an executive is operating under a contract, under what circumstances would that person be able to be paid out the full amount of the contract? What happens?

Mr Scales—If the provisions of the contract include a redundancy provision, then, if a person was to leave and the particular position was made redundant, the full force of the contract would come into play.

Senator CONROY—And if a person, as in the case of Dr Switkowski, was asked to leave, what is the trigger there?

Mr Scales—There are termination provisions in a contract.

Senator CONROY—In all of these cases for levels 0 to 4?

Mr Scales—Yes, there are standard termination provisions.

Senator CONROY—What are the standard termination provisions?

Mr Scales—Again, they vary, effectively by level. And it does depend on the nature of the termination. For example, if a person is terminated because of some form of misconduct,

there are conditions that apply there. If a person is made redundant—which is not really a termination: it is the role that is made redundant—there is another set of provisions that are associated with that. And, under common law contracts, if a person is terminated for other reasons, there are provisions associated with that.

Senator CONROY—Does misconduct include things like incompetence or inability to get on with colleagues?

Mr Scales—No. As to incompetence in itself, we would not encourage people being terminated on that basis. Ultimately it is, but there is a provision by which what we encourage our people to do in those circumstances, particularly leaders in the organisation, is to go through a fairly elaborate process of trying to encourage people to improve their performance. We take that very seriously and we work with people. I do not think what you describe as incompetence is necessarily—

Senator CONROY—It would have to be pretty gross to have a summary dismissal in that sense; you would put them into a process.

Mr Scales—Certainly, you would not summarily dismiss anybody because they were not doing their job, which I think is what you are implying. The circumstances that would apply there are that we would expect the leader in to take that person aside, explain to them why they did not believe they were doing a good job and then give them an opportunity to improve. If they did not improve then we might take some action. That is the way that would work.

Senator CONROY—The Commonwealth Public Service has rules which apply when people are re-employed—that is, when people have been employed previously and have received a termination payment. Specifically, people have to repay the redundancy payments they received if they are re-employed within a specified time frame. Does Telstra have a similar rule?

Mr Scales—We certainly have rules around people being re-employed after being made redundant. Our normal rule is that somebody cannot come back into the company for two years after having been paid a redundancy payment.

Senator CONROY—And that applies to consultants as well; you cannot sneak them back in as a consultant?

Mr Scales—Certainly not. The reason for that is that some time ago—and I have to hasten to add that it was some five years ago—we found that people were wanting to manage the headcount. They were managing under that basis and putting people off, and then we would find that people would reappear as consultants the next day. The effect of that on morale is very damaging, so over the last five years we have taken a very strict approach to this. While there are exceptions, we do try to keep those exceptions to a minimum. It is only in exceptional circumstances that we make exceptions.

Senator CONROY—What sorts of exceptional circumstances would they be?

Mr Scales—For example, in recent times we have found that somebody may have been made redundant in one of the technical areas and, for whatever reason, someone else may

have then realised that that technical skill was required for a month or two. If that is the case, they will generally apply to me.

Senator CONROY—What sort of technical area are we talking about here?

Mr Scales—It could be something to do with the network. It is mostly in that area.

Senator CONROY—When you say ‘technical’, do you mean wires and IT?

Mr Scales—It might be an IT net system. It might be a particular capability around software where it is not easy to get those skills. It might be a particular configuration in an ageing part of the network that is being replaced and in the meantime we need those skills for a short period.

Senator CONROY—You said you have been particularly strict on this two-year rule for the last five years.

Mr Scales—That is correct.

Senator CONROY—Was there a policy before then?

Mr Scales—There was a policy but I think, unfortunately, people were not adhering to it. I need to give you a bit of background here. We have a number of debates and discussions with our staff right around the country, and some time ago this was becoming quite an issue amongst our staff. They were asking the appropriate question: how could somebody be put off with a redundancy payment and then be sitting next to them the following day as a contractor? So it was an issue that we thought it was very important that we address.

Senator CONROY—So, if a person has been re-employed by Telstra within the two years, they have to pay back their redundancy payment?

Mr Scales—No, they do not necessarily pay it back. If, as in the circumstances that I was talking about earlier, they are coming back into the company for a very short period and it has been at our request—they are there because, for whatever reason, we have needed them; perhaps we should not have even made them redundant at the time—we do not require people to pay back the money.

Senator CONROY—You do not?

Mr Scales—Not in those circumstances. If somebody were to argue, however, that the person needed to be re-employed full time because a mistake had been made, then we would tell people, if they wanted the job back, that we would regard it as being appropriate that they would repay the money.

Senator CONROY—This policy has been strictly enforced, with the caveat that you made of exceptional circumstances, for at least five years, when it became clear—I will not say that there was abuse—that it was not being strictly adhered to previously.

Mr Scales—I think that is a fair assessment. Again to be completely fair about this, I think we would have, over the last 12 months, made maybe a dozen exceptions to this rule. In some months there might have been one and in other months none, but it would certainly not be any more than that.

Senator CONROY—Thanks for that. I would now like to go to a specific case that was reported by Michael Sainsbury in the *Australian* newspaper on 5 April 2005 in relation to a Mr John Short. Are you familiar with that case?

Mr Scales—I did read the article.

Senator CONROY—Mr Short previously worked for Telstra; that's correct?

Mr Scales—That is correct, yes.

Senator CONROY—What was the position that he held at Telstra during that time and what were his duties?

Mr Scales—He worked for me. He was the national general manager of government affairs. His duties were to act as Telstra's representative here in Canberra. He had a small staff that he was responsible for in our Canberra office. I think that probably generally describes the duties.

Senator CONROY—When did he start and when did he finish, roughly? You do not have to give me the exact day.

Mr Scales—I think John worked for us for around 3½ years and left us about July of last year, so I think he started in 2001 or thereabouts. If you wanted more accurate details, I would have to get those for you.

Senator CONROY—No. That is close enough for me. What was his salary? Before you go to that, what level would that have put him at?

Mr Scales—John was a level 3 general manager.

Senator CONROY—Roughly, what was his salary?

Mr Scales—You are asking me to disclose information which we would not normally disclose of an individual.

Senator CONROY—I appreciate that, but I am going to press the question.

Mr Scales—Normally, there are rules around these sorts of issues. What about if I gave you a range for level 3s?

Senator CONROY—Okay.

Mr Scales—The range for a level 3 would vary from about \$200,000 to, let us say—on average I am talking here; there would be some variation—\$300,000 a year.

Senator CONROY—Thank you. Did Mr Short's contract expire?

Mr Scales—No, it did not.

Senator CONROY—So he left the organisation early?

Mr Scales—The position that Mr Short was involved in was made redundant.

Senator CONROY—So you ceased to have a general manager in Canberra?

Mr Scales—No. As we have discussed on a number of other occasions, the company is doing a lot of work addressing duplication and overlaps to try to reduce its costs. In my discussions with a range of people, including the CEO, we felt that we could combine Mr Short's role with another role; therefore, Mr Short's position became redundant.

Senator CONROY—How long did he have remaining on his contract at that stage?

Mr Scales—Telstra's contracts are really open-ended contracts. They are not a five-year or a four-year contract. They are open ended.

Senator CONROY—I thought that in your case your contract was finishing and you were going.

Mr Scales—No, no. I have an open-ended contract. The reason—

Senator CONROY—You just decided that you were moving on, retiring and taking up barracking for the Doggies full time?

Mr Scales—That is right.

Senator CONROY—When Mr Short was made redundant—

Senator Coonan—He was not made redundant; the position was.

Senator CONROY—Sorry, I appreciate that. When the position was made redundant, what were the details of his redundancy package?

Mr Scales—Again, that is disclosing quite a bit of personal information about Mr Short. Can I give you a general outline rather than the numbers?

Senator CONROY—It has been suggested in the media that it was \$200,000.

Mr Scales—That would have been far too high. As to the provisions that apply in Mr Short's case, I do not think it is appropriate for me to talk about the particular numbers, but in his case, under those circumstances, in terms of weeks of pay, which is a fairly standard thing that most people in Telstra would be aware of, it would be roughly 24 weeks.

Senator CONROY—More than \$100,000?

Mr Scales—About 24 weeks. Again, let me give you a range rather than talking about the specifics.

Senator CONROY—Sure.

Mr Scales—The range would be somewhere between \$100,000 and \$150,000, specific to the position being made redundant.

Senator CONROY—Thank you. One of the things that he would have been doing was keeping an eye on what we were all up to—general manager Canberra, see what the politicians are doing, keep an eye on Senate estimates and press releases, that sort of duty.

Mr Scales—Certainly what one might describe as general intelligence gathering—

Senator CONROY—Yes, intelligence gathering.

Mr Scales—would be the sort of thing that you would expect somebody in that position to do, and you would do that from obtaining a range of sources—speaking to you, for example.

Senator CONROY—I do not think he ever spoke to me. It was not my portfolio area back then. I do not think he spoke to me. He spoke to me in a previous capacity, usually via eight- or nine-page letters of abuse, but I did not get to talk to him in his capacity with Telstra. That intelligence gathering would involve media monitoring?

Mr Scales—Certainly that would be one part of it.

Senator CONROY—Does Telstra do a lot of media monitoring?

Mr Scales—We have to monitor the media closely. In any one month, Telstra would be dealing with between 300 and 400 individual and separate issues affecting the company. For us to be able to respond effectively, we do have to monitor the media. It is part of what we do every day.

Senator CONROY—How much would you spend on that?

Mr Scales—How much would we spend on that?

Senator CONROY—Nationally. Is it broken down into sections?

Mr Scales—I cannot give you an exact figure. It could be up to \$1 million. I can get a more accurate figure. Here we are talking about monitoring right across the country.

Senator CONROY—I am sure every country newspaper falls into this category.

Mr Scales—Every media outlet, almost every newspaper.

Senator CONROY—Can I get a picture of the costs to Telstra over the last, say, five years?

Mr Scales—I do not have that available to me. I will have to take that on notice.

Senator CONROY—Can you take that on notice—for the last five years, how much has been spent on media monitoring.

Mr Scales—I will have to take it on notice.

Senator CONROY—Thanks. And can that be broken down to each year over those five years?

Mr Scales—I think we can break it down by that, but if there is any issue there we will need to get back to you.

Senator CONROY—Are you able to give us a breakdown of the components of the termination payment for Mr Short?

Mr Scales—The actual elements of the termination payment—and, by the way, the spread that I gave you earlier would not be the full breakdown, but there would be an element of—

Senator CONROY—Would that include superannuation and things like that?

Mr Scales—Not so much superannuation but there would be an element of long service leave, if there was any. There would also be unused annual leave and there would be a payment that might be paid simply as a result of the normal bonuses that apply within Telstra. They are not termination payments, as such; they are simply the normal rights that somebody would have if they had stayed with the company. They are more entitlements. Then there are just the normal provisions when a position is made redundant that I mentioned earlier.

Senator CONROY—I think Ms Munro said the average employee gets about four weeks pay per year.

Ms Munro—That is correct under the terms of our redundancy agreement.

Senator CONROY—And that is for EBAs and AWAs?

Ms Munro—That is right, but that does not necessarily apply to this contract.

Senator CONROY—No, I was going to come to that. I was going to ask either you or Mr Scales about the standard provisions in level 4 and upwards. In the case of Mr Short, he was level 3. What are the standard provisions there?

Mr Scales—They are roughly the same. I am going from memory, and if I get this wrong I will need to come back to you, but I think it was three or four weeks per year of service or thereabouts.

Senator CONROY—I think you said 24 weeks for Mr Short, based on that.

Mr Scales—That is correct.

Senator CONROY—That is two years almost.

Mr Scales—No, it is certainly not that; 24 weeks is less than half a year. But the provisions at that level are normally three months plus three months for redundancy. That is why it is roughly those sorts of numbers.

Senator CONROY—His salary range was between \$200,000 and \$300,000. He got six months—it seems a fraction generous.

Mr Scales—It is fairly standard. Mr Short was not treated any differently than anybody else.

Senator CONROY—Mr Sainsbury's article claims that Mr Short has been reappointed by Telstra. Is that the case?

Mr Scales—Yes, Mr Short has been appointed as a consultant to provide advice regarding T3 matters.

Senator CONROY—What is his new title?

Mr Scales—He is just a consultant.

Senator CONROY—He is just a consultant on T3.

Mr Scales—Yes, that is what he is doing.

Senator CONROY—What are his duties?

Mr Scales—His duties are to provide advice to John Stanhope, who is running a T3 group to try and coordinate a range of T3 matters. He is to provide advice to Mr Stanhope and that particular group.

Senator CONROY—Mr Sainsbury says Mr Short will be looking after Telstra's government relations matters relating to T3. Is that too narrow a description?

Mr Scales—No, his role is to provide advice to Mr Stanhope. He does not have any managerial roles inside the company. He does not employ any staff and is not responsible for any staff.

Senator CONROY—So I should not bump into him when I open my door.

Mr Scales—That is hard to know. If part of the T3 arrangements is to inquire about your view on it, then Mr Stanhope might ask Mr Short to do that in relation to his T3 activities.

Senator CONROY—So I might bump into him wandering around Parliament House?

Mr Scales—It is possible.

Senator CONROY—But you are in charge of government relations for Telstra?

Mr Scales—That is correct.

Senator CONROY—Was that position advertised?

Mr Scales—No, it was not.

Senator CONROY—I was thinking of applying for it myself. I was very disappointed to find it was not advertised.

Senator Coonan—You could not have it, Senator Conroy; you are opposed to T3.

Senator CONROY—I could give some very good advice about it though.

Senator Coonan—We are not going to have you in that one.

Senator CONROY—So it was not advertised.

Mr Scales—It was not advertised, no.

Senator CONROY—Given that you are in charge of human relations, did it come through your department? Did you run the process?

Mr Scales—No, I did not run the process.

Senator CONROY—Are you aware whether, once the position was identified as necessary, there was an exhaustive search process to get the right person?

Mr Scales—No, I do not think there was a search process.

Senator CONROY—Did Mr Stanhope identify that he had a need for this position and not go through the process? How did it evolve?

Mr Scales—It was suggested to Mr Stanhope that Mr Short might be a person who could fill a consulting role in the T3 group.

Senator CONROY—Did you suggest that?

Mr Scales—No, I did not.

Senator CONROY—Did Dr Switkowski suggest that?

Mr Scales—I think Dr Switkowski made the suggestion to Mr Stanhope, yes.

Senator CONROY—That he needed somebody to help consult.

Mr Scales—Yes, that is right.

Senator CONROY—Did Dr Switkowski discuss that with you?

Mr Scales—Yes, he did.

Senator CONROY—Are many consultant positions not advertised when you are seeking consultants?

Mr Scales—Yes, quite a few. There are some well-known and well-respected consulting firms in a whole range of areas that we have on a panel that we draw on from time to time.

Senator CONROY—Mr Sainsbury reported that you twice refused to re-employ Mr Short. Is that correct?

Mr Scales—Are you suggesting, in this particular role? That is true, yes.

Senator CONROY—Could you provide us with the approximate date that Mr Short's re-employment was first raised with you?

Mr Scales—I have to be approximate here. I think the first time it was raised with me was prior to Christmas this year. It was raised with me a second time—again going from memory—some time later in January.

Senator CONROY—And both times Dr Switkowski raised it.

Mr Scales—Yes, Dr Switkowski raised it both times.

Senator CONROY—And you declined the opportunity to re-employ him.

Mr Scales—Yes, I did.

Senator CONROY—Has Mr Short repaid the redundancy package he received about 10 months ago?

Mr Scales—Not to my knowledge, no.

Senator CONROY—So he got to keep it.

Mr Scales—As far as I know, yes.

Senator CONROY—You are in charge of human relations. If money has come back to the company, presumably it had to—

Mr Scales—Not to my knowledge. I do not think it has been repaid.

Senator CONROY—Are you aware of any discussion about whether Telstra's policy should be waived in Mr Short's circumstance?

Mr Scales—There was when Dr Switkowski raised it with me. Yes, I raised that issue with him.

Senator CONROY—You would have pointed out what Telstra's policy was. I presume Dr Switkowski knew anyway.

Mr Scales—Yes, I did.

Senator CONROY—Has Telstra's policy on this been drawn to Mr Stanhope's attention?

Mr Scales—Yes, it was.

Senator CONROY—But it appears that he has been given a waiver; he has been let off.

Mr Scales—Yes, to be frank about this, because the process is controlled by me. Dr Switkowski and Mr Stanhope decided that Mr Short would be employed. I accepted that and I gave the official waiver.

Senator CONROY—So an official waiver was granted.

Mr Scales—Yes, it was.

Senator CONROY—Does Mr Short have any technical skills? Does he know about IT or the network?

Mr Scales—Certainly not, but it was considered—

Senator CONROY—He is a journalist by trade, isn't he?

Mr Scales—I do not know whether he is a journalist by trade as you describe it. I know he has done some journalism in his time. But I think it was considered, certainly by Mr Stanhope, that Mr Short would contribute to be able to assist in the T3 process if it was to come about.

Senator CONROY—It has been suggested that members of the board had a view about this appointment. Are you aware of any interest from the board?

Mr Scales—In my discussions with Dr Switkowski he indicated to me that he was very uncomfortable about this appointment, and he did indicate to me that he was asked to consider this by the chairman.

Senator CONROY—Okay. So Mr McGauchie in fact approached Dr Switkowski about it?

Mr Scales—That is correct.

Senator CONROY—Do we know where Mr McGauchie got the idea? I am not sure that you will be able to answer that, Mr Scales, but do you have any information about where Mr McGauchie got that? Do you think Mr McGauchie knows Mr Short well?

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

Senator CONROY—There was no line of report from Mr Short previously to Mr McGauchie?

Mr Scales—No, there was not.

Senator CONROY—What was the overlap between the period when Mr McGauchie was on the board and became chair and Mr Short's employment?

Mr Scales—It would be very short if there was any—excuse the pun. It was not much of a period.

Senator CONROY—So, despite Mr Short's high profile in the organisation in a senior position, it was unlikely that he would have reported to or had contact with Mr McGauchie through the organisation of Telstra?

Mr Scales—He may have had some contact, but it would not have been substantial I would not have thought.

Senator CONROY—Okay. And you said that you made the decision to give the waiver to Mr Short?

Mr Scales—When it was clear that the decision was made by Mr Stanhope to ask Mr Short to take on a role as consultant, he does need to have access to our internal network and so we were required to provide him with the ability to do so. I am the custodian of that, so I provided that approval.

Senator CONROY—Did Mr McGauchie ever speak to you directly about Mr Short?

Mr Scales—No, he did not.

Senator CONROY—Were any background checks done on Mr Short at that stage, or was his sterling service for you previously sufficient?

Mr Scales—I certainly do not know of any background checks that were done; nor would I have expected that there would have been a necessity to do that.

Senator CONROY—Mr Short worked for you previously. On one of the previous times I spoke to you at estimates, we had cause to talk about a plasma TV and its being supplied to the Prime Minister and a then minister. You do not have a plasma TV from Telstra, do you, Senator Coonan?

Senator Coonan—Unfortunately, I do not.

Senator CONROY—Mr Short is back on staff—you never know your luck! I understand Mr Short was the instigator of the idea to supply plasma TVs—

Mr Scales—No, he was not. To my knowledge, he had no involvement in the provision of plasma TVs to—

Senator CONROY—I am sure he did not carry it himself.

Mr Scales—No, but I think it would be quite wrong to suggest that Mr Short had any involvement in that at all.

Senator CONROY—It is just that I understand he has had a fair bit to do with TVs over the years. He spent some time as senior private secretary to the then minister for health, Mr MacKellar, in the Fraser government. It has been suggested that he was associated with Mr MacKellar when Mr MacKellar had to resign over a customs document about a black-and-white or colour TV.

Mr Scales—I am not aware of that.

Senator CONROY—You are not aware of that? No-one checked that out?

Mr Scales—I am aware of the generality of that, but I was not aware of any involvement.

Senator CONROY—Have you ever questioned who filled the form out? Was it Mr Short? Did you ever ask?

Mr Scales—It was never relevant to me.

Senator CONROY—It was a false declaration on a customs form. It caused a minister to resign.

Mr Scales—The issue for me that was relevant with Mr Short was whether he was doing a good job at the time; that is all that I was interested in.

Senator CONROY—And you made him redundant.

Mr Scales—The position was made redundant.

Senator CONROY—I think at the time it was called the colour TV affair. Does that ring a bell? I am only a relative youngster here, but it rings a bell even for me all these years later.

Mr Scales—I do remember the particular circumstance you are referring to, but I have no recollection of Mr Short being involved.

Senator CONROY—You did not know he worked for Mr MacKellar at the time?

Mr Scales—I knew he had a background of advising politicians. That did, I think, give him certain skills and capabilities that fitted the task that we had asked him to do.

Senator CONROY—He did not have to fill out any forms in Telstra, though.

Mr Scales—He would have needed to fill out a few, yes.

Senator CONROY—Minister, you do not get involved in the day-to-day management decisions of Telstra.

Senator Coonan—I most certainly do not. I keep telling you, I have enough to do.

Senator CONROY—I know. I try to keep you as busy as I can.

Senator Coonan—I really try not to micromanage Telstra.

Senator CONROY—You have never raised Mr Short's name with Mr McGauchie?

Senator Coonan—No, I have not. I do not know Mr Short; I have met him once.

Senator CONROY—But you did not have a quiet word with Mr McGauchie and say, 'Look, we really think you need this bloke'?

Senator Coonan—No.

Senator CONROY—It would not be proper for a minister of the government to interfere in the micromanaging of Telstra like that, though, would it?

Senator Coonan—I would not be micromanaging Telstra. But, from my knowledge of Mr McGauchie, I think his judgments have been pretty sound in a number of matters. If he considered there was some particular role in Telstra that needed to be filled, I think he would be entitled to canvass who might be appropriate for it. But he did not canvas it with me.

Senator CONROY—But you would not think it would be proper for the minister to be suggesting such things: 'We think you should employ this person.'

Senator Coonan—I think it is perfectly proper to have a conversation with the chairman of Telstra if you know somebody who may be appropriate for a role. But I have not had that kind of conversation.

Senator CONROY—Mr McGauchie never raised it with you?

Senator Coonan—No.

Senator CONROY—You would be confident that your office would never have had a conversation like, 'Look, we think Short is a good bloke'?

Senator Coonan—For more abundant caution, I will check; but certainly not to my knowledge.

Senator CONROY—I am sure that will be the case. If there is anything different from that, please let us know, but I am sure that would be the case. You never instructed Mr McGauchie to employ Mr Short.

Senator Coonan—Not only did I not instruct Mr McGauchie to do that; I would not instruct Mr McGauchie to do such a thing and I do not know Mr Short. I have met him I think once in a meeting subsequent to his re-engagement by Telstra, but I have no background or other connection with Mr Short.

Senator CONROY—When the article appeared, did you query it with Mr McGauchie? It does say that Mr McGauchie directly intervened in this issue. Did you say, 'Oh look, I've seen this article; what's going on, Mr McGauchie?'

Senator Coonan—I have not had the opportunity to do that. But once again—

Senator CONROY—You have been overseas with him since then. Surely you had a chance to chat on the plane.

Senator Coonan—Just a minute. It has not been high on the list—

Senator CONROY—Mr McGauchie, not Mr Short.

Senator Coonan—of things that I would need to discuss with Mr McGauchie. I have said that I do not take the view that I should be micromanaging decisions in Telstra, and I think this is coming very close to a decision entirely for Telstra.

Senator CONROY—I could not agree more with you. But you never asked the question?

Senator Coonan—No, I have never had a conversation with Mr McGauchie about Mr Short that I can recall. I have had many conversations about Telstra's arrangements to progress thinking about T3.

Senator CONROY—Are you the minister responsible for T3 or is it Senator Minchin?

Senator Coonan—We have a bifurcated responsibility. We are joint shareholder ministers. The way in which the portfolio arrangements have been made to progress the possible sale of T3 is that I have ministerial responsibility for all of the regulatory issues and Senator Minchin has responsibility for the scoping study and the sale process. But all of our decisions are jointly discussed. The issue is very much a matter for our joint consideration and management.

Senator CONROY—I appreciate the lengthy description you gave there but, in respect of the operational day to day things, Senator Minchin looks after T3?

Senator Coonan—He looks after the scoping study side of T3. I am looking after the regulatory side of T3, which also includes the investment environment going forward after T3—that is part of the issues paper—and other issues such as what we do about a number of other things that get T3 ready to go, if indeed that is the government's decision.

Senator CONROY—Has Mr Short been in contact with you or your office since he was reappointed?

Senator Coonan—I have had one meeting with him, but it was with other Telstra people present. It related more to matters to do with operational separation than the actual sale.

Senator CONROY—But it is more likely, given that he is working specifically on the sale of T3, that he deals with Senator Minchin's office more than yours?

Senator Coonan—I simply do not know the answer to that. As I said, I think I have had one meeting with him. I expect I will be having more.

Senator CONROY—No doubt. In respect of T3 being more in Senator Minchin's bailiwick than yours, it is more likely that he would have more regular contact with Senator Minchin's office than with your office?

Senator Coonan—I do not know. We have not yet established from your line of questioning what the T3 group in Telstra is doing. The T3 group in Telstra is probably as much concerned with the regulatory environment and the number of processes going on there as it is with dealing with the scoping study and looking at the most effective way to get value for money if the sale proceeds. They are very interrelated processes. It is very difficult to draw

lines, so I will not speculate about what Mr Short does or where he is most likely to be spending his time.

Senator CONROY—Are you aware of whether Senator Minchin is a friend of Mr Short?

Senator Coonan—No, I am not.

Senator CONROY—Are you aware of any involvement Mr Short has had with Senator Minchin's office since he was reappointed?

Senator Coonan—No. I assume he is going about his job, which is to carry on as best he is able with matters to do with the T3 sale and regulatory environment.

Senator CONROY—You said you have confidence in Mr McGauchie?

Senator Coonan—Yes.

Senator CONROY—Does that mean you do not have any confidence in Mr Scales, given that Mr Scales refused to re-employ him twice?

Senator Coonan—I do not think that follows. Confidence in Mr McGauchie goes beyond his recommendation to the board about Mr Short.

Senator CONROY—He did not make a recommendation to the board.

Senator Coonan—On a range of matters I am certainly very confident in Mr McGauchie, and I have had no reason to be other than confident in Mr Scales.

Senator CONROY—Mr McGauchie has tried to heavy Mr Scales to re-employ him.

Senator Coonan—I do not think that is correct.

Senator CONROY—Mr Scales had made Mr Short redundant.

Senator Coonan—That is a judgment you are making on very flimsy evidence indeed.

Senator CONROY—It takes three approaches to insist on getting somebody employed?

Senator Coonan—I suggest you may not necessarily know the facts. If it is not possible for the chairman to take a view about matters to do with recommendations he makes to the board, what else is he supposed to do?

Senator CONROY—This is not something that was a recommendation to the board; this was the chairman deciding to employ somebody that had been made redundant by Mr Scales. He approached the CEO—

Senator Coonan—You do not know—

Senator CONROY—The position was made redundant.

Senator Coonan—Senator Conroy, you have a habit of trying to establish a proposition. You try to set it up as some sort of competing proposition with Mr Scales having some internal process or view about it and Mr McGauchie having some public view about it. You assume that nothing happened in between, such as a board having a view about it or a discussion about it.

Senator CONROY—Mr Scales, are you aware of the board having a discussion about the appointment of Mr Short?

Mr Scales—No, I am not.

Senator Coonan—Well you are not either, and I am not either. You cannot assume, that is what I am saying, Senator Conroy. You are not entitled to just assume that Mr McGauchie one day appointed Mr Short.

Senator CONROY—Are you privy to board discussions, Mr Scales?

Mr Scales—Not all board discussions, but I am aware of the agendas.

Senator CONROY—And ones that would impinge on your direct responsibilities, like employing people?

Mr Scales—I am certainly fully aware of all of those.

Senator CONROY—And you are not aware of a board discussion about employing Mr Short?

Mr Scales—No, I am not aware of that.

Senator CONROY—Let us be clear, Minister. Mr McGauchie twice approached Dr Switkowski and Dr Switkowski twice spoke to Mr Scales about re-employing Mr Short. Mr Scales, having made the position redundant that Mr Short held previously, refused, and so Mr McGauchie then went to Mr Stanhope via Dr Switkowski. That is three approaches to get somebody employed. I would describe that as heavying.

Senator Coonan—No, listen: isn't it quite possible that Mr McGauchie saw a particular need for a role that was not yet being discharged or was not being fulfilled in Telstra in connection with an evolving framework in the context of T3, and Mr McGauchie saw a need for the particular skills of this gentleman? Why wouldn't it be appropriate for him to raise the matter?

Senator CONROY—Does the chairman often appoint people to jobs?

Senator Coonan—No, he did not appoint anybody.

Senator CONROY—No, he just insisted.

Senator Coonan—What he did was raise the matter. You are saying that he insisted.

Senator CONROY—I think—

Senator Coonan—You have not got Mr McGauchie here—

Senator CONROY—Insisting?

Senator Coonan—I said you just said he insisted.

Senator CONROY—He has been knocked back twice and he goes back a third time. How else do you describe that but as insisting?

Senator Coonan—I would not regard that as insisting. That is really and truly taking it too far. Telstra is a very large, very complex organisation where matters to do with its management and getting it ready for something like a sale of the rest of the government's interest in it are, no doubt, things that evolve from day-to-day where there needs to be responses from various people in the organisation, including the chairman. I do not see if

those facts are correct; I do not see it as inconsistent for Mr McGauchie to identify a need that was not being met within the organisation.

Senator CONROY—Let us be clear: Mr Scales described the process of board involvement in management earlier. He described it in five levels, the fifth being level zero, which was the CEO. He described—and I have written this down—that the top one, or level zero, Dr Switkowski, has absolute board involvement. The next level down, which includes Mr Scales, has absolute board involvement on a range of issues. But below that, levels two, three and four, have no board involvement; they are purely management. It is extraordinary to find that, unless Mr Short has been appointed either to level one or to the CEO's job, the board is interfering in the running of Telstra. It is without precedent here on Mr Scales's description of how it works.

Senator Coonan—The first thing is that you do not know if it is without precedent; that is a statement about something which has not been established. The second thing is that, as I have said, I see nothing inconsistent in the Chairman having suggestions about a role he saw was not being met in an evolving situation involving some quite extraordinarily difficult and complex issues to do with T3 and which this company, quite frankly, has never faced before. Now at what level that is, I think is immaterial.

Senator CONROY—Mr Scales clearly felt the role was being met, because he declined on two separate occasions to reappoint Mr Short.

Senator Coonan—But you have not asked him that; you asked him whether or not he was prepared to appoint Mr Short. You have not asked him about the new role at all, Senator Conroy. You do not establish your ground carefully enough to draw the conclusions you want to draw.

Senator CONROY—Senator Coonan, for your sake, when I asked Mr Scales whether or not he agreed to reappoint him, I was referring to in the position that was being suggested—not to the toilet cleaner or doing the tea and coffee. It was to the position that Mr McGauchie was asserting was necessary. Mr Scales in his position felt that it was not necessary.

Senator Coonan—You have not actually asked him that, to be perfectly frank.

Senator CONROY—I asked him whether or not he felt that there was a need to reappoint him—not to the original position, to—

Senator Coonan—But that was to his old job.

Senator CONROY—No, to the position that Mr McGauchie was trying to force on him. I was perfectly straightforward. I do not think anyone else in the room misunderstood that Mr McGauchie was trying to get him reappointed to this particular role.

Senator Coonan—No. Well, my recollection of the questions was that you did not actually ask—

Senator CONROY—If you are comfortable with the chairman of a company interfering so far down into a publicly listed company to appoint somebody, that is fine, Senator Coonan.

Senator Coonan—No. What I have said was: to start with, I would not call it interfering. Secondly, what I am saying is that it is a unique set of circumstances that this organisation is undergoing. I see nothing inconsistent with the proper role of a chairman, if he sees that there

is a particular role that the corporation is not meeting that is required at any level, for him to make a suggestion.

Senator CONROY—Okay. What remuneration does Mr Short receive for performing his new role?

Mr Scales—Again, that is—

Senator CONROY—I can be more specific: is he getting paid \$400,000 a year, as is being reported in the media?

Senator Coonan—That is inappropriate. That is the—

Senator CONROY—Minister, we are talking to an independent company here. Your view is not to monster witnesses to not answer senators' questions. This is an independent company—

Senator Coonan—Nor would I, Senator Conroy, but—

Senator CONROY—Then will you allow Mr Scales to answer the question?

Senator Coonan—No. The point about this is that this is a private individual's remuneration and—

Senator CONROY—This is one of the highest paid positions in the company.

Senator Coonan—If it is required to be disclosed, that is one issue. But my understanding is that it would not be.

Senator CONROY—You have investigated this, have you, Senator Coonan?

Senator Coonan—No. I have said that is my understanding—and certainly it is something that we would take on notice. People are entitled to some privacy as to their remuneration packages, if they are not at the top rungs of the organisation. You and I have had many of these conversations where it is quite appropriate for remuneration to be disclosed, and is now under the current arrangements. But for people who are under those bands, and I think this gentleman may be, I think they are entitled for us to at least go and have a look.

Senator CONROY—I think I am entitled to ask the question.

Senator Coonan—You are entitled to ask the question.

Senator CONROY—I am entitled to ask the question: is it accurate what was reported in a newspaper—that he is on a salary figure of, let us say, around \$400,000?

Mr Scales—Without disclosing the absolute details, it is around that figure.

Senator CONROY—Thank you. I understand he also has an annual escalation clause of four per cent. Is that correct?

Mr Scales—Again, you are asking me to—

Senator CONROY—Around four per cent?

Mr Scales—Again, there is an escalation clause.

Senator CONROY—Thank you. I understand the contract is for four years, so it is not the normal open-ended one?

Mr Scales—It is for roughly that sort of period.

Senator CONROY—Is it possible for the committee to have a copy of that contract?

Senator Coonan—We will take that on notice.

Senator CONROY—Minister, you do not get to decide what Telstra take on notice.

Senator Coonan—Well, I would—

Senator CONROY—Actually, you do not.

Senator Coonan—I know I do not, but I am quite certainly going to take it on notice.

Senator CONROY—Is it possible to get a copy?

Mr Scales—The dilemma that we have here—

Senator CONROY—I understand if you say no.

Mr Scales—Sorry—if we cannot get a copy?

Senator CONROY—I understand if the answer is no.

Mr Scales—I cannot say that to the Senate. There very clearly is a contract. I am obliged to meet what are the general requirements of the Senate. I might take guidance from the chair as to whether the chair believes I am obliged to table these in any way.

CHAIR—I would have thought that the advice that you should take it on notice is the most appropriate line to take. After all, you are dealing with personal matters about an individual. The minister has made the quite valid point that this is a person further down the scale than the people at the top of the organisation. I would have thought that as it involves confidentiality issues, it would be appropriate for you to take it on notice and give consideration to the matter.

Senator CONROY—I accept the chair's ruling. How was this remuneration package determined?

Mr Scales—I understand that there were two offers made to Mr Short. The first offer was made and Mr Short rejected it. Mr Stanhope then spoke to the chairman, and the chairman asked him to increase the offer. The second offer was made, and Mr Short accepted the second offer.

Senator CONROY—I think you indicated that his previous range was around \$200,000 to \$300,000.

Mr Scales—Roughly that.

Senator CONROY—Is it reasonable to suggest that the initial offer was around that range?

Mr Scales—Roughly around the range.

Senator CONROY—And the chairman directed that it be doubled?

Mr Scales—Certainly not doubled, but the chairman did suggest that an increase be offered to Mr Short.

Senator CONROY—So, under the chairman's direction it moved from a range of \$200,000 to \$300,000 to around \$400,000?

Mr Scales—That is correct.

Senator CONROY—And Mr Short was lucky enough to hold out there. He seemed to understand Telstra's salary negotiation position better than Mr Stanhope.

Mr Scales—I have no comment on that.

Senator CONROY—If the original package was \$200,000 to \$300,000 but he held out and the chairman directed that it move up to around \$400,000, Mr Short has done pretty well. He has almost doubled his salary from what he used to get.

Mr Scales—I do not think you can assume that. I gave you a range, so I do not think it is fair to move from the bottom of the range to the top and then use words such as 'double'. It is not fair.

Senator CONROY—I accept that point. How many people at Telstra would be paid above \$400,000?

Mr Scales—We have 40,000 people inside the business. It would be a relatively small number.

Senator CONROY—Are we talking 100, 50, 20?

Mr Scales—There would be more than 50. There could be 100.

Senator CONROY—In an organisation of 40,000, at the behest of the chairman Mr Short is now one of the highest paid people in the organisation?

Senator Coonan—Senator Conroy, what do you mean by 'one of the highest paid'?

Senator CONROY—At a minimum, he is in the top 100 and possibly in the top 50 out of 40,000.

Mr Scales—He is a consultant to the company. He is not inside the company.

Senator CONROY—But you have had to give him access to the network.

Mr Scales—Yes, but we do that for other consultants that have to work with us. In some ways I do not think it is appropriate to compare him with other staff. He is a consultant. There are elements of that that are not as secure as they are, for example, full-time employees.

