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Official Committee Hansard

SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

TUESDAY, 23 MAY 2006

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SENATE

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

Tuesday, 23 May 2006

Members: Senator Eggleston (*Chair*), Senator Lundy (*Deputy Chair*), Senators Patterson, Ronaldson, Siewert and Wortley

Senators in attendance: Senators Adams, Allison, George Campbell, Conroy, Eggleston, Fielding, Fierravanti-Wells, Lundy, Ian Macdonald, Patterson, Ronaldson, Webber and Wortley

Committee met at 9.03 am

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

Consideration resumed from 22 May 2006

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

Legal

Mr Don Markus, General Counsel

Corporate and Business

Mr Frank Nicholas, Chief Operating Officer and Acting Chief General Manager, Corporate and Business Division

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

Ms Cheryl Watson, Acting General Manager, Human Resources and Communications

Mr Tim Cornforth, Manager, Regional Network Management Unit

Finance and Budgets

Ms Jennifer Gale, Chief Financial Officer

Telecommunications

Mr Col Lyons, Chief General Manager, Telecommunications Division

Mr Brenton Thomas, General Manager, Enterprise and Infrastructure Branch

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

Ms Liz Forman, Acting General Manager, Regional Communications Policy Branch

Ms Caroline Greenway, Acting General Manager, International Branch

Mr Jason Ashurst, Manager, International Telecommunication Union Governance and Policy Section, International Branch

Broadcasting

Mr Gordon Neil, General Manager, Licensed Broadcasting

Mr Rohan Buettel, General Manager, Public Broadcasting

Dr Simon Pelling, Acting Chief General Manager, Broadcasting

Ms Trish Barnes, Acting General Manager, Digital Broadcasting and Spectrum Management

Information and Communications Technology

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

Mr Tom Dale, General Manager, Strategic Policy Branch

Information Economy

Mr Keith Besgrove, Chief General Manager, Information Economy Division

Mr James McCormack, General Manager, Access Branch

Mr Ashley Cross, General Manager, Security and Business Environment Branch

Mr Joseph Di Gregorio, Acting General Manager, Strategy Branch

Arts and Sport Division

Mr James Cameron, Chief General Manager, Arts and Sport Division

Mr Peter Young, General Manager, Film and Digital Content

Mr Mark Taylor, General Manager, Arts, Regional and Governance

Ms Lyn Allan, Acting General Manager, Indigenous Arts and Training

Mr Paul McInnes, General Manager, Collections

Ms Kate Cowie, General Manager, Old Parliament House

Mr Andrew Sayers, Director, National Portrait Gallery

Dr Paul Salmond, Acting General Manager, Sport

Ms Jenny Anderson, Acting Chief General Manager, Old Parliament House

Telstra

Mr David Quilty, General Manager, Government Relations

Mr Geoff Nicholson, Director, Business and Financial Services

Mr Denis Mullane, General Manager, Regulatory Operations

Dr Tony Warren, General Manager, Regulatory Affairs

Mr Max Jennings, General Manager, Technology Radio Access Network

Mr Ken Sheargold, Managing Director, Service Advantage

Mr Don Pinel, Regional Managing Director, Telstra Country Wide Queensland

Australia Post

Mr Michael McCloskey, Corporate Secretary

Mr Michael Tenace, Group Financial Controller

Mr Stephen Walter, Group Manager, Corporate Public Affairs

Mr Rod McDonald, Group Manager, Human Resources
Ms Elizabeth Button, Group Manager, Retail Channels and Infrastructure
Mr Don Newman, Manager, Network Infrastructure
Ms Catherine Walsh, Manager, Employee Relations

Australian Communications and Media Authority

Mr Chris Chapman, Chair
Ms Lyn Maddock, Deputy Chair
Ms Nerida O'Loughlin, General Manager, Industry Outputs
Ms Andree Wright, Executive Manager, Codes, Content and Education
Mr James Shaw, General Manager, Strategy, Analysis and Coordination
Mr Giles Tanner, General Manager, Inputs to Industry
Mr John Neil, Executive Manager, Sector Analysis and Report Branch
Mr Marcus Bezzi, General Manager, Legal Services
Ms Dianne Carlos, General Manager, Corporate Services
Mr Darren Hooper, Chief Finance Officer, Corporate Services

Australian Broadcasting Corporation

Mr Murray Green, Acting Managing Director
Mr David Pendleton, Chief Operating Officer
Mr Gary Dawson, Acting Director of Strategy and Communications
Ms Sue Howard, Director, Radio
Mr John Cameron, Director, News and Current Affairs
Mr Kim Dalton, Director Television
Mr Colin Knowles, Director, Technology and Distribution
Mr Steven Alward, Head, Policy and Development, News and Current Affairs

Special Broadcasting Service Corporation

Mr Shaun Brown, Managing Director
Mr Quang Luu, Director Radio
Mr Phil Williams, Acting Head of Policy
Mr Jon Torpy, Chief Financial Officer
Mr Paul Broderick, Chief Technology Officer

Australia Council

Ms Jennifer Bott, Chief Executive Officer
Dr Catherine Brown-Watt, Executive Director, Major Performing Arts Board
Ms Megan Coombs, Executive Director, Corporate Resources

Australia Business Arts Foundation

Ms Kathy Keele, Chief Executive Officer
Ms Joanne Gustin, Company Secretary

Australian Film and Television Radio School

Mr Malcolm Long, Chief Executive Officer

Australia National Maritime Museum

Ms Mary-Louise Williams, Director
Mr Peter Rout, Assistant Director
Ms Joan Miller, Chief Financial Officer

Film Australia Ltd

Ms Daryl Karp, Chief Executive Officer

National Library of Australia

Ms Jan Fullerton, Director General

Mr Gerry Linehan, Assistant Director General, Corporate Services

National Gallery of Australia

Mr Ron Radford AM, Director

Mr Alan Froud, Deputy Director

National Museum of Australia

Mr Craddock Morton, Director

Ms Freda Hanley, General Manager, Content and Collections

Ms Suzy Watson, General Manager, Operations

Mr Jeff Smart, Chief Finance Officer

National Archives of Australia

Mr Ross Gibbs, Director-General

Mr James Barr, Deputy Director-General, National Coordination

Film Finance Corporation

Mr Brian Rosen, Chief Executive Officer

Mr Ross Pearson, Chief Commercial Officer

Australian Film Commission

Ms Kim Ireland, Director, Policy, Research and Communication

Mr Greg Brown, Director, Corporate Services

Australian Sports Commission

Mr Mark Peters, Chief Executive Officer

Mr Brent Espeland, Director, Sport Performance and Development

Professor Peter Fricker, Director, Australian Institute of Sport

Ms Lois Fordham, Director, Corporate Services

Mr Steve Jones, Director, Commercial and Facilities

Australian Sports Anti-Doping Authority

Mr Richard Ings, Chief Executive

CHAIR (Senator Eggleston)—I declare open this estimates hearing. We continue the examination of the Communications, Information Technology and the Arts portfolio today in accordance with the agenda, except that we have some follow-ons from last night in terms of the department and the outputs which were nominated last night to be transferred to this morning.

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

I remind senators and witnesses that the proceedings of the committee are governed by the privilege resolutions of the Senate agreed to in 1998. In particular, resolution 1(9) provides:

A chairman of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a member of a committee requests discussion of a ruling of the chairman on this matter, the committee shall deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted.

Resolution 1(10) provides:

Where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall be invited to state the ground upon which objection to answering the question is taken. Unless the committee determines immediately that the question should not be pressed, the committee shall then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the committee's inquiry and the importance to the inquiry of the information sought by the question. If the committee determines that it requires an answer to the question, the witness shall be informed of that determination and the reasons for the determination, and shall be required to answer the question only in private session unless the committee determines that it is essential to the committee's inquiry that the question be answered in public session. Where a witness declines to answer a question to which a committee has required an answer, the committee shall report the facts to the Senate.

The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings: any question going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings.

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has also resolved that an officer of a department of the Commonwealth or a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

If a witness objects to answering a question, the witness should state the ground upon which the objection is taken, and the committee will determine whether it will insist on an answer, having regard to the ground on which it is claimed. Any claim that it would be contrary to public interest to answer a question must be made by the minister and should be accompanied by a statement setting out the basis for such a claim.

I again welcome Senator the Hon. Helen Coonan, Minister for Communications, Information Technology and the Arts, and the portfolio officers. I ask the minister if she wishes to make an opening statement.

Senator Coonan—Thank you, Mr Chair. I have no opening statement.

[9.09 am]

Australian Communications and Media Authority

CHAIR—I welcome here for the first time the new Chair of the Australian Communications and Media Authority, Mr Chris Chapman. We now open the floor to questions.

Senator CONROY—Do you have an opening statement?

Mr Chapman—I did hope to make a brief opening statement.

CHAIR—Yes, you did advise me of that and I had overlooked it. Please proceed.

Mr Chapman—I thank the committee for the opportunity to make a short statement about the Australian Communications and Media Authority and to provide some general information to introduce myself at this, as has been acknowledged by the chairman, my first appearance. As chairman, I look forward to establishing and maintaining a solid working relationship with your committee. Firstly, I would like to acknowledge the efforts of Lyn Maddock, who is sitting on my left, and Chris Cheah, who is not with us today as he is overseas, for their excellent stewardship of the authority during its first eight months. As you are aware, Lyn is deputy chairman and has been a source of strong counsel to me over the 12 weeks since I started as chairman and chief executive of the authority and also provides invaluable corporate memory to our deliberations.

The authority is very fortunate to have members with demonstrated expertise and experience in various facets of the communications sector. The breadth of the expertise in areas as diverse as consumer and end user expectations to competition and content issues will ensure that we are well placed to respond to the challenges facing us in this increasingly converging world. Indeed, during my short tenure I have been struck by the complexity of the communications market, the diversity of issues and the challenges all its stakeholders face, the consequential innovation of the players, the expectations of consumers and the very high expectations that the authority has on its shoulders. But that tapestry and the permanent whitewater that I think it suggests is what attracted me to take up the invitation provided by the minister. The authority, for all intents and purposes, has completed its formal transition from the former two regulators. In its first eight months it has substantially closed out its transitional arrangements and associated challenges, developed and released its inaugural corporate plan, developed and implemented a revised internal structure and populated its new management team. For the recent budget, we have also developed a new outcomes and outputs framework which better reflects our role as a converged regulator.

ACMA's corporate plan, which I have endorsed unreservedly, outlines clearly the vision and mission of a converged regulator and articulates our aspiration to be a leading communications regulator. We are looking to the future with confidence and are developing, I believe, a strong spring in the step. As you may be aware, the new internal structure was announced in late January. The new, better structure reflects the converging nature of our environment and is designed to provide stakeholders with access to a more cohesive arrangement of responsibilities. The structure aligns our operations to reflect, firstly, industry inputs—for example, allocation and planning of spectrum, numbering, licensing and technical standards—and, secondly, industry outputs—for example, codes, content standards,

investigations and consumer issues. This is underpinned by corporate legal and strategy and coordination areas. This structure better reflects the realities of an increasingly convergent communications industry, as opposed to the historically separate worlds of telecommunications, radiocommunications and broadcasting.

With the indulgence and for the information of the committee I would like to provide just a little background about myself—to briefly present my credentials, as it were. I have had a long association with the broadcasting, film, internet and telecommunications industries, although, in more recent years, I have broadened my learnings in the very challenging world of infrastructure management, where I fully engaged with several regulatory entities and formed my own views about what might constitute better practice. My origins as a lawyer have proven to be an asset to me throughout my career. My plurality of background gives me, I think, a diversity of experience that brings to the authority and the organisation someone who relishes the challenge of shaping an organisation with all the energy and persistence that that entails, adds rigour to its deliberations and decision making and is absolutely convinced of the need to engage with all stakeholders on a much more iterative basis to achieve effective and enhanced regulatory outcomes.

Since my appointment, part of my focus has been on the development of structures and activities that support our operation as a converged regulator. We are currently looking at our internal committee structures, our decision-making frameworks and processes and our governance arrangements. An early indication of the type of organisation I want the authority to be can be seen in a number of our new and refined consultation efforts and in our approach to several issues. I would like to highlight just some of these initiatives.

As the authority takes its commitment to stakeholder engagement very seriously and sees it as an indispensable tool and communications prerequisite, it is continuing to review and refine its processes. The authority has revisited its use of advisory committees and has reconstituted a number of these, including the Law Enforcement Advisory Committee, the Emergency Services Advisory Committee and the Numbering Advisory Committee. It is anticipated that its refined consumer consultative fora will be dealt with by authority members this June.

As well, I have contacted ACMA's extensive list of principal stakeholders. I have been able to meet in person with a number of them over the past few months, and I intend to meet with all of them by July. I will also be endeavouring to meet with our other stakeholders throughout the course of this calendar year.

I am also very pleased with two other recent authority initiatives. The first is to move towards the use of public seminars and briefings as adjuncts to the publication of ACMA discussion papers. A successful example of this was the Wireless Spectrum Strategies 2006 seminar held recently in March. The seminar afforded the opportunity for informed stakeholders to engage in a robust and useful discussion with the authority and with other stakeholders. As you are no doubt very much aware, there are few shrinking violets in the communications sector. My intended emphasis is to again make these seminars and briefings more iterative.

The second initiative, which is also work in progress, is the authority's commitment to developing a research and data framework to build knowledge management and information-

sharing arrangements. This initiative is designed to ensure that ACMA keeps abreast of the regulatory curve—I would not be so bold as to say ahead of it—by identifying and sharing information with stakeholders about emerging technologies and regulatory thinking and facilitating discussion on a more informed playing field. My initial discussions with stakeholders leave me with the strong impression that the authority should play an increasingly important role as a source of truth for much of the data that informs these discussions.