Senator CONROY—Senator Coonan, with all those onerous responsibilities that Mr Short has now, do you think that he is worth more than the Prime Minister?

Senator Coonan—That is a fatuous comment, if I may say so. There have often been comparisons made between what senior members of government, including the Prime Minister, are paid compared with other executives and it pales into insignificance. I do not think the comparison is one that does you much justice.

Senator CONROY—He is worth more than you and I are; in fact, I suspect he is worth almost more than you and I combined.

Senator Coonan—One of the things you have is security for at least a bit longer—though I do not know about these factional fights you are engaging in in Victoria!—but let us assume that you are here for a long time and you have super and various other things.

Senator CONROY—I have a six-year contract with the electorate starting on 1 July.

Senator Coonan—If this man is a contractor in the normal sense of the word—

Senator CONROY—That is a very big ‘if’.

Senator Coonan—he meets all of his expenses that might otherwise be met by the organisation. I do not know the details but I am just saying that it is very difficult to draw these conclusions from what we know.

Senator CONROY—You indicated that you have other consultants, Mr Scales. What would be an average remuneration for your other consultants?

Mr Scales—That varies, depending on the role that the consulting firm might play. It depends on whether—

Senator CONROY—So you have hired him as a firm; you have not hired him as an individual?

Mr Scales—No, sorry. I did not mean to imply that.

Senator CONROY—I am asking about the individual contractor.

Mr Scales—I do not know the answer to that. But it does vary depending on the capability of the contractor.

Senator CONROY—Would any of them vary as high as Mr Short’s around \$400,000? Could I put it a different way: would he be the highest paid consultant at Telstra?

Mr Scales—I cannot answer that.

Senator CONROY—Could you take that on notice?

Mr Scales—Yes, I can.

Senator CONROY—Does Mr Short also get access to options or other share based incentives?

Mr Scales—No, he does not.

Senator CONROY—Are there any provisions for bonus payments in Mr Short’s employment contract with Telstra—for instance, successful sale?

Mr Scales—No, there is not.

Senator CONROY—To summarise where I think we are at: Mr Short, whose position was made redundant by you, Mr Scales, is collecting, over the next few years, from Telstra close to \$2 million in terms of his redundancy payment and his salary at the behest of Mr McGauchie? Those figures are about right? Mr McGauchie is the one who initiated this. He is the one who determined the increase in salary for Mr Short.

Mr Scales—The decision was made, without question, by Mr Stanhope.

Senator CONROY—He accepted the advice from the chair to increase the offer.

Mr Scales—That is certainly the case.

Senator CONROY—That is what I thought your testimony was. So, all up, Mr Short, a former unsuccessful Liberal Party staffer when he lost his minister—

Senator Coonan—Senator Conroy, that is unnecessary and it is—

Senator CONROY—is getting paid \$2 million of Telstra money.

Senator Coonan—That is unnecessary, really. You do not need to make that kind of connection.

Senator CONROY—It is just a factual connection.

Senator Coonan—Unsuccessful: what does that mean?

Senator CONROY—It means that he helped lose his minister—minister overboard.

Senator Coonan—That is what you have not established. You do not know that, and it is very easy to make these throwaway lines and traduce somebody's reputation in these hearings where we have privilege. I think we need to use it very carefully and not make those kind of unwarranted conclusions.

Senator TCHEN—You are raining on Senator Conroy's parade. That was already in his news release and now he cannot use it.

Senator Coonan—I can well understand that. I know we have some members of the press sitting with poised pens, but really that is a very unfair summation, if I may say so.

Senator CONROY—This is a job that was created purely for Mr Short by the chairman of the company.

Senator Coonan—Once again, it was not created by the chair. It was a decision of the company, not Mr McGauchie.

Senator CONROY—It was rejected twice by the company. Mr McGauchie heaved Telstra into employing a former Liberal Party staffer, who all-up will be the beneficiary of nearly \$2 million of Telstra money. That is just a fact.

Senator Coonan—Those are not facts. There is no suggestion that Mr McGauchie has heaved anyone. This has been a company decision—No. 1. It is not Mr McGauchie's decision; he has no capacity to hire anybody; the company has, and the company obviously saw the great force of Mr McGauchie's recommendation to the company that this particular role should be filled. What somebody did many years ago that has not been established here is hardly relevant to the exercise, if I may so, with the greatest of respect.

Senator CONROY—What we have established here is that the chairman has insisted on the appointment of a Liberal Party hack to an extraordinarily well-remunerated position after the company itself made his position redundant.

Senator Coonan—That is totally inappropriate. You do not know any of this. I can understand how you are trying to get a press release out, but that is not a fair summation of Mr Short's contribution to this company.

Senator CONROY—His position was made redundant, Minister.

Senator Coonan—His position was made redundant. He now has another position—a different position.

Senator CONROY—And he has kept his redundancy package. Do you think he should keep his \$150,000 redundancy package?

Senator Coonan—Once again, none of these figures are established; they are approximates only. He has come back to a different position that you know nothing about. There has been no evidence about the position apart from the fact that it assists the T3 process. So what I am saying is that it is very difficult to take scanty so-called facts and then draw the kinds of conclusions that you have just tried to do by way of a summary. That is the point I am making: I think it is an unfair summary.

Senator CONROY—The point here is that it has been alleged in the media—and you cannot always believe everything you read in the media—that Senator Minchin’s office is behind this whole appointment; that the relationship between Mr Short and Senator—

Senator Coonan—Well, I reject that. You were just saying that Mr McGauchie is behind it. Which is it, Senator Conroy?

Senator CONROY—No. Let us be perfectly clear.

Senator Coonan—I would love to be, but we are not getting there.

Senator CONROY—This appointment is a mate of Senator Minchin’s that Mr McGauchie has forced on Telstra after they have made him redundant and he is cleaning up to the tune of \$2 million.

Senator Coonan—I am sure you would love to think that that is so, but you have not established any of that.

Senator CONROY—This is a scandal.

Senator Coonan—You would like it to be, but it is not.

CHAIR—If you feel that you have exhausted this line of questioning, Senator Allison would like to ask some questions.

Senator ALLISON—I would like to ask some questions about BigPond services. Can you explain why it was that BigPond decided—recently, I understand 12 May—to enact part of its acceptable usage policy with regard to the number of emails that could be sent in a 10-minute period?

Mr Mullane—I would offer an intelligent guess on this: I am sure it would be to do with limiting spam generation, but I would have to check the detail to be absolutely sure of that.

Senator ALLISON—The issue has been in the press over the last week since this happened. Is there not someone else here who can advise the committee about that?

Mr Mullane—I could check some information on it in the break and let you know after lunch, if you like.

Senator ALLISON—Perhaps it would be better, Chair, to come back to this this afternoon when we have someone available who knows.

CHAIR—If you wish to do that, you can.

Mr Scales—Senator Allison, I could not hear you very well when you asked that question. Would you mind asking it again so that I could hear it better?

Senator ALLISON—It was about the implementation of your acceptable usage policy on BigPond which limits the number of emails that can be put out in a 10-minute period to 20.

Mr Scales—I am sorry I did not hear it before. We will get a detailed answer for you, but in general this is an issue around spam.

Senator ALLISON—I understand that.

Mr Scales—Is your question then about whether we should have consulted with individuals? Is that the nature of your question?

Senator ALLISON—I have a whole host of questions. That is one of them.

Mr Scales—We will get the detail of that for you. I am sorry I just did not hear the question; that was all.

Senator ALLISON—That is okay. I will come back to it after lunch, if I may. That is the only issue on which I had questions.

CHAIR—I have some questions about the availability of Telstra services in the Pilbara of Western Australia.

Mr Scales—Mr Pinel will probably be able to help with that question.

Mr Pinel—I am not sure that I can answer the specifics—I am not familiar with all the details of Western Australia—but I will do my best.

CHAIR—A year ago I did ask some questions about the provision of mobile phone services in the eastern Pilbara and recently I received a letter from the IT manager for Wedgetail Exploration, which is a company that has been working with Telstra Country Wide to examine the feasibility and costs of deploying CDMA to provide a basic mobile phone voice and data service to its growing staff and contractors in the Nullagine area of the eastern Pilbara. Last year I did ask about services to Marble Bar, because I understood that a CDMA service was going to be put in there. Of course, mining does contribute substantially to the Western Australian and Australian economies. The eastern Pilbara is an area where there is a lot of mining and yet there is no mobile phone service available to the geologists and mining personnel who need to contact officers in Sydney, Melbourne and so on. I wondered what the criteria may be in terms of Telstra Country Wide's services for establishing a CDMA service in the eastern Pilbara based on Newman, which is a town of several thousand people, and in the smaller centres of Nullagine, which has a population of 220, the Telfer goldmine with a population of 700, Marble Bar with a population of 350 and the Woody Woody Mine, which is a big operation with a population of some 200. Is it possible that all these populations can be aggregated and a mobile phone service provided to these centres which do contribute so substantially to the economy of Western Australia and Australia in general?

Mr Pinel—Telstra does work with communities and industry in areas such as the Pilbara to try to make an economic equation for the provision of mobile phone and other services to those communities. We certainly understand the benefits that flow both to individuals and to business from having those capabilities available. I cannot at this meeting, although I will take it on notice, answer the specific issues around the communities that you suggest, but we have

certainly aggregated the demand from communities in the past to build a business case that makes commercial sense. I should, however, add that, whilst CDMA is the network that we have rolled out through many communities in regional Australia to provide an excellent mobile service, in those areas where we have not yet established CDMA and where it is not economically justifiable to do so in the immediate future, there are other services available—in our case the Telstra mobile satellite service, which is based on a low earth orbit satellite system and it is a product that has been subsidised by the federal government to make this product generally available to people who live and who work in communities that do not have a terrestrial mobile service. That has been extremely well supported in places like the communities you describe and it provides a good service where CDMA is not available. However, I will take on notice the specifics that you raise, if that is possible, and get the details to you as quickly as I can.

CHAIR—Thank you. I do know about the availability of subsidies for satellite telephone services, of course, but here we have, as I said, a mining company specifically requesting CDMA in Nullagine and I was told, I think two or three years ago, by Telstra Country Wide that the aggregation of populations in the eastern Pilbara would enable a CDMA service to be established in Marble Bar, which again is a mining community but also a very important tourist centre. So people go there and expect to be able to phone out. For people who are tourists and who travel along the highways, that is another issue, a safety issue. They are very often retirees who simply cannot afford to buy a satellite phone, particularly not if it is only going to be for a short duration trip around Australia. So the issue of the services in these small mining towns is very important economically, as I said. There is a different issue for coverage along those three long highways in Western Australia: the Great Northern Highway, which runs from Perth through the eastern goldfields to Port Hedland and on to Darwin; the Eyre Highway east from Kalgoorlie to the South Australian border; and the North West Coastal Highway from Geraldton to Port Hedland.

The north-west coastal highway does have mobile coverage, or it is in train, but there is not a similar plan, it seems to me—or not a plan being implemented—to provide mobile phone coverage for safety reasons along the highway north from Port Hedland to Darwin or east from Kalgoorlie to the South Australian border. Yet there are major safety issues involved, because the distances are very long and it is very difficult to get emergency services out to crashes. I just wondered what plans you have to implement a program to put mobile phone coverage along the Great Eastern highway and the great northern highways—if you have one at all—as part of the general plan to provide mobile phone services along the highways of Australia.

Mr Pinel—Let me elaborate on a couple of aspects of that if I can, once again without being able to give you a definitive answer on the specific highways that you mentioned. Firstly, in terms of the mining businesses that you refer to, we do engage with companies such as mining companies in remote areas, where that company sees value in having mobile communications, about joining us in assisting to fund such services if it is contributing to their business and they see the value proposition there. Once again, I cannot state at this meeting whether those discussions with the mining company have occurred, but I would assume that they have and that there is a good engagement with the mining company.

In general, those services are most likely to be provided by a combination of Telstra funding, business funding—from the mining company—and, on occasions, other entities such as one or other level of government, whether it is the state or the federal government. There are occasions when government funds have been allocated to assist in the provision of highway coverage, and that has been quite successful.

The issue with the very remote highways, particularly long highways between community centres, is, of course, that it is very difficult to get the economic sums right. The level of usage on those highways, as you say, is generally more as a safety feature than anything else, and most people would travel long distances without the need to make a phone call—fortunately. There are some complex economics that have to be worked through to make sure that what we do is done in a commercially sensible way. It often involves the participation, as I say, of either business or government to make those sums come out right. In a number of cases, that has happened. I cannot speak specifically about the Western Australian situation, although I believe there have been some examples of both business and government participation in roll-out there.

CHAIR—There is the Wireless West example, which was a combination of Telstra, the state government and the federal government, which provided CDMA coverage in the south-west corner of the state from Geraldton to Esperance. And there has been a discussion about a Wireless North project which would cover those long highways. I would be very interested to know how that is progressing if you have any information about that. I would also make the general comment that there is an awful lot of commercial traffic on those highways. They have a very high incidence of truck movements to the Pilbara and Kimberley, in particular, and on the east-west highway there is a huge amount of trucking traffic, of course.

Mr Pinel—As I say, I do not have the details of what is actually in the planning stages for Western Australia with me today, but I will take that on notice and get back to you with the details and follow up with your concerns as you have expressed them today.

CHAIR—In particular, the Wireless North project and where that is at.

Mr Pinel—Okay.

CHAIR—And what any hold-ups may be. Thank you.

Senator ALLISON—I have a question about the litigation to do with the over-build of the HFC network—the claim of some \$900 million by Optus, which I gather was settled out of court. Is someone able to respond to questions in this area?

Mr Scales—What is the specific question that you want answered?

Senator ALLISON—Firstly, to clarify that it has been settled out of court, and then to ask about the settlement.

Mr Scales—Let me just check on that. We will have to take that on notice. It is not something that has certainly come before me, and I have seen most of the issues that are our legal issues over the last six months. It is not one that has been immediately on my agenda, so we will need to take that on notice.

Senator ALLISON—I am advised that it is referred to four times in your annual report. I have just had a quick look through and cannot find a page reference, which might have been useful to you. But, given that it is in here, I would have thought someone would know.

Mr Scales—We will take it on notice.

Senator ALLISON—Is it possible again to return to this this afternoon?

Mr Scales—If we can get the answer we will, but we will take it on notice if we cannot.

Senator ALLISON—Can I also ask what this means for an admission, if you like, that overbuild was anticompetitive and what the implications of that are?

Mr Scales—There is no litigation by the ACCC against us for acting anticompetitively in that regard. We do not believe that we have acted anticompetitively in that regard.

Senator ALLISON—So why settle out of court? Why not allow it to go through the processes?

Mr Scales—We have not determined that we have settled out of court yet. I have said that we would take that on notice, but certainly we do not believe that we have acted in any way anticompetitively.

Senator ALLISON—On the budget target price for Telstra shares: has the dividend policy changed since \$5.25 per share was established?

Mr Scales—The dividend policy?

Senator ALLISON—Yes.

Mr Scales—The \$5.25 is not something that Telstra established; it was a matter that I think the government at various stages had spoken about. That is not something that Telstra established.

Senator ALLISON—So does Telstra have a view as a corporate identity about that share price?

Mr Scales—That \$5.25? No, we do not have a view about that.

Senator ALLISON—What in recent times has Telstra done with regard to improving the share price?

Mr Scales—We try and run the company well, for a start. As I think you were referring to, we do have a dividend policy. We do have a very general policy about returning benefits to shareholders, and the board made some decision some time ago, which I will ask Mr Nicholson to go through in a bit of detail for you, which includes a series of buybacks, a series of special dividends—all of which would have, in the absence of them, meant a lower share price.

Senator ALLISON—So these measures are aimed at maintaining the share price or increasing it?

Mr Scales—They are capital management policies and the effect of those is that they will maintain or increase a particular share, not because of a desire of itself for Telstra to do so but because analysts and fund managers then build those into their models and what comes out of those models is what those analysts and fund managers would regard as being an appropriate

share price, given that capital management program. The best way by which Telstra can ensure that the share price not only remains at a reasonable level but increases is to run the company well, to generate good profits and then distribute those profits back to the shareholders.

Senator ALLISON—Indeed. Was Telstra involved with the government in the scoping study where the sale methods and sort of price that might be expected from T3 shares is to be developed?

Mr Scales—There is a scoping study, which has been established by the government; that is not an issue that Telstra established.

Senator ALLISON—I realise that, but were you involved was my question.

Mr Scales—That is what I was going to answer. Clearly, the scoping study can only be done with Telstra's involvement. The scoping study requires the scoping study team to have access to information within Telstra to understand in detail Telstra's strategy, to understand in detail Telstra's costs, and so we have been having a series of meetings with the scoping study team for some time to give them the ability to report back to the government in due course on the scoping study.

Senator ALLISON—So does that scoping study influence Telstra in determining what measures it will take—buybacks and the like—and is the aim to bring the share price to \$5.25; is that a stated objective?

Mr Scales—Of the scoping study?

Senator ALLISON—Of Telstra's response as part of the scoping study.

Mr Scales—Telstra's objective is to have the share price as high as is possible. The scoping study is to provide advice to the government about T3 related issues. We are not privy to what the scoping study might advise the government on; that is primarily a matter for the government when it receives that scoping study report.

Senator ALLISON—Let me put it another way: does the government come to Telstra and say, 'How do we get the share price to \$5.25'?

Mr Scales—I have never had any discussion with the government along those lines. Maybe Helen Williams could give a more detailed answer from the government's perspective, but the government does not generally enter into those discussions with Telstra.

CHAIR—It is now one o'clock so if Ms Williams wishes to answer we will have that answer but we will then have to adjourn.

Ms Williams—All I would say is that the scoping study is actually being run by the department of finance.

Senator ALLISON—I realise that.

Ms Williams—The minister explained the bifurcated sort of responsibilities for Telstra. The Department of Finance and Administration is running the scoping study.

Senator ALLISON—I do understand who is running the scoping study. I am interested in Telstra's input into it and what the government has asked of them. Anyway, we will come back to that later.

Proceedings suspended from 1.02 pm to 2.02 pm

CHAIR—Do you have any further questions, Senator Allison?

Senator ALLISON—Only those that were going to be answered after the break.

Mr Scales—You asked the question about the HFC cable. This matter was settled in 2001 or 2002. I cannot give you the exact date but it was fully settled. The terms of the agreement were confidential between the parties. Telstra did not admit any liability and the settlement certainly did not involve anything like the figure of \$900 million or thereabouts that you mentioned. It was nothing like it .

Senator ALLISON—Half as much, a quarter?

Mr Scales—A miniscule amount, a very small amount.

Senator ALLISON—And no liability was admitted?

Mr Scales—No, none at all.

Senator ALLISON—Has it changed the practices of Telstra?

Mr Scales—We had no practices to change. There was no liability admitted.

Senator ALLISON—There must have been some substance if there was a monetary settlement made.

Mr Scales—Not necessarily. If we believe that a settlement might truncate our having to pay substantial legal costs, we will sometimes enter into those arrangements.

Senator ALLISON—Are we able to move to the question of BigPond and the spamming limits?

Mr Scales—Yes, Mr Mullane has some answers for you on that.

Mr Mullane—It transpires that Telstra changed its acceptable use policy around this question of volumes of emails about 18 months ago. Those limits that are currently seen in the acceptable use policy are the formal limits but, in practice, BigPond allows much higher limitations. The actual limits that do apply in practice today are that you cannot send an email to more than 100 single recipients at one time and you cannot send more than a total of 200 emails within any 15-minute period. They are the actual technical limitations of the system that applies to date.

Senator ALLISON—It is not 20 every 10 minutes?

Mr Mullane—Twenty is in the acceptable use policy, which is the formal policy. We do not enforce the level of 20. We are currently enforcing 200 emails in a 15-minute period. The reason for that is to create a balance between what business customers, in particular, may need versus limiting the opportunity for spammers to cause problems to the whole system. We have adjusted it a few times and that level of 200 in 15 minutes has struck just the right balance. We get very, very few complaints and we do not get black listed for our customers generating spam, which is a major problem because if that ever happens, nobody could send email.

Senator ALLISON—Have you done an analysis or some sort of study which would indicate how many customers you are likely to lose under the implementation of this policy?

Mr Mullane—We have not implemented the policy at the rate that it is documented. It is there as a floor.

Senator ALLISON—But what about the 200 in 15 minutes?

Mr Mullane—We have had a higher limit and we have had a lower limit. At the higher limit, we were still having some issues with spam. At the lower limit, we had more complaints than we wanted so the level we have it at now has been finetuned to a pretty acceptable limit to all parties. To complete the story, last week we had a technical issue in the email system where it was incorrectly counting the number of emails that were sent. It was interpreting 20 as being 200, to put it in layman's language. That was causing a problem, which was fixed within 48 hours.

Senator ALLISON—And your only concern in implementing this policy is for spamming for your own customers?

Mr Mullane—Absolutely. For the good of the Internet community, in particular, BigPond customers.

Senator ALLISON—What do you say to the advice that was given by one of your customers that anyone who needed to send more than a particular number would need to have their own servers instead of clogging up BigPond's?

Mr Mullane—That is not bad advice. In fact, BigPond is very happy to work with any customers, particularly business customers, who need to perhaps send higher volumes than the 200 in 15 minutes. We do have such facilities, what is known as a static IP address. You can have your own server located at your premises to generate higher volumes.

Senator ALLISON—So there is a benefit to BigPond in pushing people into their own servers?

Mr Mullane—It is much more manageable if they do it that way. If you generate excess volumes of email from the BigPond general platform and they are going to similar addresses often, some people in the community may interpret that as spam. We do need to limit. There have to be upper limits to this.

Senator ALLISON—Why are there no exemptions? How sure are you that customers who send more than 200 emails in 15 minutes are sending spam? How did you establish that?

Mr Mullane—We are not vitally interested in the content of emails unless we determine it is spam. The way we generally determine spam is by addressing the arrangements that people have. We are very definitely against spam. Spam is not good for the Internet.

Senator ALLISON—Those customers who are not sending spam may be sending a message to 300 or 301 people or 1,000 people who are on an email list and who might need the information that is being sent to them. You are nonetheless putting them into a spam bucket. Is that fair?

Mr Mullane—No, I would not agree. At 200 emails per 15 minutes, over a 24-hour period, that is 19,200 emails a day. That is quite substantial, and that is from one service.

Senator ALLISON—If you only have one batch—you have one newsletter or whatever the document may be—you are not going to send it over a week. You will want to send it in one hit. You may have 1,000 people on your mailing list.

Mr Mullane—It is a fairly well understood fact of email life that there are limitations that abide by most credible providers to protect the large user community. Most people who have high volume needs either talk to the provider and get their own server set up or they do batch it up. Lots of people batch up emails.

Senator ALLISON—What are the implications for Telstra? This is purely a commercial question. What are the downsides for you in having people commonly send emails to more than 200?

Mr Mullane—The types of people who do that by and large tend to be spammers. That is why we have applied limits.

Senator ALLISON—That was not my question.

Mr Mullane—The downside is that if we up the limit, we will get the spammers taking advantage of high limits. We would much prefer to work with the genuine customers.

Senator ALLISON—By suggesting that they get their own ISP—

Mr Mullane—They do not have to get their own ISP. They have to get their own server.

Senator ALLISON—Are you not saying that if you want to spam, get your own server? It is hard to believe that Telstra is deeply worried about spam.

Mr Scales—You are joking with us, are you not, that we are not concerned about spam?

Senator ALLISON—We are all deeply concerned about spam.

Mr Scales—We actually are deeply concerned about spam. Spam is one of the things that could potentially bring down the whole net. That is why we are concerned about it. This is not a trivial issue. If you want to know the implications of this for not only Telstra but also for every IPS, whether it is BigPond or anybody else, it will be having so much capacity so that those people who are legitimate users have to pay twice or three times as much for their service. That is the implication. What we are trying to do is make sure that that does not happen. We are very concerned about spam.

Senator ALLISON—Mr Scales, you have not provided any evidence to suggest that you are sorting the spam from the legitimate emails that are going to people.

Mr Scales—I was responding to your comment that implied that Telstra was not concerned about spam.

Senator ALLISON—Precisely, and I maintain that until you can indicate to the committee how you sort out spam from something else. This policy seems to be rather a commercial decision to encourage people to get their own server.

Mr Scales—No, certainly not.

Mr Mullane—I do not think we can add any more than to say to you categorically that that is not our intention. We cannot provide you with any more information other than that. That is not our intention.

Senator ALLISON—Do you accept that small business and community organisations send out newsletters, client updates and so forth and that is a legitimate part of their business? If so, why are you not prepared to provide an exemption for those customers?

Mr Scales—Because that would require us to examine almost every piece of information that was going to be distributed in such a way that we would determine whether that was spam or not. It is true that what we have arrived at is a rough proxy for spam. We are not doing it for commercial purposes. We are doing it because the community at large is concerned about spam. If a spammer decides to proceed nonetheless and sends the maximum of 200 emails every 15 minutes—I do not know if you can get an automatic system that does that; I imagine you can—Telstra would have no interest in that question. So you would allow someone to send so many emails out in 24 hours by that method. You would accept that that is okay but a community organisation sending out 300 email newsletters was not. Is that correct?

Mr Mullane—The issue there is that there is a limit applied to prevent large volumes of email being generated, which is the way spammers operate. A total 200 in 15 minutes allows up to 19,200 a day, which is a large volume. If you need to send more than 200 in 15 minutes, you just need to batch it, and many people do that.

Senator ALLISON—Your spammers are more likely to do that.

Mr Mullane—Spammers will send millions, tens of millions.

Senator ALLISON—Why is the limit set at 200 for 15 minutes?

Mr Mullane—Because when we chose the acceptable use policy 18 months ago we initially put the limit at 400 in 15 minutes and we were black listed because some spammers were still generating volumes that were unacceptable to the community. We then pulled the limit down to 100 in 15 minutes and we got customer complaints but no spam. We have now readjusted it to 200 in 15 minutes and it is a practical, workable limit that is operating quite well.

Senator ALLISON—How many complaints were received to the initial limit?

Mr Mullane—With the higher limit, the problem was spam and Telstra was black listed, which means those affected within the community were not going to accept any more email from our system until we stopped those high volumes, found the people who were spamming and took them off the system. We then adjusted the limit down to prevent that happening and we had a small number of complaints from companies.

Senator ALLISON—How many?

Mr Mullane—I do not know the number.

Senator ALLISON—Could you perhaps take that on notice.

Mr Mullane—Yes, we could take that on notice.

Senator ALLISON—In your experience, is it likely that most people will adopt the policy of every 15 minutes automatically sending exactly 200 emails as a way of overcoming this problem?

Mr Mullane—It would vary by customer and what they are trying to achieve. It is not a secret number. It is there. It is documented. People quite frequently get up to 200 in 15 minutes.

Senator ALLISON—Do you at any stage do audits or spot checks or just have a look at what people are sending where you have high volumes to determine if there is spam or not?

Mr Mullane—We have a team that monitors volumes of traffic in real time on the BigPond network. Quite necessarily they need to do that because there are things happening in that world hourly and daily that can cause problems. Viruses, worms, spam and those sorts of issues can come with huge avalanches of traffic and we need to block that very quickly and that is what we are doing all the time.

There was a virus last week which generated a high volume of spam from Germany. We blocked about 800 email messages from that source within half an hour of our detecting it. You have to be absolutely vigilant in this place.

Senator ALLISON—On the matter of exemptions, you cannot see any scope for small business or community organisations being exempted from this policy?

Mr Mullane—I guess Telstra would never say never to anything. We would be happy to look at specific cases if customers want to engage with Telstra BigPond.

Senator ALLISON—So small business and community groups should be encouraged to write to you or send you a message somehow?

Mr Mullane—I suggest that they call the BigPond group of people. We can provide the right contacts for that.

Senator ALLISON—That might be useful. So that would be an email address?

Mr Mullane—We would encourage it to come in from email first. People are used to dealing with email.

Senator ALLISON—Is it possible to get that today?

Mr Mullane—Yes, quite likely.

Senator LUNDY—I wanted to ask a few questions about the way in which Telstra distributes dividends to shareholders. It is my understanding that Telstra has a policy of withholding dividends from shareholders who decline to hand over their bank account details to Telstra and your share registry contractors. Can you describe that process for the committee and how you manage it.

Mr Scales—Mr Nicholson will go through that for you. We do not withhold it forever, as you know.

Senator LUNDY—I appreciate that you do not withhold it forever but you sometimes withhold it for lengthy periods of time. I will come to that. Can you outline the arrangements please.

Mr Nicholson—Some 96 per cent of our shareholders receive a dividend by direct debit to their nominated bank accounts. If we do not have those payment instructions by the record date—for example, 1 April—we send the shareholder the dividend statement on the payment date and ask them to supply their payment instructions so that we can forward the funds

without delay. Once we get the form, they will then get their dividend paid directly into their bank account. If we do not receive that payment instruction over the next few weeks, we will then forward the payment by cheque. In the case of the most recent dividend, that would be approximately mid-June. That is only some six weeks after the other 1.56 million shareholders.

Senator LUNDY—Can you advise the committee how much money was withheld from the November 2004 dividend round and when it was actually paid out. Your answer implies that if anyone did not have direct debit arrangements in place, they all would have received their cheque six weeks after that dividend round. Tell me if that is true.

Mr Nicholson—I do not know the amount involved. I do know that of the 1.65 million shareholders, 1.56 million of them—in other words, the 96 per cent that I spoke of before—received their dividend directly into their bank account. That implies that approximately 0.09 per cent were receiving their dividends via the cheque mechanism.

Senator LUNDY—I go back to my question. I am interested in the four per cent who do not have the direct debit arrangement. How many people does that represent?

Mr Nicholson—It is something like 9,000 shareholders, I think. I may correct that subsequently if I can get better details.

Senator LUNDY—It is around 9,000?

Mr Nicholson—I believe so.

Senator LUNDY—Are you able to confirm that those 9,000 shareholders received their dividend by cheque within six weeks of the November dividend round?

Mr Nicholson—That is our policy. As to each particular one, I cannot confirm but our policy is something that we aim to adhere to. We would seek to make those arrangements with each shareholder according to the methodology that I just outlined to you, sending them out notice of the dividend and asking for details to be provided to us.

Senator LUNDY—I will just go back a step. For the 96 per cent who have direct debit arrangements, they get the dividend paid directly into their bank account. For the four per cent who do not have that arrangement, the first step is that you send them a letter requesting their direct debit details.

Mr Nicholson—We send the dividend statement asking them to supply their payment instructions—in other words, the bank account details.

Senator LUNDY—Does that letter go out on the day that the rest of the shareholders get their money in their account?

Mr Nicholson—As I understand it, yes.

Senator LUNDY—We will call that day one. If you do not hear from those shareholders, what happens next?

Mr Nicholson—If we do not hear from them—in other words, if we do not receive some payment instructions over the next few weeks—we forward the payment by cheque.

Senator LUNDY—Over the next few weeks—what does that mean?

Mr Nicholson—We forwarded the payment to them approximately mid-June. That is a maximum of six weeks.

Senator LUNDY—What is the actual policy? What directions do you give the share registry managers on following up and sending a cheque out?

Mr Nicholson—I would need some clarification of that question. We ask them to send a cheque to the shareholder if they cannot solicit the bank account details in that period of time that I just nominated.

Senator LUNDY—Does Telstra explicitly nominate a maximum time permissible for the share registry managers not to send that?

Mr Nicholson—I am not aware of that today.

Senator LUNDY—It is all too vague. I am trying to understand precisely what is going on.

Mr Nicholson—Precisely, I have received complaints that this money has been withheld for far longer than six weeks by some shareholders.

Senator LUNDY—I want to know where the system is breaking down, whether it is Telstra's policy or some share registry management problem.

Mr Nicholson—As I have just outlined, it is not Telstra's policy to withhold it any longer than this period that I have nominated. The purpose of that period is simply so that we can ascertain whether it is the absence of bank account details, thereby not enabling us to do the direct debit, or whether the shareholder wants to receive a cheque, in which case we will gladly forward the cheque. We are not in the business of withholding payments of dividends.

Senator LUNDY—What is the purpose of every time trying to elicit direct debit details from shareholders?

Mr Nicholson—We believe it is convenient for our shareholders. They get the money faster.

Senator LUNDY—What is the business case behind sending out a letter?

Mr Nicholson—The assumption is that our shareholders prefer to get the dividends electronically directly into their bank accounts. They get it faster than they would through the post. They do not have to wait for the bank clearance. Also, there is an element of best practice for us.

Senator LUNDY—How much money do you save by direct debiting these payments rather than sending out a cheque?

Mr Nicholson—I would probably need to take that question on notice.

Senator LUNDY—Would it save the cost of the cheque?

Mr Nicholson—Certainly there is an efficiency to Telstra but the exact amount that we save is something I do not have to hand.

Senator LUNDY—What does drawing a cheque cost?

Mr Nicholson—I do not know. It takes a lot of time and effort, obviously. That is part of the reason.

Senator LUNDY—I am sure it is. I am sure it makes good business sense as well.

Mr Nicholson—Do not underestimate the other reason, which is very clearly to allow our shareholders to get that money very quickly.

Senator LUNDY—I appreciate that 96 per cent of your shareholders have gone for that option. I am dealing with the four per cent who perhaps do not and put to you that given these shareholders probably bought their shares over a year ago, and that is not necessarily true either—

Mr Nicholson—It is not our intention that shareholders' cheques would be delayed by any more than this period that I have nominated. If it is convenient and if you have the details, we would most certainly follow that up very promptly.

Senator LUNDY—Have you had any complaints about shareholders not having received their cheque for lengthy periods of time?

Mr Nicholson—Our company secretary's office, which handles this, and the share registry which you mentioned have probably had complaints from time to time but I believe they would be in the significant minority.

Senator LUNDY—Who does this management of your share registry? Are they contractors?

Mr Nicholson—I think they are managed by the ASX.

Mr Scales—We will come back to you on this one rather than just guess it.

Senator LUNDY—So you cannot tell me whether they are in-house or contractors?

Mr Nicholson—It is contracted out.

Senator LUNDY—I am also interested in understanding precisely the way that these people who do not opt for direct debit are treated by the contractors. Could you provide the committee with a copy of the correspondence that is sent out.

Mr Nicholson—That would be a pleasure.

Senator LUNDY—Do you think it is fair that a shareholder who chooses not to have direct debit but makes a request consistently for a cheque is entitled to get a cheque straight up? Surely the share registry managers could say, 'This shareholder wants a cheque.' So rather than send them a letter, which costs money, saying, 'Can we have your direct debit details?', you could just make a little note on the database to send the cheque straight out. I would think that is a reasonable way of dealing with your shareholders.

Mr Nicholson—I think the easiest way is for us to outline our policy to you on notice. As I say, and I repeat again, our preference is to assist in the passage of that payment to the shareholders as quickly as we can. It is not our intent to prevent that situation.

Senator LUNDY—Have you published warnings to shareholders that if they do not adopt the direct debit model, there could be delays receiving their dividend? Some of the reports I have say that the dividend has been withheld for up to a year.

Mr Nicholson—I am not aware of that situation but it does not say that it has not occurred.

Mr Scales—I am a shareholder, of course, and I can tell you that I have received notices as a shareholder to advise me of that.

Senator LUNDY—Do you get it by direct debit?

Mr Scales—I direct debit. But I have also been advised as a standard shareholder when I was asked to provide my details, if I did not provide it, it might be delayed by up to six weeks. Most of this stuff that Mr Nicholson is talking about is pretty well automated. We would be very concerned if people had to wait a year. We would very much like to know about that to try to track it down. If there was some way we could get that information, we could check it out. That is clearly not acceptable to anybody. That would very much be the exception to the rule. If there was any way of protecting the confidential nature of that information you have, give us that information and we would follow it through.

Senator LUNDY—My understanding is that this is not an issue just affecting Telstra, that other large public companies have been doing the same sort of thing as an attempt to find their own cost savings through efficiencies of the direct debit model. A very small proportion of shareholders for whom these arrangements do not suit get left off the priority list. They might get their cheque in six weeks or they might get it in four weeks. It is certainly a complaint of those shareholders that deserves attention from Telstra through your contractor.

Mr Scales—I think it is appropriate to make the comment that we are not doing it for Telstra per se but for Telstra shareholders per se. These costs that we eliminate give us the ability to provide greater returns to the shareholders. That is the reason we make many of these efficiencies. Your point is a valid one and one that I know our company secretary is always concerned about. At a previous Senate estimates you raised this point. To some extent as a result of that, we made sure that we had a very clear point by which cheques would be automatically sent so that they were delivered within six weeks. If there are extremes of that, we need to know about them.

Senator LUNDY—If someone does have a complaint or is concerned about this issue, what is the best way to resolve this?

Mr Scales—Through the company secretary's office. That is the right spot. There is absolutely no doubt that the company secretary takes these issues extremely seriously. The last thing that Telstra would want would be for somebody to sell their shares because they do not get their dividends.

Senator LUNDY—The company secretary might want to consider that you will actually save money by being able to opt in people to have a cheque sent direct instead of going through the automated process of sending people another letter and then having to engage in interactive communication to once again establish that they do not want to lock into direct debit. That might be a useful efficiency. Could you provide the committee with Telstra's formal policies and practices of your shareholder registry contractors so we can get more information about it.

Mr Scales—Yes.

Senator CONROY—It seems that some of our Telstra staff have also been in the news in recent times. I have a few questions about Mr McGauchie's and Ms McKenzie's recent trip to the UK. What was the purpose of Ms McKenzie and Mr McGauchie going on this trip?

Mr Scales—Ms McKenzie is here so I will ask her to answer some of the questions. The prime reason was to understand in more detail the so-called BT model. Each time we try to understand the BT model—

Senator CONROY—I understand it is a moving feast.

Mr Scales—It was a moving feast. The best thing we could try to do, given that it was very topical, was to get Kate to look at the BT model. As it turned out, the chairman was going to be in the UK at roughly the same time on other business. We decided to try to coordinate some of that activity. It was primarily to look at that model and also consider whether there are other models in Europe that might also help us as we have been involved in discussions with the government around operational separation. That was the reason.

Senator CONROY—So it was just good luck that the minister was there at the same time?

Mr Scales—No, it was not actually. I will let Kate answer the question in a minute. It was more than good luck.

Senator CONROY—It was more than good luck?

Mr Scales—No, the chairman was accompanying the minister—that is on the public record—to one or two of the meetings, as I understand it. The chairman suggested that if Kate was intending to go, we try to coordinate it so that she was there at the same time. Given the fact that she is responsible for the regulatory group, it would make good sense for him to be able to make Kate available if he had any questions about what the model might be. It made good sense to do that.

Senator CONROY—How many times did you meet with the minister while you were there?

Ms McKenzie—I did not have any formal meetings with the minister but did attend meetings with BT and Ofcom that the minister also attended.

Senator CONROY—So you just met in the foyer?

Ms McKenzie—Yes.

Senator CONROY—How many meetings was that?

Ms McKenzie—Two meetings. One was with BT, although it was a lengthy meeting with BT over quite a long period of time with several executives coming and going to provide several pieces of information to us.

Senator CONROY—And one with Ofcom?

Ms McKenzie—Yes.

Senator CONROY—And that was the only contact you had with the minister?

Ms McKenzie—Yes.

Senator CONROY—Who else was in the meeting from Telstra and the minister's office?

Ms McKenzie—From Telstra, the chairman and me. I cannot exactly recall who was with the minister. It may not be the same set of people for both meetings but certainly Helen Williams was there.

Senator CONROY—Who else was with you on that trip, minister?

Senator Coonan—My senior telecommunications adviser, Richard Windeyer, the secretary of my department, Helen Williams, and another departmental officer, Dr Simon Pelling.

Senator CONROY—Who did you meet in Ofcom and BT? I am happy for you to take this on notice and come back to us.?

Ms McKenzie—There is quite a long list of people regarding BT.

Senator CONROY—I am happy for you to take that on notice. I am hoping to draw on your experience when I visit some time in July.

Ms McKenzie—We certainly met with the chairman and CEO and there was a smattering of other senior BT executives, mostly people who were concerned with the development of BT's position and their regulatory framework, who shared information with us about their experience.

Senator CONROY—And Ofcom?

Ms McKenzie—Stephen Carter and a couple of other senior Ofcom staff members whose names I cannot recall. I will have to check that for you.

Senator CONROY—Did you meet with other than the minister at any stage, her staff or Ms Williams?

Ms McKenzie—No.

Senator CONROY—So the only time you bumped into them was at those two meetings?

Ms McKenzie—That is right.

Senator CONROY—So just yourself and Mr McGauchie?

Ms McKenzie—That is right.

Senator CONROY—Did Telstra only cover the expenses of yourself and Mr McGauchie?

Ms McKenzie—As far as I am aware.

Mr Scales—I can categorically say that they were the only expenses that we covered.

Senator CONROY—I am very pleased to hear that. You were lucky to be able to bump into the Telstra officials over there.

Senator Coonan—It was not lucky. It was arranged that we would have some joint meetings with the regulator and with BT so there was nothing accidental about it. It is quite correct that they were not meetings with Telstra and me. They were meetings at which we were present and attended to listen to briefings from BT and Ofcom respectively. I also had separate meetings.

Senator CONROY—I wanted to follow up on some discussions that we were having recently about back haul. I would like to re-visit a couple of issues that I raised with Telstra during the Senate's inquiry into the telco regulatory regime. When I asked you about these issues at the time, you indicated that you did not understand why the issue was as big and noisy as it seemed to be coming through our Senate inquiry. That was probably Mr Scales. I

am hoping you have had a chance to anticipate my questions. Has Telstra determined the price it quotes for back haul transmission across certain routes?

Mr Mullane—Perhaps before I just go straight into that, could I ask you whether you are quite clear what we mean by back haul transmission?

Senator CONROY—I think I am but if you want to give us an explanation, go for it. It is actually just a price but it has got a very fancy title.

Mr Mullane—Not all that fancy. Basically transmission capacity is sold by Telstra wholesalers and it is also used by Telstra retail products to deliver permanent, reliable and committed capacity on point to point connections. They can be used to build voice, data or mobile network capabilities. Technically, that transmission capacity is sold as links between two defined end points, which are usually telephone exchanges or customer premises. It incorporates specific bandwidths which typically range from two megabits per second up to 10 gigabits per second. Long distance capacity is usually delivered utilising optical fibre infrastructure or digital radio infrastructure.

Normally we would use SDH—synchronous digital hierarchy—technology to groom the bandwidths that are carried over that optical and radio infrastructure. SDH is an international standard so you can hook the links together and they will work quite well. SDH transmission is really a key building block in telecommunications networks. Basically in these telecommunications networks, transmission can be resold as it is as basic transmission. It can be used by carriers as the underlying transport for other types of services such as data services like ATM frame relay, ISDN, DSL, mobile networks—GSM, CDMA etc—television video links and PSDN traffic. So it is quite flexible and it is used to carry that traffic in particular routes. I think your question was how we set the price.

Senator CONROY—How do you determine the price you quote?

Mr Mullane—It is all related to cost. The costs of transmission are calculated by complex algorithms within the technology side of the business. It is complex because there are a great number of varying factors of distance, capacity, rate of growth, head room and all that sort of stuff.

Senator CONROY—Are your pricing principles consistent across all routes?

Mr Mullane—On reasonable routes, transmission –

Senator CONROY—I appreciate that distance will be part of that complex algorithm but there will be a consistent position on distance. For example, if it is 10 miles, it is X. If it is 20 miles, it is maybe X times two. There should be a consistent position based on the technology involved. I understand that. My simple times two for 20 to 10 may not hold over longer distances.

Mr Mullane—It does not.

Senator CONROY—I appreciate that. There is a consistent way to calculate it for what is in the ground.

Mr Mullane—Correct. The cost of the bandwidth resultant from the construction activity of all those infrastructure pieces is calculated consistently within Telstra and is used as cost

inputs to the wholesale transmission product side of the business as well as to the retail product construction.

Senator CONROY—The pricing principles are consistent across all routes?

Mr Mullane—The costing principles are consistent across the routes and the agreed way in which they have evolved over time.

Senator CONROY—Could you say that again slowly because I did not quite catch it.

Mr Mullane—It is consistent in the way it is calculated. The metrics around it vary, of course, because of the huge difference in scale between either capital routes and thin regional routes and everything in between. But the principles are the same.

Senator CONROY—We have had some briefings from Telstra on this issue and we know that the average price per two megabit link per kilometre per annum is about \$211 on a declared route—that is, a regulated route. Does that sound right?

Mr Mullane—I am not the person to give you the actual dollar figures. They do vary by distance banding, if I could put it that way. We tend to group the costs together into about four major distance bands. The frequency of the number of routes in those different distance bands makes that a convenient way to group the costings.

Senator CONROY—How does Telstra determine whether a back haul route is a regional defined route or a regional radial route?

Mr Mullane—The ACCC has a definition of which are defined routes. My recollection is that capital routes are not declared routes. There are some capital to regional routes which are also not declared routes. The others then become defined routes. For example, Sydney-Brisbane is not a declared route. Brisbane to Townsville would not be a defined route, but Brisbane to Mt Isa—.

Senator CONROY—You are making a difference between non-declared for Sydney-Brisbane and Brisbane-Townsville was non-declared.

Mr Mullane—But I would think Brisbane to Mt Isa would be a declared route.

Senator CONROY—Why are prices for defined routes three times as high as non-defined routes?

Mr Mullane—The broad issue with costs of transmission relates to distance and volume of traffic. There are huge differences in the volumes of traffic on the declared routes to the intercapital routes in particular but also the other thick routes, and distance does play a substantial part in it.

Senator CONROY—And scale matters to a blinking light?

Mr Mullane—Absolutely. There are many aspects to this. It is not just the cost of the box at the end of some notional piece of glass. The glass has to be in the ground to get there.

ACTING CHAIR (Senator Lundy)—Can I just ask a question comparing Brisbane to Townsville and Brisbane to Mt Isa. You said that construction cost was an input into these back haul rates. What would be the comparable construction cost of the route from Brisbane to Townsville compared to Brisbane to Mt Isa?

Mr Mullane—Construction cost is one element. It is also the volume.

ACTING CHAIR—I will come to the volumes.

Mr Mullane—I could not answer off the top of my head what the construction costs would be but there would be a degree of relativity between them because of the different terrains, different distances and there would be diverse routes.

Senator CONROY—You are not for a moment suggesting that the construction costs that were incurred a considerable time ago are a major factor behind the differential in these pricings?

Mr Mullane—They can well be.

Senator CONROY—They might have been the day they were finished but there is this thing called depreciation. When you get to write something off because it has been depreciated, it actually reduces as a factor. Perhaps you are familiar with that concept.

Mr Mullane—It is also a factor that in most locations this is not a static game. We have to keep investigating it.

Senator CONROY—Then you are down to blinking lights.

ACTING CHAIR—But I also used that example because my understanding is that another company has made an investment in the link between Brisbane and Townsville so there is a competing route. Perhaps there is not one to Mt Isa, hence its declaration. That seems to be the prevailing—

Mr Mullane—That is certainly true. That is why it is declared.

ACTING CHAIR—Why would it not be the inverse? Because the sunk cost in that investment would have occurred so long ago and there has not been any competing infrastructure put in place. It seems that by virtue of those features, Telstra charges a premium.

Mr Mullane—That is not true that we just invest once and that is it. This year we are spending well over 50 per cent of our capital budget on transmission in country areas.

ACTING CHAIR—Yes, getting rid of pair gains. We are not talking about pair gains. We are talking about interexchange networks.

Mr Mullane—I am talking about that very item. It is a major area of investment and an ongoing area of investment.

Mr Scales—It is also fair to say that to establish a price for any of these services is not a trivial matter and all the time you are taking into account how you might induce demand.

Senator CONROY—I was going to say that reducing the quota prices may actually induce some demand.

Mr Scales—But you are also trying to understand what is the likely demand as well and whether you can induce demand. Then there are questions about the cost of maintaining that infrastructure.

Senator CONROY—There are ISPs all over the country begging for a reduction in price of your back haul prices. I have met them. We talked about it during the Senate inquiry. I met

them all over the country. They are begging to get onto your pipe and they are saying that the back haul price is prohibitive.

Mr Scales—Can I just answer that question. In a way that does not really tell us very much because it may be that the business model around which that ISP has been established may not be viable. It does not necessarily tell us whether the price is right or wrong. What it might actually tell us—and I am not arguing that this is actually the case—is that that is the right price for the delivery of that service into that area. Therefore, it is not surprising that people are finding that their business models—potentially predicated on much lower costs only to find that those costs are higher—do not give them the return and will therefore say that this business model will work if they get lower prices. That is almost what you would imagine would happen. But it is not actually an indication that the price is wrong. It may, in fact, be indicating that the price is right.

ACTING CHAIR—Can we perhaps go back to the issue of volume. Mr Mullane, you were going to explain why volume is a factor in price.

Mr Mullane—Volume matters enormously because on most of these routes there is an existing and changing level of volume of all those types of areas of demand that I referred to before. As additional volume is consumed by whatever input demands it, one needs to be planning for the next level of increment in transmission at the right point of time. If you have to make that next level of investment in, say, another physical route—and that sometimes happens—that is a substantial investment.

ACTING CHAIR—When there are high volumes, that gives Telstra the justification to increase the pricing to make sure that you have the revenues to invest in further infrastructure. Is that the logic?

Senator CONROY—High volumes reduce the pricing.

ACTING CHAIR—No. He is saying high volumes justify keeping the price high.

Mr Mullane—I did not say that. I am saying that growth drives further investment and further investment is a substantial issue in transmission links. On the thicker routes, the types of infrastructure that are installed generally have greater unit width capacity to go with them because you expect the planning will drive that level of infrastructure to be installed in those locations. But you still have to have the base physical infrastructure to carry whatever amount of gigabits or megabits it may be. The network planners have to make those decisions year in, year out on all these routes.

ACTING CHAIR—Am I interpreting you correctly to say that you calibrate your price to help manage demand on those routes?

Mr Mullane—No, that is not what I am saying. The outcome of it all is that the high levels of traffic will generate lower unit cost per unit of megabits or whatever you want to think of it as and they generally get reflected in pricing. It all relates back to cost. It is how classic pricing is driven in most industries.

ACTING CHAIR—Except that it is not because it is more expensive.

Mr Mullane—I am not quite following your logic, I am sorry.

ACTING CHAIR—I am just pursuing the point where these declared routes have a higher cost, as Senator Conroy said.

Mr Scales—Clearly why we have declared routes and undeclared routes is because from the ACCC's point of view and from the policy point of view, it is interpreted that the level of competition along a route drives to the most efficient price. We have declared routes because regulators and policy makers believe that that needs to be regulated to get the most efficient price. What we have in this particular area is both regulated and unregulated access. You are quite right when you raised this with us and the senator raised it with us at one of the inquiries. We have not had a complaint. I went back again and checked with our own wholesale people. They were not aware of a complaint on this issue. It does not mean that there are not any. We also tried to understand whether it might be a set of issues where there might have been substantial complaints to the ACCC. To our knowledge, there have not been complaints to the ACCC about that issue.

Senator CONROY—I appreciate you making that point but we have had this discussion to this degree. When you are the only supplier, it is pretty hard for anyone to ultimately come and complain to you. Many of these companies say, 'Look, there is no point in bothering to complain about this, there is no point going to the ACCC, they are bloody hopeless. We have to accept what we are given or find an alternate mechanism. Do our own infrastructure or something else' People are not knocking down your doors to complain about you because, frankly, you are the only supplier in these areas.

I want to try to confine this question because it jumps around a bit. I want to try to get a consistent question so we have a consistent discussion. For regional declared back haul routes, are the pricing principles the same for all of these routes and do these pricing principles not change if there is competition for the route?

Mr Mullane—The pricing principles have as their main input the cost. So the cost goes in there. In terms of wholesale transmission negotiations, our wholesale customers negotiate commercial deals. They often involve whole of business type deals.

Senator CONROY—I understand the demand side but I am talking about the supply side—that is, you. Your pricing principles are the same. I appreciate that if somebody comes to you with a bundle as opposed to a phone call, there are going to be different issues. But we are talking about Telstra's position here, not the demand. You are dodging this question.

Mr Mullane—I do not think so. You are talking about people wanting to buy transmission from Telstra. We negotiate with them and we use those sorts of factors. We have commercial negotiations, commercial deals. Whole of business makes a difference to a deal. Volume and term obviously make differences. The scale of the deal makes a difference. The amount of traffic makes a difference.

Senator CONROY—So prices are different between routes then if they are negotiated.

Mr Mullane—In many industries they have a concept of a rack rate and what you actually pay.

Senator CONROY—We know that.

Mr Mullane—So you have to have somewhere to start. We tend to have a rack rate position but that is not what the contracts get signed on.

Senator CONROY—Is competition a factor in negotiations?

Mr Mullane—Competition has the general effect of causing competition between suppliers and it tends to push prices downwards.

Mr Scales—That is almost a truism.

Senator CONROY—And the equal truism is that for reach with less competition, prices are higher. That is the other side of that truism.

Mr Scales—Yes, that is true but we cannot ignore the fact that that is why you have a policy that allows undeclared routes, a policy that says some routes should be declared.

Senator CONROY—We are talking about one specific type of route here. I am not trying to jump in between the two. I am staying in one area.

Mr Scales—Did you not ask whether competition induces a difference in price? The answer is yes.

Senator CONROY—I am talking about declared routes with some limited competition. That is the area I am getting to versus declared routes with some more or less competition. I am not jumping between declared and non-declared. That is where we all get confused, or I certainly do so I am trying to be very specific.

Mr Scales—It sounds to me that you like having it both ways, Senator.

Senator CONROY—No, I promise you that I am absolutely not trying to do that. I am trying to have a very defined discussion. In these declared routes where there is some competition, do you accept that there is a lower price charged?

Mr Mullane—Perhaps the best way I could illustrate it is that I am aware of one situation where we actually lost a job in recent times, in South Australia, to a power utility. It was a reasonable route, a declared route. So, you know, stuff happens.

Senator CONROY—Yes, but the point of this conversation and trying to get an understanding of back haul is that the Senate committee and I have received extensive complaints from people who are saying that where there is no competition the price that they are being quoted, and possibly tried to negotiate, though I would have to say to you this is their view—and I am not being pejorative; I understand Telstra is obviously going to start out trying to get the best price it can—is that Telstra does not want to negotiate, that they put the contract on the table and say, ‘Take it or leave it.’ That could be a good starting point for a negotiation. That may or may not reflect where you ultimately anticipate or hope to end up. But that is the view that has been put to us. I am not saying it is true in all cases.

Mr Mullane—I think in those circumstances the biggest factor that would influence pricing would be the prospective volumes.

Senator CONROY—In general, if you quote prices that are reflective of costs, it is pretty tough to reduce them if you have got competition, if you are up against competition. If you are pricing around costs and competition suddenly is in the market, it is pretty tough to reduce prices, just because some competition is there, if you are pricing reflecting costs.

Mr Mullane—I am not sure I would agree with that. I think most industries tend to price reflecting cost. But there is cost plus whatever margin is in operation in the industry.

Senator CONROY—Sure, and I accept that.

Mr Mullane—And that is where the movement happens.

Senator CONROY—Yes, but the argument here is that the margin is basically whatever you want it to be, and that is the starting point.

Mr Mullane—Does the industry have a view of that nature? Frankly, all of these inputs that you have had from the city, we do not see them in Telstra. The excuse that it is too hard, that they are hopeless to deal with, they will not budge, that is a summary judgment that should be at least borne out by—

Senator CONROY—That is why we are having this discussion. I am trying to verify these complaints we have heard. They are on the public record. I am sure someone at Telstra has been monitoring our trail. Every day, all around the country, somewhere from Telstra CountryWide has been present at the back of the room, so it is not like you are not keeping a close eye on it. Whether you need Mr Short for that or not I do not know. Maybe you should send him around the country to keep us company.

Mr Mullane—All of these customers have account team representatives from Telstra Wholesale. I would be very surprised if they are not at least having a conversation.

Senator CONROY—A monopolist is surprised that his customers do not complain to him.

Mr Mullane—Not complain; do not even ask.

Senator CONROY—I accept that is a fair point. But in terms of Mr Scales, a monopolist being surprised at no-one coming to complain, albeit different to question—

Mr Mullane—We have actually had two complaints since this measure was declared.

Senator CONROY—I understand that AAPT and Primus have so far screamed.

Mr Mullane—That is commercially.

Senator CONROY—I think that is the one that I am aware of. But in areas where there is lesser competition, the usual response is: whatever the market can bear. It is not necessarily pricing around cost, it is whatever the market will bear.

Mr Scales—I think, Senator, that does not accept the fact we were making earlier that a lot of these prices are regulated prices in these areas where, in the view of the ACCC, there is insufficient competition to get an efficient price. We are not free to charge whatever we like in these areas. I have tended to let the point go about being a monopolist. We are a monopolist on some routes but not on all routes.

Senator CONROY—Yes, I know. I think Mr Mullane has conceded that, where there is competition on some routes, your prices are lower, and closer to true cost. That is the nature of competition.

Mr Scales—But that is what you would expect.

Senator CONROY—But, equally, the lack of competition means prices do not necessarily reflect costs.

Mr Scales—No, that is not true.

Senator CONROY—I do not know many benevolent monopolists. But you are one, Mr Scales?

Mr Scales—No, that is not my point. My point is that that is why you have the regulator. The regulator, for all intents and purposes, tries to find a way by which they recreate what would be the most efficient price in the absence of competition. That is why you have these regulated prices.

Senator CONROY—I think you have very successfully demonstrated in recent months, Mr Scales, that a regulator is a poodle that you lead around by the nose. I do not mean you personally, I mean Telstra. I am afraid I am not excited about your defence being, ‘The ACCC have let us do it.’

Mr Scales—My point is not about the ACCC. You were suggesting it is around pricing. In principle, my point was that the reason you have these regulated prices is that they were meant to substitute for a lack of effective competition.

Senator CONROY—In principle, that is meant to be the case. Can I put to you very strongly that, in practice, I think our regulator has failed miserably to get close to your goals.

Mr Scales—But is that not a matter you should take up with the regulator?

Senator CONROY—I trust that you do get to see *Hansard*. I regularly take this up with Mr Samuel. I do not want you to think I am being softer on him than I am on you.

Mr Scales—We would not agree with you about the ACCC, by the way. We think—

Senator CONROY—They are doing a fine job. I am sure you do.

Mr Scales—We believe they are a pretty tough regulator.

Senator CONROY—A tough regulator. We know about the ducks. We will not go back to the ducks just yet. There are some new ducks and big swans wandering around in the papers today.

Mr Scales—But, to be fair, that was in a quite separate discussion and debate. It was not about pricing.

Senator CONROY—I am looking forward to your backflip with pike.

Mr Scales—The structural separation.

Senator CONROY—We will get to that a bit later.

Mr Scales—I cannot wait.

Senator CONROY—I am sure you cannot.

Senator LUNDY—You are looking forward to it.

Senator CONROY—I am sure. I am going to have to disagree with you and Mr Mullane that the ACCC is delivering something remotely resembling pricing and your costs, even with a within margin. I do not know whether we are ever going to agree on that. From your corporate perspective, I do not think we are going to get an agreement on that. Just coming back to the substance, the price that you decide to quote for back haul services into a region, would these

be representative of the costs that Telstra incurs when it utilise back haul services to these regions to supply your own services?

Mr Mullane—We use cost inputs to our retail product constructs. How the retail product managers set the prices can be on a distance reflective basis. Some tariffs from Telstra Retail are of that nature.

Senator CONROY—I think you have just said retail prices differ between regions again?

Mr Mullane—It depends on the product. If you take products like frame relay, ISDN and even STD, there are distance bands to that but if you take Bigpond broadband, it was decided right at the start of the rollout of that, given the nature of broadband and its importance to Australia, that Telstra would adopt a uniform retail pricing approach there. Effectively, what is happening there is sort of taking the bigger cost pool and working out a set of prices that is sustainable.

Senator CONROY—And a speed?

Mr Mullane—We offer services at speeds which customers are seeking.

Senator CONROY—But your basic broadband speed is a universal speed, 256k?

Mr Mullane—No, we have three retail bandwidth services in the Bigpond product in the market today.

Senator CONROY—Given that many of your competitors are offering a higher speed for basic services—

Mr Mullane—There are two or three now.

Senator CONROY—Do you think ultimately you will have to abandon that structure and just upgrade everybody? Would it actually require an upgrade? I got Telstra broadband before Christmas.

Mr Mullane—I am very pleased to hear that, Senator.

Senator LUNDY—You obviously did not have a pair gain, Senator.

Senator CONROY—No, I was lucky enough not to have a pair gain.

Mr Mullane—Senator Lundy would have represented that to me if you did.

Senator CONROY—I am sure I would have heard about it if I had. I think I have got 256k. I tried to get the fastest that was available through the departmental purchasing policy. I did not have my own personal choice. The basic 256k model is pretty slow compared with that of many of your competitors.

Mr Mullane—Two or three competitors.

Senator CONROY—There are a few others trying to get access to your network and that would like to do that. If you wanted to upgrade everybody from your minimum of 256k to—I don't know, pick another figure, if you like—1 megabyte, would that require much difference in terms of what is in my office at home?

Mr Mullane—The standard configuration that Telstra has used in its, can I call it, near universal rollout of ADSL, because of the limits of the urban copper network, tends to run out to around about four kilometres. We designed the whole network to support up to 1.5

megabytes per second downstream speeds. If people elect to purchase a service of that capability, then most people can get it. That is how we rolled that service out.

Senator CONROY—That is what I am saying; you made a universal speed decision. I will not say ‘universal’—

Mr Mullane—This is a universal service.

Senator CONROY—‘This is what we can get to everybody, 256k’?

Mr Mullane—It was just going to make it a lot easier when entering the market to get that capability out there, and that is what we did.

Senator CONROY—But it is a bit addictive. That is the evidence. Once you got to 256k, you suddenly realise that more is available. It must be pretty hard to manage that process. Once people realise they can get faster and faster speeds, the demand snowballs. Is that a fair way to describe what you are experiencing?

Mr Mullane—I think the issue you are addressing is: what happens when all of the 256 kilobyte download services decide to upgrade to 512 kilobytes or 1.5 megabytes per second services? Can that happen? Should it happen? When would it happen? We would say that that would be a choice for the customers to decide upon at this stage of the development of the service. The issue for Telstra would be if there was a large upgrade of services required, we will have to substantially add to the whole backbone capability of our networks, not just our Bigpond network but also the pipes that carry the wholesale services.

Senator CONROY—But you have pipes all over the country. That was one of the issues we discussed recently. You have the ‘black fibre’, ‘dark fibre’ or whatever it is?

Mr Mullane—We have lots of optical fibre.

Senator CONROY—Yes, all over the country that is not lit up at the moment? Mr Scales said it is everywhere.

Mr Mullane—That is another discussion. If we want to go down there now, we can, but if you want to stick with broadband—

Senator CONROY—But you are suggesting you would need to upgrade your backbone. I am saying that—

Mr Mullane—Let us think about the core. All of these links that we have been talking about, 256k, 512k, 1.5 meg, really bring you into your local exchange. From there, there is core network that has to transport the network to generally centralised points where the traffic can be handed off to all of the ISPs and shunted off to overseas, major servers in Australia or wherever. There is a lot of bandwidth in that core network. That will be required to grow, and it is being grown all the time, in light of the burgeoning demand that we are seeing every week. We have a major amount of bandwidth being added continuously in this network.

Senator CONROY—Have you got 10 per cent of the core of the network upgraded or 30 per cent? Ultimately, if you could just wave a magic wand, you would like to upgrade it all instantly?

Mr Mullane—We upgrade in line with demand. That is the way you design, build and run telecommunications networks.

Senator CONROY—You upgrade in line with your market monopoly.

Mr Mullane—In the core network you have to monitor your traffic flows.

Senator LUNDY—They wait until a competitor comes on the scene and then they upgrade.

Mr Mullane—No, you do not wait until it comes. You have to have enough head room to cater for the next piece of demand. As soon as you hit a trigger point, you add more bandwidth. That is how the planning of transmission networks happens.

Senator LUNDY—Except that you do not.

Mr Mullane—You have to add increments in line with the shape of the growth curve. That is what is happening day in, day out.

Senator CONROY—Demand seems to have surged enormously since Telstra's decision to reduce broadband prices.

Mr Mullane—It absolutely has.

Senator CONROY—It has been an extraordinary take-off, but it is still way, way behind an international reasonable standard.

Mr Mullane—I would not say that. But it is moving—

Senator CONROY—It is going backwards in the table of countries by proportion of broadband. I do not think it is arguable that we have not slid down the table.

Mr Mullane—I do not think we are going backwards.

Senator CONROY—We have slipped down the table. We might be able to correct it if we get a bit more activity in broadband?

Mr Scales—I am not sure that is actually right. Just to clarify that—

Senator CONROY—I have seen the latest figures from the OECD.

Mr Scales—The OECD figures tend to lag what is going on in the Australian market or any market, not only the Australian market. It is actually quite difficult to draw that information from the OECD numbers.

Senator CONROY—What you are suggesting is that an updated figure may show an improvement?

Mr Scales—That is correct.

Senator CONROY—But the existing figures, the most recent ones out, which I think the Australian Telecommunications Users Group, ATUG, have just brought back from Europe, do not bear you out yet. They may bear you out in 12 months' time if there are new ones. But the figures as they stand do not bear that position out.

Mr Scales—All we are saying is that those figures may be out of date.

Senator CONROY—I accept that when the latest come out we may have had an improvement.

Mr Scales—That is all we are saying. But I thought you were talking not in the past tense but the present tense.

Senator CONROY—Both of us can only really talk about the figures that are available.

Senator LUNDY—Your comment is still a fair reflection, Senator Conroy.

Mr Scales—But I think, to be fair, that my comments are also a fair reflection.

Senator CONROY—They are a best guess rather than a reflection.

Mr Scales—My point is that your comments are past tense. My comments are that when you are putting into a network anything up to 30,000 a week, both on a wholesale and retail basis, that very quickly changes some of those positions on those so-called international tables. I would not want to make any other point than that, except—

Senator CONROY—That is if you are being kind and you are prepared to accept that 256k is broadband.

Mr Scales—We talked about that, about how you define broadband. Yes, roughly, 256k is generally—

Senator CONROY—Is nowhere near broadband.

Mr Scales—It is generally—

Senator CONROY—I think I might have some questions on that as a follow-up to an answer on notice. So we may debate that later.

Mr Scales—Sure. Okay.

Senator CONROY—I am happy to come back to that. No-one, and no serious international standard, suggests that 256k is genuine broadband, nobody other than Telstra.

Mr Mullane—Senator, I beg to differ. The way broadband take-up is measured around the world, 256k services are counted as broadband by every country and every counting authority. The ACCC definitions here include exactly that. It is not Telstra's definition.

Senator CONROY—Just going back to a point we were discussing a little earlier, Mr Mullane, you mentioned earlier that your wholesale back haul prices can be different if there is competition on a route, but retail prices for broadband services are consistent. How could a regional competitor compete with Telstra if it has to bear these higher back haul prices but then has to compete with Telstra's standard broadband retail pricing?

Mr Mullane—I presume you mean a regional competitor who is building their own network? They could be buying wholesale from Telstra or somebody else?

Senator CONROY—Yes, trying to buy wholesale.

Mr Mullane—If they are buying wholesale, most of Telstra's wholesale customers who are reselling Telstra DSL network seem to have also adopted the uniform pricing, retail pricing, approach in the market. To be honest, I think it has been fantastic for regional Australia. There are something like 500,000 or 600,000 broadband services now in regional Australia that would not have happened without that pricing construct. Telstra has only got a share of that retail market.

Senator CONROY—When you calculate the total internal costs for retail broadband services in regional areas, are the input prices always lower than the retail prices?

Mr Scales—The wholesale prices for broadband, as Mr Mullane mentioned earlier, these are rack price. The rack price—

Senator CONROY—I asked about your total internal costs for retail broadband services in regional areas. Are the input prices always lower than the retail price? Mr Mullane suggested that there was almost a cross-subsidy. I am not trying to verbal him, he talked about the whole and then—

Mr Mullane—I suggest perhaps the best way to get a bellwether on this is that you would be aware that we operate the ADSL demand register, which is a mechanism for regional townships/communities to trigger the upgrading of an exchange to ADSL capacity. Why we have a threshold system triggering exchanges is we need to make sure that that exchange is going to be a viable proposition. That is the mechanism we are using to avoid significant cross-subsidies. We could not even be doing the exchanges we are doing now without the—

Senator CONROY—You said significant, but you are accepting that there is a cross-subsidy involved?

Mr Mullane—No, it is not a cross-subsidy. I think it is an evening out of the outcome of the retail business.

Senator CONROY—An evening out.

Mr Mullane—‘Cross-subsidy’ suggests that one is negative. I am not saying that is the case.

Senator CONROY—You are not prepared to concede that, certainly, not at a parliamentary inquiry. I was talking about people trying to install DSLAMs before.

Mr Mullane—I think the point I would make about that, Senator, is that the only case I have read about in the media was trying to get access to quite a small town where Telstra had not even had the right combination of demand and cost to install ADSL. Telecommunications is a large-scale game. There is no doubt about it. If you are going out to substantial numbers of small towns, you have got to have a big-time operation going. For small players who are doing limited numbers of towns, it is an extremely difficult game.

Senator CONROY—My basic point was: on the information you have given us today, Mr Mullane, it is possible for your wholesale prices to make it prohibitive for your competitors against your own uniform retail price?

Mr Mullane—I did not say it was possible, but if you draw that conclusion it is up to you.

Senator CONROY—Okay. I cannot argue with a statement like that.

Senator LUNDY—In terms of this discussion you have been having about pricing policies on back haul, how is it that you can drop the price dramatically in some circumstances?

Mr Mullane—Have you got an example to help we with?

Senator LUNDY—No, I have not. Can I ask you: have you ever dropped the price of your back haul in certain circumstances?

Mr Mullane—I am not privy to Telstra Wholesale deals, but I would think that where there are large volumes of traffic with wholesale carriers that have substantial voice, data, mobiles, network traffic all being aggregated on a route, that will drive down the price greatly.

Senator LUNDY—Do you have an explanation as to why your price would drop dramatically as a result of one variable, and that is the introduction of competition?

Mr Mullane—Do you have any more examples for me, Senator?

Senator LUNDY—No, I am just asking you generally. Are you going to deny that has ever happened?

Mr Mullane—I could not deny it has never happened. But I think competition does cause people to attempt to be competitive in the market. I think Mr Scales talked about this just a few minutes ago.

Senator LUNDY—That is right. Given that that is certainly the feedback Senator Conroy has got, it implies that the underlying costs are more arbitrary than you would have us believe, if you had that flexibility in pricing.

Mr Mullane—The costs are not arbitrary, I can assure you. We have absolute planned investments in technology that have specific costs associated with them every planning period. We make very substantial investments and we apportion those costs back across our transmission routes in ways that we are very happy make eminent sense.

Senator LUNDY—Based on that statement, if you were to dramatically drop the cost of back haul, then something funny is probably going on?

Mr Mullane—Once again, it is a hypothetical question so it is hard for me to say anything here. Where you have got—

Senator LUNDY—It is not hypothetical because of the questions I am asking, it is hypothetical because you do not have specific information or examples of this.

Mr Mullane—I think on intercapital-type routes, on routes where there are large volume of traffic and multiple providers you do see absolutely strong competitive action taking place.

Senator LUNDY—I take it from your answer that you would be concerned if it could be demonstrated that Wholesale did drop its price of back haul dramatically and that that would potentially not reflect Telstra's consistent approach to pricing of back haul, and that it could underpin, I think, a legitimate and formal complaint to the ACCC?

Mr Scales—No, we would not agree with that at all.

Senator LUNDY—No, I suspected you would not, Mr Scales. I was just waiting for you to come in. That is certainly the implication that Mr Mullane has laid out.

Mr Scales—No. To be fair to Mr Mullane, you have put to him a hypothetical case.

Senator LUNDY—Can you tell me if that has ever happened?

Mr Scales—What we have tried to do is to be as fair as we can to answer a hypothetical case, knowing of course that without any detail about what it is that you are talking about it is almost impossible to answer you accurately. If there was a practical case where you are saying this is happening, we would need to know the details to be able to understand what the logic is behind it; whether it is driven, as you are suggesting, by high levels of competition, that that then forces people to look at their own costs, they then cut their costs, that then gets represented in prices, or whether there is something else. All that Mr Mullane has been trying to do is do his best to answer a hypothetical question.

Senator LUNDY—Sure. I put to you, then, this question: how can it be that big drops in pricing, if and when they do occur, would have any reflection on cost?

Mr Scales—They could have a terrific reflection on costs for the reasons that I mentioned earlier. The reason why Labor governments and coalition governments have tried to introduce competition is that it forces people to understand what their costs are, to reduce their costs to enable them to compete effectively against the competition. That is what happens. That is why you do it.

Senator LUNDY—Let me rephrase that: how can it be that big drops in pricing, were they to occur, reflect your cost structures?

Mr Scales—For the reasons I have just said, they might. Then it is a question of whether in fact what you have anticipated is the necessity to reduce your own costs or whether you have reduced your own costs and then represent that in the price. Again, we are trying to be as fair as we can in answering a hypothetical question.

Senator LUNDY—I understand that, but my logic dictates that if you were able to dramatically drop the price in those circumstances, that would be evidence that the prices were inflated in the first instance; otherwise you would be providing it under cost.

Mr Scales—Senator, what you are representing is what is called in the economic jargon dynamic efficiency. That is what you are representing.

Senator CONROY—The point of it is that monopoly pricing exists where there is no competition, Mr Scales, in economic jargon.

Mr Scales—You would have read this many times in the work of Michael Porter. That is why he argues so strongly that regulators find it difficult to get the right price. Competition is able to drive those lower prices, that greater efficiency, in a way in which regulators rarely can.