In terms of the issues of the day, we have recently made a number of important decisions against the backdrop of the authority's remit to ensure that Australians have access to efficient communications services and an effective information standards and safeguards regime. For instance, we are looking at our investigation processes to identify improvements we can make, particularly in relation to the time frames that have traditionally applied, without unwittingly complicating matters by failing to pay appropriate regard to administrative law constraints.

We have taken steps to expand the scope of digital broadcasting, including by extending digital radio trials in Sydney and Melbourne, changing TV plans in certain regions of Australia, revamping digital radio trials policy and gauging the level of interest in unassigned TV channels. We have made a number of decisions relating to consumer advice and protection, including a new credit code to deal with telecommunications debt, an internet industry code for spam, and participation in a four-week campaign warning about phishing. We have implemented a scheme to enable telecommunications industry bodies and associations to apply for reimbursement of the refundable costs they incur in developing consumer related telecommunications industry codes.

Based on my observations from my first 59 working days, I can report today to the members of your committee that I am confident that the initiatives and activities contained within the multiple work plans within the authority, several of which I have touched on, combined with the experience, expertise and genuine capacity and dedication of the authority's members and staff should enable us to meet both stakeholder expectations and the challenges that will arise in this converging world of communications.

I conclude my remarks by thanking you for your indulgence on this occasion so that I could make these opening remarks and for accommodating our request for a Tuesday morning start. I am sure that you have a number of questions for me, Lyn and my colleagues. I am joined today not only by my deputy chair but by all five general managers—Giles Tanner, Nerida O'Loughlin, James Shaw, Marcus Bezzi and Dianne Carlos, who is currently seatless—and a number of our executive managers. Thank you again for this opportunity.

CHAIR—Thank you for that statement, which certainly outlines what you plan to do. We wish you every success in your new role.

Senator RONALDSON—It is nice to see the boss and the general managers here. It is a far cry from yesterday.

CHAIR—We will now begin the questioning.

Senator FIELDING—I want to ask some questions about internet pornography. I assume that you are familiar with the Australia Institute report that said:

While violent and degrading depictions of women in particular are evident in some X-rated videos, they are widespread in Internet pornography ... Furthermore, there are three types of Internet pornography that focus on nonconsenting sexual acts—rape ... and ‘upskirts’ websites.

The question I have is this: how do you go about ensuring that children are safe from exposure to pornography on the internet?

Mr Chapman—I am not familiar with the details of that report. As I said, I am coming up a steep learning curve. I think that it is fair to say that the authority is highly attuned to the safeguards role it needs to play under its remit. For a more specific answer, I might ask Andree Wright, who is our general manager responsible for that area, to say a few words.

Ms Wright—As regards material on the internet covered under schedule 5 of the Broadcasting Services Act, the type of material that you have referred to, if classified, would either be illegal in any media and therefore illegal under schedule 5 or classified as X in other media. Schedule 5 allows for a circumstance where material of that nature, when it is reported to ACMA, is investigated. If the likely classification of the material is not clear to us, it is referred to the Office of Film and Literature Classification for their official view. Then, depending on that classification—say, for example, it is confirmed as a refused classification—it is a pertinent matter as to whether it is hosted in Australia or whether it is hosted overseas. About three per cent of the material currently referred to us is hosted in Australia. If it is illegal, we issue take-down notices to the relevant content host. I am pleased to say that in all instances they have been complied with. If the material is hosted overseas, it is referred to one of the filters listed as a schedule to the IIA code. A condition of being listed in that schedule is that that material must be blocked.

Senator FIELDING—Just to go through that again, 97 per cent of it is from overseas?

Ms Wright—Correct—that is referred to us.

Senator FIELDING—I want to cover some other ground before I come back to that issue. Is it true that the 2004 report *Review of the operation of schedule 5 to the Broadcasting Services Act 1992* found that some types of filtering are feasible at the ISP or server level?

Ms Wright—I understand that that was the conclusion of the department’s report.

Senator FIELDING—Given that this filtering is acknowledged by the government report to be feasible, why hasn’t the government introduced filtering of pornography to protect kids from inadvertent exposure to porn?

Ms Wright—I can only speak from ACMA’s perspective. We implement the current policies. In the schedule of filters to the IIA codes, there are some server level filters, as I understand it, and some home based or end user filters. At the moment, under schedule 5, for individual users it is a matter of choice offered by each ISP—to take up a filter. Both types are currently on offer, as I understand it.

Senator FIELDING—I am sure that you would be aware that Family First has also spoken to a number of experts in this area. We understand that filtering is entirely possible at the ISP level. Is that your understanding?

Ms Wright—We understand that it is technically possible, that there is an ongoing debate about the costs associated with the supply of that service and that the current system provides a choice between end user and server level filters.

Senator FIELDING—What research have you undertaken in this area?

Ms Wright—We have worked with NetAlert recently. They have undertaken research into server end filtering. A member of ACMA staff was an adviser on that steering committee to inform NetAlert's research. That is our most recent initiative.

Senator FIELDING—Other research?

Ms Wright—We are aware of the work that was done by DCITA and it is an area that we keep a watching brief on, both here and overseas. We are aware of trials that are run in other countries and endeavour to keep abreast of those findings. Basically this is an international area so it is important to observe what is happening internationally. As we said, currently 97 per cent of the material that is referred to us is internationally hosted.

Senator FIELDING—Does the department know how much of this is a huge community concern and how significant this is? Parents grapple with keeping an eye on their kids, and the internet is used every day. A lot of kids use it for school work and whatnot at home. There is the difficulty that parents have in trying to keep an eye on their kids 24 hours a day, seven days a week when technically it is feasible for it to be filtered. In the last two years, what sort of research have you done? I am not hearing that a lot of emphasis is being put on this particular issue or a lot of priority given to it.

Ms Wright—ACMA shares the concerns that the community has. It has always been the position of ACMA and its predecessor organisation that filters are an important adjunct to parents' endeavours in this area. But we have also always emphasised that no filter is 100 per cent foolproof and that having a filter on your PC does not exempt you from continuing to be vigilant.

We are also active in the education space. In the last week we have hosted a major activity for primary schools in Western Australia to educate young people on safety on the internet, particularly to keep them safe from the material you refer to and from illegal contact. That activity had over 300 children playing, live, a scenario. Through clues that are fed out to them from an active control room and the ability to ask experts questions, they learn by doing that that it is not safe to hand out personal details and that they need to be careful about where they go on the internet. So we are active on the education front, as we are charged to be under schedule 5.

We have a watching brief on the filters. I think you would be aware, Senator, that the internet industry codes come up for review in June. The latest work on filtering is always an active consideration in the code reviews. Under the code reviews, ACMA and its predecessor organisation, the ABA, reviewed the codes with the IIA every 18 months. The types of safeguards that have been put in place include the insurance that ISPs will not make a profit from the supply of filters but must offer the filters. We are aware that there is no other country in the world that has that safeguard. It is a matter that we are constantly looking at, but through an array of measures and in conjunction with the industry, which also needs to shoulder responsibility in this area.

Senator FIELDING—Given that in 2004 you acknowledged that it is technically possible, what has the department done about investigating this further? What have you been doing?

Ms Wright—I am not sure if you are talking about the department of communications and the arts or whether you are talking about ACMA.

Senator FIELDING—I am talking about ACMA at the moment.

Ms Wright—As I said, with ACMA it is a matter we keep briefed on. The current legislation makes it equally feasible for end users to take up server or end user filtering, so we are neutral on that issue. We implement that scheme while keeping a watching brief on evolving technologies. As I said, we were most recently represented on the committee working with NetAlert, but it is a matter for NetAlert to make those findings public.

Senator FIELDING—What has ACMA done to investigate filtering alternatives? You mentioned a trial being done somewhere—is that right?

Ms Wright—That is the trial that was done recently in Tasmania under NetAlert; they looked into that sort of area.

Senator FIELDING—And you are overseeing that?

Ms Wright—We have a position on the advisory front there. As I said, we are also briefed on international initiatives that are being looked at—for example, the European Commission is looking at work in this area, and we will be attending a meeting on that in a month's time. We then channel all that into the forthcoming IIA code review.

Senator FIELDING—Is it not the case that the trial in Tasmania was triggered by a senator and not by ACMA?

Ms Wright—My understanding is that there may well be another trial in Tasmania shortly, but there has been what was originally referred to as a trial in Launceston. Its genesis, I think, has been of equal interest to all parties, and I know that NetAlert, which has community and industry representation, was keen to oversee that research.

Senator FIELDING—I certainly do not get any urgency at all from what I am hearing from you. This is of very serious concern to Australian families, and I feel as though this government has gone soft on this issue. I am not sitting here as a parent feeling satisfied that I am hearing any urgency at all on this issue. I am concerned that all that is happening at the moment is that senators are pushing for this and that not a lot is being done by the government in this area. This is a huge concern for families—and this is the next generation of Australian families. Children are being exposed to this stuff, and we are doing tiddly squat to nothing. Back in 2004 we had a report that clearly showed—and you have acknowledged this—that it is technically possible. Surely more should be done to protect our children. I agree that we cannot get 100 per cent of it, but when did we say that about terrorism? We cannot stop 100 per cent of terrorism, but to do nothing is ridiculous. Can you explain to me and Australian families what the heck you are doing to try to do something about this? This is a big issue.

Ms Wright—When there is a new subscriber, each ISP actively offers a filter for the user's use. This can be a server-end filter, as you were referring to, or a client based filter. We are the only country in the world where ISPs provide the offer of a filter. Every user is able to take up a filter. Under the codes of practice that ACMA have negotiated with the internet industry,

every three months users are reminded that if they did not take up a filter at sign-in, they are entitled to do so. Under the codes that we have negotiated, filters must be easy to take up and update and they must block referrals from ACMA. As I said earlier, profits cannot be made from the offer of these filters. However, ACMA reiterates that this is an important measure but that it is one measure and parents cannot abdicate overall responsibility by relying on filters that, when offered, may not be perfect. The web has many, many addresses and there are constant changes. One of the things that ACMA works for internationally is to have problematic sites, especially those with illegal material and child pornography, permanently removed. Under our endeavours, we work with international hotlines and, in any given six months between all these hot lines, 70,000 or 80,000 child pornography sites would be removed from the web. As I said, we are also active on the education front. We have an international watching briefing and are working closely with the European Commission on the area of filters and illegal material.

I think ACMA's credentials are well acknowledged internationally, as are the fruits that schedule 5 to the broadcasting act has provided Australians. It is an area where I would like to reiterate that ACMA is on the case and is very much interested in every development. As I said, the codes of practice are ready to be reviewed in the next month, and ACMA will be actively discussing these issues with the Internet Industry Association.

Senator FIELDING—Can I have a copy of all the research that you have done on internet filtering for pornography? That is just a request. Can I have that?

Ms Wright—Yes, I think we have constantly provided this committee with all the research that we have done.

Senator FIELDING—Can I just paint a scenario here. Technically it is possible to filter at the ISP level. Currently we are not doing it at all. I understand that there is a trial somewhere looking at this issue. Can you just walk us through that trial and how it started and tell me which trial it is? I think you said there were two trials. Can you just walk me through the issue? There was a report in 2004 which said it was technically possible. Can you just walk me through what you have done with that report?

Ms Wright—It is my understanding, as I have said—and I am not a technician—that there have been pilot studies in this area and that work has been done on server-end filtering and end-user filtering. As I understand it, the previous research has always balanced the technical feasibility with the costs of implementation, and it has borne in mind that there are approximately 700 ISPs in Australia, many of which are small players with small numbers of users. The imposts of offering filters would be heavy on them, and yet the possibility of them offering end-user filters—and I am not aware of research that shows that they are necessarily any less effective—is certainly more feasible for them. As I have said, as I understand it, from time to time there are pilot studies such as the one undertaken by NetAlert. There may well be a forthcoming trial in Tasmania.

These are often commercial trials where commercial factors will need to be balanced with the feasibility of end users taking them up or feeling that they fit into their lives. There is always that sort of balance between the concerns that filters, including server level filters, can underblock or overblock and concerns about the costs that ISPs will need to charge in an area where, I gather, it is a very competitive market. A lot of families going online would want to

balance safeguards available, too, with the ability to simply pay the bill for that service in the first instance. As I said, if there are trials, ACMA will be interested in those. But we look at that range of factors and our role is to discuss them with the Internet Industry Association for what will be offered through ISPs to Australians.

Senator Coonan—Senator Fielding, it might be of some assistance if I could give you an update about where I understand it is and what my advice is. The first point is—and I think it is critical that we make this very clear—that the government have not categorically ruled out ISP-level filters as an option. What we have said is that we want the most effective solution, and that is why there have been a number of trials.

The efficacy of ISP-level filtering has been looked at three times in the relatively recent past, and these are the reports that I am sure you will be able to have access to: in 1999, a report of the CSIRO technical trial; in 2003-04, a report produced as part of the review of the online content scheme; and, in late 2005, a report of a trial conducted by NetAlert, that involved RMIT and ACMA.

I gather that, whilst ISP-level filtering may be feasible, each report so far has found significant problems with the content filter products operating at ISP level, which included the following. They tended to over-block all forms of content. They were unable to scale to work effectively on larger ISP systems, and these systems have been shown to have problems on a smaller network in a very controlled environment. Perhaps more worryingly, they were unable to analyse and block websites based on more sophisticated techniques such as skin tones. Many provided no protection for children using chat rooms, which, I am sure you would agree, it is absolutely critical to address. Some could not filter content sent via instant messaging, peer-to-peer services and email—also, obviously, a very prolific source of concern. Many did not allow the ability to customise filtering levels to suit different ages or family values, so that a 17-year-old would basically have the same filtering as a seven-year-old. And they certainly could not log children's activity to allow for parental monitoring.

Given those concerns, we are obviously interested to continue to trial ISP filtering, because the technology gets better all the time and we acknowledge that. I have certainly not ruled it out. I am taking a very active and close interest in what we can do better. I want the most effective solution. It is certainly not a matter of money—money could always be found if you had the most effective solution. At the moment, we believe, from the information given to us—and I take a very close interest in this—that the closer the filter is located to the end-user, the greater the content that it can effectively block.

The clean feed system has been raised. As I said yesterday, I think some serious concerns have been raised about that—for instance, in the UK, about its effectiveness, as it only blocks casual browsing, on my understanding, and it is certainly not effective in stopping peer-to-peer traffic—and Usenet, which is often used to distribute this material, particularly with paedophile rings. Once again, we think that PC based filtering, until we can get better technology and a better resolution around this, is the most effective way of dealing with things like protecting children using chat rooms and filtering content.

I think that technology can be daunting for parents and I am looking very actively at programs that can assist parents to better install and renew this technology. We will continue to look at this trial and, whilst I am not in a position today to say precisely what, I have under

very active consideration measures to improve the uptake of filtering technology, which is currently taken up by only 35 per cent of families.

I am looking very actively at strengthening the regulation requiring ISPs to provide filters to customers and to much more actively promote them to new customers and their existing customer base. I am looking very critically at stronger sanctions than the current codes of practice, and I think we can also look at significantly bolstering NetAlert and continuing our inquiries into ISP-level filtering.

My inclination about all this is that we need to watch this trial very closely. I thought it might be of some assistance to impart to you the government's existing and ongoing concern and very active interest in doing the very best that can be done in this area.

Senator FIELDING—You have mentioned the trial again. I think you said there were two trials—there has already been one done and there is one being done?

Senator Coonan—Yes, there were three.

Senator FIELDING—You are referring to the one being done at the moment?

Senator Coonan—Yes.

Senator FIELDING—Could someone just walk me through exactly what that trial entails?

Senator Coonan—Yes.

Ms Maddock—It is a commercial trial. We have not been involved.

Senator FIELDING—Are there any resources looking at it from your department—you said you are overseeing NetAlert?

Ms Maddock—It is a commercial trial. We have not been involved. I understood—I am getting a look that says, 'No'—that the department had been looking at it. We have not been involved. It is a commercial trial.

Senator FIELDING—I am just sensing that we are saying, 'This trial is important,' but you are not even looking at it.

Ms Wright—It has not commenced yet. When it does commence, I would expect we would be briefed on it and take an interest. But my understanding, as Ms Maddock has said, is that it is a commercial trial that will be set up by commercial companies. It is not active yet. When it is, I am sure we would be briefed.

Senator FIELDING—Why would you be relying on it if you are not active in it? It just seems strange to me that here is an important issue—the minister quite rightly has referred to it as an important trial—and you just seem to be waiting for information on it. In 2004 there was a report, which you are fully aware of, *Review of the operation of schedule 5 to the Broadcasting Services Act 1992*. You would know it well. It said that it was feasible, and you have acknowledged it is technically feasible, to filter at the highest level. Can I go a bit further and explain. Yes, there are hundreds of internet service providers, but there is a handful at the tier 1 level—the very top level—that are actually the gatekeepers of what comes in from overseas and what goes out—not locally. You have acknowledged that 97 per cent of this stuff that is harming our kids is coming through those gatekeepers. There are a

handful of them. In 2004 a report clearly said that it was technically possible. I think we have done tiddly squat to nothing to actively pursue this with urgency. Even today, we are relying on another trial that you are not even involved in.

Ms Wright—No. To reiterate the position that I stated: we understand that the trial has not commenced yet, it will run for several months and we will be briefed on it at that time and take an interest in what is happening. It is being set up by a commercial company, as we understand it, for commercial purposes.

Ms Williams—Senator, the department knows a little bit about what has been happening. Gordon Neil can tell you a little bit more about the various trials.

Mr G Neil—The company that proposed the trial in Tasmania has spoken to us and advised us that it had made arrangements with an equipment supplier. It was confident that, with its own software and the associated company's software and with the cooperation of the equipment supplier, it had the basic requirements to undertake a trial and that it was in the process of talking to internet service providers and to associated telecommunications companies. They spoke to us about four weeks ago. We have not had further communication from them. They have not requested any support from us at this stage. We are happy to talk to them.

Senator FIELDING—So quite clearly you are aware and watching. But what actively is being done? The report from 2004 said that it was technically possible? Parents are crying out for help in this area. Quite clearly, PC based solutions are not working. Have you tried to put the software on your PC yourself?

Mr G Neil—The report said that it was technically feasible. The advice of Ovum was that if you prescribe the circumstances and you limit what you ask the filter to do, in certain circumstances it was technically feasible. However, the report concluded that it was not advisable, because the performance of the filter was not adequate—that it was a basic blacklist filter and that blacklist filters are highly limited in their performance. So the report concluded that, while it was technically feasible, it was not a desirable option.

Senator FIELDING—This is where the argument is just unbelievable. It is technically possible at the PC level. A PC is just a smaller mainframe. If it is technically possible at the PC level, it is technically possible at the actual ISP level. We have had advice—and I have passed this on to the minister—that it is technically possible. We need action—active trials. This is taxpayers' money. I can only say that this is a huge concern. I am not sensing urgency at the table on this issue—not at all. Watching, looking and doing this or that are not enough. This is a real concern. This is our next generation. Our kids need protecting.

Mr G Neil—Can I just say that the conclusion of that report was that the best filters are PC based filters. The most sophisticated technology and the best level of protection are offered at the PC level. At that level, it is a single user entering the internet. Once you scale up, you have to start to reduce the capability of the filter in order for it not to impair the system.

Senator FIELDING—There is a company today—a commercial company—that is filtering at equivalent to the ISP level in New South Wales schools. We have referred that on. It can be done. You are talking about a handful—like Telstra and Optus. These are the gatekeepers. For us to sit back and say that open slather is okay is ridiculous. It can be done. I

am asking what trials the department is actively doing on this. Rather than just relying on other people and other commercial interests, what are we actually doing to test it? Rather than saying, 'It can't be done,' we should be saying, 'How can we do it?' We should not be saying, 'How can we shoot it down?' We should be saying, 'How can we do it?' It is technically possible. Reports have shown that. We need to find a practical way of doing it. I agree that we are not going to stop 100 per cent of it. I agree with that. But if we get 70 or 80 per cent, it is better than nothing. When it came to securing the safety of Australian families from terrorism, no-one questioned the cost or that we could not get 100 per cent of it. When it comes to the cost of securing the safety of our children's minds, we should not question the cost and we should not question that we cannot get 100 per cent of it. We should be doing more in this area. I am actively asking: what are you going to be doing in the next year in active trials in this area rather than waiting for other people to do it?

Ms Wright—Our focus is in the coming code review. It is open for the company that you have referred to to be on the list of approved filters offered by ISPs in Australia, if they are not already. If they have not done so already, they would need to apply to IIA. Then their product goes through independent assessment, it is listed in the schedule to the code of practice, and then that becomes one of the products that can be offered, and no doubt will be offered, by some ISPs. At the moment, I reiterate that I think there are 20 listed filters on the IIA code schedule. Some are server based, as you refer to; some are end user based. The code, as I have said, is up for review in the next month. These issues will be actively on the table and they will be informed by the research and the trials that are being undertaken.

Mr G Neil—Could I add—

Senator FIELDING—Could I make another comment, and then I will let you go forward from there. Yesterday Senator Conroy picked up an issue on the internet with Telstra—half owned by Australians. It is still half owned by Australian taxpayers. Yet they are not even involved in the trial. We have just gone soft on this issue. We have gone missing in action.

Senator LUNDY—He is trying to steal your line, Senator Conroy!

Mr G Neil—I wanted to add that the NetAlert report was concluded earlier this year. In terms of what we are doing, we have just received a report from NetAlert and we are interested in this proposed new trial. But we are still in the same year.

Senator FIELDING—Thank you. I am certainly not the minister, but I would ask for more to be done. More needs to be done in this area. This is a real concern. This is our next generation of kids and we are just saying that open slather is okay. We are saying, 'Fend for yourselves. Do the best you can.' I am not happy.

Senator Coonan—Senator Fielding, that is a very unfair comment, if I may say so—totally unwarranted. You just heard me say that we want the most effective solution. That is precisely what we are working towards. This is not a government that is prepared to tolerate. If there is a better solution, we will definitely have it. I do think that it is very important that we do not just try to grab a solution and say, 'That's it.' We need to be sure that it works. As you know, we are working very closely with your office. I think my office has tried to get an appointment two or three times to continue to agitate these matters with you. We will continue to do that. It is appropriate that we do so.

Senator CONROY—You have not tried to make an appointment with me.

Senator Coonan—You do not have much to contribute.

Senator CONROY—I am hurt!

Senator Coonan—But Senator Fielding does, so we will continue to deal with these matters.

Senator CONROY—I just have one question on this topic.

CHAIR—Hang on. I think that covers the ground, Senator Fielding. We will now go to Senator Conroy.

Senator CONROY—I just want to follow up on this topic, on a specific issue that has been raised by Senator Fielding. I hope you have a good meeting with Senator Coonan, Senator Fielding. Enjoy! The trial promoter wants the CSIRO to analyse the results of the Tasmanian trial, Minister. Will you try to facilitate this?

Senator Coonan—I will facilitate anything that properly allows this trial to continue. If I have any information that it can be better facilitated, I will take some steps to ensure that that happens. If it needs to be evaluated after it has been completed, I will facilitate that.

Senator CONROY—Thank you.

Senator LUNDY—I would like to go to the issue of ACMA's oversight of the government's response to the RTI *Connecting regional Australia* report. I would like you to report progress specifically on recommendations 2.9 and 4.1. Recommendation 2.9 relates to the worst performing exchange service areas in regional, rural and remote Australia. The recommendation, which was accepted by government, required the ACA, now ACMA, to identify these areas and Telstra to then be required to provide a formal undertaking to government on its strategy for raising the performance of these exchange service areas. My questions are these. How is that going? Have those service areas been identified? And what is Telstra's progress?

Mr Shaw—Changes are being drafted to Telstra's licence condition that will require it to undertake remediation under the network reliability framework. We understand that those arrangements will require Telstra to remediate 480 cable runs in a 12-month period and that Telstra will be required to provide ACMA with information on the number of services that are expected to benefit from that remediation. We understand that the department will be consulting on a draft licence condition shortly. We will continue to monitor Telstra's performance under the network reliability framework at all levels—1, 2 and 3.

Senator LUNDY—I was finding it hard to hear you. Can you tell me how many exchanges, specifically, are in that target?

Mr Shaw—As I understand it, the revisions to the NRF do not relate to particular exchanges; they relate to cable runs—that is, a run from an exchange which services a number of subscribers.

Senator LUNDY—And the figures you gave were 480—

Mr Shaw—Yes, 480 cable runs in a 12-month period. We expect those to be the worst performing 480 cable runs in the network.

Senator LUNDY—How have Telstra identified those cable runs to you? Have they done that via the exchange?

Mr Shaw—We have not got that far in the process yet. Once the licence condition has been made, I understand that we will be required to work with Telstra on the form of the information that they will provide to enable us to monitor their compliance with the condition.

Senator LUNDY—Why has it taken so long to get to the point where a licence condition is only now being drafted and you are not even in a position to identify the areas referred to in this report, which was delivered to government back in 2002?

Mr Shaw—I might ask Mr Neil to assist.

Mr J Neil—If you go back to recommendation 2.9, I think you will find that there was a project undertaken with Telstra to identify the worst performing exchanges. Fifty-four exchanges were identified using a set of metrics which were agreed within the ACA. For Telstra, the work on those exchanges on remediation has been completed. The work that Mr Shaw was referring to is a follow-up to a review of the network reliability framework, which was looking at how we should approach exchange-level monitoring and remediation going forward. That is the work that is currently being undertaken.

Senator LUNDY—Can you provide the committee with a list of those 54 exchanges?

Mr J Neil—Certainly.

Senator LUNDY—How can people who are affected on these 480 cable runs, presumably on these 54 exchanges, identify themselves and, therefore, have confidence that their service is going to be upgraded?

Mr J Neil—By way of clarification, the 480 bear no relation to those exchanges necessarily. It is a separate, ongoing process dealing with what are the worst performing cable runs in a continuing period. Some of them may turn up in those exchanges if something goes wrong in one of them, but they are not necessarily related. Essentially, the process is under the network reliability framework. The level 3 individual circumstance is where somebody gets a series of faults over a defined period and goes over the thresholds. Basically, it is where the customer goes through the usual process of complaining and getting it repaired. If this recurs too frequently then Telstra is required automatically to take particular action to remediate that service. That is how level 3 operates; it is relatively automatic.

The old level 2 arrangements attempted to get a wider level of remediation than single service remediation. Previously, under the old level 2, we had a process where Telstra used to report to us against another set of metrics about performance at the exchange service level. If, on further investigation, that suggested there was a need for particular work, it was not caused by a one-off event like a cable cut or bad weather, some further remediation might take place. What we are doing under the new arrangement is turning the level 2 metric into a more automatic system, something akin to the level 3: if, at the cable run level, there is a series of metrics breached—that is, there are too many faults—then Telstra automatically does the remediation work on those. They provide us with a list; we check the list is okay, that they have used the metrics properly et cetera.

Senator LUNDY—Thank you for that explanation. I want to go back to my question. If a customer wanted to find out if they were affected by one of these 480 cable runs, how do they do that? Can they call you?

Mr J Neil—They could, but—

Senator LUNDY—Do you know which ones they are?

Mr J Neil—Telstra would tell us the cable runs. We would have to go back to Telstra to find out whether a particular customer was on a particular cable run, which would be a bit of a bureaucratic exercise.

Senator LUNDY—Should I put that question on notice to Telstra?

Mr J Neil—Yes, you would have to put that on notice.

Senator LUNDY—I will also put it on notice to you.

Mr J Neil—Okay.