Senator CONROY—That actually separates you, Mr Scales, to help achieve that competition.

Senator LUNDY—In a way, that answers your own question, too, because it says that your costs are only a factor where there is no competition.

Senator CONROY—Telstra will not agree with this, but an independent observation of the transcript will bear that out. I have a question that I will get you to take on notice. Could you provide us with the individual prices quoted by Telstra for all optical fibre back haul routes over 100 kilometres in New South Wales. For each of these routes, information as to whether there is a competitive infrastructure on these routes, and details of any lower negotiated prices for back haul services on these routes. I realise you do not want to disclose who the customers are. I am only interested in prices. Could you also provide details of any complaints about the quoted prices offered by Telstra on these routes. I accept the point you are making that you appear not to have had any of those. I think that may also help us.

Mr Mullane—For how long?

Senator CONROY—For the last 12 months. I am assuming the prices have not been jumped around that much. But if there has been a major price movement relating to competition on the sector—

Mr Mullane—You are talking about Telstra Wholesale prices, I take it?

Senator CONROY—Let us have both.

Mr Mullane—That might be challenging to contemplate—

Senator CONROY—The individual prices quoted by Telstra for all optical fibre back haul routes over 100 kilometres in New South Wales. I am presuming that is your rack price?

Mr Mullane—Well, you said the prices quoted. That will be what it will be.

Senator CONROY—Sorry?

Mr Mullane—Prices quoted, I think you asked for.

Senator CONROY—Yes, prices quoted. That would be—

Mr Mullane—It will be whatever we quoted.

Senator CONROY—Okay, the quoted price, then, as opposed to the rack price. I am happy for you to explain the difference between your rack price and your quoted price. You are suggesting there is a difference between the two.

Mr Mullane—No, I am suggesting that you have a point where you commence your pricing discussions on these sorts of deals.

Senator CONROY—Sorry?

Mr Mullane—You have a point from which you commence your negotiations. That is pretty much what a rack rate is.

Senator CONROY—What is your quoted rate, then? How do you define it? I just want to make sure I have got the same language.

Mr Mullane—The quoted rate is what the customer is offered.

Senator CONROY—At the end of the negotiations?

Mr Mullane—Yes.

Senator CONROY—Okay. Yes, I am after those quoted ones. I am happy to start with the rack ones. Put a line for rack and also a line for quoted prices. Can I also get Western Australia as well. We want the rack rate, the quoted rate, New South Wales, Western Australia, 100 kilometres.

Mr Mullane—Is that for greater than 100 kilometres or less than?

Senator CONROY—The second, over 100 kilometres.

Mr Mullane—Greater than 100 kilometres, New South Wales, Western Australia, in the last 12 months. Optical fibre based only?

Senator CONROY—I am happy to have the prices for any of your infrastructure.

Mr Mullane—We tend to be agnostic when it comes to our transmission infrastructure in terms of the price offered to customers.

Senator CONROY—So why did you ask me to—

Mr Mullane—I just wondered whether you wanted specifically to—

Senator CONROY—If the price is the same, what was the point of your question?

Mr Mullane—You said ‘optical fibre’. I just wondered whether there was something more that I needed to understand before I go and search for the information. What about bandwidth?

Senator CONROY—Details of any lower negotiated prices for back haul services on these routes. I do not want customers, just a price. And details of any complaints. If you have any questions you would like me to clarify, you do not have to read them out to me now or, if you want to, please read them out, and I can come back to you and clarify, just so we do not get the—

Mr Mullane—So all distances greater than 100 kilometres in those two states, but not greater than beyond the state boundary?

Senator CONROY—Yes, I am trying to confine it to within the states. But are you suggesting that if it runs across the border it costs more?

Mr Mullane—No, I am just trying to put a boundary around it for the army of Telstra people I need to find out this information.

Senator CONROY—I am surprised it would take so many of you. I would have thought you knew what the cost structures were?

Mr Mullane—You asked for quoted offers to customers.

Mr Scales—I think we have got your point, Senator. If we could move on—

Senator CONROY—I am quite happy to keep having fun with Mr Mullane for a while yet, but I am sure we can call a truce shortly and move on. I wish also to ask some further questions about Telstra’s charging practices in relation to transferring retail broadband customers from Telstra DSLAMs to competitor DSLAMs, something that we did talk about previously. We have been told that this process involves simply removing a cable from one socket to another, and yet Telstra charges \$90 a pop for it. Is that correct and why does it cost so much?

Mr Scales—Again, I will ask Mr Mullane. It is a little more than that, so I will let Mr Mullane take that question.

Mr Mullane—I think this is what is referred to as a migration process.

Senator CONROY—Yes, I guess so. Unless you have been deporting anybody, we can safely say that that is what we are talking about.

Mr Mullane—I would like to perhaps just run through what is involved in this migration process, which might help a number of people’s understanding. This started as a service-by-service migration. We had an arrangement that was basically around single-service orders, move a service, in the early days of ULL, where business customers were getting moved from one carrier to another. But now we are into this era of emerging need for high-volume migrations. The current process, which has been refined considerably in recent times, is fairly complex. It runs like this. We have a minimum notification period of 84 days prior to the required cut-over.

Senator CONROY—Eighty-four days?

Mr Mullane—Eighty-four days. What is required at that point is for us to get a list of the exchanges involved and a 60 per cent accurate level of the forecast numbers of services to be moved. So this is, if you like, giving us a scoping statement of the work and the time frame that is required. Telstra takes that information into our Infrastructure Services part of the business. They assess what is going to be required in terms of their level of resource commitment, et cetera. They look at what is involved in doing that amount of work. They have to manage that in conjunction with all of the other work going on at the moment. There are huge volumes of works, as you are well aware, now going on.

Senator CONROY—Sure.

Mr Mullane—We take that forecast, we will convert that into a price and we will go and negotiate with a customer around the terms and conditions of that migration. At the 56-day point prior to the required cut-over, we confirm with the customer a refined forecast. When that forecast—

Senator CONROY—Can I just clarify: you mentioned that you want 60 per cent accuracy from them?

Mr Mullane—Sixty per cent.

Senator CONROY—Excuse my absolute ignorance, but why would there be not 100 per cent accuracy? If I want to change 20 lines—

Mr Mullane—If you are a provider, as you head towards a given migration time, there will be customers moving on and off your network, or your resale network, so you will not know exactly 84 days out exactly how many customers you are going to have, but you will have a fair idea. That is why we are trying to get the order of scope of the job.

Senator CONROY—Do the other competitors lump together and say, ‘We have got 10 different phone lines or we have got 10 different customers’?

Mr Mullane—Yes, it will be different customers in different exchanges. They will say, ‘We have now decided to migrate customers out of exchanges A, B, C, D and E onto our own infrastructure, and we require that to be done. In this exchange there will be this many services, this many here and so on.’ That is scoping the job. We then go back to them at 56 days out and say, ‘Right. Can you confirm the numbers of services involved at these various exchanges?’ So they go through that. At that point, we then lock in the resources to do the work. We need to program this very carefully.

Senator CONROY—I appreciate that you have a huge operation. As you say, you have hundreds of thousands of transactions taking place like this all over the country all the time. Eighty-four days does sound like a long time. Even 56 still sounds like an extraordinary amount of time in modern days. I remember in the days when I first moved from Canberra to Melbourne, back in 1987, I had to wait at my house for two or three days.

You were not able to guarantee what day the linesman would come to install my phone. Nowadays, it is fantastic. They say, ‘I will be there at x time, within an hour.’ And that is not just because I am a member of parliament. I understand from talking to friends that the Telstra service now is superb. I am just trying to understand why it takes 84 days and 56 days, even though you are managing a huge volume of work.

Mr Mullane—Because there is a lot of work involved on both sides here. It is not just Telstra. There is a huge amount of work on the part of the provider. They have to get these lists of customers together. They have to communicate in whatever way they do to their customers. They have to program their own resources to do their portion of the work. They have to coordinate it all. They have to get project management across it all.

Senator CONROY—This is talking about your customers. This is not talking about Telstra.

Mr Mullane—I am talking about the work that is required on both sides. There is a lot of work on both sides of the fence. There are big volumes in some of these migrations. Let me keep going and then we will come back to it.

So we lock in these resources 20 days from the cut-over point. We require the provider to provide Telstra with a list of all the telephone services or the customers that are going to be migrated, and their cable pair details. That has to come into Telstra. That gets given to our work centre management areas for either unconditional local loop work or spectrum sharing work. They then actually check that these numbers are in fact operating services with that provider. There may be variations that they have to clear out. Then the work is programmed; it is confirmed. There is a single order. From between day 15 and day 3, Telstra go on site at the exchanges and they pre-jumper the work. So they go on to the main distribution frame and they run the new jumpers required from where the customer's line comes in over to where the blocks are for the customer's own DSLAM. But they leave the service in situ as it is. Then, on the day of cut-over, they go back on site, they pull out the existing jumpers and they connect the new jumpers, so there is only a minimal outage period for the customer. Then they have to remove and cut away the old jumpers that have to come out of the mainframe. Then the records have to be updated. That is a very critical part. It requires considerable time, effort and resources.

If it is a ULL service, there has to be a call diversion put on the telephone service that was originally with another provider, so that calls to that number get a response. And on top of that there is a project management that Telstra needs to put around its side of all of this business. We do project manage every job that has more than 50 end users. Then there is a number of exchange visits involved in all of this as well. But we do not count those in the cost. For all of that, the cost is not \$90. That is the actual price for a standard spectrum sharing service changeover from Telstra to a wholesale customer. The ULL price is slightly higher than that and it depends on the scope of the ULL. But it is just a little bit higher. In both cases, those prices are less than our actual costs. We have done a lot of work on that front, and they are both less than our actual costs today.

In summary, it is very complex. It requires lots of preparation, very tight coordination across a wide group of people. We cost that work in line with the ACCC guidelines. For these mass migrations we do not charge a standard price, we negotiate a price and so on, where we can do that. That is the process, Senator. It is probably a lot more detailed than many people understand.

Senator CONROY—I did appreciate the general description. I thought you left out the cost of the cup of coffee and 27 other things that you could have loaded in if you wanted to.

Mr Mullane—Unlike here, they have to supply their own coffee in telephone exchanges.

Senator CONROY—You are very hard. I do appreciate the point you made that you do negotiate in bulk now.

Mr Mullane—We do, yes.

Senator CONROY—One of the complaints was that there was no bulk discount.

Proceedings suspended from 3.47 pm to 4.05 pm

CHAIR—The committee will resume.

Senator CONROY—I just have a couple of questions about some Telstra subsidiaries that I noted from a report released by the Department of Finance and Administration. It shows that Telstra have a number of foreign subsidiaries, including three in Bermuda. I am just wondering what they do.

CHAIR—Internet gambling?

Mr Scales—What particular subsidiaries are you referring to?

Senator CONROY—The three you have in Bermuda.

Mr Scales—I think that might—

Senator CONROY—Sorry, could you speak up, please. I cannot hear you.

Mr Nicholson—I believe they are for Reach holding companies.

Senator CONROY—Reach holding companies?

Mr Nicholson—Or the Reach joint venture that we have.

Mr Scales—A joint venture with PCCW. I think they are the ones you are referring to.

Senator CONROY—What do they hold?

Mr Nicholson—They would hold our interest in that joint venture.

Senator CONROY—So there would be almost nothing left in them.

Mr Nicholson—They hold the investment as it accrues, yes.

Senator CONROY—Why did you need to set up three companies in Bermuda to do that?

Mr Scales—I think I can—

Senator CONROY—Wasn't Antilles available?

Mr Scales—I'm sorry?

Senator CONROY—Weren't the Cayman Islands or Antilles available?

Mr Scales—This is from recollection, so if it turns out that I need to correct this, I will have to come back to you. I think it was the request of PCCW when we established that particular joint venture.

Senator CONROY—I am asking why you had to set them up in Bermuda.

Mr Scales—Because it was part of the agreement by PCCW.

Senator CONROY—They required you to set up companies in Bermuda?

Mr Scales—We have just been advised that it might be AJC, the Australia Japan Cable. We might have to take that on notice rather than guess which ones they are.

Senator CONROY—Telstra CSL Ltd, formerly Joint Venture Bermuda No. 2 Ltd, Telstra Holdings Bermuda No. 1 Ltd and Telstra Holdings Bermuda No. 3 Ltd. I think that is the three for Bermuda.

Mr Scales—I think we had better take that one on notice.

Senator CONROY—All right. How many foreign subsidiaries does Telstra have? How many people are employed by Telstra's foreign subsidiaries? What proportion of Telstra's business is accounted for by these foreign subsidiaries? How much of Telstra's capital investment budget will go into these entities? Are these entities net contributors to Telstra's bottom lines? Why do you need three subsidiaries in Bermuda and why did PCCW require you to open three companies in Bermuda?

Mr Scales—That is on the assumption that they are the ones I am talking about. We will get all of those clarified for you.

Senator CONROY—Thank you. I have heard from a few people that Telstra have lodged their submission with the department with regard to the minister's departmental inquiry into telecommunications. Is that correct?

Mr Scales—Yes, it has been lodged.

Senator CONROY—Were you making that submission public?

Mr Scales—As I understand it, that is a matter for the department.

Senator CONROY—It is your submission, though. You could make it public if you wanted to.

Mr Scales—I understand that the department is intending to make it public at some point. We are not intending to do that until such time as that is done by the department.

Senator CONROY—Minister, I am sorry to interrupt. I appreciate that you are obviously not Senator Coonan, Minister Abetz.

Senator Abetz—She would be worried about her hair if she were!

Senator CONROY—I think she would be worried about more than that! I was just asking about Telstra's submission to the minister's departmental inquiry and asking Mr Scales if their submission would become public. I think he indicated that the department is considering when to make them public. I was wondering if they are going to be made public and, if so, when.

Ms Williams—At the moment we are checking them through to see if there is anything confidential or otherwise that should not be made public. Other than that, subject to that, we expect to put the submissions on our web site in the next week or so.

Senator CONROY—Mr Scales, is there anything in yours that is commercial-in-confidence that you would not want to be made public?

Mr Scales—That is really a matter for the department to look at. I am quite happy to give you the generality of the issues and Ms McKenzie might also want to cover any other issues.

We would already have canvassed a number of issues with you on the other inquiry, so there will not be great surprises to you in it.

Senator CONROY—The ducks have blossomed into swans this week, so we will be talking about that.

Mr Scales—In general it covers a lot of the same terrain. So in that sense you will not be surprised by the content.

Senator CONROY—I just wanted to assure Ms Williams that if she published your submission tonight it would not be a problem for Telstra, because it is not commercial-in-confidence.

Mr Scales—They are really matters for the department.

Senator CONROY—You do not think there is anything that needs to be kept secret when it goes public?

Mr Scales—From our point of view, when the department decides to release them and make them public, we are very comfortable with that.

Senator CONROY—I will check the web site tonight, Ms Williams. I am an optimist! Does the submission reflect the comments in today's media by Mr McGauchie that Telstra could accept operational separation in return for a relaxation of its access obligations?

Mr Scales—It is no secret that Telstra has been in discussions for some time with the government around operational separation. What was implicit in your questions to me, to the minister and to Kate about the discussions with BT I think implied that we had been in discussions around this issue. To some extent the submission will address some of those issues.

Senator CONROY—There are a number of reports in the media today concerning the views of various members of Telstra on operational separation. One report mentioned that UBS, the government's adviser on the sale of Telstra, is concerned with operational separation. UBS is described as being concerned that if it changes the basis on which Telstra's retail businesses gain access to infrastructure, this could alter views of the company. I am sorry, Senator Abetz. I did not realise that Minister Coonan was not going to be here. Do you know when she is due back?

Senator Abetz—Around 4.45 pm, I understand. I know I am a disappointment to you.

Senator CONROY—You have never been a disappointment to me. I always promote you strongly, Senator Abetz.

Senator Abetz—I have been promoting you to Senator Carr as well, but he just does not want to hear.

Senator CONROY—I am glad you have been enjoying your time at estimates, but the questions I have got probably are for the actual minister. Apologies, Senator Abetz, but I might wait until 4.45 before I continue that string of questions so that we do not waste our time.

You had a chat with Senator Allison about BigPond earlier. I had left before that discussion, so apologies if I cover something you have already covered with Senator Allison; just let me

know. Could I get an outline of Telstra's actions in redirecting Telstra BigPond customers from www.caseydonovan.com to www.caseydonovan.com.au?

Mr Mullane—That is going back some months, and my recollection of it is that there was an event to take place at, I think, Sydney Opera House. It was a media event and the web site was a key part of that. The web site was to be run by another organisation, not Telstra, and we had some communication that was being approved internally. It went through all the approvals process but we did not have the actual web site address from the other company when that approval took place. The address that was given to us by the other company lacked the 'au' on the end. The rest, as they say, is history. But, having been alerted to it fairly promptly, we made some fast contact with—

Senator CONROY—What was the problem? I am not an *Australian Idol* fan I am afraid to say.

Mr Mullane—The web site was a US web site and it was a site that was of perhaps questionable content for younger Australians, so it was not really suitable—in fact it was very unsuitable—for what was being undertaken, which was the *Australian Idol* event. Contact was made with the US web site and they redirected it from the fairly offensive page to something that was innocuous immediately, and then Telstra made the changes to redirect it quite quickly after that. Apologies were made.

Senator CONROY—This may sound odd but I am actually interested in the technical procedure that you underwent to reassign—

Mr Mullane—I could not help you today but I would be very happy to take it on notice.

Senator CONROY—I would be happy for you to take that on notice, but that is what I am interested in, the purely technical side—how you did it—because it was fairly extraordinary and has caused a real ripple worldwide. Some very senior people who helped develop the net find it extraordinary that, without any reference, an address was changed. So I am interested in the sequence and what happened.

Mr Mullane—The only other comment I can recall was that at the initial contact with the US company they indicated that they did not have to make a change—sort of: 'We could tell you to go jump.' But in fact they were quite helpful off their own initiative; they realised the situation that had occurred. It was a very regrettable incident that took place, but it was corrected quite rapidly.

Senator CONROY—I am happy for you to take that on notice and give us the actual rundown. Did Telstra consult with anyone outside the organisation before taking this action?

Mr Mullane—The redirection?

Senator CONROY—Yes.

Mr Mullane—Again, I will have to take it on notice.

Senator CONROY—Did they consult with any government departments?

Mr Mullane—My recollection is that we did not receive a take-down notice from, for example, the ABA. Did we consult? We just wanted to get it off there as quickly as we could.

Senator CONROY—Perhaps, as you said, you could take that on notice and come back to me as to who you consulted, if you did consult anyone. Did Telstra consult with any ministers' offices?

Mr Mullane—I cannot recall the detail of that. I do not know whether Mr Scales has any memory of it.

Mr Scales—It would be normal for us to advise people of an event like this but whether we did in that case I'll need to check.

Senator CONROY—I am also interested in any consultations about the way in which you did the redirection.

Mr Scales—I understand that, once we knew of the error, we advised the minister's office—and also what corrective action we were taking.

Senator CONROY—The other regulators that I am interested in—if you spoke to them, Mr Mullane. What about the ACA? You mentioned the ABA. What about ICAN?

Mr Mullane—Again, we will take it on notice.

Senator CONROY—Did Telstra receive any complaints about its tampering with the domain name system in this way?

Mr Mullane—Not to my knowledge but, again, I will confirm it.

Senator CONROY—Could you please provide details of each occasion on which Telstra returned false IP addresses in response to domain name system information requested by BigPond customers?

Mr Mullane—No. I will have to add that to the list.

Senator CONROY—Thank you. Has Telstra given any consideration to producing guidelines outlining the circumstances in which it would engage in this kind of practice in the future?

Mr Mullane—No. I think the internal approvals process has been reaffirmed very strongly. In other words, every detail will have to be on the final document before it gets approved to be issued.

Senator CONROY—I appreciate about getting it approved to go up but I am trying to get an understanding of whether you have a process now for when you tamper with the DNS. If it happens again—and hopefully it will not happen again—have you put in place a process?

Mr Mullane—Yes. I note your terminology of tampering with the DNS, but I think that taking rapid corrective action would be perhaps a more appropriate term from our point of view.

Senator CONROY—I am happy for you to call it redirecting or taking rapid corrective action. I do not mind how you describe it when you write the letter back to me. We will understand what you mean. As I said, we are interested in the technical issue and not just the process. I actually think that tampering with the DNS is quite a serious thing, as I said. It has caused quite a stir worldwide that an organisation was able to just do this—not that it can be done, but that it was done. It was like: 'Oh my God! They did what?' That was literally the

reaction. It was for a good outcome as you would describe but to just go ahead and unilaterally do it has caused a real stir.

Mr Mullane—It is all noted.

Senator CONROY—To give you an example, in NewMatilda.com, the headline is, ‘Telstra blocks porn but opens a can of worms.’ Then, ‘The second problem is subtle but more dangerous’; then, ‘Telstra inserted the splash page by fiddling with the Internet’s domain name system’; then, ‘DNS is a global network that’s fundamental to the Internet’s functioning’; and then, ‘All computers on the Internet have a numerical Internet protocol address.’ It goes on to detail porn star Donovan’s web site but I do not think we need to go there. It describes it as, ‘Telstra poisoned the DNS for BigPond customers.’ Then it says, ‘DNS gave the wrong answer for www.kcdonovan.com.’ There is then a number which I will not read out because I do not want it on the record—the address for a Telstra computer. Then it says, ‘Internet relies on DNS to ensure that web site requests go to the correct server’; and, ‘Internet banking users rely on DNS to ensure they are typing their password into the bank’s computer and not some criminal’s.’

‘Tampering’ is a word I will stick with. Then, ‘DNS is as important to the Internet as satellite navigation is to shipping; perhaps more so, as ships have other ways of figuring out where they are, like just looking out of a porthole.’ And, ‘Internet users have only the DNS.’ As I say, the magnitude of this is quite significant.

Mr Mullane—Yes, I understand.

Senator CONROY—I am going to return to an issue we had a bit of fun with last time. There have recently been media reports that Telstra has not been able to satisfy demand for *White Pages* directories in Sydney and Melbourne. Has Telstra been able to satisfy customer requests for *White Pages* directories in Sydney and Melbourne?

Mr Scales—I do not have any knowledge that we have not been able to satisfy demand. It is certainly true that we have tried to better balance what we expect demand is so we do not have waste of *White Pages* and *Yellow Pages*. In this day and age, we are trying to make sure that we do not—

Senator CONROY—I am sure that you have an averaging system and you make a mathematical calculation. There is a report by Jennifer Hewett in the *Australian Financial Review*. It says that Telstra has run out of books for Sydney and Melbourne until the next edition becomes available at the end of July or early August.

Mr Scales—Let me check to see whether Jenny Young has any information on that. My general point is that we are trying to get a much better understanding of what the demand is. There has been a tendency in the past to simply well over-produce and therefore waste all of those issues.

Senator CONROY—Have you run out of *White Pages* for Sydney and Melbourne, if I phone up? I live in Melbourne. If I phone up and ask for the *White Pages*, will I find you short?

Ms Young—No. Unfortunately, I do not have any information additional to what Bill has disclosed but I am happy to look into it.

Senator CONROY—You might need to take some of these questions on notice. If you have not been able to satisfy customer requests, what is the extent of the shortfall in directories? Has Telstra run out of *White Pages* directories in any other areas of Australia? When will Telstra be able to provide these customers with the *White Pages* directories they have requested? Has Telstra received any correspondence from regulators regarding its failure to satisfy its obligation to provide these directories? In fact, it is a licence condition. I am sure that other dynamic regulator you deal with—the ACA—will have been right onto this one with you. Could you provide details of this correspondence? Has Telstra experience experienced any increase in revenues from its 1234 and 12245 service during this period of shortfall? Obviously, if people cannot get the *White Pages*, they are going to be forced to incur costs by using the other services. I am not for a moment suggesting that you have deliberately run the *White Pages* short to force people onto your premium service but, if you have seen a surge in revenue in these two cities in particular, it would be something to think about.

Mr Scales—They still have the free service of 1223.

Senator CONROY—I understand that but, if they had the *White Pages*, they might be able to find the number, but if they do not have the *White Pages*, they may not have been able to find it—given that that is the only place it appears.

Mr Scales—We will take all of those on notice.

Senator CONROY—What is the nature of Telstra's relationship with the Business Coalition for Tax Reform?

Mr Scales—We are a member. John Stanhope, our chief financial officer, is also a member. Geoff might be able to give you a bit more detail on that.

Senator CONROY—Are you a corporate member or an individual member?

Mr Scales—No. I think we are a corporate member.

Senator CONROY—There have been some suggestions that Telstra is distributing emails and press releases on behalf of the BCTR and taking calls on its behalf. Is that correct?

Mr Nicholson—I am not aware that we do that as Telstra on behalf of the business council, but there is a secretariat function which rotates from company to company as the chair passes. That might be the source of some of your queries.

Senator CONROY—Do you charge for these services? Do you charge out Mr Stanhope's time?

Mr Nicholson—No, I understand it is a voluntary exercise.

Senator CONROY—What other services does Telstra provide to the BCTR without charge or at a discount? What are the secretarial services that you are incurring costs for at the moment and spending taxpayers' money on?

Mr Nicholson—I beg your pardon? Can you repeat the question, please?

Senator CONROY—What are the other secretarial services that you are providing at taxpayers' expense and Shell's expense to BCTR?

Mr Nicholson—As I said, being part of the business coalition involves, if you are the chairperson, also taking the secretarial function. As I said, that rotates. The chairman sponsors that exercise as it rotates. We partake in that coalition because it is a sensible exercise for the industry and it is a productive thing for Telstra to be a part of.

Senator CONROY—I noted a press release in which Mr Stanhope is listed as chair and advertising Jane Sullivan's services as general manager of corporate affairs, finance and administration, with her phone number. How many people have you got working on behalf of the BCTR?

Mr Nicholson—As I am aware, one part-time resource—part time only.

Senator CONROY—Other than your membership fee, what would that be costed out as? What is half the salary of the individual involved? You do not have to name the person. That way we can avoid that.

Mr Nicholson—You know salaries like I do, Senator. It is probably some thousands of dollars a year. But, as I said, this is a rotating exercise. All companies partake in it. It is not peculiar to Telstra. In our judgment, the business coalition is something that the industry gets great benefit from, and so does Telstra.

Senator CONROY—I want to talk about mobile phone towers. There has recently been much media attention on the issue of mobile phone towers and immunities carriers enjoy in installing these towers. I might hold off on those and wait for the minister. I am just trying to fill in while we wait for the minister here. I might go back to some questions I did not ask earlier. How are Telstra's customer service call centres staffed?

Mr Scales—I will have Jenny answer the details of this, but there is a range of arrangements. We have some of our own staff. The majority of people who operate our call centres are our own staff. We have some agency staff. We also have some contractors who provide us with what is effectively a full call centre that we use from time to time. Let me see if Jenny wants to add to that.

Senator CONROY—I was going to ask what is the breakdown of staffing of call centres supplying services to Telstra, how many are staffed by Telstra employees in Australia, how many are staffed by Telstra employees outside Australia, how many people are employed in call centres providing services to Telstra under outsourcing contracts—

Mr Scales—We might need to get those details. We do not have all of those details here. The only thing that I would want to say to you is that we do not have any call centres—any Telstra call centres, that is—that provide services in Australia outside of Australia. We do not have any.

Senator CONROY—But you could outsource through another company that is not a Telstra company—maybe in Bermuda. Is there a call centre in Bermuda?

Mr Scales—I do not know. I am almost certain that we do not have any there, but I will let Jenny answer that. The only reason I am being a bit cautious about this is that we have TelstraClear, which operates in New Zealand, and CSL, which operates in Hong Kong. They may have different arrangements for their own local markets. As far as Telstra is concerned, as far as I know, there are no call centres located outside Australia.

Ms Young—We can come back with a breakdown of the numbers that you request.

Senator CONROY—I might just read the questions out so you have them all. What is the breakdown of staff in call centres supplying services to Telstra? How many are staffed by Telstra employees in Australia; and, accepting Mr Scales's answer, how many are staffed by Telstra employees outside Telstra? How many people are employed in call centres providing services to Telstra under outsourcing contracts? How many people are employed in call centres located outside Australia and providing services to Telstra under outsourcing contracts? Can you please outline the level of training provided to people working in call centres supplying services to Telstra. Do they receive trade practices compliance training—for example, with respect to misleading and deceptive conduct? Are they made aware of their obligation to inform unsatisfied complainants of their right to take their complaint to the Telecommunications Industry Ombudsman? How often is this training updated? Can you please outline the steps Telstra takes to monitor the performance of call centre staff. What steps does Telstra take to ensure that call centre staff are not engaging in misleading and deceptive conduct? What steps does Telstra take to ensure that staff adequately follow through on customer complaints? Can you provide details of the number of complaints made by customers concerning the performance of call centre staff. Does Telstra have the ability to track through complaints made by Telstra customers about Telstra call centres and address these issues with the relevant call centre employee?

Mr Scales—You would be aware that, on questions on notice, we did provide you with some of the answers to those last time.

Senator CONROY—Sure.

Mr Scales—You would have some of those.

Senator CONROY—If you have already supplied answers, can you just give me the question number. That would be great. My other questions interface with the minister.

Senator LUNDY—I have some questions.

Senator CONROY—Could I leap back in as soon as the minister arrives.

Senator LUNDY—Certainly. As usual, I continue to get a number of complaints and concerns about people's experience with Telstra, particularly in trying to get ADSL connected. I have approached this issue in the same way as I did last time. I have a series of complaints which are illustrative of some of the systemic problems Telstra have in their customer interface, particularly where ADSL services are heavily promoted in an area and then, when that is followed up by potential customers or customers of other ISPs seeking to upgrade their service, all sorts of frustrations prevail—primarily around pair gains, but it is not specifically that for all of the complaints.

One of the complaints relates to a person in Wilton in New South Wales. They received a telephone call from the broadband centre as a direct approach to try to sell an ADSL service. They received in the mail a notification that ADSL was available in Wilton and were invited to come and meet a Telstra representative. Then there was a telephone call to this gentleman offering an ADSL package and promising to send out an ADSL modem and package pricing to review, with a 10-day cooling-off period, only for this customer to call back and be told, 'We're really sorry but it is not possible for you to get ADSL because you are on a pair gain.'

but only after the customer then went back to follow up with the heavy sales pitch that was presented to them. The problem with this particular circumstance is that the customer was led quite deeply into the sales exercise, to the point of giving a commitment, only to be told subsequently that he was in fact on a pair gain circuit and finally to be told that his hope was that a spare circuit or alternative path would be available sometime down the track. The questions this particular constituent has are these: why on earth did Telstra Country Wide so heavily promote this service specifically targeting this customer when they had not first checked the capability of their line to support ADSL, and is this common practice?

Mr Pinel—Yes, it is common practice that we promote ADSL in the retail market. It is—

Senator LUNDY—But through direct cold calling Telstra customers?

Mr Pinel—There is a range of approaches, which include direct marketing and above-the-line advertising. It depends on the specific location and the best communication medium that we can find. As we have discussed on previous occasions, until I see the specific details, I will not be able to give you the exact answer to that. All I can say at this stage is that it is an unusual circumstance. Our success rate is high. Our checking prior to targeting specific customers is very detailed. The numbers that are being connected at the moment, as you would be aware, are quite high. Our failure rate is very low. This is a relatively rare incident, from my experience. I am happy to take it on board, do the background checking and see what went wrong in this case. You can make assumptions about a whole raft of issues that might be there—incorrect cable record details or whatever—but that would be purely speculative.

Senator LUNDY—That is what I presume. I presume you were not so irresponsible as to cold call people without at least checking your database.

Mr Pinel—Obviously it is a waste of our money—and, worse than that, it is very detrimental to our relationships with potential customers and existing customers. We avoid that strenuously. It is disappointing that it has occurred in this case. We do our best to make sure that it does not happen. I will get the details and come back to you as quickly as I can.

Senator LUNDY—This constituent goes on to say that he understands that everyone in town received a letter promoting the ADSL service but that subsequent discussions within the community have shown that the town is riddled with pair gains. So even if the cold calling was a little more targeted, the blanketing mail-out promoting ADSL services was not. Therefore you have managed to really annoy a lot of people.

Mr Pinel—There would be potential for above-the-line advertising, as I say, in the local paper that would be in general distribution, but our direct mails et cetera would be more targeted than that.

Senator LUNDY—You think your direct mail would be more targeted than that?

Mr Pinel—I would expect so, yes. There is a lot of effort put into direct mail lists to make sure that they are sanitised, washed and well targeted. As I say, it is quite contrary to our intentions to mislead customers and to basically annoy them with offers that we cannot deliver.

Senator LUNDY—It also raises a question that has come up before: does this constitute misleading advertising, particularly with this level of targeting?

Mr Pinel—I would hesitate to say that, obviously. I think we should look at the circumstances of it. As I say, I can only assume that it is caused by some failure in producing our marketing lists, either because of record errors or because of process errors. But until I look at the details I will not know the answer.

Senator LUNDY—Can you take on notice to provide the committee with perhaps a time line of what marketing efforts—direct and broader—were made in Wilton so the committee can get a picture of Telstra's strategy in towns like this?

Mr Pinel—Yes.

Senator LUNDY—Are you also able to provide the committee with some information about the extent to which pair gains are used in this particular town?

Mr Pinel—Certainly.

Senator LUNDY—It is not possible for me to ask that question generally, for the whole of Australia. I tried that about three years ago.

Mr Pinel—There was volume data at that stage; fortunately there a lot less data now.

Senator LUNDY—If we start small, over the next 10 years we could probably build up the picture of the whole nation, but hopefully by then they will all be removed.

Mr Mullane—Do you have that telephone number so we could follow that up today?

Senator LUNDY—I have contact details, yes. I think all of these will probably fall in the category of seeking Telstra to follow up.

Mr Mullane—Okay.

Senator LUNDY—The next circumstance involves a resident in a housing estate in South Guildford in Western Australia, about 15 minutes from Perth. The essence of the problem there is that, having been connected through their own ISP's DSLAM, which I understand is in a RIM, they were not able to obtain the higher bandwidth service through the competitor's DSLAM in the RIM, and they do not know why. There has been no explanation, other than the ISP have said that it is because they have a RIM within the estate. I am making the assumption that the DSLAM is a competitor's DSLAM in that RIM and that there is some bandwidth constraint by virtue of the fibre between the RIM and the exchange.

Mr Mullane—I have not heard of any competitive DSLAM in a RIM, none whatsoever. I am sure that the wholesale customer of DSLAM would be in the exchange.

Senator LUNDY—But competitors can put their DSLAMs in your RIMs, can't they?

Mr Mullane—None have done it yet, and it would be subject to very careful negotiation around the technical aspects involved.

Senator LUNDY—Why would they not be able to access your RIM for their own equipment?

Mr Mullane—In theory, yes, they can, but in practice the RIMs are a particular vendor's equipment. The competitor has another vendor's equipment which will not slot into the shelves—

Senator LUNDY—That is pretty handy for Telstra.

Mr Mullane—I am sorry, but Telstra's RIMs were sourced 15 years ago.

Senator LUNDY—They were still being installed recently. Anyway, I take your point.

Mr Mullane—Let us be clear. If a competitor wishes to place a DSLAM at a point of a RIM, they are able to do it. But the most logical way it would happen would be for the competitor to have their own cabinet adjacent to the RIM or the pillar so they could then connect to the distribution cables running in that distribution area. The probability of being able to locate it inside a Telstra RIM would be almost impossible, from my educated information. So I doubt that there would be a competitor DSLAM in the RIM. They may have one of some sort in another housing estate nearby, but I am not particularly familiar with it. As to why they cannot get the full bandwidth of the competitor's service, if it is located at the exchange and they are using copper all the way from the exchange to beyond the RIM, the distance issue will almost certainly be the factor. But if you can pass us the telephone number we can certainly give you a very accurate view on it.

Senator LUNDY—The exchange is the Bassendean exchange. Can you take on notice whether or not this exchange does in fact have RIMs going to it? I can give you the address.

Mr Mullane—It is quite likely there would be RIMs in the Bassendean exchange area, for sure. Can you give us the address, because the phone number will not be one of our phone numbers?

Senator LUNDY—It is Rosehill Park Estate.

Mr Mullane—Do you have a street name?

Senator LUNDY—I do, and I will provide that to you. Just to close off that point: on the issue of access by competitors to RIM units, what would the process be for Telstra to allow that access to occur?

Mr Mullane—The Telstra Wholesale customer would open negotiations with their Telstra Wholesale account team and it would progress to technical considerations. There would probably be on-site visits involved. It depends—if the room were fairly fully occupied, there would be no space.

Senator LUNDY—You just cannot do it?

Mr Mullane—You cannot do it.

Senator LUNDY—What about the bandwidth between the RIM and the exchange? Would the competitor be able to access that, and on what terms? It is not declared, is it?

Mr Mullane—There are no access facilities, no access points, along the route of the cable. There is a point at the exchange, through TEBA type space and DSLAM. In the RIM, there would have to be negotiation about the cabinet or location of another cabinet and cross-connect arrangements. Outside of that, there is probably no other option that I am aware of.