Senator LUNDY—With respect to using the framework to identify the worst performing areas, which is the way you just described it, there is another recommendation in the government's response to the RTI relating to the removal of six-by-16 pair gain systems. Can you report back on progress to date?

Mr J Neil—I do not think I have with me a brief on the details of that. We do continue to monitor the process, and Telstra provides regular reports to us on the number of pair gains remedied or removed from the system, but I do not have the latest figures. We could provide them to you relatively easily.

Senator LUNDY—If you could provide it, I would like a full report. Can you confirm that they are removing these systems from the network?

Mr J Neil—My understanding is that progressively, yes, they are—as they go faulty, or there is a problem.

Senator LUNDY—My understanding of the recommendation is that it is stronger than that, that it does relate to a program for removal because of the potential inability, at any one time, of 10 customers on those 16-line systems not to be able to get a dial tone. That is just from memory, that it was a more proactive removal program.

Mr J Neil—We can give you a brief on what the current situation is with that. I have not worked on this specific area for some time, so my information may be a little bit out of date.

Senator LUNDY—What about the recommendation relating to the requirement that the absurd level of 19.2 kilobits per second must be able to be achieved on Telstra's dial-up network? Can you report back on progress to date in achieving that useless level?

Mr J Neil—Yes, we do still get reports on their performance against those requirements and their requirements to remediate people's dial-up internet problems. We can provide a report on that.

Senator LUNDY—I think it is an interesting contrast that Telstra is still struggling with ancient systems like six by 16 and seems to be incapable of fast-tracking those programs and, at the same time, is happy to look for a regulatory shelter in their roll-out of the fibre to the

node network. Perhaps this is a question for the minister, even though she has left the room. Has the government considered regulating for a lesser phone line rental charge for people affected by pair gain systems and therefore unable to achieve a full telecommunications service? And ‘full’, in the 21st century, does involve at least a functioning dial-up speed, if not ADSL.

Mr J Neil—My understanding is that legislatively what Telstra is required to provide is a voice-quality telephone service, plus a service of 19.2 is the minimum that they are required to provide, and that is the requirement of the regulation.

Senator LUNDY—Yes. Minister, perhaps I can ask you that question. We have ample evidence over many years of Senate reports and Senate estimates that there are some 1.2 million people affected by pair gain systems who are, to varying degrees, inhibited in being able to (a) achieve a quality dial-up speed and (b) in many cases are unable to access a broadband service such as ADSL. My question is—and it is a matter of policy so I direct it to you—has the government considered placing some sort of licence condition on Telstra to prevent it charging the full line rental for a substandard line service, given the role and place of the internet in telecommunications in the 21st century?

Senator Coonan—I have not considered that.

Senator LUNDY—Why not?

Senator Coonan—Because I have not considered it.

Senator LUNDY—Do you think it is a reasonable proposition that if someone cannot get a functioning dial-up service then they ought to be paying full rental on a line?

Senator Coonan—Senator Lundy, I had to meet somebody outside the room so I have not really been participating in this line of questioning. Let me take it on notice and have a think about the line of questioning, and I will respond to you.

Senator LUNDY—Could ACMA also take on notice to provide a full update on the status of each of the recommendations, and the government’s acceptance of those recommendations, of the RTI.

Mr J Neil—Those for which ACMA is responsible—yes.

Senator LUNDY—Thank you. I would also like to ask about ACMA’s role in supporting people with disabilities to access telecommunications services. I did have the opportunity to ask the department yesterday about the status of the various reports that are designed to assess what comes next for disability equipment in the telecommunications network. Can you outline ACMA’s role in supporting people with disabilities and their access to the telecommunications network?

Mr J Neil—Not very easily at the moment, no. I am not in a position to provide any detail on the latest position. I have not worked on the area for a little while.

Senator LUNDY—I note that ACMA does have a role in providing a point of contact for people with disabilities. I will place on notice a question on what inquiries and complaints you receive.

Ms O'Loughlin—There are certainly obligations, Senator, and we certainly do a lot of work in discussing disability issues with those communities. But we can take it on notice and give you a full summary of that, if that is helpful.

Senator LUNDY—That would be helpful. I am particularly interested in the level of inquiries and complaints that are raised with ACMA from people with disabilities who are struggling with some of the newer networks and the old technology that they are stuck with.

Ms O'Loughlin—Certainly.

Senator ALLISON—I want to ask the minister some questions about operational separation and whether she could give the committee an update on where that process is at.

CHAIR—We are dealing with ACMA, not the department.

Senator ALLISON—I have no questions for ACMA.

Senator Coonan—I can give you a very broad indication that it is travelling well and it is almost concluded. I am likely to accept the last draft, but the detail of it is something that you should direct to the department.

Senator ALLISON—Okay. I will wait for them to come back.

CHAIR—Are there any further questions for ACMA?

Senator LUNDY—Yes, Chair. I know Senator Conroy has some questions he would like to ask, but perhaps I could pursue some more questions with respect to the quality of telecommunications services, particularly in rural and regional Australia. What monitoring role does ACMA have over progress in government funded initiatives like the Broadband Connect program? Do you play any role in monitoring its roll-out or the quality of services provided under projects funded by Broadband Connect?

Ms O'Loughlin—Not specifically, Senator, but obviously it feeds into our monitoring and reporting role on quality of services more generally.

Senator LUNDY—I want to know if there is any particular brief that you receive from the department about the standard of service that they require as a condition for funding projects under that scheme.

Ms O'Loughlin—I am not aware of it, Senator, but I can check.

Mr J Neil—We do not get any direct report from the department on Broadband Connect. We have taken an interest in Broadband Connect from the point of view of reporting generally on the quality of broadband services. We have produced two reports, some of the information for which has been drawn from departmental sources, through Broadband Connect and, more particularly, through HiBIS. We are proposing to continue, as part of our research strategy, to report on the availability and to some degree the quality of broadband services that are available, particularly in regional Australia. We will be looking to all sources of information, including departmental sources, that are available to us.

Senator LUNDY—The department mentioned in evidence last night that there is a monitoring scheme for the standard of service for HiBIS projects that involves monitoring or testing, if you like, of the bandwidth speeds for people in receipt of that service. Does ACMA have any role to play regarding that system that is in place?

Mr J Neil—We are aware of it. As I indicated earlier, in terms of some of the reporting that we have done recently on broadband speeds, we have drawn on that information. We have talked to the people involved in it to understand how they are doing it. We have done our own monitoring of broadband speeds using another technology, and have reported twice to date on that issue.

Senator LUNDY—What were your findings generally?

Mr J Neil—Generally speaking, across Australia, and depending on the sorts of overheads you would expect in terms of protocols and so on, the speeds were generally close to those advertised or close to the speeds you would expect, and they were reasonably consistent in regional and metropolitan Australia, going technology by technology.

Senator LUNDY—What do you mean by close to speeds advertised? Were they always above the speed advertised or mostly below?

Mr J Neil—I think, generally speaking, the speeds for ADSL in particular tended to be about 80 per cent of 256, or whatever.

Senator LUNDY—Eighty per cent?

Mr J Neil—Yes. We regarded that as reflecting the sorts of overhead requirements in terms of the technology and so on.

Senator LUNDY—What does that mean?

Mr J Neil—There is a certain amount of capacity taken up in signalling and setting up sessions and those sorts of issues—I am not a technician.

Senator LUNDY—Neither am I.

Mr J Neil—My understanding and advice is that this is consistent with what you would expect from the technology.

Senator LUNDY—It is acceptable that, if an ISP promotes a 256-kilobit ADSL service, most of the time the customer is going to get a speed at 80 per cent of that? Does that concern you? It concerns me.

Mr J Neil—The question of whether that is reasonable I think is a different issue. It is an issue of advertising.

Senator LUNDY—I do not know. Do you think it is reasonable? Have you been convinced? Have you tested that with the ACCC in regard to the misleading advertising?

Mr J Neil—The ACCC are aware of our findings. Whether they feel it is a question that they need to take up is up to them.

Senator LUNDY—Do they think it is okay? Have you corresponded formally with the ACCC on this matter?

Mr J Neil—We have certainly made them aware of the findings.

Senator LUNDY—Could you provide the committee with the correspondence to the ACCC?

Mr J Neil—I am not sure that we have dealt with them in writing. I am sure we have had discussions with them about it.

Senator LUNDY—When would you have had discussions with them?

Mr J Neil—By telephone or in meetings?

Senator LUNDY—Could you provide the date that you communicated this to the ACCC. We can certainly follow this up in questions to the ACCC on this matter. Is it the view of ACMA that it is okay for 256-kilobit services to be sold, paid for and delivered with only 80 per cent of the speed being mostly achievable?

Mr J Neil—I think if you have a look at the reports, you will get a view of what the ACMA view is on it, rather than rely on my advice. If you get hold of the two reports we have produced to date, which have been in the public domain for some time now, you will get a clear idea of what the ACMA position is.

Senator LUNDY—Okay,

Senator RONALDSON—When were they released?

Mr J Neil—One of them is at least 12 months old and the other is four or five months old.

Senator LUNDY—On the quality of broadband service, I asked questions of the department last night about the issues relating to transposition of services—that is, the removal of a small pair gain system or a change in the network to allow an ADSL service to be provided to a householder or a small business. Is ACMA involved in any way in the processes in a transposition service being provided?

Mr J Neil—Not to my knowledge; not directly. We report on the outcomes of their process to remove these things, and that happens I guess through transposition and other means. We do not have a role in the actual processes between customers and Telstra.

Senator LUNDY—Or other companies?

Mr J Neil—No.

Senator LUNDY—Do you receive many complaints about requests for transposition or transpositions not occurring?

Mr J Neil—Not to my knowledge, but I do not have a perfect knowledge of this issue. I do not think we do.

Senator LUNDY—I might come back to that point.

Senator WORTLEY—In relation to the review of the way in which telephone companies collect identity information about their prepaid mobile phone customers, I understand that submissions were called for and they had to be in by 6 April. Is that correct?

Ms O'Loughlin—That is correct.

Senator WORTLEY—Has a review or a report been done yet?

Ms O'Loughlin—No. As you mentioned, we went out with a discussion paper in March and submissions on that closed on 6 April. We are still considering those submissions. We will probably be going back to stakeholders to clarify issues in their submissions and talk to them further about things. We expect it will be a few more months of consultation going forward before we come to a position.

Senator WORTLEY—When can we expect that?

Ms O'Loughlin—I would expect it in about three or four months.

Senator WORTLEY—Will that be made public at the time?

Ms O'Loughlin—That will go to the authority and I expect the authority will make that public at the time.

Senator WORTLEY—Where did the submissions come from? Obviously there would have been various companies, but how widely was it advertised?

Ms O'Loughlin—I do not have the full details but we would certainly have issued a media release and we would have put it on our website. I can check what notification went to various stakeholders for you.

Senator WORTLEY—Do you know if it was advertised in the papers?

Ms O'Loughlin—Not as far as I am aware, but I can take that on notice.

Ms Maddock—We would typically put the submissions we receive on the website as well, so that other people can see them and respond to them if they wish to.

Senator WORTLEY—Have they been put on the website?

Ms Maddock—I will assume they are, and if they are not, I will tell you.

Senator WORTLEY—Could you find out?

Ms Maddock—Sure.

Senator LUNDY—Going back to the issue of pair gains generally, on the ACMA website there is a section that relates to factors that affect internet service. Only once does it mention old pair gain systems in relation to a dial-up service. Why doesn't your website state specifically that the presence of a RIM or a large pair gain service can directly inhibit access to ADSL? Do you think it should, given that not all of the 800,000 users are blocked but a large proportion of them are still blocked from getting ADSL?

Ms O'Loughlin—I would like to have a look at the question and review it. We will take that on notice and come back to you.

Senator LUNDY—I am sure you are aware of the history of how difficult it was to get Telstra to admit that they used this technology in their network. In fact, it required the intervention of the ACCC for them to be honest about it. So it would be good to see ACMA at least reflecting the facts of the state of the network in your own advice to consumers. Because someone could quite easily read this and not understand that being on a RIM would block their ADSL service unless there were available ports, which mostly there are not.

Ms O'Loughlin—We will certainly look at it.

Senator CONROY—I have a number of questions about the 2004-05 broadband quality of service report produced by ACMA. What was the object of the report?

Mr J Neil—The object of the report was for us to get a picture of what variation, if any, there was in the quality of service on a regional basis—for us to get a picture of what sort of experience consumers are actually getting. There has been some discussion about it earlier with Senator Lundy. Those were the main objectives. In part, it was one of the earlier attempts

by the then ACA to move into the space of having a look at broadband and how we might monitor quality of service. So it was, in part, testing the waters.

Senator CONROY—What were the findings of the report? What were the respective speeds that users could download data at compared to the advertised speeds for the plans?

Mr J Neil—I do not have that detail of information with me at the moment.

Senator LUNDY—It is just that you told me it was 80 per cent.

Mr J Neil—In broad terms, my understanding and my memory of it is that figures of 80 per cent or better of the advertised speeds were pretty common, particularly for ADSL.

Senator CONROY—My understanding was that ADSL achieved an average of 83 per cent of the maximum advertised download speeds and wireless achieved an average of 62 per cent of the maximum advertised download speeds. Does that sound correct?

Mr J Neil—That may be close to correct, yes.

Senator LUNDY—It is very poor.

Senator CONROY—Did the report identify any users with access to broadband download speeds of 24 megabits?

Mr J Neil—Not to my knowledge.

Senator CONROY—Did the report identify any users with access to wireless download speeds of 13 megabits?

Mr J Neil—I am not in a position to answer that with any authority. I do not know.

Senator CONROY—Could you take it on notice?

Mr J Neil—Sure.

Senator CONROY—The report is available, isn't it?

Mr J Neil—Yes. As I indicated to the senator, we have done two reports in this area in recent times.

Senator CONROY—I have a media summary of it. That is why I have some information.

Mr J Neil—They are both publicly available. They are both on our website.

Senator RONALDSON—So there was one 12 months ago and one five or six months ago?

Mr J Neil—The senator might be able to give the date of the most recent one. I thought it was four or five months ago, but it might be more recent than that.

Senator CONROY—The data clearly indicated that the achieved rates vary from technology to technology, as I said—83 per cent for DSL as opposed to 62 per cent for wireless. What was the cause of these varying data rates by technology?

Mr J Neil—I think you would be best to refer to the report for that sort of detail. I am not a technician; I would be going purely from memory. It had a lot to do with overheads in setting up and maintaining signalling. It is largely down to technical issues. In the case of some technologies it varies according to the number of users on at any one time. That could certainly affect wireless, I believe. But the report gives a clear indication.

Senator CONROY—I guess I should help clarify this. Senate estimates is about us asking you about the reports you have produced and not for you to say, ‘Go back and read it.’

Mr J Neil—I accept that, Senator, but I am personally not in a position to give you—

Senator CONROY—I appreciate that you are not a technology person and I am happy for you to take them on notice, but not for you to say: ‘Don’t bother asking me questions. Go and read the report.’ Actually, one reason I am asking you about this is because my office has read your report and I am asking you to enunciate what is in your own report.

Mr J Neil—Okay. If that is what you want. Unfortunately, I am not able—

Senator CONROY—That is the purpose of Senate estimates.

Mr J Neil—to do that with any degree of facility right now. I will take it on notice.

Senator CONROY—Thank you. Did achievable data rates vary by region?

Mr Chapman—I think we are demonstrating that we are probably a little short in answering some of these questions.

Senator CONROY—That is fine. I am happy for you to take it on notice.

Mr Chapman—For that reason, I suspect we will say to each of these questions that we will take it on notice.

Senator CONROY—I understand that. The process is that I ask questions that often people take on notice. I am quite happy with that. I just wanted to make the point—

Mr J Neil—I think I indicated earlier that the report found that, generally, there was not a wide variation across regions. Again, the report should confirm that.

Senator CONROY—Does ACMA have any intentions of expanding the scope of the survey—that is, say, to improve statistical data quality by removing self-selection problems?

Mr J Neil—The authority is in the process of developing a new research strategy across the board. This is one of the areas we will look at. How we might tackle this issue, given methodological issues that arose in the last two reports we did, is a moot point. We are looking at how we might address the issue going forward.

Mr Chapman—One of the initiatives I touched on in my opening remarks is that we see the need for almost a paradigm shift in the way we report. I indicated that there is a growing sense that we could play a useful role as a source of truth. For example, at the moment we are very actively canvassing internally within the organisation with regard to the traditional section 105 report. We will then go out for external consultation for a much broader, more holistic approach. Hopefully that will be more useful to industry, government and other regulatory bodies. We are actively in discussion with some other potential regulators which might assist us to build a broader framework. We think that the end fruits of all that will be a far more useful playing field. So it is a broader answer to your specific question. We do see a need, which is perhaps what you were highlighting, for a value-add for the authority.

Senator CONROY—That is great. That is good news. I welcome the review you are doing. The other thing I would suggest is to improve the quality of the regional data, which is one of the areas you have indicated that you are looking at. Thanks very much. I have a

number of questions about IPTV regulation in Australia. ACMA has regulatory responsibility for ensuring compliance with broadcasting licences in Australia. Is that correct?

Mr Bezzi—Yes.

Senator CONROY—What is the definition of a broadcasting service that would require a broadcasting licence under the Broadcasting Services Act?

Mr Bezzi—Perhaps Giles Tanner can take that. I do not have a copy of the act with me at the moment.

Mr Tanner—Unfortunately I do not have a copy of the act, but there is a definition of ‘broadcasting’ in section 6 of the Broadcasting Services Act. It is basically a service that transmits radio or television programs from points to multipoints in real time. There are some exclusions, such as a dial-up service. There is also the ministerial power to direct that certain categories of service are exempt from that definition. There is one such ministerial direction which exempts nearly all internet services from that definition, regardless of the other characteristics. Whether or not that service would then need to be licensed depends on the definitions in part 2 of the Broadcasting Services Act, which actually sorts that broad set of broadcasting services into narrowcasters, broadcasters, subscription, free-to-air, commercial, community et cetera, and the rest of the act determines whether or not a particular specific licence is required for those services. Some of the least influential services only require a class licence.

Mr Bezzi—The particular determination that clarifies in relation to the internet—and perhaps that is the direction you were heading—

Senator CONROY—An exemption was provided through ministerial determination for services delivered through the internet—Mr Tanner himself was identifying it. This is my next question, just to help you. The term ‘the internet’ was not defined in the determination, was it?

Mr Bezzi—No, it was not.

Senator CONROY—What is ACMA’s view of the interpretation of this word?

Mr Bezzi—I am not sure that ACMA has a settled view on the interpretation of the word. The word is defined in a number of places.

Senator CONROY—How are you administering the determination, then, if you do not know what it means?

Mr Bezzi—When you say that we do not know what it means, I am not sure that that is what I said.

Senator CONROY—You said that you do not have a settled view; therefore you do not have a definition. Therefore it is currently undefined. That is a logical thing.

Mr Bezzi—When I say that we do not have a settled view, we have not had a circumstance that has arisen that has required us to determine in a formal way what the phrase means. We certainly have informal views about what the phrase means, and there are—

Senator CONROY—You are administering the law.

Mr Bezzi—We are administering the law, but the process of administration of the law does not require—

Senator CONROY—So you do not have to have a view until someone asks? I am asking.

Mr Bezzi—Certainly we have an understanding of what the internet is, and we understand that there are many definitions of the internet available. In any of the circumstances that we have looked at in an informal sense, the definition that we have had has enabled us to form an informal view in relation to the particular circumstances that we have looked at from time to time, that I am aware of.

Senator CONROY—How can the industry have any certainty at all whether they will need a broadcasting licence for internet services if you cannot tell them?

Mr Bezzi—I am not suggesting that we cannot tell them. I am not aware that we have been asked.

Senator CONROY—You cannot tell me, and I have just asked you. I want to know what your definition of the internet is for the purposes of this determination. I would like some clarity.

Mr Bezzi—Perhaps that could be taken on notice.

Ms Maddock—There is no evidence that there is any problem. If there were, we would sharpen our thinking on what is and is not out of the question. We routinely get asked opinions—I think they are section 21 opinions, but I am not sure of the section of the act—as to whether things are broadcasting or narrowcasting. We give those opinions. We gave one recently for a particular service. We give those on particular cases that come to us rather than in the abstract.

Mr Bezzi—Perhaps I should clarify—

Senator CONROY—It sounds like you make it up as you go.

Ms Maddock—No, we rely upon past views and we rely upon our reading of the act. But any of these things can only be accurately answered in the actual context at the time.

Senator CONROY—Let me give you a context. Would a network based on IP protocols but not publicly available to open access constitute the internet?

Ms Maddock—I am not in a position to give a view on that off the cuff. If somebody were to come to us with a proposition that that is the sort of service that they were thinking of doing, we would engage in interaction with them to find out what it was they were providing, the context et cetera. Feel free to start a service, Senator, and come to us with a question.

Senator CONROY—I am not sure if you had to sit through the whole of the Telstra debacle yesterday.

Ms Maddock—No, I did not.

Senator CONROY—I am glad to hear that. There seems to be a difference between Telstra and the government on the issue. The minister has said that IPTV services would require a broadcasting act licence. Telstra stated yesterday that it believes that television delivered over a network using IP protocols but not publicly available would not require a licence. This is absolutely straightforward. The problem is that this is about things that are happening today, which leaves me shocked that you are saying that you can only deal with things in the abstract.

Mr Bezzi—If a service that makes available television or radio programs uses the internet—and I think Telstra are suggesting that their service does use the internet—then it is exempt from the definition. It may also be exempt for some other reasons but it would be exempt on that basis.

Senator CONROY—The minister's view is that the determination does not exempt services delivered providing point-to-multipoint video over private IP networks.

Mr Bezzi—That is correct.

Senator CONROY—That is the minister's view.

Mr Bezzi—That is another basis on which the service would be exempt from the definition of a broadcasting service.

Senator CONROY—But we come back to: what is your definition of 'the internet'? You just made a point to me a second ago and you used the word 'internet'. That is the nub of this issue.

Mr Bezzi—I did. There are a number of working definitions. I am not in a position to explain to you what a formal, settled view would be if an opinion was given under the opinion giving power that ACMA has.

Senator CONROY—So anyone who claims to use the internet can avoid the need for a licence by saying they use the internet.

Mr Bezzi—That is what the minister's determination says.

Mr Tanner—I might make a point about the scope of section 21, which is the power to give opinions about category of service. I am not aware that section 21 is a power to give opinions on whether or not a service is a broadcasting service, assuming a thing is a broadcasting service. To determine with certainty for the person seeking the opinion as to what category that service belongs to, which then enables them to decide with confidence what kind of licence they need to get or whether they need a licence at all, the issue of whether or not a thing was a broadcasting service could be properly ruled on by ACMA, for example, in the context of an investigation. A complaint that the person was providing an unlicensed broadcasting service, for example, would require ACMA to rule on whether or not the service was actually a broadcasting service as part of that process. I wanted to clarify that before section 21 gets dragged too much further into this.

Senator CONROY—But surely there is an objective definition of 'the internet'. It is not just a subjective call. I find it extraordinary that you have not considered this already.

Mr Tanner—I do not think Marcus was in any way suggesting that we have not considered it. I think his point was simply that we have not had reason for this issue to come before this authority for a ruling on which we could then say, 'Yes, ACMA has looked at this.' But ACMA the organisation, the executive ACMA, is very mindful of this issue and has ideas and views on what constitutes an internet service. In fact, the construction of that direction is one of the matters that we keep front of mind when we are considering the status of things we see going on in the wider economy.

Senator CONROY—But the minister has expressed a view about the operation of the act. You did not consider whether this was correct or not?

Mr Tanner—I have not had the opportunity to consider what the minister might or might not have said about the operation of the act.

Mr Bezzi—I have no difference of opinion—I am speaking on my behalf, not on behalf of ACMA

Senator CONROY—Not on behalf of ACMA?

Mr Bezzi—As ACMA's general manager, legal, I am saying that I am aware of the minister's view and I do not have any difference of view with the view that was expressed.

Senator CONROY—Are private IP networks part of the internet?

Mr Bezzi—It will depend on the particular circumstances of those networks.

Senator CONROY—Have you contacted Telstra yet about their activities, given that you believe—

Mr Bezzi—I have not contacted Telstra.

Senator CONROY—Why not? Aren't you in charge of administering the law? Clearly, on your definition, Telstra are breaking the law. They do not have a licence to do what they are doing.

Mr Bezzi—That is not my understanding of the position.

Senator CONROY—They are not breaking the law?

Mr Bezzi—I do not understand them to be breaking the law.

Senator CONROY—Why not?

Mr Bezzi—I understand that the scope of what they do, and this is without any formal process of investigation—

Senator CONROY—Why haven't you investigated it?

Senator Coonan—Let him finish his answer, Senator.

Mr Bezzi—The issue has not arisen for ACMA's determination. Issues usually arise for ACMA's consideration if there are complaints. I am not aware that there have been any complaints about Telstra's service. The informal analysis of what Telstra has been doing has not raised any alarm bells with me or with my colleagues, as far as I am aware.

Mr Tanner—I should perhaps make clear that this has been a subject of internal discussion. We have considered the publicly available facts about this service and we have certainly had informal discussions with the legal team.

Senator CONROY—You have not discussed it with Telstra.

Mr Tanner—There is a threshold issue here. You speak to a person when you become concerned that there is a breach. We have not become concerned that there is a breach here, and no-one has brought a complaint before us that would require us to publicly investigate. This is an issue which we have monitored. I think Marcus is giving you a flavour of the kinds of internal work on the construction of the law that staff have done. This is not the same as an ACMA view, but we have not had cause to put this before the full ACMA.

Senator CONROY—So ACMA is entirely reactive?

Mr Tanner—I do not think we are saying that at all. I think we are saying the opposite of that.

Senator CONROY—I do not agree. I think it is exactly what was said. I think Mr Bezzi made the point, ‘We only act if we receive a complaint.’ By definition, that is an entirely reactive position.

Mr Tanner—I do not think that is what he said.

Senator CONROY—As long as no-one complains, we do not do anything.

Mr Bezzi—No, if people complained, we would do something.

Senator CONROY—I would hope so.

Mr Bezzi—If we had concern about an issue, staff would consider whether to take action and perhaps raise it with the full authority for them to further consider.

Senator CONROY—So you at no stage have had any discussions with Telstra whatsoever.

Mr Bezzi—I have not had any.

Senator CONROY—Your section. You are in charge of the section.

Mr Bezzi—The legal area.

Senator CONROY—So when I say ‘you’, please take it I am meaning ACMA. I am not trying to personalise it; it is just a shorthand way of saying it.

Mr Bezzi—I understand that. I am not aware of any discussions.

Mr Chapman—That is my understanding.

Senator CONROY—Are there any other IPTV type service providers that you are aware of, have had any complaints about or noticed?

Mr Bezzi—I am aware that there are many IPTV services provided on the internet. I am not aware that we have received any complaints.

Senator CONROY—Have you examined whether or not they need a licence?

Mr Tanner—One of our legacy regulators, the ABA, actually commissioned a fairly significant report on streamed broadcasting like services on the internet. So, yes, it is an issue which we have been taking an interest in for years.

Senator CONROY—How long ago was that?

Mr Tanner—It was about three years ago, I think.

Senator CONROY—So it was before the minister gave her view on what the internet was.

Mr Tanner—I cannot recall what the sequence was.

Senator CONROY—It was three years ago. The minister has only been there for 18 months to two years, and she only made the recent announcement—

Mr Tanner—No, it was a different minister. The direction was made by Senator Alston.