Senator LUNDY—What would happen if a customer requested, through their ISP, an ADSL service, and the practice of that particular ISP was to install their own DSLAMs and the service went through a RIM? What is the chain of events once that ISP makes the request to Telstra?

Mr Mullane—The ISP would apply for the requisite ULL or spectrum-sharing service. If it were available, Telstra would provide the service.

Senator LUNDY—Would it be available through a RIM or not?

Mr Mullane—If there is any spare copper. There would have to be a dual feed to the distribution area, by copper to the pillar and by fibre to the Telstra RIM. The distribution copper running away from the pillar or the RIM to the customer premises would be the key part of the circuit. But, if the copper path is available and they apply for the service, it should be provided. The issue of what the length of the copper path is and what sort of performance they will get over it is subject to whatever arrangements that ISP has and their equipment.

Senator LUNDY—So the ISP would then negotiate with Telstra to get access to the RIM?

Mr Mullane—They do not need to get access to the RIM; they just need access to the copper if they are going to run it from the exchange.

Senator LUNDY—What if they needed to put the MiniMux unit into the RIM to facilitate ADSL access?

Mr Mullane—I can only recall one sort of discussion along those lines that has been brought my attention, which did not end up with a viable solution.

Senator LUNDY—The point is: Telstra will be able to resell the service on your own MiniMuxes, surely.

Mr Mullane—It depends if we have equipped that RIM.

Senator LUNDY—Yes, if you have equipped the RIM. My understanding is that you have done that.

Mr Mullane—If there are existing other DSL services on the copper path coming from the exchange, then we will have to be very careful about the issues around midpoint injection. There may be ways forward there, but we would have to examine it.

Senator LUNDY—What are the circumstances where a customer on a RIM could possibly get access to an ADSL service via one of your competitors?

Mr Mullane—Apply and see what the provider advises them.

Senator LUNDY—The provider? The customer would apply to the ISP?

Mr Mullane—Yes.

Senator LUNDY—And the ISP would then apply to Telstra?

Mr Mullane—If they have not already got some arrangement in operation at that location they would need to take the issue up with Telstra through Telstra Wholesale.

Senator LUNDY—So they would speak to Telstra Wholesale about either purchasing a resold service via Telstra—so accessing the Telstra MiniMux—

Mr Mullane—Yes, absolutely; that is one option.

Senator LUNDY—So the option for an ISP to install their own MiniMux style DSLAM in the RIM is not really an option at the moment.

Mr Mullane—It is a very challenging one because of the difference in equipment for a start and the space and the cross connect arrangements. All that would have to be worked through. It is not ruled out automatically, but it is very challenging.

Senator LUNDY—It is technically challenging. Is it commercially challenging—that is, what is in it for you to make the RIMs accessible to your competitors?

Mr Mullane—You cannot do anything with a RIM. It is a unit that has been designed for a purpose and is laid out with shelves, power and backplanes that have certain connections. If you have not got equipment that is designed to go into those shelves, there is not much else you can do.

Senator LUNDY—If that were possible—say, if the ISP got the right model of MiniMux—

Mr Mullane—They would have a black box in there with a flywire cable coming—

Senator LUNDY—and there is space—so it is all going smoothly at this stage; they are able to do that—would they get a friendly local Telstra representative who facilitates that—

Mr Mullane—They are all friendly, Senator Lundy.

Senator LUNDY—What happens next once that is installed? What is the nature of the commercial negotiation that still has to occur after that point with respect to the fibre between the RIM and the exchange?

Mr Mullane—Part of the negotiation of putting it either inside the RIM or in a cabinet adjacent would be: what sort of transmission do they require to get back to wherever they need to get back to and what capability for ULL connection from that point to the customers' premises is feasible? All that needs to be worked out.

Senator LUNDY—So from the RIM to the customer, that is about the unbundled local loop—

Mr Mullane—And connection to it. There are issues around that. In some cases there are pillars next to the RIM and in some cases there are not—they create a frame inside the cabinet and there is very limited space for cables. It would depend on how much equipment is inside the RIM—

Senator LUNDY—Sure.

Mr Mullane—You have a heat issue.

Senator LUNDY—But from the RIM to the pillar to the customer if there were what we call straight copper then there would not be a problem on that side?

Mr Mullane—Provided there is spare capacity, no.

Senator LUNDY—From the RIM to the exchange what would be the principles of charging for that transmission for this ISP by Telstra Wholesale?

Mr Mullane—There would be some sort of Telstra wholesale rate required to be arrived at for X megabits of transmission—whatever X happened to be.

Senator LUNDY—Would the rates for that transmission cost relate to the sorts of principles you were talking about earlier?

Mr Mullane—It is quite a specific situation when you are in that—

Senator LUNDY—So you have not got a list of indicative pricing for transmission between RIMs and exchanges?

Mr Mullane—My understanding is we do not have a transmission product on offer between a RIM cabinet and a local exchange.

Senator LUNDY—So by not having a product on offer does that mean that anyone who wanted to provide a service in that way would have to start from scratch negotiating with Telstra—and you could name your price basically?

Mr Mullane—It is not a question of naming your price—

Senator LUNDY—Well it is because it is your equipment.

Mr Mullane—No, it is not like that.

Senator LUNDY—It is not declared.

Mr Mullane—We would be quite reasonable about it. We value wholesale businesses, as Mr Scales said earlier. We would have to understand what was involved in providing the appropriate arrangements at both ends—there would be something required in the exchange end as well, cross connection arrangements or whatever—so it would have to be worked through. It is not a trivial exercise.

Senator LUNDY—I will leave it there and let Senator Conroy continue. I will come back to pair gain stories later.

Senator CONROY—Welcome back, Senator Coonan.

Senator Coonan—Thank you, Senator Conroy.

Senator CONROY—I trust you have been able to establish since I last saw you that John Short did fill out Minister MacKellar's forms that led to his resignation.

Senator Coonan—Senator Conroy, you know what? I was not actually doing that.

Senator CONROY—I cannot believe that! I was hoping you would be able to confirm for us that John Short, the new Telstra employee, was actually the John Short who filled out Michael MacKellar's customs form that led to his resignation.

Senator Coonan—Unfortunately, I cannot.

Senator CONROY—Okay. Let us move on. There are a number of reports in the media today concerning the views of various members of Telstra on operational separation. One report in particular mentioned that UBS, the government's adviser on the sale of Telstra, is concerned with operational separation. UBS is described as being concerned that 'if it changes the basis on which Telstra's retail businesses gain access to infrastructure this could alter the investor view of the company'. Minister, has UBS made representations to this effect to you?

Senator Coonan—The answer is no. It depends on what model you are talking about, of course. There are many models of operational separation. There is no existing model that I can see that entirely would suit Telstra. You just cannot pick up a model that relates to another large telecommunications business and drop it on top of Telstra and say, ‘There it is.’ I do not know what kinds of things UBS, if that report is accurate, might have been referring to, but that is not what they have said to me—or, should I say, it is not what the scoping study group have said to me.

Senator CONROY—UBS are part of that scoping study group, aren’t they?

Senator Coonan—Yes.

Senator CONROY—Are they freewheeling here? Are you going to have to pull them into line and tell them to stop making comments while they are employed by you?

Senator Coonan—I do not know whether they are accurately referring there to comments that have been made or by whom. Senator Conroy, I am trying to get on with the principles of doing what is necessary with the regulatory environment. I am not chasing down every media report.

Senator CONROY—Minister, you have been one of the best ministers at actually answering questions, could I say, in all my nine years of asking questions, but your continued refusal to address questions that are raised simply because they have been raised in the media, and your answer: ‘I have not seen that, so I am not going to answer,’ do you no justice at all.

Senator Coonan—I did not say that.

Senator CONROY—It does no justice to your normal courtesy in the way you answer questions.

Senator Coonan—You might just reflect on what you asked me. In fact, what I said was that I do not know whether what is reported there is accurate. Of course, I do not know who might have been spoken to in the particular organisation. I cannot seriously agree with propositions that are reported in newspapers. I do acknowledge, and I think it is a fair point on your side, that you have to go by what you can see is reported. But it is not always accurate.

Senator CONROY—I have always accepted that you are entitled to make that point.

Senator Coonan—My point—and I make it genuinely—is that there are so many different ways of looking at operational separation and I do not quite know what was put to the particular representative there in the conversation. I just do not know.

Senator CONROY—Just to be clear, the quote says:

... if it changes the basis on which Telstra’s retail businesses gain access to infrastructure this could alter investor views of the company.

That would tie in with something you have talked about: not the definitive position, but your recent statement that, under an operational separation model, Telstra wholesale should be forced to deal with Telstra retail on a commercial arm’s-length basis . To me that is consistent.

Senator Coonan—I am not sure whether it is quite the same thing.

Senator CONROY—It is reasonably consistent, to be fair.

Senator Coonan—I do not know. But I can agree with the fact that I have said that. I am not quite sure about reports of unidentified other people.

Senator CONROY—Perhaps I will rephrase it. Should not the object of an operational separation regime be exactly that: to change the basis on which Telstra retail gains access to infrastructure—that is, to prevent it gaining preferable access? Isn't that the point?

Senator Coonan—That is basically the case, although there are different ways to achieve it.

Senator CONROY—But that is actually the objective of operational separation.

Senator Coonan—Yes.

Senator CONROY—Senator Minchin has also noted in a recent speech that any operational separation regime should merely build on the transparency of the accounting separation regime. Minister, did you not tell me earlier today that you had responsibility for developing the regulatory regime to apply post privatisation?

Senator Coonan—I have the main portfolio responsibility for it. That does not mean to say that Senator Minchin can never say anything about it. It does not mean that I cannot say something about the scoping study or indeed anything else to do with the Telstra sale. We are joint shareholder ministers.

Senator CONROY—He seems to be strongarming you here, Minister.

Senator Coonan—A little earlier in the day what I was trying to do was to talk about the main bifurcated portfolio responsibilities. Then I said that they all interrelate. They have got very strong linkages, as you would expect. You cannot really quarantine this stuff.

Senator CONROY—So who makes the final call here? Is it a cabinet decision ultimately?

Senator Coonan—Of course. Oh, not on operational separation per se. The process is that I have asked Telstra if it would consider whether and in what form operational separation might apply to its particular business. I of course have my own ideas, which I am not prepared to share with you at the moment, Senator Conroy.

Senator CONROY—You just won't give us any scoops, will you?

Senator Coonan—I have an independent view of what would be sufficient and appropriate, but I do think it is appropriate with a business of Telstra's size and complexity with what is being asked of it that it have an opportunity to look at what is appropriate for its own business model—before anything is imposed on it, if it is imposed on it.

Senator CONROY—I think we can take for granted all the qualifications to save you the trouble of repeating each qualification every time, Minister.

Senator Coonan—Thank you, Senator Conroy. That is very considerate.

Senator CONROY—The ACCC have been very critical of the accounting separation regime. You do not seem convinced either, because you have been advocating a more stringent operational view, although there is no definition of that at this point.

Senator Coonan—I am sorry—would you mind just saying that again?

Senator CONROY—The ACCC have been very critical of the accounting separation regime.

Senator Coonan—Yes.

Senator CONROY—You implicitly seem to accept some of that in the fact that you are talking about a different regime building on that to an operational separation, albeit with no definition there—it is not trying to trap you there. But Senator Minchin seems to be pretty supportive of accounting separation. He just thinks it needs a bit of transparency.

Senator Coonan—No, I think Senator Minchin is committed to allowing Telstra to bring forward a much more defined model of operational separation that might make the accounting separation regulation—at least some of it—redundant. But if you have to do it in a theoretical sense you might as well do it in a practical sense.

Senator CONROY—Realistically, if you get operational separation you do not need the accounting anymore, do you?

Senator Coonan—My point is that of course it builds on it, but it takes it a bit further. I think there is a fairly widespread view—with competitors, Telstra itself, government, the regulator and probably anyone who has thought about it—that accounting separation is very complex, very costly and may not be achieving the best outcome.

Senator CONROY—If you are successful in getting an operational separation model supported and introduced, do you think we can then get rid of the accounting separation model?

Senator Coonan—I do not know. I would not be speculating about that.

Senator CONROY—It would make sense. You do not want to keep the two sets.

Senator Coonan—What I have said is that I think it then enables you to look at what you can actually eliminate and get rid of. You would hope that out of this exercise there would be some redundant and totally unnecessary regulatory arrangements that relate to accounting separation. You would certainly have a look at how you could lighten that load. You would not want Telstra to be burdened with doing both.

Senator CONROY—Sure. Senator Minchin seems to be pretty keen to reject expert advice on the regulatory regime in favour of placating investors. You would expect that—he has to talk his book up. He is out there trying to maximise the price—I understand that. But I see he was also running the line in his speech that the operational separation model proposed by the ACCC was in actual fact structural separation. Mr Scales, does that ring a bell? And when Mr Scales said something else along this line a few weeks ago, Ed Willett at the ACCC labelled this view ‘misguided’. Then again, you would not expect the minister for finance to have expertise on the form that the regulatory regime should take. Do you think the ACCC model is actual structural separation, Minister?

Senator Coonan—I think that the best way to put it is that the ACCC has the same objective as the government, in that there needs to be greater transparency in the telecommunications industry. I think also, like the government, the ACCC understands that there are many different forms of operational separation and that we need to find a model that suits both the Australian market and Telstra. That is my understanding of some comments by

Mr Samuel, but obviously, when we get to the stage of looking at a model, I would expect that the regulator would have a view.

Senator CONROY—I guess, Minister, one of the things that a lot of people have commented on—there has been a lot of debate about it—is the potential or actual conflict of interest for the government. On what basis is your department's regulatory review being undertaken? Is it with a view to levelling the playing field for legitimate competition in the sector or with the aim of protecting Telstra's share price? Have you said to the department—

Senator Coonan—No, I have not given the department even remotely that kind of instruction. What the regulatory regime or at least the regulatory review is designed to do is to have a look at what the current state of regulation is so that in a privatised, or potentially privatised, telecommunications environment going forward we have the best regime to encourage, and have incentives for, further investment and further roll-outs and to look at the way in which other competitors might do roll-outs. It might not necessarily be a telco; it could be an infrastructure company. I want to make sure that before a potential privatisation we have addressed the need for regulatory certainty so that there is sufficient incentive for further investment going forward so that you do not have a situation where it has not been looked at and you have privatised Telstra and then it is much more difficult to do.

Senator CONROY—There are media reports that indicate that the Department of the Prime Minister and Cabinet is also obtaining information on the future regulatory regime. Are your department or office keeping the PM&C briefed along the way? Are you aware that they are running their own little review on the side on you?

Senator Coonan—I do not regard myself in my current role as a lone wolf. I certainly have regular interaction with other ministers, and my department does with other departments.

Senator CONROY—Is there an IDC?

Senator Coonan—There is certainly an IDC relating to a number of matters to do with Telstra.

Senator CONROY—But on the specific future regulatory regime, or is it just your department?

Senator Coonan—Yes—no, there is an IDC, and it is chaired by the secretary, Helen Williams.

Senator CONROY—Excellent. Minister, media reports today suggest that the Telstra Chairman, Donald McGauchie, has indicated that he is willing to accept some form of operational separation in return for a relaxation of access obligations on Telstra. Is that something that Mr McGauchie has raised with you during your overseas trip?

Senator Coonan—Only in the broadest of concepts. I have no detail at all but I would expect that as part of the whole package that might be something that Telstra would bring forward for us to have a look at.

Senator CONROY—They have their hand out for an access holiday but—

Senator Coonan—No, that has not been raised with me. I have had an access holiday—

Senator CONROY—A relaxation of access obligations on Telstra?

Senator Coonan—That has not been raised with me.

Senator CONROY—It has not been raised in Telstra's submissions to the department's inquiry?

Senator Coonan—It may have been but it has not been raised with me. We are talking about Mr McGauchie.

Senator CONROY—Is that something under consideration by your department?

Senator Coonan—My department has under consideration what has been put forward in the submissions. Clearly I have not yet had advice because there was, I think, a slight extension of time for a couple of the submitters—Telstra was one of them—so I could not tell you actually what is in Telstra's submission.

Senator CONROY—The access regime, I hope you would agree, is a pretty fundamental part of the telco regulatory regime.

Senator Coonan—That is why I am having a review of it. I agree.

Senator CONROY—The object of operational separation, I put to you, is to improve the level of access available to competitors to bottleneck services.

Senator Coonan—It is one of the objectives.

Senator CONROY—You are not going to give them a break on this, are you?

Senator Coonan—I am not going to comment about that. Clearly, the situation is that there is a review; there is a separate process where Telstra have been invited to look at what they might do in addition on a voluntary basis. The government will consider Telstra's proposal. Of course, it will consider that in the context of the regulatory review and what is put by other submitters.

Senator CONROY—The relaxation of access obligations on Telstra is a direct quote from today's *Australian*.

Senator Coonan—Sorry, I did not read it. I normally read every word of—

Senator CONROY—What is your department doing, Minister? They are sending you in here regularly without briefing you on issues of the day. This has happened two days running.

Senator Coonan—Normally I read every word that Mr Sainsbury writes. I would not dream of not reading Mr Sainsbury's very thoughtful pieces—

Senator CONROY—Stop flattering him. You know he is listening and watching at the moment.

Senator Coonan—but it just happens, because we finished very late last night, that I had to hold a couple of meetings this morning and I missed it.

Senator CONROY—I can see him blushing, and he's in another room!

Senator Coonan—I'm sorry, Michael; I'll read it as soon as we've finished.

Senator CONROY—That is probably all I have got. I will pass back to Senator Lundy.

Senator LUNDY—The next question I have relates to someone who is living at an address that is on a block that was subdivided. It seems that every time this particular customer calls

their carrier, which is Optus, Optus advise them that the line is registered at the original address, not the subdivided address. What seems to have happened is that when the block was subdivided a pair gain was installed to split the line to service the subdivided block, but the records at Telstra presumably were not altered to reflect the fact that this was a new and separate service. I can provide the details for the address but my question relates to what Telstra's practice is for provision of new services to blocks which are subdivided.

Mr Mullane—It depends on the case in point. Where possible, we would access an available copper pair and run a separate pair in there if they are within requisite copper distance of the exchange, but if there is a limit on capacity in that area then a pair gain system could be utilised. I would need more details because we are tending to not do too much of that these days, but there are situations where the capacity is exhausted. Again, we would need to look at it. In terms of the records issue, it is just a telephony service we are talking about; we are not talking about an HFC service or anything of that nature, I take it?

Senator LUNDY—No, we are just talking about someone applying for an ADSL service and, upon making inquiries, finding that their line is not even recorded as servicing their address, which I presume has caused some problems with billing as well.

Mr Mullane—It is possible. We will check it out and we will let you know what the situation is on that one.

Senator LUNDY—I will pursue that specific complaint. One of the comments that this particular constituent made was that, on finding out the information that they were on a pair gain, they received advice from Optus. The email says, 'I was told by Optus that I could get ADSL quicker if I was a Telstra customer because they tend to respond to their own customers more quickly.'

Mr Mullane—That is rather mischievous of Optus. My understanding is that they are not actively pursuing transpositions on behalf of any of their applicants. It is disappointing, I have to say. The other point I would make on the capacity issue is that, if the area in question is at full capacity, normally that would generate another planning project to add relief in that area. If there is a pair gain system there, it may well be an interim arrangement.

Senator LUNDY—Is it Telstra's practice these days when installing a new telephone service—for example, if a block is subdivided, someone builds a new home and they ring Telstra to have their service connected—to specifically advise those customers of the style of service that you are providing?

Mr Mullane—Normally we deal with the developers.

Senator LUNDY—You deal with developers?

Mr Mullane—On larger developments we deal with them.

Senator LUNDY—No, I am talking about one-off customers.

Mr Mullane—In the case where it is a duplex or a two-out-of-one development, I think they just apply for and get a telephone service.

Senator LUNDY—So, even now, if someone were to subdivide, build a new house and apply to have a phone line connected, they would conceivably get a pair gain?

Mr Pinel—I will take this on notice as well, but my understanding is that there is a process that then prompts the customer as to whether they want the service purely for a voice service or they are looking for a more advanced service such as ADSL or internet access.

Senator LUNDY—But there is a difference between ADSL and internet access too.

Mr Pinel—That is true. It is about internet access, I think.

Senator LUNDY—So the question is asked about internet access?

Mr Pinel—I will have to take the specifics on notice to check exactly what front-of-house is doing.

Senator LUNDY—Again, I think this is quite symbolic of some of the problems suffered by consumers. They think that, by installing a new phone line, it is a reasonable assumption that, by virtue of the fact that it is new, it will carry at least the latest broadband services.

Mr Pinel—As I said, I understand the process is to prompt the customer about the use to which they are going to put it. But I will take that on notice to clarify that.

Senator LUNDY—If you have any guidelines or handy hints on dealing with new customers for your sales reps so that you can demonstrate to the committee what the code or formula is for prompting them, that would be helpful.

Mr Pinel—I will have a look and see what is there. We will take it on notice unless one of my colleagues knows.

Ms Young—I do not know specifically, but generally our sales staff at that point of contact would be exploring with the customer what services they are likely to want at that point. Obviously, it is in our best interests to make sure that the customer has all of the services they need, including broadband if that is what they want.

Senator LUNDY—I would hope so. But, if the customer says, ‘Of course I want to get ADSL and I know my exchange is enabled,’ that by definition imposes a cost on Telstra. It may perhaps need to install another straight copper pair from the pillar rather than install a pair gain. How do you process that and make an active decision to spend more money on the basis of that customer’s expressed preference? You have not even stitched up the deal. You do not know if they are going to get ADSL with you or not; they have just expressed that preference. Is that enough to prompt you to spend more money?

Mr Mullane—It would depend on the cost involved, but if the clear directive is coming from front-of-house that this customer wants both telephony and ADSL, the access planner would look at how that could be most economically provided. If it was just a simple job, they would proceed.

Senator LUNDY—So what is a simple job?

Mr Mullane—Running five or 10 pairs of copper cable from the pillar or the manhole into the area. But it could be much more complicated than that.

Senator LUNDY—So where do you draw the line on what is worth doing? And is locking that customer in as an ADSL customer a prerequisite to spending any money at all?

Mr Mullane—No, it is not, because we do not even know. At this stage, if the customer is dealing with Optus, that sort of request would have come through Telstra Wholesale, and that would be treated just like a request from Telstra Retail at the access-planning level.

Senator LUNDY—Forget Optus for the moment; I am just trying to understand your processes.

Mr Mullane—Yes, but all I am saying is that it does not matter where it comes from; the issue is still the same: how much is it going to cost to achieve what is required there, and what is the state of the rest of the area there? That too is a very relevant input before we go and spend any money, because it might be that a larger project might bring a commensurate larger amount of benefit for the area, which would require a bigger project. So it is unfortunately case by case in the access network for those sorts of considerations.

Senator LUNDY—What do customers have to do? What do you advise your potential customers to do to make sure that, if they are getting a new service installed, they get a service capable of handling ADSL? What can customers do to be proactive about this?

Mr Mullane—I think they should consult with whoever their provider is. That is absolutely a No. 1 rule. Talk to them; tell them what you want, and make sure that is understood. If they cannot see the infrastructure capability there to deliver it then they need to take it up with Telstra Infrastructure Services. If they are a wholesale customer, they will do that through Telstra Wholesale. That is basically the process. It might be in the HFC area—either Telstra's or Optus's—and that could have an influence on the outcomes, depending on who the provider is.

Senator LUNDY—I have another email here from a consumer in Oakdale, which I understand is in or near Campbelltown.

Mr Mullane—Not far from Wilton.

Senator LUNDY—This is the sequence of events: the ISP involved, Dot Communications, tells the consumer that Telstra has not enabled the exchange, but Telstra Country Wide denies that it is blocking access to other ISPs. Upon applying to Dot Communications, and by entering an ADSL request via their web site, the search reveals that the enabling date is to be determined by Telstra. This person contacted the Telstra Country Wide local office at Campbelltown and was advised that it was up to the consumer to push their ISP to push Telstra to have their service connected—and that all fits in with pushing it to be enabled. The ISP continues to tell the customer that Telstra has not enabled the exchange. The consumer says in their email: 'Not surprisingly, in our conversation with Telstra Country Wide we were informed that if we wish to connect to ADSL through Telstra BigPond the matter can be resolved immediately.' It is noted by this consumer that the customers of Telstra BigPond dial-up services through Oakdale exchange have had their requests for BigPond ADSL transfer complied with. So I think we are back to the same problem I raised here before, where for some reason the ISP—in this case, Dot Communications—is getting some push-back from Telstra with respect to what is going on with the exchange and getting access to the exchange—

Mr Mullane—I would say here, from what you have said, that—

Senator LUNDY—and the Country Wide representative has taken the opportunity to pitch hard.

Mr Mullane—if there are customers there who have been provided with ADSL service, it is not an exchange enablement issue. The exchange must be enabled, unless they are on an adjacent exchange.

Senator LUNDY—Why would Dot Communications be told by Telstra that they cannot access it?

Mr Mullane—The information they got from Telstra Country Wide was to proceed through Dot Communications. That was the ISP they wished to go through. That was appropriate advice. I think the issue may be that Dot Communications may not be a direct Telstra wholesale customer. I do not know, but we have resellers of resellers out there. Sometimes in that situation the prime Telstra wholesale customer will not accept any additional work from their reseller. If there is a transposition request required, they may not have processed it or may not take it any further. I do not know; I am guessing. That is what happens in a real market. You get all sorts of flavours of customers out there. But we can check it out further for you.

Senator LUNDY—I think this comes back to a common problem. The perception, of this consumer at least, is that Telstra is providing preferential treatment to those who are subscribing to ADSL through Telstra—

Mr Pinel—There is another interpretation, of course, and that is that the other ISP does not choose to organise the transposition. As Denis says, let us have a look at the details and we will come back to you. But I would be very clear that we cannot offer the service unless the exchange is enabled anyhow.

Mr Mullane—For example, you could have taken that one to another level. If they applied to an ISP—let us say for a deposit transposition—who actually progressed transpositions, they could have got the service and they would not have had to deal with Telstra BigPond at all. Unfortunately, the customer does not know how the ISP is going to deal with it. I hear many, many complaints from Telstra wholesale front of house that the ISPs just blame Telstra. They say, ‘Go to Telstra.’ They do not want to deal with it.

Senator LUNDY—I think they probably have a bit of a case given the history and the frustrations of the ISPs in dealing with Telstra and given that Telstra’s advice on pair gains for many years was ‘Reconfigure your computer and blame your ISP.’ It is a bit rich coming back now and—

Mr Mullane—We are not there today, Senator; we are very active about it.

Senator LUNDY—complaining about ISPs’ difficulties in dealing with Telstra.

Mr Mullane—We have done something like 75,000 transpositions in the last 12 to 18 months. It is not as though we are not doing anything. All we need to do is get the job—

Senator LUNDY—I think the problem is that it is not transparent.

Mr Mullane—We need to get the job.

Senator LUNDY—The problem is that it is not transparent. This is where I wanted to take this particular complaint. How is it possible to make Telstra accountable to transposition requests—

Mr Mullane—We are. We absolutely action every request we get. If we do not get a request, we cannot do anything.

Mr Pinel—But the request in this case has to come from the other ISPs.

Senator LUNDY—How does the ISP know that you are actioning them or whether you are doing what you have clearly explained is your right—to determine that it is not a commercially viable proposition to transpose some lines. That is a commercial decision that Telstra makes. There is no accountability on Telstra for where that point of commercial or business case is for each line.

Mr Mullane—In a transposition we transfer a customer's phone line from a non-capable line onto a copper line where that exists. There has to be existing infrastructure in place to do it.

Senator LUNDY—Say that again.

Mr Mullane—The available copper circuit has to be in situ for a transposition to happen. If it is not there, we cannot action it. We will have a look at it and we will send a message back to the ISP: 'Sorry, it is not possible to transpose it in this case.' It may become possible later on if network upgrade action takes place. Basically that is how the process works.

Senator LUNDY—What about the issue where transposition is not involved but you have a type of pair gain that effectively involves the installation of new copper if there is going to be any hope of getting ADSL?

Mr Mullane—We have enabled a great numbers of rims with ADSL capability by providing copper circuits in that vicinity. The issue with that is that the economics are interesting. It makes more sense where a lot of customers are going to become enabled by providing copper, but we do look at every case that is referred through to Telstra. They will have a look at it, and if there is an economic solution it will be done.

Senator LUNDY—So what is your advice to customers who have complaints of that nature—that is, the message they are getting from their ISP is that Telstra is not being cooperative?

Mr Mullane—My advice would be to apply for an ADSL service with an ISP that progresses transpositions.

Senator LUNDY—How will customers know that?

Mr Pinel—They would have to ask the ISP.

Mr Mullane—It is a free market.

Senator LUNDY—What happens when you get complaints about these issues? If a customer rings you and says, 'I cannot get ADSL and I have been told by my ISP or by Telstra that a transposition won't fix it and I need new copper,' what happens then?

Mr Mullane—The access-planning area would look at it, assuming the order has been put through, and, if a network update project was already planned, we would put that order into a

held order status waiting for the completion of that project, and when it was completed the order would be released and the service would progress. If there was no project plan and the access-planning area assesses the situation, if there is no immediate way that they would progress a project there because of costs or whatever, then it would become a rejected held order, but we do keep track of the rejected held orders as a significant input into the type of demand that exists in that area.

Senator LUNDY—I have another one here. This is from a constituent in a place called Worrigeer near Nowra. My constituent's neighbour had ADSL connected but he was told that he could not be connected. He contacted Telstra and was told that the exchange was enabled but had a pair gain. He asked how it could be fixed and was told that the only way to fix it was for Telstra to renew the lines or he could pay for it himself at a cost of \$30,000. Obviously, this particular constituent thought that was unfair and discriminatory, and probably a breach of the Trade Practices Act. He was told that it was because his phone line was installed before ADSL was even thought of. The particular person that this constituent was talking to tried to sell him BigPond on the basis that it might generate enough interest to get Telstra to solve the problem.

After that call, this constituent thought he should direct his complaint to Telstra directly, so he rang your complaints number listed in the local White Pages. That number apparently goes to an electronic receptionist and he was ultimately connected to another BigPond sale rep. The rep this person was put through to was rude and he rambled on about what they would do if he was applying for BigPond ADSL. My constituent kept telling the rep that he wanted to speak to the complaints department. The rep said he was the complaints person for some things and that the constituent should let him finish what he was saying. Is this sort of carry-on your idea of good customer relations?

Mr Pinel—It is a long way from what I would have considered to be good customer relations.

Senator LUNDY—It gets worse. The email from my constituent says:

Eventually, after admittedly some strong words, I persuaded him to put me through to his supervisor. His supervisor tried to persuade me that things could be fixed if I purchased BigPond. I said that I was already going with Internode and just wanted to complain about the pair gain technology. He told me that all Internode had to do was make a transposition request and the problem would be fixed. I said, 'You mean Telstra will run a new copper line to my house. I was told it would cost \$30,000.' He said, 'No, really, they will just make some adjustment at the exchange. It's easy. We do it all the time. It is no big deal.'

At this point the customer was very grateful. The email continues:

'Thank you,' I said. It was as simple as making a transposition request. Then it occurred to me, after reading one of the transcripts on my web site, we have two telephone lines in our house and maybe the pair gain problem is because of that extra line, and if we get rid of it the pair gain problem will be fixed. I went back to Telstra and was ultimately put through to their connections section. They had an impressive amount of technical knowledge and did not try to sell me anything. Unfortunately, they debunked the no big deal theory for solving the pair gain problem with a mere transposition request. As the technician told me at that point, 'They tell you that to get rid of you.' Pretty soon we were back to the \$30,000 scenario.

It is pretty ugly really, isn't it?

Mr Pinel—You had better provide me with the details of that one.

Senator LUNDY—I certainly will. I think not only do you owe this particular consumer an apology but his story should present some pretty sharp lessons on the level of frustration that people deal with on a daily basis, and that was a particularly long rave. For someone to take the time to spell all of that out, having researched the issue, shows the depth of frustration that is occurring out there. As I said, I have carefully selected these emails to be indicative of the problems people are experiencing, and I will provide you with the details of that particular constituent.

Mr Pinel—Thank you.

Senator LUNDY—My next question relates to Forest Lake, which is a metropolitan suburb of Brisbane. Mr Pinel, I think it is your home ground.

Mr Pinel—I look after country Queensland; however, I do know Forest Lake.

Senator LUNDY—Forest Lake is on a RIM, and it seems that this particular person does not have access to ADSL because either the RIM is at capacity with their CMUX units or there are no CMUX units in the RIM. Have you published anywhere a program for your upgrading of RIMs with the CMUX or MiniMux units to facilitate ADSL?

Mr Mullane—I know a bit about Forest Lake. We have spent a large amount of money at Forest Lake in the last 12 to 18 months. We have put a remote building out there and have put DSLAMs in the building and fed copper cable out to a number of RIMs, so we are feeding ADSL from the building and not from within the RIM. I was not aware that any RIMs were left not enabled, so I am very happy to look at that one.

Senator LUNDY—It may be just a capacity issue; it is not clear from the email.

Mr Pinel—It may be an exchange issue.

Mr Mullane—I am hoping we can find a solution.

Senator LUNDY—Then you will have one satisfied customer in the pile.

Mr Mullane—You never know your luck. Remember how good we were last time—seven out of eight, if I remember.

Senator LUNDY—Indeed. Another request came from an estate of Wadalba, near Wyong, in New South Wales. The Wadalba community school apparently has ADSL, but the wider community cannot get it. I will leave that one with you.

Mr Mullane—I suspect that that school has probably been provided with that under a government network arrangement.

Senator LUNDY—That would probably be an issue of enabling the exchange—I am not sure if the exchange is called Wadalba. Do you have your list of enabled exchanges there?

Mr Mullane—No, I need my computer. If you have a phone number, that is all we need.

CHAIR—Senator Lundy, what are you establishing? Is it the broad principle of failure to meet demand, or faults?

Senator LUNDY—Lots of things. Finally, Mr Mullane, are you familiar with Fitzgibbon, a suburb in northern Brisbane?

Mr Mullane—It must be a new suburb. Are you sure there are some customers there? I have never heard of it.

Senator LUNDY—I will not send them the transcript; they will be offended. They have been wanting to get ADSL, or any other type of broadband service, for the past couple of years but have not because it is not on Telstra's agenda to upgrade the infrastructure in this suburb. They said: 'Fitzgibbon is facing a development boom, and Brisbane City Council and the Queensland government have marked Fitzgibbon as a key development area. Telstra don't have any plans, but I've been wanting to get broadband. I've done petitions and sent them to my local Liberal government member and Telstra, but I've had no response.' Can you tell me what exchange that is?

Mr Pinel—I am not familiar with it. Once again, all I can say is that if we can have the details, we will do the review and get back to you.

Senator LUNDY—He calls his condition and his experience 'Telstra syndrome'.

Mr Pinel—I hope that he redefines that after we have had a look at the issue.

Senator LUNDY—He might have to review his definition of 'Telstra syndrome'. I appreciate your following it up. I do acknowledge that, when I went through this exercise last time around, the issues were followed up with the individual customers and consumers and, as far as I know, most of their problems were solved. So I appreciate that. It also serves to highlight that, with a bit of one-on-one attention, many of these consumer complaints can be resolved quickly.

Mr Mullane—If I can just put that in context, with the current growth rates, I did a calculation the other day that on a per annum basis at the moment Telstra, through wholesale and its retail arms, is probably receiving in the order of seven million to eight million contacts per annum about ADSL—it is just huge.

Senator LUNDY—Then you keep having to refine your service response.

Mr Pinel—That is true.

Senator LUNDY—Going back to other issues about the interface on Telstra's web site and your front-of-house queries, previously we covered some of the problems between front-of-house and the technical reality of the network. Has there been any progress in improving the links between those sections of Telstra for the purposes of providing more accurate information to customers when they call and make inquiries about ADSL availability?

Mr Mullane—The issue here fundamentally gets down to the fact that the vast majority of us cannot get ADSL. In those cases where people call up an ISP, most ISPs have access to a service qualification mechanism of some sort. The bigger ones have an online thing, and they can go online themselves and get an immediate reaction; the smaller ones put their requests in to Telstra wholesale daily and BigPond can look at it themselves. So it is really a question of what is the outcome of a service qualification check—a proper check, a full check and not just the one on the web site. Where there is any doubt, my advice to any customers is to call an ISP—if you are not certain, call a bigger one—and ask, 'Can I get ADSL?' If it is not clear,

ask them to take an application and submit it for you, and that way, it gets assessed. We have a held order process that applies equally to wholesale and retail customer applications. If it is at all possible, the order will be progressed and, if it is not, the interest is recorded and it goes as a valued input into our planning process and the information gets sent back. There is no better way than that to do it. You cannot cover every eventuality on a web site. It is just too complicated.

Senator LUNDY—Doesn't that point to needing to make available more experienced customer service managers rather than endless recorded processes? I will put my hand up—I have experienced them. Half an hour later and you are lucky if you get to talk to someone. They are the two choices people have. You force them onto the web site rather than their hanging on the phone through recorded options and then being put on hold until they can finally speak to someone—someone who in one example ended up being a sales rep and not a complaints person at all. How many people do you have available to answer questions or respond to complaints specifically about ADSL connectivity?

Mr Mullane—I really do not know that. I know they are putting another 100 operators into the Big Pond centre soon and they are also establishing a dedicated billing centre in another city in the next few months. All of that will help. We are very conscious of the customer service levels that are being applied. I know that, in the Big Pond sense, they are doing a huge amount of customer satisfaction monitoring. I have to say that all of the indicators are actually going the right way. We have seen some really good turnaround.

Senator LUNDY—What about a special information line about pair gains that people could ring? If they get a bit of push-back or confusion about their ADSL connectivity, you could have a dedicated expert who could look up the network through your facilities and give some improved advice. Perhaps they could then also forward advice to local technicians about that particular customer. I genuinely understand the problem—you cannot have all of your front-of-house people with their heads wrapped around the intricacies of the 15 different major types of pair gains and what that could possibly do to dial-up speed.

Mr Mullane—Neither can the 300 or whatever ISPs out there.

Senator LUNDY—No, but you could really help them by making that support available.

Mr Mullane—That is why we have this held-order process. It is designed to do that. The information is assessed. Because of the volumes, you just could not do it with one small group of people. So we use the distributed planning resources of Telstra to do this. They feed the information back to the originating front-of-house people, who pass that information on and manage the customer through the held-order time. It is difficult to do it in a more effective and efficient way, to be honest. I agree with you and I would love to be able to do it, but as we work through the upgrading of the network, which we are progressing with at a pretty fair clip now—and we will continue that in the course of 2005-06—this will become less of a problem. We are already getting a lot of connections now that we could not in the past.

Senator LUNDY—Maybe it will become less of a problem. I think the problems will just change. For example, there is the question of access to RIMs. We have discussed before the possibility of extending the RIM boxes to make more room, especially the really large RIMs that have no space in them already. I think the issues will just change.

Mr Mullane—We are conscious of all of that. We have adjunct housing, such as a second cabinet to put more broadband in, which we are using in limited areas now. We are going out to the market again in the next month or two to look for some new broadband-capable multiplexing devices of some different sizes and capabilities. So we will have more tools in our armoury—even more than we have today. We are making great progress, to be honest, in the big picture sense of things at the moment. We are going to be spending a lot more money on this in the coming financial year.

Senator LUNDY—Do you think that, with all of that great progress, from all of the increased revenues that no doubt come with that to Telstra you could spare a bit for improving your customer service?

Mr Mullane—I would love to do that. I will take your comments and suggestions back to our customer service people who, in the Big Pond sense, report directly to the CEO. The wholesale industry has its own arrangements that it needs to worry about. I agree that customer service is absolutely paramount. We are very aware of how that helps drive the market share issues.

Senator LUNDY—It comes back to accurate information. I think that the complaints are as valid for your wholesale customers and ISPs—solving the mysteries of the Telstra network is a big part of their job of trying to provide and resell services to their customers. Anyway, I have made my point.

Mr Mullane—Thank you for your comments.

Senator LUNDY—Going back to some bigger picture issues with respect to ADSL, how many exchanges have been enabled as a result of the HiBIS program?

Mr Mullane—As to actual numbers at the moment, there are 491.

Senator LUNDY—What was the number of ADSL exchanges enabled prior to HiBIS? It was about 1,000 or 994, wasn't it?

Mr Mullane—We announced the thousandth exchange in October 2003, as I recall, and the HiBIS came into effect in April 2004. But as to the reality of getting the program up and running and so on, we probably enabled the first HiBIS exchange in the second half of 2004.

Senator LUNDY—And how many would have been enabled between October 2003 and when HiBIS started? Of course, my next question is for the total figure of enabled exchanges, so I could probably work out—

Mr Mullane—I will just have to go with memory and check that, but it was somewhere between 70 and 100 pre HiBIS through the demand registered process.

Mr Pinel—Also, whilst HiBIS kicked in, it is focused on regional Australia, not on metropolitan Australia, so there is an ongoing program in that area as well to roll out further capability.

Senator LUNDY—On that point, how many exchanges would have been enabled since the introduction of HiBIS in metropolitan areas?

Mr Pinel—I should not have raised that issue, should I, because I cannot answer it with the information that I have. I will take it on notice, unless Mr Mullane has the answer.

Senator LUNDY—If you have the total number, we can probably do the sums.

Mr Mullane—I can give you the total number. I checked it this morning and it was 1,620 exchanges. That includes subexchanges. An exchange area has more than one building—several copper centres, if you like—but they share the number range.

Senator LUNDY—In terms of Telstra's broadband register, a lot of those exchanges on the list of the status of exchanges still show that the targets needed to justify that investment are still to be assessed. Is it just the page I looked at or is there a high proportion where you have not given any indication to those communities of how many expressions of interest are required to prompt that investment, whether they are HiBIS eligible or otherwise?

Mr Mullane—They would all be in HiBIS territories, almost without fail. We are talking to the government about the totality of the HiBIS funding scheme, where it is headed and what our projections are of—

Senator LUNDY—What are your projections?

Mr Mullane—To date we have claimed about 7.7 million on ADSL and 14.9 million on satellite, but with the great growth rate that is going on now in both those technology based services the growth rate of rebates is likely to climb pretty sharply.

Senator LUNDY—So you want more money?

Mr Mullane—It is not that simple. If the scheme were to be decided to continue to appease this growth, we would need to do something.

Senator LUNDY—Is Telstra lobbying for more funding for HiBIS?

Mr Scales—No, we are not. What we are really doing is trying to discuss with the department primarily—not even with the government particularly—and give them an indication of where the program is and what the likely use of the program is.

Senator LUNDY—Are you lobbying to remove the cap on the proportion of HiBIS funds that Telstra can access?

Mr Scales—No, we are not lobbying at all. We are doing what you would expect us to do and that is to bring those things to the attention of the department.

CHAIR—It is six o'clock so we will break for dinner. That is the end of the Telstra session, so I thank Telstra for being here. As I said at the beginning, we wish Mr Scales all the best for the future. Thank you for your contributions to estimates.

Mr Scales—Thank you very much.

Proceedings suspended from 5.59 pm to 7.07 pm

Australian Communications Authority

CHAIR—We will resume these hearings. I welcome officers from the ACA.

Senator CONROY—There has been recently much media attention on the issue of mobile phone towers and the immunities carriers enjoy installing these towers. Does ACIF monitor compliance with any industry codes in this area?

Dr Horton—With recent developments in mobile phone towers, we have registered a new code in this area, which has tightened up the consultation required of mobile towers. We have

signalled ahead that towards the end of this year, six months into the use of the code, we will do a study of the effectiveness of the code and whether consultation itself is proving to be worthwhile. So we do plan some follow-up consultation and a review at the end of this calendar year.

Senator CONROY—Has the ACA been taking enforcement action against the carrier for failure to comply with the code?

Dr Horton—With the previous code, yes. As to the new one, not at this stage because we have only just registered it. But there were a couple of instances, two different carriers who did not follow the requirements of the code, so we issued a direction to them to rectify matters, which they did.

Senator CONROY—Who was it, did you say?

Dr Horton—I did not say, but it was Telstra and Hutchison.

Senator CONROY—Could you just take me through that sequence of events. You told them?

Dr Horton—This was in respect to the processes for consultation. We directed them to follow the code. They have rectified those processes now.

Senator CONROY—Does the ACA monitor carriers' compliance with electromagnetic emission standards?

Dr Horton—We do not monitor it, but on occasions we have followed up to do some measurements where we have had complaints from the general public where they thought that the radiation levels might exceed the standard which applies to these cases. We sent in our mobile measurements equipment and made measurements of the radiation but found that in all cases this was less than the prescribed level from the standard. But it was a precautionary effort, I would say, which was worthwhile following up just in case.

Senator CONROY—The minister has recently indicated that she is considering some sort of non-legislative measures that might allay some concerns, whether by regulation or through industry self-regulation. Has the minister consulted with the ACA at all about what this might entail?

Dr Horton—Not the minister herself. But her staff have had fairly intensive discussions with us on consultation. There is the idea that we would in six months time do a review of the code and whether that fundamental consultation was actually working in practice and having an effect. So we thank the minister's office for those inputs, which parallel the minister's approach to how she will deal with these issues as well.

Senator CONROY—So is this a new code that you just talked about or is this a new ACIF code?

Dr Horton—Yes, it is an ACIF code which has been revised, tightened up in terms of consultation.

Senator CONROY—And this is following the minister's input?

Dr Horton—No.

Senator CONROY—That is something separate?

Dr Horton—That is something separate we have been engaging in with this community. The ACIF body itself is an industry body which—

Senator CONROY—I know ACIF well. I have met them and had a chat with them. So are you doing any other work on the adequacy of current regulations addressing the installation, or will you wait and see how the new code works?

Dr Horton—We feel that we have probably got a successful framework in place now. Again, precautionary efforts will be taking us to review that in six months time.

Senator CONROY—Now I have recently received a spate of constituent letters concerning Australians who are receiving unsolicited telemarketing calls. What powers does the ACA have to respond to complaints like this?

Dr Horton—Perhaps I can ask Mr Haydon to answer this one. He is in charge of our administration of the Spam Act. He will be able to answer that very well.

Mr Haydon—The telemarketing falls outside of the spam legislation, so there is no ACA role in relation to telemarketing as such. But if it were electronic messages, that would be an entirely different matter and they would be caught within the terms of the spam legislation.

Senator CONROY—Do you have any powers to respond to complaints about unsolicited telemarketing calls made from overseas?

Mr Haydon—It is telemarketing. There is no legislative coverage for an ACA role in telemarketing. It is specifically excluded under the spam legislation.

Senator CONROY—Has the ACA been involved in any work to address issues at all, or do you just say, ‘No, look, we’re out of the game?’

Mr Haydon—You may be aware that we had done some analysis about the workability of some kind of industry code on telemarketing, but that has largely now been taken over by some work by the Australian Direct Marketing Association, or ADMA. If you have no role in telemarketing, there is very little we can offer in terms of redress.

Senator CONROY—So you are not involved in any discussions with overseas regulators?

Mr Haydon—Not in relation to telemarketing. We are aware of things like do not call lists that are operating with the US and most recently with the UK. But until the ACA has a legislative role, we have no place to go.

Senator CONROY—During the Senate committee’s Townsville hearings into the regulatory regime, we heard from iQ Connect, a small regional ISP who have been planning on rolling out wireless broadband from as far back as early 2004. However, they were unable to roll out their infrastructure because the ACA’s spectrum embargo throughout 2004 and early 2005 effectively halted the establishment of regional wireless. At a time when the rollout of broadband services is such a critical issue, why did the ACA have an embargo on the release of regional spectrum during this time?

Mr Luther—Perhaps I can take that question. I would like to preface my remarks by saying the ACA is very committed to the rollout of wireless broadband in the regions. In fact, we have made a large amount of spectrum in a number of different spectrum bands available

over several years now. So the suggestion that we are trying to stop broadband rollout is a bit misplaced.

In relation to the particular issue of the embargo, we were approached just over a year ago with some requests to release additional spectrum, in addition to the large amounts we had already released for wireless broadband. Some particular bands were discussed. Unfortunately, those bands are not vacant. There is very little vacant spectrum available at the moment. So other people are currently using those bands. We instituted a public consultation process to test: (a), whether or not there was a real market there for spectrum for broadband in rural areas; (b) which of the several possible bands that had been mentioned to us people would want; and, (c), perhaps most importantly, the impact on the existing users of that spectrum. In the end, we actually downgraded the rights, if you like, of the existing users of the spectrum, precisely to make additional spectrum available for wireless broadband in the regions. Those were the public consultation processes that we went through, and we had an embargo in place during that time so that we could arrive at sensible decisions on those spectrum bands.

Senator CONROY—We heard evidence that the ACA told iQ Connect that it intended to make a decision about the spectrum in September 2004, yet the decision was not made until 8 April 2005.

Mr Luther—I think it is certainly true that the consultation processes did take us a bit longer than we had anticipated.

Senator CONROY—This is a small business desperately trying and investing, and because of that delay it was not able to qualify for HiBIS funding. That delay cost this company a lot of money. They were fired up ready to go on the date that was indicated. HiBIS basically do not backdate—if you sort of sign up customers and get people ready, you cannot then claim the HiBIS fund for what you have already got in place—so they were actually comprehensively done over because of this consultation delay.

Mr Luther—I cannot comment on what the funding arrangements for HiBIS might be. You would have to talk to the department about that. But at no stage did we ever promise anyone that any particular date would be met. What we would have given was an indication that this is what we were aiming to do. As I said, there were actually some unique features of this particular case. The fact was that—without getting into the technicalities—there were existing users in the bands, whose rights were downgraded. We felt, in terms of natural justice, that we had to ensure that they were given an opportunity to have their say.

Senator CONROY—Okay, well iQ suggested that we ought to ask you about this delay and whether it was caused by funding problems at the ACA. Is it true that the ACA spectrum planning budget was cut by 12 per cent last year?

Mr Luther—No, Senator, that is not true.

Senator CONROY—Was it cut at all?

Mr Luther—No—not in dollar terms, certainly not.

Senator CONROY—In what terms was it cut?

Mr Luther—I would have to take that question on notice. There may or may not have been a small cut in real terms, not in dollar terms. But I am guessing here.

Senator CONROY—Real terms does not include dollars? I understand the difference between real and nominal, but both are dollar denominations.

Mr Luther—Sorry, I should have said real and nominal, yes.

Senator CONROY—So there was a cut?

Mr Luther—No. I am not saying that. I am saying that I would have to take that on notice. There certainly was not anything like a 12 per cent cut in the budget. That is not even remotely within the ballpark.

Senator CONROY—You will let me know how large the cut was?

Dr Horton—Senator, even though there was a cut—and, as Mr Luther says, we do not think there was—this is a high priority area for us anyway. This is creating the opportunity in the spectrum for wireless applications, access for rural and regional areas and remote areas and also back call potential, using radio. So we are very much behind encouraging the application of radio to overcome a lot of the problems in the industry. So we would not retract any resources from this work. There was just a natural delay in consulting with existing people embedded in the spectrum.

Senator CONROY—So it was nothing to do with any reductions at all?

Mr Luther—Absolutely not.

Senator CONROY—So there will not be any delays in the allocation of spectrum for regional areas in the future?

Dr Horton—It is on the market now. We are just waiting for the money to come in.

Mr Luther—I believe we have started licensing people in regional areas in these bands already.

Senator CONROY—That is all the questions I have on the ACA. We can let the ACA go. It will come as no surprise that Senator Lundy does have some questions, but she will put them on notice.

Dr Horton—Good. Thank you. We will look forward to answering them.

Senator Coonan—Rather, we will look forward to answering them on notice.

Dr Horton—On notice, of course.

[7.25 pm]

Senator SANTORO—We will move to the next section of this hearing, which is output 3.1. We look forward to interacting with the department.

Senator CONROY—What is the status of the minister's consideration of the ACCC's report on the future of Telstra's retail price controls at the moment?

Ms Holthuyzen—The minister is currently considering the price caps arrangements. I am not sure I can say much more than that.

Senator CONROY—Minister, how are we going?

Senator Coonan—We are going pretty well, Senator Conroy. There is a possibility that, with all of the things under consideration, there may be a rollover of the determination or a new determination for a short period, just so we can get everything in prospect to make those determinations, rather than do them in isolation. But I have not yet come to a firm view about that. I am simply mentioning that there is a possibility that it will not have concluded by 30 June.

Senator CONROY—We did discuss this a little earlier.

Senator Coonan—Yes.

Senator CONROY—You will accept that a delay in finalising the actual position on the price controls is causing significant uncertainty in the telecommunications sector. I even quoted to you from UBS, one of your paid consultants.

Senator Coonan—Any regulatory uncertainty is undesirable and should be resolved as soon as possible, but it is important to get it right and to get it right within the context of the various matters that have to be determined across the regulatory environment.

Senator CONROY—How quickly do you think you can have in place that regulatory framework? I appreciate there is a lot of things happening at the same time and that does make things more difficult, but this is one of the most critical of the issues.

Senator Coonan—It is indeed. I would be thinking that if there were a rollover of the determination on a short-term renewal of the existing one, it would be for a short time and it would be very much to feed into the rest of the government's response so that everybody has got the whole gamut of regulatory impacts and there will be certainty.

Senator CONROY—I saw reports on the weekend that you were suggesting it could be released at the same time as the rest of the regulatory reforms. Is that your thinking?

Senator Coonan—Yes, it could be.

Senator CONROY—That almost looks like you are trying to bury it.

Senator Coonan—I do not think so. Quite the contrary. I am trying to place it within the context of the other impacts that inevitably occur when you make any regulatory adjustments. It seems to me that whilst it would be possible to simply do it tonight, if I wished to, I do not think that would be the most responsible and best course. We are currently in consultations with Telstra on the recommendations. I will deal with it as soon as possible. I may be able to do it well before the rest of the regulatory package. I am simply signalling that it may not be the best way to do it.

Senator CONROY—Would you be releasing it before the scoping study is finished?

Senator Coonan—I have not got a view about that. I really want to consider all of these matters, if not together, then I at least want to have all of the material to consider the impact.

Senator CONROY—Sure. The scoping study has to be based on some expectations of the regulatory framework. It is a bit absurd to be conducting a scoping study when you do not know what the actual regulatory framework is going to be. It is almost like a waste of money. I think that is a fair criticism, Minister, of the scoping study, which is the Minister for Finance, not you.

Senator Coonan—They will have a pretty good idea of what is going to feed into the scoping study. They will know pretty much what to factor in for the regulatory framework. They must know that.

Senator CONROY—I agree with you completely. It would be absurd for them to be proceeding and producing a report if they did not know that. So even though you will be ready well before the scoping study is finished, by definition if they are going to know what is in it to do the scoping study, you will not be releasing—

Senator Coonan—They will not know every detail, but they will know the framework, which I understand is what they need to know. But I may not be in a position to do the final determination or do the new determination on price controls by 30 June. I am simply alerting you to that. I am not saying it is going to happen. I am simply alerting you to the possibility that it may happen. And it would be rolled over or renewed for a short time. It has been done in the past.

Senator CONROY—I am not criticising that aspect.

Senator Coonan—Because the processes are happening across different portfolios, it is a bit difficult to give you a definitive time.

Senator CONROY—Has either the Department of Finance or the Minister for Finance been consulted as part of the minister's consideration of the actual received reports?

Senator Coonan—Not as yet. But ultimately if there is consultation between ministers, it will be a cabinet decision.

Senator CONROY—Again, I refer to the comments of the Minister for Finance, Senator Minchin, who stated in a speech last week:

Given competition is increasing it is hard to understand why the ACCC has recommended a harsher price-cap regime than currently applies. I'll certainly be considering the final approach to price caps in that light.

Do you think there is sufficient competition that we do not need them any more?

Senator Coonan—Well, I am not going to be pre-empting what recommendation I make to cabinet in relation to price caps.

Senator CONROY—That sounds like a pretty blatant attempt to interfere in your portfolio, Minister.

Senator Coonan—You might take it that way. I certainly do not.

Senator CONROY—Is it constructive advice?

Senator Coonan—Senator Minchin is quite entitled to make—

Senator CONROY—Comments on your portfolio when he likes.

Senator Coonan—some comments, and I comment on his. That is okay.

Senator CONROY—But this is your area specifically, isn't it?

Senator Coonan—What?

Senator CONROY—Telstra's price controls. They are a matter for the communications minister.

Senator Coonan—Absolutely. But it obviously has an impact on the scoping study, which by your definition, not necessarily mine, is his. The portfolios share many cross-issues.

Senator CONROY—But this is not a shared one. This is absolutely your issue.

Senator Coonan—No. But it has an impact on other aspects of other people's portfolios. It does not sit quarantined without having an impact anywhere, Senator Conroy, or it would not be of much use. It obviously is in there because it has an impact. The impact has to be judged carefully in the context of the numerous things that have been advocated in relation to telecommunications regulation.

Senator CONROY—I know that if the shadow minister for finance started wandering across my portfolio area, I would certainly want to have a chat with him.

Senator Coonan—But you are particularly tetchy about those things, Senator Conroy.

Senator CONROY—Minister, that is a very unkind thing to say. I will quote from a press release of yours on 30 March:

Price controls are one of the important consumer safeguards built in by this Government and we are committed to retaining them in the interests of consumers.

Senator Minchin is actually arguing the opposite.

Senator Coonan—No, he is not. He is saying there are some impacts to be taken into account. Surely the man is entitled to have a view.

Senator CONROY—He says, 'It is hard to understand why the ACCC has recommended a harsher price cap regime.'

Senator Coonan—He is not saying there should not be any.

Senator CONROY—He obviously needs to read more of your press releases. You should put him on your mailout list. He is clearly not reading them.

Senator Coonan—I read his speech well before he gave it and I did not see any problem with it at all.

Senator CONROY—I think you need to put him on your distribution list. I think he is taking you for granted. Isn't the object of pricing controls to ensure that efficiency gains in the telco sector are passed on to consumers, not to Senator Minchin's coffers?

Senator Coonan—It is one of the objectives of price controls.

Senator CONROY—What are the other ones?

Senator Coonan—Where competition is not developed.

Senator CONROY—What are the other objectives?

Senator Coonan—Of what?

Senator CONROY—I have argued that it is the object of the price controls. You keep saying no, it is one of the objectives. I am asking you to list the others.

Senator Coonan—It is to pass at least the benefits of competition on to consumers where markets are not yet matured and not yet developed.

Senator CONROY—Do you think the Minister for Finance has any relevant expertise to make such an assessment?

Senator Coonan—I do not know and I am not going to engage in this.

Senator CONROY—Well, it is a technical issue for telecommunications experts, and I put you in that category as the minister, doing a good job in this area.

Senator Coonan—I am not going to engage in an argumentative exchange about Senator Minchin's views.

Senator CONROY—You are getting a bit tetchy. Speaking of decisions that the minister needs to make soon, how is the process going for appointing a chair for the newly-formed ACMA?

Senator Coonan—It is in prospect.

Senator CONROY—Did Senator Minchin help roll you over the four names you took forward, or was he supporting one of the four names?

Senator Coonan—Nobody rolled me over any names.

Senator CONROY—You took four names to cabinet and none of them have been appointed.

Senator Coonan—No. You are wrong about that.

Senator CONROY—There are some very good names there. I would have happily congratulated you if you had got a couple of these names up.

Senator Coonan—I do not agree with your assessment.

Senator CONROY—Cabinet punctured you?

Senator Coonan—I beg your pardon.

Senator CONROY—Cabinet punctured you. It said, 'Go away and give me some more names.'

Senator Coonan—You have not been in cabinet and you do not know what happened there.

Senator CONROY—I can only say somebody in cabinet is clearly doing a job on you.

Senator Coonan—Well, that might be your view.

Senator CONROY—This is a report in the *Australian*.

Senator Coonan—Oh, you are back to the reports in the *Australian*. It must be so frustrating never to know the real facts, Senator Conroy.

Senator CONROY—You were so glowing of Michael Sainsbury earlier and now you are bagging him.

Senator Coonan—He is a sweetheart most of the time, but sometimes he gets it wrong, like every journalist.

Senator CONROY—Oh, please. I think you have made him blush and humiliated him all in one go there.

Senator Coonan—I doubt it. I think he is quite capable of managing exchanges between you and me.

Senator CONROY—So you did not take four names to cabinet?

Senator Coonan—I am not going to discuss the cabinet process.

Senator CONROY—I thought that is what you actually said earlier. I just wanted to confirm that.

Senator Coonan—No. I think I said I was not rolled in cabinet.

Senator CONROY—I think you said you did not bring four names to cabinet.

Senator Coonan—Anyway, it is fairly immaterial, I would have thought, to this discussion how many names came forward.

Senator CONROY—It is not immaterial if the minister gets rolled. I think that is very material.

Senator Coonan—It has to be the fact, though, Senator. I know you do not deal in facts.

Senator CONROY—You can tell us that you did not take these names forward, that the whole report is wrong and that you have not been—

Senator Coonan—I am not going to tell you about any cabinet process, and you are not entitled to ask about any cabinet process.

Senator CONROY—I can ask anything I like and you are entitled to say no.

Senator Coonan—Well, I am saying no.

Senator CONROY—Have you been consulting with industry about possible candidates?

Senator Coonan—Not recently.

Senator CONROY—Has a salary been set for the position yet?

Senator Coonan—I am not entirely sure about that. I think an indicative range certainly has been.

Senator CONROY—What is the indicative range?

Senator Coonan—I am not sure.

Senator CONROY—Last time I asked back in February, the Remuneration Tribunal had not—

Senator Coonan—I think the Remuneration Tribunal has an indicative range. I think one of the departmental officers would know.

Ms Holthuyzen—I think there has been a draft issue come from the Remuneration Tribunal. I think the package of the chair is about \$310,000.

Senator CONROY—As a package?

Ms Holthuyzen—As a package.

Senator CONROY—That is just salary?

Ms Holthuyzen—It is total remuneration.

Senator CONROY—No wonder Warwick turned it down. Never mind.

Ms Holthuyzen—But it is only a draft, I think. The Remuneration Tribunal will consider it further.

Senator Coonan—That is not necessarily a settled figure, Senator Conroy, but you would know that.

Senator CONROY—I understand.

Senator Coonan—There are some people whose qualifications might require some revisiting of the package.

Senator CONROY—What is the status of the department's review of the telecommunications regulation at the moment? Have you completed that?

Senator Coonan—The department's review? No. I do not yet have advice on it. I think the submissions are closed.

Senator CONROY—Submissions are closed. Telstra has made a submission?

Senator Coonan—Yes. So far as I understand it.

Senator CONROY—Is the entirety of the submission public?

Senator Coonan—I am not sure. Certainly the proposal when I last discussed it was that the submissions had been made public subject to confidentiality and commercial-in-confidence issues.

Senator CONROY—I think we had a little discussion about this earlier today when Senator Abetz was here.

Senator Coonan—There is no intent not to publish them. It is really a matter of going back to the submitters and doing them the usual courtesies of asking if there is any portion of it that is a problem for them.

Senator CONROY—I have a number of questions about the Metropolitan Broadband Blackspots Program outlined in the federal budget. The minister's press release from budget night states that the program will specifically target areas where problems with network infrastructure make it unlikely affordable broadband services will be made available commercially within an acceptable time frame. Is this reference to 'problem network infrastructure' a reference to RIMs technology?

Mr Bryant—Essentially the problem in metropolitan areas is infrastructure problems of the like of RIMs and certain pair gains systems. In some cases, it is also distance from exchanges. In some cases, in relation to wireless services, for example, it may well be topographical problems as well. So it is a range of problems. I think unlike the HiBIS program and the situation in regional Australia, it is more of an infill problem than an expanding services problem.

Senator CONROY—So this is \$50 million that we spent on upgrading RIMs, pair gains and possible line of sight issues to allow them to provide broadband?

Mr Bryant—I preface any remarks on that by saying that the guidelines in the strategic approach to the program have not yet been settled by the government.

Senator CONROY—When are they likely to be available?

Mr Bryant—Well, the process that we propose is very similar to the process of developing the HiBIS program. We first issue a discussion—

Senator CONROY—That is under review, though, at the moment, the HiBIS, program, isn't it?

Mr Bryant—It is, indeed, yes, a departmental review. We propose to have the same development process, which is to issue a discussion paper which will propose a draft preferred approach, if you like, raise a number of issues and questions of design, get feedback from stakeholders, then release draft guidelines and then have a short period of further consultation on those draft guidelines, which will obviously be much more detailed setting out the proposed approach in detail. Shortly after that, we will finalise the guidelines.

Senator CONROY—You did know this was going to be in the budget, though, didn't you?

Mr Bryant—We have been scoping out. As you know, it is an election commitment.

Senator CONROY—Sure. I am just surprised that there has not been any preparatory work yet on these issues.

Mr Bryant—There has been.

Senator CONROY—You have leapt into the field already but you are still preparing the guidelines.

Mr Bryant—We are pretty close to issuing a discussion paper. Obviously as well there has to be a lot of work scoping out the nature of the problem, so that is mapping and identification of the scale of the problem and the number of services that we are looking at in metropolitan areas and those sorts of things. It is a detailed analytical task as well.

Senator CONROY—I want to go to one of them, maybe in too much detail, and you may not have got this far. I want to know where the money will be allocated for the upgrade of existing RIMs or for the replacement of existing RIMs with the newer ADSL compatible RIMs like the CMUX-AU.

Mr Bryant—That is too much detail, I have to say. Again, my comments are subject to obviously approval of the guidelines. But at this stage it is likely that we would propose that we adopt a similar approach to the HiBIS program in relation to, broadly speaking, how the incentive payments are made. That would be technology agnostic. It will be focused on services that cannot get a level of broadband quality and price that is comparable to what other consumers get in that market. We would be agnostic about the technology and would make an incentive payment based on providing a service that meets the problem.

Senator CONROY—Is it possible that competitors would be able to install competitive infrastructure either at the Telstra exchange or in the upgraded RIM to allow it to provide broadband to retail customers?

Mr Bryant—I think Mr Mullane earlier today described some of the technical problems in actually installing competitor hardware into RIMs so I have no further comment to make on

that. Again, if we follow the HiBIS model, it will be pro-competitive. We would be looking to have multiple service providers. Again, we would be seeking to encourage them as much as possible to roll out their own infrastructure.

Senator CONROY—In the HiBIS program there is a soft cap of 60 per cent of funds, which according to the last departmental figures given to us has been breached at the moment. It is about 64 per cent.

Senator Coonan—I just have the relevant officer here.

Senator CONROY—Those figures that we got from you from the last estimates process suggested that 64.73 per cent of funding under HiBIS had gone to Telstra. I was just wondering, Minister, whether you are considering a cap—soft, hard or any sort of cap—on moneys going to Telstra in this program?

Senator Coonan—I will ask for some advice about it. Obviously, the details of the program are currently being thought through.

Senator CONROY—You have had your HiBIS experience. I think everyone supports the concept of HiBIS. But you are reviewing it because I think it has not necessarily delivered the outcomes that even you would have hoped in terms of Telstra seeming to be the major beneficiary of the program. Do you think it would be a success if Telstra ended up getting 60, 70 or 80 per cent of the funding out of this new black spot program?

Senator Coonan—I will consider—

Senator CONROY—That is a broad macro issue rather than the detail.

Senator Coonan—No. I would consider the advice I get from the department. They have had experience now of administering a highly successful program, I must say. Many people who would not otherwise be making these kind of statements have said that they really think it is the best government program in this area that there has ever been. It has been highly successful. It is a very good model. That is not to say that there are not some things you can learn from it. So I will be seeking advice. Speak up. I am not the only show in town here.

Ms H. Williams—Sorry. Ms McNally can give you the actual figures.

Senator CONROY—Well, my next branch of questions is about the HiBIS exchange. I have almost completed. I am a little disturbed by your suggestion that shutting out competitors is not something that is an important issue. I got the impression, perhaps unfairly, that you were relaxed about the fact that competitors could be shut out.

Mr Bryant—No. If I gave that impression, I apologise. Indeed, like the HiBIS program, the black spots program will have a key objective of encouraging competition and providing an open competitive opportunity for all providers who can provide the relevant service. I think that will be at least in our eyes a key component of the program.

Senator CONROY—You understand that where there is fibre from the exchange for a RIM that fibre is not declared. So Telstra does not have to give access to the RIM and the competitor would have to deploy their own equipment. There are a number of issues that Telstra can frustrate, even a RIM upgrade by the competitors. They can refuse to give access to an exchange if there is no available capacity. The competitor then must pay for an expansion. In a RIM this is not possible because it is a box in the street and extensions are

practically difficult. So this is a scheme that could end up ultimately just being \$50 million to help Telstra upgrade its own equipment, which it should be doing anyway because it is actually an impediment to providing the service.

Mr Bryant—I would suggest that the problems that you raise there are probably problems for the competition regime rather than for the design of a program like this. If they are legitimate problems—

Senator CONROY—I do not think can you just toss it off on to the ACCC.

Mr Bryant—No, I am not saying that. I am saying that obviously in the design of the program we need to look at everything we can do within the program to encourage competition, and we will certainly do that. That will be a key objective in the program. You have raised another point, though, which is whether this program would be funding infrastructure that Telstra should be upgrading anyway. One of the key differences, I guess, between the metropolitan market and the regional broadband markets is indeed that there is an ongoing level of commercial investment. That is because of the nature of the market in metropolitan areas that there is not in regional areas and because it is a more dense market and a more viable market. So one of the challenges in this program will be clearly to work through and design a program that adequately takes into account that ongoing commercial investment. We have some ideas for that and they will be included in the discussion paper.

Senator CONROY—But surely you have an obligation not to exacerbate existing competition problems in your design of the program.

Mr Bryant—We would have an objective to promote competition.

Ms H. Williams—It is a very difficult program, which is why it has taken a while to do. But we are well advanced in it.

Senator CONROY—But the sort of issues I have described are absolute core issues that you have to try to find a way to overcome. As I said, the opposition is very supportive of what the government is trying to do. I am not quite as excited about the outcome of the HiBIS program as the minister, but we will come to that in a tick. I just wanted to get an indication from the department that they are aware of the competition problems.

Ms H. Williams—It is obviously one of the things we take into account in looking through the guidelines for the scheme.

Mr Cheah—That is also one reason why we have the two-stage consultation process that Mr Bryant described before. Firstly, we propose to put a discussion paper which will raise the issues and then we will follow that up with another further consultation process on the draft guidelines as well. It is to help, I suppose, flush out those kind of issues and any practical ideas that stakeholders might have about them. But there are some practicalities about this as well. They are the kinds of issues Mr Mullane was referring to and Mr Bryant talked about before.

Senator CONROY—This has been a government initiative since the election. It was an election commitment. I am surprised you are not further down the track. You were not ready to leap out of the blocks the day the budget was announced with the first stage of this. I am surprised it has taken this long.

Mr Bryant—As I said, we are very, very close to issuing a discussion paper and we will be doing a lot of scoping work. I think an important point, though, really is that we do not want to put out now a final draft version of the guidelines for the very reason Mr Cheah raised, because there will be a lot of issues where we will have an open-ended approach and say, ‘Well, you could do it this way, you could do it this way. What do you think, stakeholders?’ We could then try to get some informed feedback and go on from there. So I think it is quite important with a program of this nature, which is quite innovative and challenging to design, that we do actually genuinely and in an open kind of way seek that feedback from the industry and other stakeholders.

Senator CONROY—Thanks. I want to move on to HiBIS now. During the additional estimates hearings in February, Ms McNally told this committee that 64.73 per cent of funding under HiBIS had gone to Telstra. This percentage was reflected in the numbers provided by the department on 13 April in response to a question on notice. Minister, your office approved those figures for release. Were these figures correct at the time they were provided?

Senator Coonan—I believe so, but Ms McNally has all the figures there. I do not have them.

Ms McNally—Yes, they were.

Senator CONROY—There seems to be some dispute. Minister, I understand your officers queried these figures when asked about them in recent weeks and even suggested they are not correct.

Ms McNally—I think one of the issues of the dispute is around the percentage of claims that Telstra has made versus the proportion of the annual spend. So, for example, if there is 52—

Senator CONROY—I am not into any of those things. I am just reading off the figures you have given me, Ms McNally. So the figure is 64.73 per cent of funding. That is the correct figure. Minister, do you accept that that is the correct figure? Your office released them.

Senator Coonan—Well, that is what I am told. Obviously, I do it on advice.

Senator CONROY—I am not confused at all about the figure; it is pretty black and white.

Senator Coonan—I do not go out and count it, Senator Conroy, but I accept advice and I assume that that is right.

Senator CONROY—Could you provide us with the up-to-date information about the breakdown of HiBIS funding by provider, technology and bandwidth offered on subsidised services both on download and upload?

Ms McNally—Would you like me to do that now?

Senator CONROY—If you are able to table it, that would be great. We can get a copy of it and photocopy it. That would be fine. Then you do not have to read it out. So I am happy, if you have it, just to table it.

Senator Coonan—But I think it is relevant. There are some things we should just remind the committee about regarding the figures.

Senator CONROY—I am happy to talk to it. It is just to save you actually reading it out.

Ms McNally—Okay. Some of the key figures are that there are around 16,700 customers who have received claims. That is around about 39.3 million. There are now 32 registered providers.

Senator Coonan—Competition.

Ms McNally—Another 19 more applications for registration. Of these, six were received between August and December in 2004. The remaining were received in the last few months of this year. In terms of some of the technology split, we have 30.82 per cent on two-way satellite; 16.1 per cent on wireless; 32.8 per cent on ADSL; 2.2 per cent on cable; and 10.7 per cent on one-way satellite. So the higher proportion of services is being provided at this stage through satellite services.

Senator CONROY—The highest?

Ms McNally—Yes.

Senator LUNDY—What are the dollar figures against those percentages?