Senator CONROY—But the definition of it has been enunciated very recently by the minister. Your report predates that because it is three years old.

Mr Tanner—To be fair, the words of the direction really are quite plain. It simply uses the word ‘internet’. It is for us—

Senator CONROY—But the definition of the word ‘internet’ is not plain. I am asking for a firm—

Mr Tanner—No, it is not, and law often makes use of terms which are broad and have to be given a meaning, and it is our role to do that.

Senator CONROY—I am asking you to give it a meaning and at this stage you are saying you do not have a settled view on the meaning of the word ‘internet’. I am asking for a settled view. I do not think I am asking for anything outrageous. I think there is a whole industry out there that is going to hang on your definition of the word ‘internet’.

Mr Tanner—I think we need to consider on notice what kind of advice we can give you as an authority on the construction of that term, given our roles under law.

Senator CONROY—How can you possibly prosecute the law if you do not know? I appreciate that the word ‘prosecute’—

Senator RONALDSON—Chair, I think Mr Tanner said he was going to take it on notice.

Mr Tanner—I think that you are attempting to argue the opposite of what actually is the case. I think it should be plain from what Mr Bezzi and I said that in fact the issue of the regulatory status of the particular service provided by Telstra is something we have taken notice of and have been considering internally.

Senator CONROY—How did they pass a test that you have not set? You do not have a settled view of the word. How did they pass?

Mr Tanner—We have to consider what we think the meaning of that word might be. That is the job that those of us that are lawyers do.

Senator CONROY—I am asking you to enunciate to the parliament, the Senate of Australia—

Mr Tanner—How we answer that to a member of a Senate committee is an issue we will take on notice.

Senator CONROY—What do you mean ‘how you answer it’? You answer it truthfully.

Mr Tanner—Of course we will.

CHAIR—Senator Conroy, they have said they will take it on notice. I draw your attention to the time.

Senator CONROY—I am happy to break at this moment for morning tea.

CHAIR—I believe there is a references committee meeting being held at this time.

Senator CONROY—I am happy to have a break. Then we can regroup and see if we can get some clarity. That is all I am after.

Proceedings suspended from 10.45 am to 11.09 am

CHAIR—We will resume with questions from Senator Conroy.

Senator CONROY—Have we found a definition of the ‘internet’ during the break?

Mr Bezzi—We are very happy to take that issue on notice. We can probably provide you with several definitions that we have regard to if called upon to reach a settled view about what the meaning of the phrase is.

Senator CONROY—How have you reached a settled view that Telstra are not in breach or do not need a licence—

Senator RONALDSON—Are you taking it on notice or not?

Ms Maddock—Can I just—

Senator CONROY—You have moved chairs, Ms Maddock. Reinforcements!

Ms Maddock—I like to keep Hansard guessing as to where I am sitting! Our primary interest in this aspect is in broadcasting regulation. It is becoming increasingly difficult, as you are flagging, to define broadcasting. We are interested in this in ensuring that we regulate broadcasting as far as we possibly can in that complex and evolving world. With regard to the Telstra proposal, there was and there is little indication to us that it is broadcasting unlicensed, so we chose not to escalate it.

Senator CONROY—How have you reached a settled view on that if you do not have a settled view on the definition?

Ms Maddock—We have a view on what is licensed or unlicensed broadcasting, but it is complex and evolving, as you are flagging. The law is changing, so, rather than pre-empting the discussion by expressing settled views on what the internet or broadcasting is, we are going to await the minister's media package to see what the process of thinking as reflected in legislation becomes.

Senator CONROY—I am asking you to give me an interpretation of existing legislation.

Mr Bezzi—We have taken that on notice.

Senator CONROY—It is not good enough. You have an existing law right now; it is not like there is nothing there. No-one is quite sure when the minister's media legislation will come into being. It could be the end of the year; it could be early next year; it might be tomorrow. So you cannot let the industry hang because you are waiting for new legislation. Your job is to administer the existing legislation.

Mr Tanner—I think you have raised two issues—

Senator CONROY—Mr Tanner, you have moved as well. Did you need that much protection, Mr Bezzi? They have you surrounded!

Mr Bezzi—They have.

Mr Tanner—I am sitting within shin-kicking distance of Mr Bezzi! I think it is my shin he has to kick, though. Having considered the line of questioning before the break, there are two issues in it for us. One is that I hope we have reassured you to some extent that, rather than doing nothing about the status of Telstra's IP service—in fact, this is an issue that the executive adverted to—we formed a view in consultation with legal that we had no evidence before us which reached the threshold that would cause us to propose to the authority that it should initiate investigation into an unlicensed broadcasting service. Of course, if we had received a complaint, we would then have to look at that, but we saw no reason to take further

investigative steps, and that was a considered decision by the executive. I was involved in that; Mr Bezzi was involved in that.

On the issue of how we apply that very short definition, which uses the term ‘internet’ to exempt a set of services, the internet is something which grows and evolves, just as broadcasting does, over time with new business models and new technologies. It has already grown and evolved a bit since that direction was given. We have a range of interpretive material we take account of in applying the law to a particular set of facts. I think we have taken on notice that we will give you a sense of what that range of interpretive material looks like, and I hope that will give you some comfort that there is a legal regime in place.

Senator CONROY—That would be good. I would appreciate knowing that there is a legal regime in place. I would like to get your thinking on a couple of the existing services. I have mentioned Telstra but I want to talk about some of the specifics. For instance, Telstra is currently providing IPTV services to its BigPond customers. I understand that Telstra has broadcast V8 supercar races and AFL video services to BigPond customers on a point-to-multipoint basis. I also understand that similar streaming video services were provided to Telstra mobile phone customers during the Rugby World Cup. Did Telstra obtain a broadcasting licence to deliver these services? Obviously, the answer is no. Has ACMA looked at the specific services that were being provided? We have mentioned Telstra before. I would like know your thinking behind why the V8 supercar races, the AFL video service, the Rugby World Cup and I think the Commonwealth Games—

Mr Tanner—It was in fact the Commonwealth Games when we really focused in on this issue.

Senator CONROY—I would like to know what your thinking was behind those four issues, as to why they did not require a licence, as well as your more generic thinking about what constitutes—

Mr Tanner—Senator, are you suggesting there was anything different in the technical means by which it was distributed? We understood that the Commonwealth Games was real-time, so it had the look of a point to multipoint service.

Senator CONROY—When you say it had the look—

Mr Tanner—I am just not sure whether the four different events you have named raise four different issues or whether they just raise the same issue.

Senator CONROY—They may have been delivered slightly differently. I don’t know that they were all delivered in exactly the same way. I think there are different issues involved for the four of them, because I think they were delivered slightly differently in each case. I may be wrong.

Mr Tanner—We will take that on notice, Senator.

Senator CONROY—So we would like to know if you looked at them and on what basis those four services passed your ‘no licence needed’ test, and then the more generic thinking behind this; that would be good as well.

Mr Tanner—Yes, understood.

Senator CONROY—The explanatory memorandum for this determination provides that the determination exempts a service that ‘uses the internet, even if part of the means of delivery of the service is technology which may not clearly be part of the internet’. Again, there is a subjective issue there, so I would like to know what your thinking is—

Ms Maddock—We will provide you with the source of information that we take into account.

Senator CONROY—I would like to know what your interpretation of that is, particularly being ‘part of the internet’. You might say, ‘My phone is not connected directly, whereas my computer clearly is connected directly.’ I would like to know your thinking on that. The explanatory memorandum also provides:

... the determination will cover services that enable users to access material from the Internet using a wireless application protocol device such as a mobile phone, whether or not the wireless application protocol is itself part of the Internet.

How does the explicit inclusion of WAP devices in the explanatory memorandum square with the view that private IP networks fall outside the definition of the internet? The explanatory memorandum for this ministerial determination provided that the purpose of the determination was to ‘make it clear that audio and video streaming over the Internet are not broadcasting services’. Is that correct?

Mr Tanner—That is what it says.

Senator CONROY—So if there is not a consensus over the meaning of ‘the internet’ in the telecommunications sector, has this determination made it clear what the Broadcasting Act applies to? Has ACMA considered issuing guidelines to inform the telco sector of its view of the application of this law? Those are my questions; I am happy for you to take them on notice and come back with a considered view.

Mr Tanner—Yes, Senator.

Senator CONROY—I have a number of questions about recent statements by the Telecommunications Industry Ombudsman on the issue of consumer complaint resolution. The TIO, John Pinnock, has stated that the telco industry is currently extremely reluctant to inform consumers of their right to seek the intervention of the TIO when they are dissatisfied with the resolution of a consumer complaint. In fact, the TIO estimates that only 16 per cent of consumers who register formal complaints with the body have been referred there by their provider. There is currently an ACIF code that requires service providers to inform customers of their right to TIO intervention in customer complaints. Is that correct?

Ms Maddock—Yes.

Senator CONROY—If the TIO estimates that only 16 per cent of complaints that reach it have been referred to it by providers, doesn’t this indicate endemic non-compliance with the code?

Ms O’Loughlin—We are certainly aware of the TIO’s comments. I think he has had concerns in this area for some time. Our consideration of the code is that it does require communications providers to notify their customers of their rights. I think the difficulty is in how they are going about that and whether customers are actually getting that message. I

think the TIO is keen to see companies increase the way they communicate with their clients through things like making sure that, on every bill, there is a notification about the TIO office and their availability to take complaints. So we are not aware of a breach of the code, because companies are giving customers some notification, but it is the level of notification that they are giving that the TIO is concerned about, and we would certainly be keen to work with the TIO office to review it.

Senator CONROY—Does ACMA believe it has a role in driving service providers to make consumers aware of their rights regarding TIO complaint resolution?

Ms O’Loughlin—We certainly make sure that, with the codes which are developed and the releases that we provide and put out, the people affected by those codes are aware of the roles of both the TIO and ACMA in dealing with complaints.

Senator CONROY—I was asking whether or not you believed you should be putting pressure on the service providers to lift their game.

Ms O’Loughlin—I think we would like to work with the TIO, seeing what is already happening at the company level.

Senator CONROY—He is waving a large red flag and jumping up and down on the roof of a tall building, saying, ‘Help!’

Ms O’Loughlin—Yes, and we are happy to work with the TIO to see what can be improved.

Senator CONROY—But I am asking whether or not you believe you have a role in talking to the service providers themselves.

Ms O’Loughlin—I think we have a role in making sure that complaints handling is effective for consumers.

Senator CONROY—So that is a no, I guess; you do not believe you should be talking direct to the service providers?

Ms O’Loughlin—No, I said that I think we have a strong role in making sure that complaints-handling processes are working, so we do have a role in talking to companies where that complaints handling may not be working as effectively as it needs to.

Senator CONROY—Okay. So do you have some systemic evidence, other than the large red flag that the TIO is waving?

Ms O’Loughlin—I do not have the information with me today.

Senator CONROY—No, but you collect information, so you know which are the worst providers, the ones who are not doing their job, so you can talk to them direct?

Ms O’Loughlin—There are a broad grade of codes, and there are a broad range of issues.

Mr Shaw—I might add to that. We are actually at the moment undertaking some interviews with carriers regarding their compliance with the information provision obligations and testing their awareness. That work is in train. We are not yet in a position to report because we are still bringing it all together, but—

Senator CONROY—I was really just asking about exactly what you are doing, so thank you for that.

Mr Shaw—We are undertaking survey work.

Senator CONROY—I am glad. Now, in March, ACMA released a discussion paper on the use of the unassigned TV channels. How many submissions have you received on the matter? I think your website contains 30, but I understand there are some confidential submissions.

Ms Maddock—We are just checking, Senator.

Mr Tanner—It is over 30; it is in the vicinity of 30.

Senator CONROY—Yes, I think there are 30 on the website, but there are some confidential submissions.

Mr Tanner—Yes, obviously we do—

Senator CONROY—But it is a small number of confidential submissions?

Mr Tanner—Yes.

Senator CONROY—Could you take on notice how many confidential submissions were received?

Mr Tanner—Certainly.

Senator CONROY—Thank you. I understand that ACMA is using the discussion paper process to provide advice to the minister.

Mr Tanner—That is correct.

Senator CONROY—Has that advice been given to the minister yet?

Mr Tanner—No.

Senator CONROY—When will it be provided?

Mr Tanner—We expect to provide advice by the end of this month.

Senator CONROY—And what sort of advice will you be providing? I am trying to avoid specifics; I am just asking in a general sense.

Mr Tanner—I think, generically, it will be about indications of demand and issues around that demand that we have turned up in submissions, particularly technical issues.

Senator CONROY—Will you provide advice on what new services would maximise the returns to the government from the sale of the spectrum?

Mr Tanner—To be honest, I do not believe we have a lot of evidence that would shed much valuable light on that.

Senator CONROY—Will ACMA be assessing the business case of various companies? For example, would you be advising the minister on whether there is a viable business case for mobile TV, subscription TV or datacasting? Are you getting that detailed?

Mr Tanner—I think our approach would be that, if a reputable business were prepared to tell us that there was a business case, then we would take it that they were interested in giving it a try. But no, we are not doing market modelling on their behalf.

Senator CONROY—Okay. Will you be commenting on the effect of possible regulatory restrictions around the new services?

Mr Tanner—To the extent that we think that is an issue that goes to demand, quite possibly.

Senator CONROY—It would go to demand though, wouldn't it? We have had a datacasting auction before but no-one came because everyone said it was too restrictive. The restrictions that are on would go to demand.

Ms Maddock—It is a bit premature to answer that until we have looked at the submissions in detail.

Senator CONROY—Previously we had an auction and literally no-one came. Clearly there was an issue. The demand was zero because of the level of restrictions.

Mr Tanner—Yes, almost no-one came. A number of things have changed since then. I cannot speak for what changes have occurred in the market, but certainly mobile television was not an application that was on the horizon at the last auction. Also there are some changes to the existing legal regime, around what can be done with the unassigned television channels, which occur at the end of this year. I suppose I would make the general observation that there are indications of demand for use of those channels now.