Ms McNally—I have not got the dollar figures with those percentages. I only have the numbers. I can provide the dollar figures at a later stage.

Senator CONROY—So those percentages are based on dollars, or are they based on customers?

Ms McNally—The number of customers.

Senator LUNDY—Telstra told us that they got \$14.9 million for satellite and \$7.9 million for ADSL. Can you get those dollar figures chased up while you are still at the table.

Senator CONROY—Could I just have an update of question 140, which you took on notice and gave us last time. You have provider registration date, customers and claims to date. There is also question 141. I am just giving you a reference point. I think question 142 relates to 140. Specifically if you could give me an update of 140 and of 141.

Ms McNally—I can table that update on those, if you like.

Senator CONROY—Yes, please. And these updates are including dollar figures?

Ms McNally—That is right.

Senator CONROY—I will move on while we are waiting for those figures. I understand that the minister is also conducting a review of HiBIS, which we mentioned before. There are a number of issues with the HiBIS that I would like to raise with you to ensure that they are taken into account as part of the review. Senator Lundy may also have some questions as well. Before I leap into that, does the department have any information on the average amount of time that it takes a provider to obtain accreditation under the program and how long it took Telstra to obtain accreditation. You can take that on notice.

Ms McNally—Okay.

Senator CONROY—Under the current system, applicants can only claim HiBIS payments in relation to customers they have signed up after receiving HiBIS accreditation. However, HiBIS applicants are having their accreditation delayed significantly due to the bureaucratic red tape associated with the program. Many providers are making investments in regional areas under the assumption that they will receive HiBIS funding for customers and are building this into their business model only to hear down the track that all the customers they signed up after starting the HiBIS application process but before receiving accreditation are not eligible for payments. Is there anything you are considering doing to remedy that problem?

Ms McNally—We are currently considering a number of things as part of the review of HiBIS. That is one of the issues under consideration.

Senator CONROY—I think you heard me discussing iQ's problems in Townsville. I am also aware of some other ISPs that had a similar problem. The impact of this problem is exacerbated by the fact that Telstra has no problem with these bureaucratic hurdles and is able to obtain funding quickly and provide subsidised services in competition with these providers while they wait for accreditation. Obviously a company the size of Telstra can sort of roll it on through their processes but smaller ISP providers just really struggle.

Ms McNally—The program works on a rolling registration system. So Telstra put their application in very early in the process. Their application was subject to the same levels of scrutiny as all the other proposals.

Senator CONROY—I am sure it was. I am sure that it was well prepared, well briefed and was one of the first that got in.

Ms McNally—It was one of the first that was received.

Senator CONROY—I am sure it was. That is one of the problems—that Telstra got in early and because they were there first, they got first access, first bite of the cherry, so to speak.

Mr Cheah—Telstra was not actually either the first applicant or the first provider that was accredited. I cannot remember just how many were accredited, but there were several who were actually ahead of Telstra both in terms of application and accreditation.

Senator CONROY—I will keep going and come back to that. You are not suggesting that Telstra was not one of the first HiBIS providers into many areas?

Mr Cheah—No. I am not suggesting that. I am simply saying actually for the record it was neither the first provider who applied nor the first provider who was accredited. We could not end up with that being the impression. I just wanted to make sure that was not the impression that was left.

Senator CONROY—More than half of HiBIS's funds are going to satellite services. I think the new figure has actually increased to 57 per cent. Is that right?

Ms McNally—It was 57 per cent. The update is 47.5 per cent. So it has actually dropped.

Senator CONROY—I have 48.9 per cent on my piece of paper.

Ms McNally—Sorry, I probably have an older one. Is that the one I have just tabled? I have not had that one back, sorry.

Senator CONROY—The one that I have just had tabled is 57 per cent and in brackets 48.9 per cent.

Ms McNally—So the ones in brackets are the latest numbers.

Senator CONROY—Sorry, that is what has tricked me there. Normally you have the old one in brackets and the new one. But that is still basically 50 per cent of the funds from HiBIS going to satellite. What proportion of HiBIS funding did the department anticipate would go to satellite services when HiBIS was established? Did you have a thought about it? You probably would not have anticipated it was that much.

Mr Bryant—I was the first person involved with the development of the program. The process we looked at, in terms of trying to scope out both the extent of the need and the kind of technologies that were likely to be deployed and the amount of incentive payment that would need to be provided, was on the basis of breaking regional areas up into areas where certain services were available. For the purposes of the program, as you are probably aware, the standard incentive payment stops where ISDN is available. The reason that happened was that we identified a service was out there in the marketplace that could provide a comparable service to metro areas with the least amount of subsidy. Then we looked at the areas beyond there and looked at what was in the marketplace and looked at what needed to be provided as an incentive to enable a service in those more remote areas again to be provided at a price that is comparable to metro areas. Obviously for those areas it was based on satellite service at that time.

Senator CONROY—But did you anticipate basically half the program in a two-year period would be in satellite?

Mr Bryant—I would have to go back and check our scoping of the program. I am happy to take that on notice. But the point really is that there is an additional amount of money required in those more remote areas because of the nature of the technology, which is the only technology available. One would argue that the need is greatest in those areas as well.

Senator CONROY—It would have shocked you, though, surely, when you saw these figures.

Mr Bryant—Not really, no. Not really.

Mr Cheah—Not necessarily. Another factor which might be at play is that some of the smaller providers who have actually signed up for the HiBIS scheme have actually been satellite based providers. In some ways, satellite is a technology which is more easily able to be picked off by a smaller provider because they can go in in a more specialist kind of way, market to the customers in those needy areas and get people signed up. ADSL is the kind of technology where you have to go in and sort out an exchange and do things at a slightly higher scale. So in some ways it perhaps is not surprising that some of the more targeted providers can go in there and actually meet some of the customers' needs more quickly.

Mr Bryant—We have been quite pleased, I think, that we actually have stimulated a number of providers to start up services using satellite. I think that has for the first time

provided choice for customers in those more remote areas in accessing broadband services. We now have at least I think six or seven satellite providers offering ADSL services nationwide. That has got to mean choice.

Senator CONROY—I guess I am not as excited by so much HiBIS money being spent on satellite service. Essentially, it does not support the installation of infrastructure for the provision of broadband being installed in regional areas, does it?

Mr Bryant—Well, the overall objective of the program, again, really is to provide equity for consumers of broadband services. One could argue, as I said, the greatest need in terms of the prices that customers had to pay before HiBIS came along was in those more remote areas where satellite services were many thousands of dollars more.

Senator LUNDY—Not the standard zones.

Senator CONROY—I have heard extensive criticism around Australia now about the satellite service. While I accept that your objective is anything is better than what they had, it is a bandaid and satellite is not going to be a long-term fix. Subsidising a program that does not deliver a long-term fix is not necessarily a great outcome. It keeps people forever stuck on the Commonwealth whereas if a DSLAM is put in, if wireless technology is put down, then you have solved the ongoing problem. I have heard stories of people who are prepared to drive 30 kilometres a night to their daughter's house to use her broadband rather than use their satellite broadband because the service is so bad. They have the new whiz bang CDMA. They just say, 'It is rubbish, it is not symmetric, I cannot upload and I would rather drive 30 kilometres a night to my daughter's house to use it.'

Mr Bryant—Well, obviously I cannot comment on that particular instance. All we can say is that in many of those areas, to the best of our analysis, satellite is the only service available and will be the only service available in the foreseeable future.

Senator CONROY—This gentleman lives 30 kilometres outside Dubbo.

Mr Bryant—Indeed. As we have heard from Mr Mullane today, those people who are more than four kilometres from the exchange are not getting ADSL and—

Senator LUNDY—It is not that simple, though, because we have heard evidence in other estimates and inquiries about the expanded reach of ADSL services. We know that Telstra for one has given plenty of evidence about the longevity of ADSL and sung its praises and is pushing it further and further out along the copper. So at the same time one would expect that there would be some government policy to push those kinds of developments, you are almost blocking it by whacking in a cheap subsidy for satellite. Again, Telstra avoids making those investments in upgrading those copper tails out of town. It is an issue of getting the policy balance right because we are talking about inside the extended zones area and outside of the reach of the four-kilometre or eight-kilometre radius of ADSL services. It is that donut baseland, that digital wasteland, that has been referred to on many occasions that Telstra and other carriers have assured us that they can push ADSL out to given the time. Now you are subsidising them not to.

Mr Cheah—The other factor worth remembering about ADSL is that the program has actually had quite a few other effects. In addition to the people who have actually been physically signed up, Telstra has actually also enabled 423 extra exchanges to date, and that

has been largely due to the effects of the program. What HiBIS has done effectively is change their business case.

Senator LUNDY—With all due respect, Telstra stopped enabling exchanges in anticipation of the government subsidy. What you removed was any commercial pressure on Telstra to continue doing that in anticipation of the subsidy.

Mr Cheah—Quite a bit of work was done at the beginning of the program to make an estimate of what exchanges would have been enabled at the time. Since the program has started, 423 exchanges—

Senator LUNDY—Paid, for the most, by Telstra. That is what happened.

Senator Coonan—Could somebody just finish a sentence, please. Mr Cheah.

Mr Cheah—Thank you, Minister. There are 423 exchanges that have been enabled since the scheme's inception. We understand another 122 exchanges are scheduled to be upgraded before June. A fairly conservative estimate is 350,000 extra services are now capable of receiving ADSL that were not capable of receiving ADSL at the beginning of the program. One would imagine they would actually get taken up as the program progresses over the next year and a half. So, while it may be true in terms of actual services signed up that there is a high proportion of satellite customers, I think there will be a lot of potential ADSL customers who will benefit from the scheme.

Ms Holthuyzen—I think the other thing that is important about satellite services is that of the 47 per cent or 48 per cent, 37 per cent of those services are actually two-way satellite, which are actually symmetric services. The quality of those services and the data rates are actually guaranteed under the program in terms of the quality of services. Just criticising the satellite services as being—

Senator LUNDY—It is a fair point.

Senator CONROY—I am just passing on to you real-life experience. It is real.

Senator LUNDY—It is just not a new complaint.

Senator Coonan—Could we just have somebody finish an answer before somebody—

Ms Holthuyzen—I was really just responding partly to Senator Conroy's comment where he said the services were asymmetric. In fact, 37 per cent out of the 47 per cent of services are actually two-way services, so they are actually symmetrical services with the same download and upload limits.

Mr Cheah—Senator Conroy, if there were any particular complaints from constituents about the service they have received under HiBIS, I would strongly encourage those people to contact the department about them. Under the program, the providers are contractually committed to providing those services at particular data rates—minimum data speeds—and we are supposed to be testing whether the carriers are in fact meeting those requirements. If they are not, we have no—

Senator CONROY—As I said to you, I am just passing on to you the testimony to the Senate committee of the mayor of a shire just outside Dubbo. He was just scathing and said on the record—and he said it publicly and he said it to the media and he said it to the national

media—he would rather drive 30 kilometres a night to his daughter’s place so he can upload his produce on to the net because the service he gets from his satellite is just terrible.

Senator LUNDY—And this complaint is not new. It has been around for a long, long time, in fact, going right back to the ATN inquiry, where we took substantial evidence in regional Australia. Exactly the same comments were being made then. That was prior to HiBIS being introduced. There were substantial complaints about the quality of the symmetrical satellite service, the two-way satellite that was being installed in the extended zones areas under subsidy.

Mr Bryant—One of the elements of HiBIS is that complaints about quality of service can be made to the TIO, and that has been publicised. The advice from the TIO is that he has had very, very few complaints about HiBIS services. So we can only take that into account in our assessment. With regard to the policy issue about encouraging, as you describe it, a sustainable rollout, I think you and I have had discussion about this in previous estimates when we were talking about the design of the program. A policy issue we had to face was really whether you wait until the business case builds, even with incentive payments, to get the services rolled out with a technology such as ADSL, or do you provide a program and a support that allows—

Senator CONROY—But you are putting them on the public purse drip. To maintain a reasonable level of broadband at a reasonable price, there is a permanent subsidy required as opposed to a program that should be trying to develop the infrastructure.

Mr Bryant—Perhaps I might just finish the first point. The question we had to face was whether we get people to wait for whenever the service might be rolled out or whether we try and provide equity as early in the program as we can. We did the latter. Part of our thinking is that, you are right, there is an issue about what happens after the end of the program. What we have tried to do is encourage competition in that satellite space. We have seen encouraging price decreases beyond what is required under the program. For example, as I understand it, a satellite service is available for \$49.95 a month, which is below what is required under the program. That is a direct result of competition between satellite providers. So we see that as a positive outcome and something that hopefully will continue as the program goes on and will drive those prices down to sustainable levels. So from a policy sense, that was part of our thinking.

Senator CONROY—Sure. But we are not getting around the issue that there is an ongoing subsidy needed. If I agreed—and I do not agree—with this design view, how do we then take the next step of creating something other than satellite, or are you suggesting that that is the only viable long-term position?

Mr Bryant—Certainly for some remote properties—

Senator CONROY—I am talking about 30 kilometres outside Dubbo. I am not defining that as a long-term remote property.

Mr Bryant—Australia is a vast, remote country and there are a lot of customers who are a long way from available infrastructure and will get nothing other than satellite in the foreseeable future. But, again, the program really has been designed to be technology neutral with a core objective of getting that equity out there. The issue you raise is a design issue.

Senator CONROY—I understand the concept of technology neutral, but it has actually ended up subsidising one of the technologies more than others. It is a regional program so in the short term I understand that impact. But if the outcome is to create thousands of Australians who can only get a decent service through the HiBIS program subsidy rather than actually creating an alternative, maybe a design flaw has emerged.

Mr Cheah—Not necessarily, Senator. Using the example you mentioned, if you have somebody who is 30 kilometres from an exchange, it is very unlikely they are ever going to get ADSL. ADSL, generally speaking, is a technology which works four kilometres from an exchange. That is one of the issues.

Senator LUNDY—It is not four kilometres any more, though. It is not just four kilometres any more.

Senator CONROY—Some people are talking already up to 30 kilometres. Can I say seriously—

Mr Cheah—In which case the HiBIS scheme, in a sense, has the ability to—

Senator LUNDY—It pains me to find myself defending ADSL.

Mr Cheah—Sorry, Senator. The HiBIS scheme in that case is able to deal with that kind of development in the sense that if another technology does come along which enables ADSL to be extended that 30 kilometres from an exchange, then—

Senator CONROY—What is wireless?

Mr Cheah—a provider can come along and actually register that technology with the scheme. Presumably, that will be more attractive. If it is relatively cost effective, then that will work well. But if that type and kind of technology either is not introduced or there are other competing technologies that come along—for example, satellite technology that specialises in using IP, or Internet protocol—then it may very well be that there will be quite a lot of good quality satellite competition coming on to the market as well. Those customers who are 30 kilometres from the exchange will actually have some choice.

Senator CONROY—Do you honestly believe that satellite is the solution for these people? For a person living 30 kilometres from Dubbo central, is a satellite actually the most efficient and best?

Mr Bryant—I think the point Mr Cheah has made is that currently a satellite will provide a service for those people. Those people want a service, and they will get a service. They are getting services via satellite. If a superior technology in terms of cost effectiveness and quality comes along—for example, extending ADSL 30 kilometres out or so and covering a lot of those customers who might only previously have been able to get a satellite service—the design of the program is such that it allows that. The most cost-effective service will be the most sustainable service.

Senator CONROY—That is what I am trying to really get to. I understand that in the short term part of a government's responsibility and role—and it is one I have supported and the government have advocated—is, where there is an uneconomic service, to subsidise that, where you have a universal objective. But, if you can find a way to create an economic

service and your program suddenly is working against the creation of an economic service, there is a design flaw.

Mr Bryant—I think that is our point: it is not working against it.

Mr Cheah—There is no evidence that it is.

Senator CONROY—Do you think keeping people hooked on satellite is the solution?

Mr Cheah—For some of the customers it may very well—

Senator CONROY—So people 30 kilometres outside Dubbo should be hooked onto satellite forever?

Mr Bryant—The service is available.

Mr Cheah—At the moment, the alternative would be—

Senator CONROY—What: someone's put a wireless infrastructure in, there is no other service available?

Mr Cheah—At the moment, Senator, the alternative might very well be to say to those people who are 30 kilometres from Dubbo, 'Sorry, you cannot have a service here because we are waiting until the perfect service, the economic service for everybody, comes along.' Effectively what the program does is enable all customers, no matter where they live, to get the equivalent of a metro equivalent broadband sort of service straight away. We have six or seven satellite providers.

Senator CONROY—If it is cloudy, the satellite service gets disrupted. This is hardly an equivalent to metro. These are these people's real life experiences.

Mr Bryant—Again, we can only make the point that there are bandwidth performance requirements under the program which all HiBIS providers report against.

Senator CONROY—These are acts of God. Clouds are acts of God. Are you trying to tell me you will penalise them if a cloud gets in the way and they cannot do anything about it? I think not.

Mr Bryant—The point I am trying to make is there is a performance requirement under the program, which is monitored by the department. We have not been advised, as I understand it, that there have been any significant problems with satellite. Ms McNally might like to provide you with more detail.

Senator CONROY—I guess you and I are just talking to a few recalcitrants, Senator Lundy.

Senator LUNDY—I guess so. If I go back to my campaign about pair gains, a little bit of investment by organisations like Telstra in removing some of the older pair gains would probably resolve the problem for people who are currently trying to access ADSL and find themselves only using satellite. So where is the economics in ongoing subsidies for satellite use when Telstra just needs a bit of right policy pressure to upgrade their physical infrastructure on the ground? There are those sorts of questions. You are just letting them off the hook completely. That creates issues for any competitors trying to access the network as well. If Telstra cannot provide ADSL because of pair gain infrastructure, no-one else can either.

Senator CONROY—Do you want to respond?

Mr Bryant—I would simply make the point that I do not think pair gains are generally an issue in relation to satellite services, because, as I understand it, most satellite services are being provided where ADSL—

Senator LUNDY—I am not saying that pair gains are on satellite services. I am saying that people on these long roads out of town are on pair gains and, therefore, do not have a hope in hell of getting ADSL on an extended line, even if it were possible anyway.

Mr Bryant—The point I am making, I think, is—under the program to this point at least—ADSL services are impeded by pair gains systems but, where ADSL services are being provided, satellite services are not being provided under the program. That is the point I am making.

Mr Cheah—The other point, I think, is: if people cannot get ISDN at the moment because they are on a pair gains system, they are actually entitled to the higher subsidy level. Some of these other satellite providers will be able to come along and provide those people with services.

Senator LUNDY—Satellite again.

Mr Cheah—The incentive mix is actually there.

Senator LUNDY—No, it is not, because there is no incentive to remove that infrastructure. There is an incentive to pay more money to give them satellite over the top.

Mr Cheah—There is also an incentive on Telstra, though—

Senator Coonan—Senator Lundy, can the witness please just finish. Then you can have an exchange that we can all hear.

Mr Cheah—Thank you, Minister. The other thing is Telstra itself has an incentive to fix the pair gains problem because, if those customers can be fixed up by them, they will be entitled to the incentive payment as well. So, if that is the way the economics falls—the economics is actually oriented towards fixing the pair gain problem in that way—that is what they will do.

Senator LUNDY—No.

Mr Cheah—If it is not and there is another more efficient technology that will provide them with a broadband connection, that is the way they will go. Also, in some cases the problem will not just be pair gains; it will also be distance. So there are several issues which cumulatively add up which will affect the economics significantly.

Senator CONROY—I understand that the figures show that we are still above 60 per cent with the cap. We are at 64.8 per cent, I think. Is that right, Ms McNally?

Ms McNally—In terms of the claims that Telstra has made?

Senator CONROY—The dollars, yes. That is how we normally measure it—dollars spent. It is 64 per cent for Telstra. So we are above the cap?

Ms McNally—No. They are below the cap.

Senator CONROY—I thought 60 per cent was the cap.

Ms McNally—Sixty per cent is the cap. That is the number of overall claims that they made. But in terms of the amount of money that is available for this financial year, they are actually under the cap.

Senator CONROY—But that is because this financial year has finished.

Ms McNally—So there is \$52.3 million available this financial year. Of that, Telstra has claimed \$25.2 million, which is 48.2 per cent of that annual amount, but it is actually 64 per cent of the overall claims that people have made to date.

Senator LUNDY—This is where we get back to dollar figures.

Senator CONROY—That is a very entertaining way to talk it around.

Senator LUNDY—Have you got the dollar figures yet—the dollar figures that underlie those percentages?

Senator CONROY—All the money is not tallied yet. You describe the available money that has been spent as ‘claims met’, I think. I would describe it as moneys that have left your pocket and have gone out to companies in Australia. At this point 64 per cent is going to Telstra.

Ms McNally—That is correct.

Senator CONROY—Now your defence was, ‘We are not above the cap yet, because we haven’t finished finalising it during the course of the financial year.’

Ms McNally—That is correct. So the cap relates to the amount of money available in any one financial year or overall for the program.

Senator CONROY—Okay. How about I put it in these terms: in February, they were above the cap; in April, they are above the cap.

Ms McNally—No.

Senator Coonan—No.

Senator CONROY—At the running point, okay.

Ms McNally—If they continued at the same level—

Senator CONROY—That is the point I was coming to.

Ms McNally—they would be above the cap.

Senator CONROY—Yes. So the final figure—and given we are how many months into the financial year?

Ms McNally—We have written to Telstra telling them at this stage they will be not be funded above the 60 per cent cap.

Senator CONROY—So you have told them they can have no more money?

Ms Williams—They will not be covered above the cap.

Ms McNally—We have told them that they can submit claims up to the 60 per cent.

Senator CONROY—Now is it 60 per cent of the total amount of dollars that are available or 60 per cent of the final claims?

Ms McNally—Sixty per cent of the amount of dollars available for the financial year. So \$52.3 million is the amount allocated and—

Senator CONROY—So what is the maximum dollar amount that Telstra can claim?

Ms McNally—It is \$31.4 million.

Senator CONROY—And have they reached that yet?

Ms McNally—No.

Senator CONROY—If they claim their full \$31 million and everybody else does not claim and, therefore, of the actual claims that are made, they are well above the 60 per cent, you will actually say they are below the cap?

Senator Coonan—Can I just clarify that question.

Senator CONROY—Sure. If the full amount of money is not expended—in other words—

Senator Coonan—Do you mean, if the people who are entitled to it do not make a claim?

Senator CONROY—If the full amount of money is not expended—so, if the total amount of dollars that are paid out by the Commonwealth is below the maximum and the \$31 million is above 60 per cent—you will be saying Telstra have not breached the cap?

Ms McNally—That is correct. So, if they have not claimed up to 60 per cent of the amount available, they will not have breached the cap.

Senator CONROY—What was the total amount available?

Ms McNally—It is \$52.3 million.

Senator CONROY—Let us say only \$47 million is claimed.

Ms McNally—Overall?

Senator CONROY—Overall. But if Telstra have \$31 million—I can change that figure to make it above the cap, but they would be above the cap at that point—will you still be trying to tell people that they have not breached the cap?

Ms McNally—They will not be above the cap because we have written to them telling them that we will not pay them at this stage any more than 60 per cent of the \$52.3 million this financial year.

Ms Williams—I think the point might be that we are fairly confident that the full amount will be spent this year.

Senator CONROY—Good. That is good news. That is actually good news. So Telstra will have that 60 per cent cap enforced on them and we are expecting the full amount to be spent. So it will actually then ultimately match?

Ms McNally—That is correct.

Senator CONROY—Even though they are running ahead of the percentages paid out so far.

Ms H Williams—Yes.

Senator CONROY—That would suggest that there is more than \$52 million that would be claimed. You have a definition of ‘claim’ that is a little different from mine. Could I say that Telstra could bid more than the \$31 million?

Ms McNally—They could.

Senator CONROY—Therefore, other companies could be bidding more than the remainder, the \$21 million?

Ms McNally—They could.

Senator Coonan—It is a demand driven program.

Senator CONROY—Basically, I am trying to find out whether Telstra, gaining this money early in the scheme, is shutting out other providers.

Senator Coonan—It could not.

Senator CONROY—They could.

Ms McNally—One of the administrative processes in the scheme is to actually ask for forecasts from all providers from the date that they actually become registered. So they provide us with monthly forecasts to indicate what their likely demand is. On the current projections, we have indicated to Telstra that they will be remaining on the 60 per cent cap. But we have not had to advise other providers that we will not be able to meet their claims.

Senator CONROY—But that is possible? Ultimately, if more than \$52 million is bid for, you have to make a decision about allocation.

Ms McNally—That is right.

Senator CONROY—You have this monster that is Telstra that is already clearly going to be bidding more than its allowable \$31 million. You have had to say, ‘Ah, that’s it.’ So by definition it is possible that there will be an oversubscription, if I can use that phrase.

Ms McNally—The current forecasts show that we will come in pretty much close to the \$52.3 million.

Senator CONROY—That is a fairly extraordinary thing.

Ms McNally—Well, on current projections—

Senator CONROY—How is that calibrated so closely?

Ms McNally—If we were to go over, it would largely mean that if Telstra make a large number of claims, a large amount would go to Telstra. So what I guess I am saying there is that for the other 31 providers, their claims are at a level that is about 40 per cent of the program at this stage. But that could change over time.

Senator CONROY—And how do you determine them if you get to the end, and let us say there is a 110 per cent subscription so you have a 10 per cent overhang? How do you determine which of those competitors should receive it? Importantly, could you go to Telstra and say, ‘Okay, I know it is a soft cap, but equally you don’t have to receive the full \$31 million. We’re taking \$2 million off you and we’re giving it to the others.’ How do you make those decisions? What is the selection process in that circumstance?

Ms McNally—One of the processes in the program is to notify people as we start to get towards the full expenditure of the program. So there are different points within the program where we actually notify people in terms of where we are up to. So we start letting people know, given that there is a finite amount of money available in one financial year, how we are travelling in the program. So they get to develop their business case with an understanding of—

Senator CONROY—Now I understand how it is calibrated to come in so closely. Again, because of Telstra's sheer size they are going to have an advantage in playing this game—in maximising and lining up. Do they know from the start their cap is \$31 million, or have you only recently told them it can only be \$31 million?

Ms McNally—The guidelines state that the cap is at 60 per cent.

Senator CONROY—But it is described as a soft cap.

Ms McNally—They have contacted us in the last few weeks asking us what our plans were in terms of letting them go over the cap. We said, 'At this stage we are keeping to the guidelines where the cap will remain on any provider that reaches it.'

Senator LUNDY—Were they lobbying you to let them go over the cap?

Ms McNally—I beg your pardon.

Senator LUNDY—Were Telstra lobbying the department to let them go over the cap?

Ms McNally—No. Their correspondence simply asked our advice.

Senator CONROY—As I said, I am now beginning to understand how the calibration works to ensure that it comes in basically on target. I am not sure it leads to a necessarily fair allocation process, but I understand the calibration process. That is probably all the questions I have on that.

Senator LUNDY—With respect to the demand register on the department's web site, my reading of the map shows that it is currently updated to January this year, 21 January 2005.

Ms McNally—The map?

Senator LUNDY—Yes.

Ms McNally—In terms of HiBIS eligible areas?

Senator LUNDY—The HiBIS demand register. So the numbers of people who have registered demand in each local government area.

Ms McNally—I will have to look at that. It should be updated more often than that. My figures that I have here show a more recent update than that. So I would have to go and have a look. One of the requirements of the program is to provide information on that demand register to register providers. So it would be updated in terms of information made available to the actual registered providers in terms of the public information. I would have to check that.

Senator LUNDY—I managed to get into it without having a password and it seems to have maps dating back to January. Can punters express their interest and then go and have a look at the map to see how many people have registered in their area?

Mr Bryant—I think the map is a publicly available document. What registered HiBIS providers can see is the details of customers so they can actively market HiBIS services to individual customers. That is through the HiBIS online database.

Senator LUNDY—So with respect to the map, shouldn't you be updating it more than every five months?

Ms McNally—We should be updating it regularly, so I would have to go and check that. But the providers' information is updated on a regular basis in terms of the other public map. I would need to check that.

Senator LUNDY—How can you demonstrate that? I cannot see because I do not have a password.

Ms H Williams—Could we check that for you? It does seem odd if it has not been updated for that length of time. So could we check that and get back to you.

Senator LUNDY—I was just looking at it on the computer. I have not looked at it for so long. It would not be a cached copy. It is pretty shabby. You spent millions of dollars on this web site, didn't you? How many million? It was \$5 million.

Ms H Williams—I do not think whether we have updated the map sort of really impacts on that. But we will look.

Senator LUNDY—I thought you would say the map was the expensive bit. It would not want to be. The point is it is not much help to people who are using the government's broadband register to go into a map that does not have up-to-date information. On the map, some of the local government areas show the demand is registered as well over 100, which is denoted as a red area. Does that mean that that local government area would have been a recipient of a HiBIS grant? How would we know from this map data what action has taken place in that local government area?

Ms McNally—The maps have not been designed to provide information about what activity has taken place in a local government area. They have really just been designed to look at eligibility.

Senator LUNDY—So it is only useful for people to register their interest? They do not get any feedback from it?

Ms McNally—At this stage, that is correct.

Senator LUNDY—I have asked this before. What is the interaction now between the HiBIS demand register and Telstra's broadband register?

Ms McNally—In terms of?

Senator LUNDY—Cross-referencing information and, in particular, sourcing any of the mapping data.

Ms McNally—I am not clear what you mean in terms of sourcing the mapping data.

Senator LUNDY—I understand that you get some of the information needed to establish these maps from Telstra.

Ms McNally—That is correct.

Senator LUNDY—So is that an ongoing process of ensuring—

Ms McNally—Telstra provides us with different sorts of data at different intervals in time.

Mr Cheah—The other point is that at the beginning of the program we needed to know which were the eligible areas. That depended a bit on what the ADSL reach of exchanges were and some estimate of where ISDN reach was. So that was the data provided. That data was pretty much locked in place at the beginning of the program. So in a sense that Telstra data is really what we needed to kick the program off. We would not have really had, I think, a lot more use of Telstra data to update our maps since then. As Ms McNally said, the main data which is being demonstrated is demand by people who are on our register at the moment.

Senator LUNDY—So it was a one-off. Thank you. I am just looking at the map again on the web site. It is the HiBIS demand register by local government area to 21 January 2005. When I see the registered interest being between 50 to 100 people in an area on the HiBIS demand register, what activity does that prompt? Does the department use that information to say to providers, ‘What are you doing in this area? Why hasn’t anyone serviced this need?’, or is it entirely up to registered service providers under the scheme to come to this web site and use that information as they wish?

Ms McNally—It is up to the registered providers to go to the web site and use the information.

Senator LUNDY—Hence there is a certain area in the north-east of Victoria, around Barnawartha and Rutherglen, that is still red. It was red last time I looked at the map. Does that mean there are no commercial providers out there interested in serving that demand?

Ms McNally—It means that there is still a level of demand out there.

Mr Cheah—There is one other issue too. Another program which we are also funding is the demand aggregation brokers scheme. The demand aggregation brokers also can get access to this information. They are also able to get in there in a local area and see whether there are any providers who can make a contribution. One of their jobs is to try to bring together communities of demand in an area with potential suppliers who might be interested.

Senator LUNDY—I suppose I need to work on the basis that this is the same map that I was looking at in February, for a start. That is a problem. So we do not know if there has been any activity that has resolved this issue, because there are quite a few red spots on the map. This tells me that the market is not responding as well as one would have thought, given they can access a subsidy to service this demand. Is that a fair comment? Are you concerned about it?

Ms McNally—I do not think that you could make that assumption. The information that goes out to providers in terms of demand is not the information that is made publicly available on that web site. So I think what you are seeing is the situation in January. It has not been publicly updated. But the information that goes out to providers is regularly updated. They get information down to the level of a person’s name and contact details so they can actually follow them up.

Mr Bryant—I understand that it is not just that map that you have in front of you that enables customers to connect with HiBIS providers. There is another map on the site, I think,

that allows you to go in and put in your address and your location. It will give you a list of HiBIS providers able to provide you with a service. So it is not just providing—

Senator LUNDY—This is the ‘I am eligible for HiBIS’ one?

Mr Bryant—It may well be.

Senator LUNDY—It is a two-step process. Step one is finding your location. Step two is searching by postcode. You can check your location’s eligibility. Can you take me to the map that the service providers can access. Do you have a little password you could give me on a piece of paper so we can have an updated version of the map? It really makes it difficult for me to ask questions when I am not dealing with up-to-date information.

Ms McNally—The information that is provided to providers is provided as part of their contract arrangements. It is considered to be confidential information in that it has individuals’ details. So that information is not accessible.

Senator LUNDY—I do not want that information. I just want to see an up-to-date map. Can you find out from someone if it is possible for me to view an up-to-date map so I can ask questions about accurate information and not information dated back to January.

Ms McNally—I could take that on notice.

Senator LUNDY—Well, that is not much help tonight. Can you find out from someone in the department so I can have a look at it now.

Ms McNally—I do not think there would be anyone at the department at this time of night.

Senator LUNDY—Does anyone at the table know how this web site functions?

Ms McNally—In terms of?

Senator LUNDY—Of how to access an up-to-date web site.

Ms McNally—Well, that is the up-to-date web site in terms of the publicly available information.

Senator LUNDY—Sorry, an up-to-date map on the web site. No?

Ms McNally—That is the latest information that has been published on the web site that is publicly available.

Senator LUNDY—But you have told me that there is more up-to-date information that is available to service providers. What I would like to be able to access in order to ask the department questions is what the accurate demand register looks like. I want to see what the numbers are in that local government area which shows in January 193 people wanted access to broadband and were not getting it.

Ms McNally—We could not access that information from here at this point in time unless we actually had that access information, which I do not have with me.

Mr Cheah—I think the up-to-date information the providers can get is actually the database of the names and addresses and postcodes.

Senator LUNDY—So there isn’t a map that shows the up-to-date numbers?

Mr Cheah—No. Ms McNally is right in saying that the maps that you have that are there—

Senator LUNDY—Are the only maps?

Mr Cheah—are the maps which the providers have as well.

Senator LUNDY—I do not want the individual information. I just want the numbers for these areas.

Mr Cheah—From the providers' point of view, what they will want to do is probably go into a postcode and say, 'We want everyone in this postcode. Give me a list of all the names and addresses of everyone there so I can go and market to these people', and that is what they can easily do.

Senator LUNDY—No, I understand, Mr Cheah. Is it likely that any of those service providers would look at this map, which is very visual, very graphic, and think these are the accurate numbers and not drill deeper and go into the password protected area to get the details?

Mr Cheah—I think it would be very likely that they would in fact go in. If you are a provider with some kind of regional specialisation, you would definitely go in and probably put in all the postcodes in the areas where you are planning to provide a service. You would be probably fairly foolish not to do that from just a marketing point of view because you have the readymade customers who have already expressed an interest at that point.

Senator LUNDY—So we now know this is the only visual map. I will describe it. It is a map with all of the geographic areas with boundaries with numbers sitting inside them denoting, I presume, the number of people who have registered an interest for HiBIS in those areas. So you do not think that the registered providers under HiBIS would look at this map and use that as their sort of starting point information? Can you guarantee that is not happening?

Mr Cheah—I could not guarantee that, no.

Senator LUNDY—It is pretty misleading.

Mr Cheah—Some providers would use the map. I think we have already undertaken to check the availability. I think the secretary has already made the point that if in fact the maps are out of date, yes, that needs to be rectified and we will do that.

Senator LUNDY—Who is responsible for updating the maps?

Ms McNally—My branch is responsible for updating the maps.

Senator LUNDY—Have you got a contractor doing it or is it an in-house thing?

Ms McNally—It is in-house.

Senator LUNDY—It is a bit strange, then, isn't it?

Ms McNally—One of the things we have been focusing on is making sure the providers have the right information. So we have an online management system that we work with in terms of making sure the providers have the right information. We are maintaining the demand register so that when people do actually get a service they are taken off the register.

When we put the maps up earlier in the year, they were really an indicative sort of general information type service, not really a business type arrangement.

Senator LUNDY—It does not say that, though. It says:

This map displays the number of registrations received coded to local government areas. We plan to update this map periodically.

Oops.

Mr Cheah—That is just service provider registrations, I think.

Senator LUNDY—Sorry?

Mr Cheah—It is the demand register. Sorry.

Senator LUNDY—I am sorry, Mr Cheah. I did not hear you.

Mr Cheah—I am sorry, Senator. I misinterpreted what you were saying. I have just been corrected by Mr Bryant.

Senator LUNDY—It is just not very periodic, I guess. In the answer to question 141, which you have kindly provided the upgraded percentages on as a proportion between the different technologies, were you able to break down those percentages into dollar figures?

Ms McNally—That could be done. I could take that on notice.

Senator LUNDY—Could you do it now?

Ms McNally—I would have to get a calculator.

Senator LUNDY—I have one. Minister, I am sure you have sympathy. This committee waits for many, many months for answers to questions on notice. So if it is possible for someone to do those calculations this evening, that would be helpful. Because you have all the numbers there—

Ms McNally—I would be happy to do the calculations if I had a calculator.