Senator CONROY—The minister's discussion paper suggests that the unassigned channels should be used for subscription TV, datacasting, mobile TV or free-to-air narrowcasting. Has anyone suggested other uses, like multichannelling by existing broadcasters or a fourth free-to-air network?

Mr Tanner—I am not aware that we have received submissions on that latter one. I would have to check first. Certainly we had some approaches around possible use of the spectrum for other types of services, such as broadband, but I would have to check. I have only read synopses of the submissions and that was a few weeks ago.

Senator CONROY—Does ACMA plan to release a public report following on from the discussion paper process and related meetings with the industry?

Mr Tanner—We certainly have not considered doing that at this stage. It may be something we do. Remember, we are not just doing this for the minister; we are also doing this for ourselves. There is certainly some useful information we will need before we can do our work in the event that the minister gives us the signal to proceed.

Senator CONROY—Have participants said that they would like more clarity on what restrictions will apply?

Mr Tanner—I am certainly aware of that issue but I am not sure that it has been strongly pushed in the submissions. I will have to check that.

Senator CONROY—What other work is ACMA doing on the assignment of these channels?

Mr Tanner—We are certainly continuing with the planning. There is a handful of areas where we have not yet completed the planning of channels. We believe that should be done by the end of this year. There are also some issues that the submissions have not really allowed

us to reach conclusions about which we think are important. We are certainly doing further work in those areas. Otherwise I think we are holding off on actual work on the allocation process until we get an indication of whether we are proceeding with existing law, proceeding at all or perhaps going to some changes of law, which would obviously build in an extra process.

Senator CONROY—If new services are to commence on 1 January 2007, when will your planning processes need to be complete?

Mr Tanner—I think it would be very challenging to have a decision from the government and an allocation process in place and completed by then. I think it would be even more challenging to see the services on air. I do not think that is realistic unless a scenario emerges where perhaps an existing service, such as the datacasting trial, were to continue. This is obviously very hypothetical. Once again I am talking about existing law. No-one has actually said that the existing law will be the law that applies. But under existing law there is a requirement that the services commence within 12 months of allocation. It is not clear how under existing law we could compel anybody to be on air by 1 January 2007.

Senator CONROY—When do you think the first services would start?

Ms Maddock—I do not think that it is useful for us to speculate on that until the minister and the government have made the policy decisions.

Senator CONROY—Minister, do you think you will be able to get the start-up date of 1 January?

Senator Coonan—I am not going to speculate on that. No-one has ever said 1 January. That is the date on which some of the restrictions come off on datacasting and some of the moratoriums end, but I do not think anyone has ever said that new services would start on 1 January.

Mr Tanner—It really does depend. We have a datacasting service on air in Sydney, so there is a hypothetical scenario where there could be a service on air on 1 January. We do not know whether or not there are going to be changes to law. If there are changes to law, there will not necessarily be allocations until that is complete, and you can add as many months as that is going to take. I have to make assumptions here about the kind of allocations process but, under existing law, it would be a price based one. It is going to take a number of months. Once licences are allocated, under present law, there is that one-year start-up requirement. It is a hypothetical question, and the answer will depend, but there are certainly scenarios where you may not see a service go on for a couple of years, easily. There may be others where it could be on on 1 January.

Ms Maddock—But we are not going to speculate in advance of the legislation, Senator.

Senator CONROY—Section 28 of the Broadcasting Services Act states that ACMA cannot issue a new commercial television broadcasting licence in any licence area before 31 December 2006. The act also prevents the allocation of new free-to-air TV services delivered over other platforms, such as wireless, satellite and broadband. At the last election, the government announced its intention to remove ACMA's ability to issue new commercial TV licences but, to date, we have not seen any legislation to this effect. What account does

ACMA take of the government's policy? Do you prepare anyway in case the government changes its mind again?

Ms Maddock—I think that there is sufficient time between now and when we could theoretically be required to act for us to do anything, but we are waiting to see what the legislation introduced by the government says. We think that does not pose any problems for us.

Senator CONROY—Would you proceed to issue any new licences after 1 January 2007 if legislation had not passed?

Ms Maddock—I am not going to speculate.

Senator CONROY—Would you defer to the government's stated policy?

Ms Maddock—I am not going to speculate. We have got time to make any decisions we might have between now and the end of the year.

Senator CONROY—What procedures would be involved in issuing a new commercial television licence? What would you have to do?

Ms Maddock—It depends upon the conditions that are attached to it. It depends upon choices governments may make about beauty parades versus auctions et cetera. As I said, the range of conditions is extensive, so I do not think we are in a position to speculate on it.

Senator CONROY—If someone knocked on your door on 1 January and said: 'The government hasn't changed the law. We'd like to apply for a licence,' what would you do?

Senator Coonan—That is really hypothetical. I do not think it is fair to ask the officials to speculate when (a) it is not 1 January and (b) the government's position is not yet settled.

Senator CONROY—It is not quite hypothetical. I disagree with you only on that point. I understand the government's stated position, but there is a law that says that, from 1 January, they can do it. That is not a hypothetical; that is a legislative fact.

Senator Coonan—Yes, but it is not 1 January and it depends on what somebody would ask them to do. It is hypothetical in a very real sense.

Senator CONROY—Is there spectrum currently reserved all around Australia to allow a fourth network?

Mr Tanner—In heavily settled areas the only available spectrum suitable for television and broadcasting services bands is that identified in the review. The two unallocated television channels are suited for digital only.

Senator CONROY—I thought the two unassigned channels are earmarked for datacasting services.

Mr Tanner—They are the subject of this review. We sometimes call them datacasting channels. We have been trying to use the term 'unassigned television channels' because that is strictly what they are.

Senator CONROY—If the two unallocated channels are used for mobile TV or niche free-to-air services, as suggested in the minister's media discussion paper, would that mean there

was no spectrum available for a fourth terrestrial channel until the switch-off of analog broadcasts?

Mr Tanner—By and large I have left out of the equation the only other wild card, which is the handful of channels—but they include Channel 31 in Melbourne, Sydney, Brisbane and Perth—that have either been used for community television trials or are currently occupied by community television services. The actual state of those channels is not yet settled, and that is one of the issues before the government. Otherwise, with the exception of those, if we are talking about major markets, those are our broadcasting services bands television options until such time as it is possible for us, perhaps through clearance, to make other channels available. I think we are some distance away from that at the moment.

Senator CONROY—If I could turn to your antisiphoning responsibilities, the minister has directed you to monitor the use of events on the list by free-to-air broadcasters. Could you tell me when the first report is due?

Mr Chapman—The first report is currently scheduled to be provided to the minister before the end of June.

Senator CONROY—Except for confidential material, will these reports be made public?

Mr Chapman—I think the minister has previously indicated an in-principle desire for that to be the case. Unless the minister corrects me, I assume that is still the case, and certainly from our perspective we would be supporting that approach.

Senator CONROY—Will ACMA be making judgments and providing analysis of the data, or will it be a purely descriptive document—for example, Channel X showed Y hours of live AFL?

Mr Chapman—The paper from the staff to the authority—the authority meeting would precede the presentation of the material to the minister—has not yet come forth. As it is the first time that this material has been presented, it will be iterative. To give you a feel for the amount of data that will be provided in this, I am advised that just the tennis component of the sporting rights runs to some 400 pages. So I think in the first instance it will be heavily on data. It will show the licensee, the rights they held, whether it was live, near live, and all the other categories that were—

Senator CONROY—What will be the definition of ‘near live’?

Mr Chapman—‘Near live’ is a matter that will be set out in the paper when it is provided. It has not yet come to the authority for definition and settlement. But there are a number of categories, and the data will go on to make those initial assessments against those categories and the extent to which the rights were used. There will probably be some overarching analysis in the first instance; but that is not our role in the first instance. Our focus in the first instance is to provide the data to the minister in the way in which it was requested.

Senator CONROY—I appreciate that it is still a little bit early, but you must have been giving some thought to the definition of the word ‘used’—as in ‘the rights have been used.’ What criteria are you employing?

Mr Chapman—Again, I have not had the benefit of seeing the paper. It will be a very factual, data-rich assessment of when the rights started and when they concluded. There will

not be any determinations as to what is used in that sense. That will be a matter for the minister to consider.

Senator CONROY—Did you say the minister gets to decide what ‘used’ is?

Mr Chapman—In the fullness of time, that may be a policy matter for the minister to decide.

Senator CONROY—For example, will you take account of the fact that it is not actually possible to cover every match in the first-year rounds of a tennis tournament? You have indicated that tennis is one of your major focal points—because it is going to be 400 pages long—but it is not actually possible to cover every single match. Have you used your rights, if you are only showing three matches in a row or one per hour or one per two hours? Have you given some thought to dealing with an issue like that, even in a purely factual way, when you present the report? You could say, ‘We have shown the tennis all day,’ but does that mean they have actually shown every single match all day?

Ms O’Loughlin—With the reports we have tried to get down to the granularity of collection of information, so that on the rights side it will look at what rights were purchased and how they were used, whether the whole program shown was broadcast by that particular broadcaster, whether they were on-sold and collecting an information base about how broadcasters have gone about using those rights. On the other side of it, as the chair said, if those programs were broadcast, looking at in what form they were broadcast: were they live; were they nearly live; were they partially live; or were they time zone delayed? We are trying to give as comprehensive a report as we can through the collection of that data.

Senator CONROY—Even when you present the table you are going to have to have columns in the table. I am trying to understand how you are going to put the columns in, and this is before we get to the minister’s potential policy decision. How you present this is going to be important for how the debate then progresses. I want to understand how important live coverage is to your determination of whether an event has been used.

Ms O’Loughlin—What we are identifying in the report is whether the program was shown live, whether it was shown partially live—all those various definitional things around the term ‘live’.

Senator CONROY—But what about when it is multifaceted? At the moment, there is an argument that they are not showing the tennis live because they are only showing, say, three matches in an afternoon, because there are 80 other matches taking place on the other courts. How is that—

Ms O’Loughlin—What we are hoping to do—

Senator CONROY—I do not have an answer.

Ms O’Loughlin—We are trying to provide the detail to the minister at that granular level on what rights were purchased and broadcast and how they were broadcast so that the minister has that full information. Obviously, under the media reform package, the minister has already put forward some possible criteria for the term ‘use’. We are hoping that by the detail of what we provide to the minister that will help inform her in going forward to get those final criteria.

Senator CONROY—Will ACMA eventually—you may not do it in the first one; as you say, it really is just an information piece at first—make recommendations on whether events should be delisted?

Ms O’Loughlin—No, that is not part of this exercise.

Senator CONROY—But you do have a responsibility nowadays for that debate, don’t you?

Mr Chapman—Not that I am aware of, no.

Senator CONROY—Not covered? Who—

Ms Maddock—We have been asked in the past to provide advice and we have done it but that has been at the request of the minister.

Senator CONROY—You have conducted reviews.

Ms Maddock—We conducted a review a couple of years ago.

Senator CONROY—The ABA, I think, used to opine on this—I am not being pejorative—on a regular basis.

Ms Maddock—I am aware that there was a review a couple of years ago.

Senator CONROY—For instance, that review recommended that Socceroos matches should be put on the antisiphoning list.

Ms Maddock—I think that is right.

Senator CONROY—So in the past you have made recommendations in that area.

Ms Maddock—Yes.

Senator CONROY—How broad is the scope of ACMA’s monitoring? The free-to-air networks have been concerned for some time that there is a loophole in the antisiphoning regime because it only applies to subscription licensees, not free-to-air channel providers.

Ms O’Loughlin—I think that issue was raised in the minister’s media reform package as well and it would be a matter for the government.

Senator CONROY—I think in the discussion paper the minister said the government will monitor it. I am just wondering if you are monitoring it. Minister, what form of monitoring around this loophole issue is there? You said in your paper that the government will monitor it.

Senator Coonan—Yes. Despite the fact that I understand the argument about a loophole, so far as I know there has not yet been an indication where the scheme has not acted in the way in which it was intended and the so-called loophole has become a serious issue. We are in touch all the time with the broadcasters and remain interested in any identified instances where there is some issue.

These are complex matters. It is a very difficult scheme, where you are balancing a lot of interests. There is huge investment in sport and showing sport, and the government is concerned to ensure that the scheme operates in the way in which it is intended. We are very keen to make sure that the ‘use it or lose it’ scheme operates effectively, and we will continue

to receive comment from the broadcasters if the loophole issue manifests as some problem for them.

Senator CONROY—So it is to you direct, rather than, say, ACMA having a watching brief?

Senator Coonan—If it becomes an issue, of course you ask ACMA. I have that at my disposal. But at the moment it has not. We have gone back to the original legislation. We have looked at the original intent. I am having a look with the department at whether or not the scheme has evolved in such a way that the loophole has become more of a problem, with content providers acquiring material. It is something that is under review but not in a formal way.

Senator CONROY—I have a number of questions about your current review of the adequacy of the Spam Act.

Senator IAN MACDONALD—Mr Chairman, if Senator Conroy has finished that line of questioning, could I ask some questions?

Senator CONROY—I have finished my questions on the issue, yes.

Senator IAN MACDONALD—I will be quite brief. I have some matters of interest that I want to raise. I was looking at the ACA report for 2004-05, which I understand the committee is required to look at in these estimates. I refer to page 53, dealing with improved mobile phone coverage initiatives. The ACA—I understand that ACMA continues its obligations—was looking at mobile phone coverage initiatives and, according to the last sentence of this little paragraph, was providing ‘advice to DCITA on performance measures during the contract negotiations, and has begun ongoing compliance monitoring’. Can someone indicate to me what the compliance monitoring has revealed in relation to mobile phone coverage initiatives?