Senator LUNDY—it would be possible to break it down.

Mr Cheah—The numbers we brought along tonight were in fact the same ones that were on the question on notice in the same format, so that is the reason why we put it in that format.

Senator LUNDY—This is a subsequent one to just get the dollar figures underneath those proportions. I am not accusing you of not answering my question properly. Telstra said that they had approached the department and sought advice about the future of HiBIS and that they saw the potential for it and the demand to go beyond the funding that was allocated. The review of HiBIS has been brought forward. Is that correct?

Ms H Williams—It is only the beginning.

Ms Holthuyzen—The review has not been brought forward. It is actually a mid-term review that was currently held.

Senator LUNDY—What is the current thinking around the future of this program? Is it still going to just close off?

Ms Holthuyzen—Those issues are being considered in the review. We will obviously advise—

Ms H Williams—We are assessing the program in the review. That is a decision for government once we have given them the information.

Senator LUNDY—The annual allocation for 2005-06 is \$34.897 million. Is that correct?

Ms Holthuyzen—For 2005-06?

Senator LUNDY—It is 2005-06. I think in the original budget forward years expenditure it is \$34.897 million.

Ms Holthuyzen—Yes, that is correct.

Senator LUNDY—Is it still on track to be that number precisely for this current financial year?

Ms Holthuyzen—Those numbers have not changed because the review is obviously being undertaken.

Senator LUNDY—So you are not expecting that number to change?

Ms Holthuyzen—That is the number.

Ms H Williams—That is the number we have been given at this stage.

Senator LUNDY—So that means that the final year of the program—next financial year—is still at \$17.447 million?

Ms H Williams—Yes. That is right.

Senator LUNDY—Can you provide the committee with details, if you have not already, on the recipients of CCIF grants.

Dr Badger—Can you just repeat the question.

Senator LUNDY—The names of the recipients of CCIF grants.

Dr Badger—I have press releases here that go through all the grant recipients for the two rounds. Would you like me to table the press releases or read them to you?

Senator LUNDY—They have all the recipients listed?

Dr Badger—Yes.

Senator LUNDY—If you could table them, that would be excellent. CCIF was allocated \$8.471 million for this financial year. Is that likely to be fully expended?

Dr Badger—I expect so. On the figures I have, the number is \$11.83 million for 2005-06 for CCIF.

Senator LUNDY—It is \$11.83 million, did you say?

Dr Badger—Yes.

Senator LUNDY—That has changed from the original forward years.

Dr Badger—I shall look at the reconciled figures.

Senator LUNDY—Could that represent an underspend in 2003-04?

Dr Badger—I presume there has been a rephrasing. If you are talking about the ones from the original budget numbers—

Senator LUNDY—Yes.

Dr Badger—I presume what has happened is a rephrasing between the two years, yes.

Senator LUNDY—So how many recipients have there been?

Dr Badger—There were 7 and 6. I think that is right. The press release with the second number on it has just left me, but I think it is six. It is seven and six, yes.

Senator LUNDY—I will just wait for the paperwork. While we are waiting for it, in the 2004-05 year for the demand aggregation program, are you likely to reach the target expenditure of \$3,151,000?

Dr Badger—I expect expenditure to be slightly less.

Senator LUNDY—And how many recipients of the demand aggregation fund have there been?

Dr Badger—Two national aggregation brokers have been announced and one group of 13 of the community based ones have been announced. There is a further group to be announced.

Senator LUNDY—How do you select the brokers under the demand aggregation program?

Dr Badger—There are proposals put into the program and there is an assessment made. There is a set of selection criteria. Judgment is made against the selection criteria by officers within the department. I will have to take the details on notice because I do not have them with me.

Senator LUNDY—That is not very helpful.

Dr Badger—Unfortunately, about six o'clock this afternoon the person who was to be here became quite ill. So that is just unfortunate today.

Senator LUNDY—I think probably the best way for me to approach this is to place some questions on notice.

Dr Badger—Thank you.

Senator LUNDY—Let me get this clear. The demand aggregation program has funded two national demand aggregators?

Dr Badger—Yes. There is a press release.

Senator LUNDY—I am looking at it. It is a bit difficult to decipher. It says 'A network of 24 community broadband brokers will work to bring people in regional areas a choice of broadband' et cetera. I presume that means that is one grant to that network of 24 brokers?

Dr Badger—There is funding for each of the brokers. Each of the community brokers gets an amount of funding. The national brokers who work in education and health get funding associated with their activities.

Senator LUNDY—So the 24 community broadband brokers in the second round joined the 13 announced in the first round?

Dr Badger—I think that is right.

Senator LUNDY—Is that the sort of—

Dr Badger—Sorry, 11 plus 13 gives you 24 in total.

Senator LUNDY—Thank you. Did the government expect that there would be more than that at this point in the program, given we are more than halfway through?

Dr Badger—I do not think so. I think the expectation—and it was a new type of program; we did not have any experience with it in Australia—fits in with what the demand has been.

Senator LUNDY—There was originally \$8.3 million allocated to it. This press release lists a series of broader regions that the demand aggregation brokers operate in. What is the accountability mechanism that the government requires to assess the performance of these broadband brokers?

Dr Badger—Each of the brokers works within an established framework which is oversighted by a combination of ourselves and the states. With regard to the national brokers in health and education, we, in conjunction with the department of education and the department of health, take reports from them on what they are expected to do. We look at the work they have done over the time frame. They are effectively employees of the system.

Senator LUNDY—And the community brokers are the same? They are effectively employees of the department?

Dr Badger—I would need to look at the differences between them.

Senator LUNDY—And how do the broadband brokers operate with respect to, for example, companies who are registered HiBIS service providers? What is the crossover between the various incentive schemes?

Dr Badger—The role of the brokers is to work with the companies and the consumers to put together, if you like, a case for the rolling out of services in that particular area to acquaint people who may be interested in delivering services with the demand that has been available. I presume they use all the information that is available either on our web sites or whatever to come up with a case for saying—

Senator LUNDY—They are not a service provider, so they could not get the up-to-date information? They would not get the commercially sensitive information?

Ms McNally—The demand aggregation broker can get that information.

Senator LUNDY—They do?

Ms McNally—We wrote to all the—

Senator LUNDY—That is lucky. So at least they are up to date.

Ms McNally—As part of the process of putting your details on there, you agree to have that information available to demand aggregation brokers.

Senator LUNDY—So is the link between the demand aggregation brokers and HiBIS registered service providers quite close?

Ms McNally—We held a forum recently. We invited the demand aggregation brokers to attend as well as HiBIS providers. There was a lot of interaction at that forum. That relationship is developing, I guess.

Senator LUNDY—So is the way the programs are operating that the demand aggregation brokers go out into a community and identify all the potential customers and present that in a commercially appealing way to competing service providers with the aim of trying to get broadband sooner rather than later? Is that the concept?

Dr Badger—That is the basic concept, yes.

Senator LUNDY—Are you able to make any observations to date, seeing a reasonable proportion has been expended, that HiBIS's role in the demand aggregation program is quite critical in generating that commercial interest in areas where they are operating?

Ms McNally—The feedback from the demand aggregation brokers is that it is a highly successful program in that there are now a lot of providers out there that they actually can liaise with. So we are receiving positive feedback.

Senator LUNDY—Because of the HiBIS subsidy?

Ms McNally—That is correct.

Mr Cheah—I think it is both. Not only do the brokers get to see where some of the demand is actually located and it gives them some material to work with on the demand side but also, because you are getting all these registered providers coming along, they get to see what the market looks like. They can sort of do a bit of the interfacing between the two of them. As Dr Badger was saying before, they can bring to the attention of some of the providers who might be interested where the demand is. The other thing they can do is that if they see demand in an area they can encourage local interest. If they can get a local provider up and running maybe with a wireless service or something in their local area, they can get them to register as a HiBIS provider.

Mr Bryant—I think the interaction is not just between the demand aggregation brokers and the kind of residential and very small business customers under HiBIS. In our initial regional visits to talk about the HiBIS program, one of the things that really came out was that there are a lot of people at the larger organisational level—local government in particular—who wanted to talk to potential HiBIS providers about the opportunities to build on their business case through the provision of business from local government and the larger organisations. I think that kind of interaction is important as well.

Dr Badger—The program is based on a number of things. One of the parallels is the demand aggregation program that BT used in the UK for commercial purposes. In that case, there was not any subsidy involved.

Senator LUNDY—It makes good commercial sense. That is why I am interested in the impact of the presence of a subsidy program in conjunction with the demand aggregation program and whether or not it was drawing all the focus of the demand aggregators towards HiBIS subsidised areas.

Mr Cheah—It is actually a bit more complex than that as well. In some of the other programs, the CCIF funding has in fact sometimes stimulated some demand in a regional area

with some base clients. What happens is that some of the outlying centres get interested in broadband and the demand aggregation broker can get in there and actually sometimes help engineer some solutions at various different levels with solutions that might be appropriate in different ways. Certainly ATAC had a regional conference last week. Quite a few of the regional demand aggregation brokers got up and were talking about some of their experiences and doing exactly that at the ATAC forum.

Senator LUNDY—Perhaps we could just develop this a little further and you could explain to the committee the role of the CCI fund in the mix as well. Could you outline what those funds are being used for and the number of recipients et cetera. I think that press release was coming.

Dr Badger—The idea behind the CCIF program is to drive out broadband infrastructure. It is oriented towards infrastructure that is associated with the delivery of health, education and other government services. So the projects that have been proposed fall in that general sphere. You can see from the projects that have been funded already that there is a range of health, education and other services. The identified driver is the service. But, in delivering those types of innovative services, broadband services are required. Associated with putting those broadband services is infrastructure. In particular areas, there will now be access to broadband that there was not before in the basic infrastructure. That provides the fundamentals either for interacting with the people who provide HiBIS services, and a subsidy based on their individual customers, or for the brokers to work with that additional infrastructure to provide a case for other commercial operators.

Senator LUNDY—So what sort of entities are applying and being awarded CCIF grants?

Dr Badger—It is a combination of state governments, local governments and private providers. They tend to be groupings of the service providers in education and health. They will have some form of infrastructure provider associated with them. There are some providers of technology associated with some of the projects. If the broadband service involves a wireless delivery, obviously there is a wireless technology company involved.

Senator LUNDY—Were you going to get me a press release on the CCIF funding grants?

Dr Badger—I think you have them.

Senator LUNDY—I have the one on the second round community based broadband demand aggregation broker program.

Dr Badger—They were released with the second round broadband projects funded under the Coordinated Communications Infrastructure Fund.

Senator LUNDY—No, I don't have it.

Dr Badger—I think we have what is commonly called a communication problem..

Senator Coonan—Excuse me, Senator Lundy. Could we possibly have a short break? I think we were due one about 8.45 pm.

Senator LUNDY—Sure. We will get these press releases sorted out. That is a good idea.

Proceedings suspended from 9.11 pm to 9.25 pm

Senator LUNDY—We have found the mystery press release.

Dr Badger—They were here.

Senator LUNDY—They were there all the time.

Dr Badger—Well, they just had difficulty getting from my table to yours.

Senator LUNDY—It is what I need to refer to. Before I do, can I say—this is picking on the department again for their shoddy web site—after typing ‘CCIF’ into the search mechanism on the DCITA web site I got one hit from the National Broadband Strategy document. Not least because CCIF is mentioned at least 24 times in these press releases alone, one would have expected to get a hit for the press release on the web site search mechanism. So perhaps that is one for the staff from Corporate who are listening in the ether. I continually find this web site very frustrating and difficult to navigate. It is not intuitive and it does not even turn up search results. I would not have had to hassle you about your press release had I been able to get it.

Dr Badger—I got them from the web site this afternoon.

Senator LUNDY—You are doing better than me. But that is exactly the point. It is a sad reflection that only you can navigate the web site, Dr Badger, and not anybody else.

Dr Badger—I do not think that is true. I would not have been able to find the maps.

Senator LUNDY—The maps? You would not have had the password. You are not a commercial provider. I would have got an old map like everybody else. Anyway I cannot help but comment on the state of the web site. So let us go to the CCIF funding. Obviously a series of grants has been made to infrastructure projects. What is the interconnection between the CCIF funding grants and the functions and operations of the demand aggregators? Any takers?

Dr Badger—I thought that is what we discussed a moment ago.

Senator LUNDY—We did except I did not have the actual CCIF grants in front of me to refer to. What I am keen to know is which of the demand aggregators that you funded has facilitated which CCIF projects.

Dr Badger—No. The job of the demand aggregators is not to facilitate the CCIF projects.

Senator LUNDY—But do they get involved?

Dr Badger—No. The CCIF projects are put together by the groups of people who are trying to drive out the education, health and other government services.

Senator LUNDY—So those two demand aggregators?

Dr Badger—There is not a direct link in terms of putting together the projects for CCIF grants and the demand aggregation brokers. For example, I think the first lot of CCIF grants would have been announced and at least planned for before any of the brokers were established. They are each addressing different parts of the problem or the issue. The CCIF program is essentially about using high bandwidth capacity in the delivery of particularly government services. So the people who put together the proposals for those projects are people interested in using bandwidth to deliver services. The aggregation brokers are essentially there to try to understand the community they are involved in, to draw out the elements of demand for broadband, to find out who is supplying and what sort of broadband

services these people supply and to try to draw the two together, essentially—consumers and sellers.

The demand aggregation brokers who work in health and education do those sort of things on a national level, particularly in trying to get together with health service suppliers or education service suppliers or education institutions who may find by cooperating they would be able to get broadband services delivered to them more effectively. The relationship is that in driving out the projects and the services that are associated with the CCIF projects you have more infrastructure out there. If you have more infrastructure, more services, there are more ways by which the demand aggregation brokers—the community ones particularly—can actually find suppliers for services. So it is that link. Then the HiBIS program comes into it by making the delivery of the services economic where they would not be.

Senator LUNDY—How is the infrastructure provider selected once the project has been approved?

Dr Badger—The infrastructure provider is selected by the people who do the bidding, who put together the proposal for the project. We do not say, ‘You will do X, Y and Z.’ It is not unlike other programs where the government says, ‘We will give you money. If you want to provide a particular service, you contract to us to provide the service. We don’t tell you who you are going to buy the infrastructure from.’ It is that sort of thing.

Senator LUNDY—So how do you monitor whether or not there is a competitive tension applying to that process of selecting the infrastructure provider within that CCIF grant?

Dr Badger—It is not what drives the design of the program. The people who put the projects together have to put a case together and they put their own money in. The people come to the table with their own resources as well. So in putting together their case, they make judgments about who would best provide the services or the infrastructure to meet their particular requirements. There is a series of criteria in the program, but they are essentially about the ability to deliver the service. They do not go to the particular environment in which the people choose their own service provider.

Senator LUNDY—So would the infrastructure provider—presumably some sort of carrier—be a part of the partnership that applies for the grant, like Networking the Nation was?

Dr Badger—I think that varies from project to project. I would have to have a look at all the projects. In some cases, I think there have been projects that have been proposed and the proponent has been a telco. The proponent in some has actually been a provider of technology. In some of the others, they have simply been, if you like, contracted to the group that is doing the proposing.

Senator LUNDY—So whose asset does the infrastructure become?

Dr Badger—The group that contracts to provide the service. There is a deed between the Commonwealth and the people who get the grant. That is usually a combination of groups.

Senator LUNDY—So you require them to have a company limited by guarantee to manage that asset?

Dr Badger—No, I do not think so. I would have to check on that, but my understanding is not. There are state governments involved in some of the projects.

Senator LUNDY—You can see where I am going. For infrastructure funding to be provided in this way, that becomes the asset of some entity.

Dr Badger—Yes. The driver of the program is the service delivery. According to the nature of this program, the original design was about service delivery. It was not predominantly about the development of infrastructure, nor was it about who owned the infrastructure. It was about coming up with projects related to services.

Senator LUNDY—I know. But these are practical—

Dr Badger—I agree with you that somebody will own the infrastructure at the end of the day, yes.

Senator LUNDY—Can you take on notice and indicate who the legal owner of the infrastructure that has been built under all of the CCIF projects is.

Dr Badger—Of each of the projects? I will do whatever I can, yes. I will provide what information we have.

Senator LUNDY—And the terms and conditions that would apply to that infrastructure in the context of a competitive framework and the interconnection policies of the government's rules and regulations.

Dr Badger—It is quite possible in the projects that the people who apply for the grant actually do not own the infrastructure. They would buy a service off an infrastructure provider.

Senator LUNDY—That was built using taxpayers' money.

Dr Badger—Not necessarily. If you are going to deliver an education service using broadband, what you want is a broadband capacity. You do not necessarily want a pipe. You do not need to build a pipe. You do not need to necessarily put out new infrastructure.

Senator LUNDY—I understand what you are saying, but these projects are about pipes. A fibre-optic cable backbone running from the Charles Darwin University in Alice Springs is a long-term project involving pipe.

Dr Badger—It has come back to the same issue. I will provide the information that we have about the structure of the projects as they relate to infrastructure, whether the infrastructure is involved in the project or whether they are simply providing a capacity.

Senator LUNDY—It is a complicated issue, I think. One here is a last mile infrastructure project that will bring broadband to 16 towns in Far North Queensland. That is something they will be very pleased to receive. But there are so many complicated rules about access applying to last mile for existing telecommunications carriers. Are the terms and conditions of this new infrastructure the same? Who administers and manages that from the corporate or commercial perspective? They are complicated issues but ones that really do need addressing.

Dr Badger—The general rules relating to the regulatory environment certainly apply. So whatever is happening happens with that environment. But I think the best thing I can do is give you more information about the relationship between the infrastructure and the projects.

Senator LUNDY—And the ownership and management, liabilities, all of the issues of that infrastructure. Because we do not know what the answer is, I am particularly interested if that asset becomes the property of the carriers that build it and what the return to the taxpayer, if you like, or the government is from helping those commercial entities create new assets on the public purse. So we will find out. That is on track, based on the original out years expenditure of the CCIF fund?

Dr Badger—Based on those revised figures I gave you earlier. It was a move between the first and second year, I think.

Senator LUNDY—In the broader group of programs administered by this part of the department—I think they are listed in the PBS under the administered expenses—a great number are due to finish at the end of this financial year. I would like to work through each of them in the context of any underspends or funding available perhaps being identified for rephasing or the specific amounts that are anticipated to go back into consolidated revenue. Perhaps we should start with BARN.

Dr Badger—There was a decision taken in the context of the funding of the National Broadband Strategy that unspent BARN funds would be allocated to the elements of the National Broadband Strategy.

Senator LUNDY—And how much of the unspent elements of BARN were allocated? I think I have been through this before, but you may as well tell me the numbers again.

Dr Badger—It is \$35 million.

Senator LUNDY—For 2004-05 I have \$7.41 million to be expended in that financial year. That did not include the \$35 million that was reallocated into the National Broadband Strategy. Will there be any remaining funding in the BARN account at close of business on 30 June this year?

Ms Grosvenor—We have sought and been given a rephasing of \$4.25 million.

Senator LUNDY—It is \$4.25 million?

Ms Grosvenor—That will be taken through to the next financial year. There may be some small amounts of underspends from other projects, but at the moment we are not sure exactly what they will be. They will be very small amounts.

Senator LUNDY—Within the BARN program?

Ms Grosvenor—Within the BARN program. We will not know that until we have received the final reports and acquittals. At 30 June we will be able to see where everything is up to at that date. We expect that a couple of the projects under that program will report small underspends. But I just cannot give you a figure on that at the moment.

Senator LUNDY—So it is \$7.41 million for this current financial year. An amount of \$4.25 million of that is being rephased, leaving \$3.15 million or \$3.16 million in the fund.

Ms Grosvenor—Most of which has been spent.

Senator LUNDY—Most of which has been spent. But you think there might be, what, a couple of hundred thousand underspend?

Ms Grosvenor—I really could not give you a figure just at the moment.

Senator LUNDY—And is the technical requirement that if there is any money remaining in that account it does return to consolidated revenue?

Ms Grosvenor—We can apply to the Minister for Finance and Administration for a carryover to continue further spending of that money under that program in the financial year.

Senator LUNDY—But that is what you have done with the \$4.25 million, isn't it?

Ms Grosvenor—It is actually different. Rephasing is a different process, but it is approved by the minister for finance.

Senator LUNDY—And what is the purpose of rephasing \$4.2 million? Is that just straight up in anticipation of the underspend or are you planning another round of BARN style funding to use that up?

Ms Grosvenor—No. That particular money is money that is underspent from the Outback Digital Network project, which was a very large project.

Senator LUNDY—So one particular program was funded under BARN?

Ms Grosvenor—Yes.

Senator LUNDY—And you are able to identify that underspend?

Ms Grosvenor—That has not proceeded to this point as we expected it would.

Senator LUNDY—What was it called—the Outback Digital Network?

Ms McNally—That is correct.

Senator LUNDY—Why didn't it proceed?

Ms McNally—The Outback Digital Network was a project that was awarded for the building of five bearers in the Northern Territory and the northern tip of Western Australia. Outback Digital Network advised us part way through the project that they would only be able to complete two of the bearers that they were proposing to build. We renegotiated the contract on that basis.

Senator LUNDY—So can you tell me which communities thought they were going to get that service and now are not?

Ms McNally—I would have to take that on notice.

Senator LUNDY—So what did two out of the five get?

Ms McNally—They are called bearers.

Senator LUNDY—What is that?

Ms McNally—It is a piece of telecommunications infrastructure like a tower.

Senator LUNDY—To provide wireless services?

Ms McNally—That is correct.

Senator LUNDY—Or mobile phone services?

Mr Bryant—And call-back.

Senator LUNDY—So are you going to try and spend the \$4.25 million on providing those bearers for those remaining three communities?

Ms McNally—I understand discussions are taking place at this stage with the Northern Territory government to look at what would be the best use of that funding.

Senator LUNDY—And what is your expectation?

Ms McNally—I think one of the communities that was supposed to be targeted was Wadeye. That community is under discussion for the infrastructure services it currently receives and its needs. So we are trying to align the further expenditure as closely as possible to where the original expenditure was proposed.

Senator LUNDY—Why did that project collapse part way through?

Ms McNally—That related to the organisation's capacity to actually deliver the actual infrastructure within the time frame and some of the arrangements they had with their provider.

Senator LUNDY—Who was their provider?

Ms McNally—NDC.

Senator LUNDY—That is Telstra's contractor, isn't it?

Ms McNally—That is correct. It is an arm of Telstra.

Senator LUNDY—So what is your understanding of the problem they had with NDC?

Ms McNally—I think the problem related to some issues about a whole lot of things that have to take place in rolling out that infrastructure. There are land clearances, native title issues and things at a community level. There is the capacity of the organisation to project manage that level of work. So there is a whole range of factors that meant they took a decision that they felt was in their best interests to at least complete two and to forgo the other three.

Senator LUNDY—And what recourse does the government have with respect to the group that applied for that funding and their failure to deliver?

Ms McNally—To not pay out the funds that would be required for that portion of the project.

Senator LUNDY—Was that something that the department imposed, if you like, as a penalty or was it something that NDC came to you and said, 'We can't do it; here's the money back'? What happened?

Ms McNally—The organisation, the Outback Digital Network, came to us and said they could not deliver on those three bearers. So we asked them what the costs would be for delivering on only two. We negotiated around those costs. They then proposed that the remaining \$5 million be spent on other purposes, but that was not within the scope of the original project, so it was not approved. So that money has not been paid out.

Senator LUNDY—And hence it is rephrasing?

Ms McNally—That is correct.

Senator LUNDY—So why was the project approved in the first place?

Ms McNally—It was assessed against the Networking the Nation guidelines. So it was approved by the Networking the Nation board against the guidelines of that program. So it would have met the guidelines of that particular program.

Senator LUNDY—So why was it coming out of BARN funding if it was assessed in the Networking the Nation fund?

Ms Holthuyzen—BARN funding was administered by the NTN board.

Senator LUNDY—What about the local government fund? That ends this financial year as well.

Ms Grosvenor—Similarly, there may be a couple of projects which do not fully expend all of their funds in this financial year. Again, we are not in a position to be able to tell you exactly what they are until after 30 June when we find out. But most of them are on track and we are getting in a lot of the final reports.

Senator LUNDY—Has there been any rephasing of the remaining funding?

Ms Grosvenor—No. Any amounts that are unexpended would be quite small, I think, under this one at this stage.

Senator LUNDY—The regional mobile phones fund for 2004-05 had \$4.280 million allocated. That is due to end on 30 June.

Ms Grosvenor—Yes. We are anticipating that that will wind up. There are just a couple of outstanding towns where we are still waiting. It is a bit of a fine balance with Telstra at the moment to see whether all of the towers will be built.

Senator LUNDY—What do you mean by that? Are they not fulfilling their obligations?

Ms Grosvenor—No. It is more that there have been delays in getting council approvals for building or other approvals for building on a very, very small number of sites. But we have been in very close discussions with Telstra and we anticipate that pretty much all of them are still working to a tight deadline to get things finished in time so that we can make the payments before 30 June.

Senator LUNDY—The end of the financial year?

Ms Grosvenor—Yes.

Senator LUNDY—And, if you do make those payments before the end of the financial year, will that leave any funds in that account?

Ms Grosvenor—No.

Senator LUNDY—So there will not be any rephasing or anything?

Ms Grosvenor—If all the sites that are planned are built in that time, then there will be none left over.

Senator LUNDY—How optimistic are you?

Ms Grosvenor—Fairly; fairly.

Senator LUNDY—Fifty-fifty?

Ms Grosvenor—More than fifty-fifty.

Senator LUNDY—If they do not make it in time, what opportunity will you have to preserve that funding to allow those projects to proceed?

Ms Grosvenor—Again, it would be a matter of applying to the minister for finance for carryover of that funding to complete those particular projects.

Senator LUNDY—So it is a waiting game. You cannot apply before you know?

Ms Grosvenor—No.

Senator LUNDY—What sort of amount are we talking about? Are we talking about \$2 million or \$500,000?

Ms Grosvenor—It would be at the maximum a couple of hundred thousand dollars.

Senator LUNDY—The program for mobile phone coverage for towns with more than 500 people again ends this year. This is another one of the TSI response programs. An amount of \$4.483 million was due to be expended in 2004-05. Is that one on track?

Ms Grosvenor—Actually, that one is in a similar situation.

Senator LUNDY—Are you dealing with Telstra again?

Ms Grosvenor—Yes.

Senator LUNDY—They make it hard.

Ms Grosvenor—Yes.

Senator LUNDY—They get all this money from government and they cannot even deliver. It must be pretty disappointing.

Ms Grosvenor—I must say, in all fairness, Telstra has been working very hard to try and fulfil their side of the contract.

Senator LUNDY—Spend all that taxpayers' money. It must be very stressful for them.

Ms Grosvenor—It is stressful for them if they think that they might start construction of some sites and possibly not get paid if they do not finish them by 30 June.

Senator LUNDY—Yes, I can imagine. It would not cross their mind to expend some of their profits on building improved infrastructure. I suppose we should feel for them in their stress. How much money are we talking about? Is it the same sort of ballpark figure—a few hundred thousand dollars?

Ms Grosvenor—Similar, yes.

Senator LUNDY—So it could end up being a bureaucratic nightmare of applying to the minister for finance to get those last towers fixed up.

Ms Grosvenor—We are used to that.

Senator LUNDY—You are used to that. Telstra have got you trained to have low expectations.

Ms Grosvenor—I did not mean just Telstra projects. I mean in general—we are bureaucrats and that is what we do.

Senator LUNDY—Good answer. So you are on track for closing that one off as well?

Ms Grosvenor—Yes.

Senator LUNDY—The National Communication Fund is finishing again?

Ms Grosvenor—I will have to find the exact amount. We have rephased \$6.13 million to 2005-06 for the completion of two outstanding projects.

Senator LUNDY—And which projects are they?

Ms Grosvenor—They are the outbacknet@qld project, which is a project run by the Queensland government, and the regional network delivering educational services with the South Australian government.

Senator LUNDY—What are they worth respectively?

Ms Grosvenor—The Australian government has provided \$8 million in total for outbacknet. For RegNet, which is the South Australian one, it has provided \$6 million.

Senator LUNDY—So there is obviously some residual proportion of both of those in that \$6.13 million?

Ms Grosvenor—That is correct. Both projects suffered fairly extensive delays at the commencement, both in terms of finding suitable network suppliers and contractors. They have now started rollout. We are very happy that they are back on track and very happy that the projects will be completed as originally envisaged within the coming financial year.

Senator LUNDY—For consumer representation, my figures show it ends next year in 2005-06.

Ms Grosvenor—That is not me.

Mr Bryant—That is one of mine.

Senator LUNDY—That is one of yours, Mr Bryant. It ends next year. That is obviously ongoing at least for another financial year. But what are the plans to fund consumer representation following 2005-06?

Mr Bryant—The program will be reviewed. It is a terminating program. Then it is a matter for government as to how it proceeds from there and what happens.

Senator LUNDY—I will follow that up.

Mr Bryant—The funding profile is pretty accurate and it is on target.

Senator LUNDY—I am presuming, unlike the funds I have been discussing, consumer representation is more likely to be something that would be funded in an ongoing way.

Mr Cheah—There is actually provision for it in the act. The way that program is funded is that although it comes out of the budget, the amount is then cost recovered from industry in the following year. So there is actually provision for that in the act. So the government has to make a decision about what it wants to do with the future of the program and the funding levels.

Senator LUNDY—So it is listed as an initiative under the TSI response because the act was amended in the context of that TSI report?

Mr Cheah—It was also going to make quite a few decisions. The TSI extended the funding at the time of the TSI and made some decisions about where it was going to refocus the priorities as well. So several decisions were made about that program at the time the government announced its TSI response.

Mr Bryant—The key element of the refocus was more on regional representation and people with disabilities.

Senator LUNDY—TAPRIC, the Telecommunications Action Plan for Remote Indigenous Communities, is also due to finish at the end of this financial year. Is that one on track?

Ms McNally—We have sought rephasing for \$3 million for 2005-06. That was approved.

Senator LUNDY—And what is that for?

Ms McNally—That relates to the provision of community phones under the program.

Senator LUNDY—The 2004-05 allocation I had at \$3.104 million, so that is almost all of it. Does that mean there was no money expended in this financial year for that program?

Ms McNally—Some of the funding from the last financial year was actually rephased into 2004-05.

Senator LUNDY—How much of it?

Ms McNally—I think the amount we had overall was about—

Senator LUNDY—Only \$2.3 million was allocated for that year.

Ms McNally—That is correct. So the amount that was rephased came up to \$4.8 million, I think, this financial year. I have not got that data. So the amount we had for 2004-05 was \$4.5 million. We sought rephasing of \$3 million.

Senator LUNDY—So that means that the underspend must have been in the 2003-04 year?

Ms McNally—There has been an underspend in the last couple of years so it has accumulated.

Senator LUNDY—You might spend all the money next year.

Ms McNally—We are hoping so. One of the major barriers in spending the money was on the provision of community phones. When we initially advertised the community phones program we did not have any applicants, which basically demonstrated the complexities in rolling out community phones to remote indigenous communities. We then went out at a later stage and had an expression of interest from Telstra. But they were not immediately successful in receiving support for the community phones initiatives. We had to work through a lot of demand and supply issues. We have actually started the project off on a set of trials. So there are five trials currently taking place. They address issues like credit management. Telstra developed a prepaid card and a prepaid access line.

We have also had to address issues around the robustness of telephones, particularly in terms of weather impact. The Centre for Appropriate Technology has actually now designed a phone which has a robust casing. That has only been completed and been put in place in the last few weeks. We have also put in place what we call some regional agents. So in six regions

we have identified regional agents to actually go out and be essentially a broker between the telecommunications provider and the communities to negotiate the actual sites that phones should be located and look at things like how to actually put in an application form and how to negotiate with providers. There have been a number of elements we have had to put in place to get the whole concept off the ground. That is pretty much where we are up to. At the moment, we are working through the trial initiatives, and what we have learned from those we hope we can take forward with the rephasing money for the next financial year.

Senator LUNDY—Thanks for that explanation. The only other program on my list that concludes in this current financial year is the NTN general fund. What is the status of that fund? I had \$27.979 million allocated in the 2004-05 year. Does that sound right? Anyway, even if that number is not right, I would like to know the status of that fund—that is, if there is any rephasing, if it is likely to have any underspend.

Ms Holthuyzen—The general fund is the regional telecommunications infrastructure account and there is only \$303,000 for 2005-06.

Senator LUNDY—So I take it that it is all spent?

Ms Holthuyzen—Yes, that is right, Senator.

Senator LUNDY—So there is no rephasing?

Ms Grosvenor—No. Certainly no rephasing of that.

Senator LUNDY—So is that how much is in it now or how much was allocated in the 2004-05 year for expenditure?

Ms Grosvenor—I am not sure where you are getting that number from.

Senator LUNDY—Look, my number might be wrong, as I said, but I wanted to know how much money was expended in the 2004-05 year from that fund.

Dr Badger—We will check this.

Ms Grosvenor—It is my understanding it had been concluded by the end of 2003-04.

Senator LUNDY—Going back to the point that I was making about CCIF infrastructure, because a number of these funds have funded the building of new infrastructure, what has been the treatment of those new telecommunications assets in the context of these funds? For example, what about the towers we were discussing that are being built in the remote communities under the BARN fund? Do those towers, which are built using taxpayers' money, become the assets of Telstra?

Ms McNally—The ones relating to ODN have become the assets of Telstra.

Senator LUNDY—And what about the National Communications Fund projects where infrastructure is being built?

Ms Grosvenor—That depends on the individual funding agreement and the terms of each funding agreement.

Dr Badger—It is the same arrangement as we were discussing for the CCIF. It depends on the project: the nature of the project, whether the service is current, what the people that contracted to get the service paid to the service provider and what the service provider did

with that money. If the service provider built communications infrastructure, they would own the assets. It is not unlike getting an R&D grant from the government if you buy a centrifuge or something. It belongs to you under the arrangements for the grant; it does not belong to the Commonwealth. These are not dissimilar to that arrangement.

Senator LUNDY—I take it from that answer it is not the policy of the government to ensure that telecommunications assets, such as pipes, towers and whatever, have an open network style requirement on them to ensure there is competitive access at a retail level for the use of that infrastructure. Is there any requirement like that?

Dr Badger—It is the same—

Senator LUNDY—Does it depend on the project?

Dr Badger—Essentially anything that is a piece of telecommunications infrastructure, irrespective of where the funding comes from, is subject to the general regulatory environment. So it just depends on what they are. Because it comes from a grant, it is not a different piece of infrastructure.

Senator LUNDY—So if it is taxpayer funded, it does not attract any special treatment as far as the access regime goes?

Dr Badger—No.

Mr Bryant—In some cases the government has placed conditions on the contract. But that is on a case-by-case basis. For example, in relation to some of the mobile facilities, there has been a requirement to offer roaming on those facilities.

Senator LUNDY—Has the department taken any action with respect to Telstra's seeming difficulty in providing customers with accurate information about the location of pair gains within the network? I do not know who to direct that question to.

Mr Cheah—Can you contextualise that question for us.

Senator LUNDY—Sorry?

Mr Cheah—Can you just repeat the question for us.

Senator LUNDY—Has the department taken any action with Telstra to try and encourage them to provide more accurate information about pair gains in their system?

Mr Cheah—In relation to the RTI recommendation—

Senator LUNDY—It is 4.2.

Ms McNally—Under recommendation 4.2, which relates to dialup speeds of poorly performing pair gains systems, a deed of undertaking was put in place between the Commonwealth and Telstra on 7 July last year. Under that, Telstra undertook to improve poorly performing pair gains systems. Over the six months to December 2004, 297 customers have had their poor dialup Internet speeds addressed by Telstra. So there is ongoing work and there is ongoing reporting to the department on that particular initiative.

Senator LUNDY—And are people still accessing the funding? Originally it was the Internet Assistance Program, but I know that has closed off. Are customers able to access any funding for a program to assist them in improving their dialup speeds?

Mr Bryant—The Internet Assistance Program remains as a licence condition on Telstra in perpetuity. So that is still available to customers.

Senator LUNDY—So are you privy to the numbers of people accessing that particular service, given that Telstra are doing it independently of any public funding?

Mr Bryant—I think I have those numbers on me, if you give me a second. No, we can take that on notice. I do not have them.

Ms Holthuyzen—I think the ACA monitors the program.

Senator LUNDY—The ACA does? I might put that on notice to them. I think that is all I have.

Ms McNally—There is one other thing. You asked for the financial figures in relation to the break-up of satellite, ADSL, wireless and cable. I would like to take that on notice. Although I have done the calculations they are based on the straight percentages. But given that there are different payment incentives within the actual program, it will have a bearing on actually providing you with the correct figures. So if we could take that on notice.

Senator LUNDY—If you could break them down into the higher subsidy and the lower subsidy within each of the categories, that would be good.

Ms McNally—Okay.

CHAIR—I thank you all for being here. This concludes this section of the estimates. I thank the minister and all the officers of the departments, Ms Williams, Hansard and the secretariat.

Committee adjourned at 10.13 pm