Mr J Neil—I believe that reference—and I do not have it in front of me—is to work that we have done on some particular contracts in relation to the extension of coverage under government programs. To my knowledge, the companies involved—in this case, I think it is Telstra, as I read it—have complied with their requirements to provide us with reports on coverage.

Senator IAN MACDONALD—This report states that ongoing activities included:

- quality of service monitoring of Telstra’s performance against three contracts to provide improved mobile phone coverage in selected small towns and segments of regional highways.

It goes on to say that you are conducting ongoing compliance monitoring. Is it still a function of this authority to look at the ongoing compliance by Telstra and those who have contracts to supply mobile phone coverage on the highways?

Mr J Neil—Subject to checking the details of the length of time that the monitoring was required under the contract, I would specify that it is not general mobile coverage compliance monitoring; it is monitoring in relation to the particular contracts that are at issue there.

Senator IAN MACDONALD—You are saying it relates more to the paper contracts to make sure that Telstra or other carriers are—

Mr J Neil—Sorry, I will try to make it clearer.

Senator IAN MACDONALD—Let's not waste time. What I am really interested in is mobile phone coverage on the major highways. I know that is something the minister is very keen to see happen, and I am also, as one who uses a lot of the major highways in more remote parts of Australia, very interested in making sure that happens. Perhaps I have got the wrong agency, but does your agency oversee the contracts that the carriers have with the Commonwealth government in which they agreed to provide continuous mobile phone coverage along the major highways of Australia?

Mr J Neil—Yes, we monitor their compliance with the undertakings they made under the contract and for which they have received money from the government. That is right.

Senator IAN MACDONALD—How are they going? Are they complying? And this is a trick question, because I know in advance that they are not supplying the major highways with the mobile phone coverage that the government indicated they wanted them to supply. It is something the government promised to do in the 1998 election, I think, and we have been doing it; we have been getting there, but we are still not there. Are you monitoring that?

Mr J Neil—As indicated, there is an obligation for ACA and ACMA to monitor for whatever periods were specified in the contracts. I cannot speak in detail on the contracts; I have not worked in this area for some time. But my understanding is that they would be continuing to report in terms of the contracts for the periods that were specified. My recollection—and I could be corrected on this one—is that they were five- or 10-year periods. I would have to go back and get more detail. I would have to take it on notice, I think, to respond in more detail.

Senator IAN MACDONALD—I am conscious that other senators want to ask questions, and I certainly do not want to monopolise the time of this committee by asking questions. Could I perhaps put on notice then, if you could get the information for me, which highways and what parts of Australia were intended to be part of the government's commitment to provide mobile telephony? I am particularly interested—and I am sure other senators would be too—in the Bruce Highway in Queensland, the Landsborough Highway in Queensland and the road from Townsville to Mount Isa. I think they are the highways that we indicated would be covered. So I would like you to tell me which highways the contracts require them to cover.

Can I also get you to advise me, on notice, of their success rate—what they claim to have covered in those areas—and, where it is not 100 per cent, what they intend to do about that. And, if they are not intending to get 100 per cent, why not, and what does the government need to do to make sure that they do provide 100 per cent coverage along the major highways? I appreciate that you cannot expect to have mobile phone services on every little back road in the country, but certainly they should cover the major trunk highways such as those I have indicated—the Bruce Highway, the Landsborough Highway, the highway out to Charleville, the highway out to Longreach from Rockhampton. All of those places I think would be included. For other senators, if it is not too much trouble, you might do further work on other parts of Australia as well.

Mr J Neil—I am happy to provide information in relation to any of the contracts for which we have had monitoring responsibility.

Senator IAN MACDONALD—Would that detail cover the things I have asked for? I do not want you to come back to me and say, ‘No, we don’t do that.’ I want to find out now whether you do do it, and if you do then I will expect the answers.

Mr J Neil—We can provide you with a report on what form the monitoring takes and what detailed information that provides us with on the coverage achieved et cetera. We are happy to do that to the best of our ability. I cannot give you a clear indication right now of the detail of the monitoring; I do not have it at my fingertips.

Senator IAN MACDONALD—No, but I see from the ACA’s report that that is required. Minister, perhaps you could get that information for me if it is not this agency that does it and if it is some other part of your department, the whole conglomerate, that does it.

Senator Coonan—Certainly.

Ms Maddock—We will make sure that, if other people are involved, we will involve them in the answer.

Senator Coonan—We will give you a very comprehensive answer, Senator Macdonald.

Senator IAN MACDONALD—Thank you very much.

Senator CONROY—I have a number of questions about the current review of the adequacy of the Spam Act.

Ms Williams—If it is about the review, that was the department, and that will be under—

Senator CONROY—ACMA mentioned it in their submission, so I wanted to talk to them about this.

Ms Williams—Okay. Sorry.

Senator CONROY—ACMA stated in its submission to the review that there was no need for significant reform of the Spam Act.

Ms O’Loughlin—That was my understanding. I do not have a copy of the submission with me.

Senator CONROY—However, ACMA’s submission notes that, while the volume of spam originating from Australia has significantly reduced since the introduction of the act, Australia is still the 23rd highest producer of spam in the world. Is that correct?

Ms O’Loughlin—Yes, but we have dropped from 10th in the world.

Senator CONROY—But it is fair to say that there is still room for improvement?

Ms O’Loughlin—There is still room for improvement.

Senator CONROY—One area in which there appears to be significant room for improvement is premium SMS services. Is ACMA aware that Telstra announced earlier this year that it would act as an advocate for customers upset at receiving unwanted text messages from operators of premium SMS services?

Ms O’Loughlin—I am not aware, but I assume my staff would be.

Senator CONROY—Telstra has said that it would contact service providers on behalf of customers to stop and seek refunds for unwanted messaging services because customer complaints over this issue have tripled over the past 12 months. I think that yesterday they indicated that they were getting hundreds of calls per month. If customer complaints about SMS spam have increased threefold in the last year, it would seem to indicate that the existing regime is not functioning too well in dealing with SMS spam.

Ms O’Loughlin—SMS is regulated by the Spam Act. It is probably around 10 per cent of the formal complaints we receive under that act.

Senator CONROY—But it is ballooning—that was Telstra’s evidence to us yesterday—to the extent that they have now announced that they are stepping in to try to do something about it.

Ms O’Loughlin—We have also been active in taking enforcement activity under the act in SMS. We have, for example, fined companies for sending significant SMS messages. It is certainly an activity which has significantly increased, but the act is robust enough—there is enough weight in it—for us to pursue the enforcement activities that we need to.

Senator CONROY—Microsoft has suggested that the spam enforcement burden on ACMA could be reduced by allowing intermediaries such as ISPs, email service providers and presumably telcos to take private legal proceedings against spammers, under the Spam Act. What is ACMA’s view of that proposal?

Ms O’Loughlin—I have not considered it.

Ms Maddock—That is a policy issue. We will be waiting for the spam review on that.

Senator CONROY—Would it help with the problem?

Ms Maddock—I am not going to get into speculating about policy.

Senator CONROY—Intermediaries have a private right of action against spammers in the United States. Is that correct?

Ms Maddock—We are not doing the spam review, so that is not the sort of issue that will be at the forefront.

Senator CONROY—But in the light of ACMA’s support for the harmonisation of international spam laws, which you have advocated, introducing a private right of action against spammers would be a positive move, wouldn’t it?

Ms Maddock—As I indicated, that is a policy issue—

Senator CONROY—When you call for harmonisation, presumably you understand what you are calling to be harmonised.

Ms Maddock—There are a whole lot of things involved in the international regime. When we call for harmonisation, which I wholeheartedly call for, we are not taking a particular view on particular aspects and saying that they are the ones that must be adopted—that we must necessarily adopt any particular jurisdiction’s rules on that.

Senator CONROY—So it is the lowest common denominator.

Ms Maddock—I am not arguing that either. I am saying that I am not going to pick out particular bits of the international regime and endorse them here as being necessarily the ones which should be adopted. It is a to-and-fro process, as you understand.

Senator CONROY—I would like to ask about the technical capacity of commercial broadcasters to engage in multichannelling if the existing restrictions were lifted. Is this an area where ACMA has expertise? You have provided advice to the minister on this matter previously?

Mr Tanner—Yes.

Senator CONROY—Is it technically possible to broadcast in HDTV at the 10ATI standard and also offer a standard definition multichannel?

Mr Tanner—I am assuming that there would still be a requirement to simulcast in standard definition the service which is on the HD channel. In effect you are talking about a HDTV channel and two standard definition channels. Certainly the advice we have from broadcasters is that it is not feasible to do that.

Senator CONROY—It has been put to me that it is possible to provide a standard definition multichannel service using three to four megabits per second. Does ACMA accept this?

Mr Tanner—Yes, it is possible. It would not be as good as most of the standard definition pictures that we see now.

Senator CONROY—But it is possible.

Mr Tanner—I guess in my previous answer I was assuming that the kind of high quality and relatively high bit rate standard definition picture that we are used to would be continuing as well as the multichannel.

Senator CONROY—I understand that most multichannels run by the UK free-to-air broadcasters and most Foxtel channels only require about four megabits per second. Can you confirm that?

Mr Tanner—I am not sure which standard Foxtel is using. With our free-to-air platform we are still using the MPEG2 system. It is possible that some of those other broadcasters are using more advanced coding than is available under MPEG2, which is coming to the end of its life cycle—that is, all the gains in terms of compression have now just about been found.

Senator CONROY—Can you take that on notice just to confirm that?

Mr Tanner—Certainly.

Senator CONROY—How many megabits per second can be transmitted using the seven-megahertz channel that is available to free-to-air broadcasters for digital broadcasts?

Mr Tanner—There is a range of settings they can use. We originally planned on the basis of slightly over 19 megabits per second. Some still do that, but some have elected to move to 23 megabits by using a somewhat different mode of the system. I am struggling a bit here as I am not a technical person. But certainly some are operating at 23 megabits per second.

Senator CONROY—I understand now that some are up to 23.

Mr Tanner—Yes.

Senator CONROY—Which tends to suggest that you could derive an extra four.

Mr Tanner—There are some trade-offs entailed in that. It does not seem to have really impacted on major parameters like same coverage. You understand that the trade-off with the fewer bits per second really is, broadly, the greater ruggedness or robustness of signal. Maybe the ABC would be better placed to give you information on this than I am, but I can take this all on notice. I understand that with 23 megabits per second there are some losses of flexibility. There may be some greater difficulties in getting single-frequency networks to operate and things like that. But, yes, some broadcasters have gone for 23.

Senator CONROY—How many megabits per second are needed to provide a 10ATI HD signal?

Mr Tanner—It really varies.

Senator CONROY—What is the standard?

Mr Tanner—I will just say that broadcasters seem to be having little difficulty in providing a 10ATI signal and a good-quality standard definition signal using a channel. I am not sure from memory whether the broadcasters doing 10ATI and good-quality standard definition are using 19.3 or 23. I think probably 19.3.

Senator CONROY—I was not asking about standard definition. I was asking what is the standard megabits per second needed to provide 10ATI.

Mr Tanner—I can take that question on notice. It may be something like 12 and seven.

Senator CONROY—My understanding is that it is around 12. I just wanted to confirm that. You can take that on notice.

Mr Tanner—That sounds about right but I think it might be better if I asked Mr Gengaroli or someone to confirm that.

Senator CONROY—I think that is about right, but you can confirm that.

Mr Tanner—It is all fairly plastic, you understand. For example, most broadcasters in Australia put a lot of bits into their standard definition picture, which is what a lot of people are watching. You get a very good quality picture. My understanding is that if you look at the multichannel services on the national, some of those multichannels are using fewer bits. They are still quite a good picture too.

Senator CONROY—Have you got Foxtel?

Mr Tanner—I actually do not, no.

Senator CONROY—I have it. All their channels look pretty good to me in terms of the quality of the picture. But it would be good if you could take on notice what we were talking about before.

Mr Tanner—Sure. We do have figures on what some broadcasters are currently doing and we can give you a range of amounts.

Senator CONROY—I was after the standard one, but I am happy to have the range as well. How many megabits per second are needed to provide a standard definition simulcast channel?

Mr Tanner—Once again, while you can do it at quite low numbers of megabits, I think most broadcasters are choosing to use something like seven. But can I take that on notice?

Senator CONROY—Yes. I think it is 6.5, but please take it on notice and, if you can come back and confirm that, that would be great. Again, that leaves about 4.5 megabits for a standard definition channel.

Mr Tanner—There is a certain outgoing on other applications, such as electronic program guides, that the particular broadcasters are transmitting and things like that.

Senator CONROY—That still leaves about 4.5 megabits for a standard definition multichannel, though, given 12 and 6.5. That still leaves us with 4.5 megabits.

Mr Tanner—As I said, I will take this on notice. I guess I am just mindful of the one broadcaster which is simulcasting in HDTV and standard and running a multichannel, namely the ABC, which has elected not to transmit in 1080i but is operating at a less bit-rate intensive version. I know that broadcaster is carrying other content, for example, radio—

Senator CONROY—They seem to be squeezing it all in. I am just trying to find out what technology is possible.

Mr Tanner—They are using three. The point is that you can cut various corners and you can have somewhat lower quality channels, which may just mean more artefacts that generally look pretty good, but there do seem to be some real issues about combining a 1080i with two standard definition channels. At least that is somewhere no-one is prepared to go to at the moment. I assume that has to do with the quality of one or more of those channels and the broadcaster's view of viewer expectations around quality.

Senator CONROY—I am told that new generation MPEG2 compression equipment—and this is not MPEG4; this is just new generation MPEG2—will generate spectrum efficiencies of up to 10 per cent. Is ACMA aware of that?

Mr Tanner—Yes, we are. In fact, there have been steady incremental gains in the efficiency of MPEG2 since the original digital television decision. You will recall that back in the late nineties the resolution was taken that we would have a high-definition channel and a simultaneous standard definition channel. There have been a number of incremental gains in the efficiency available to broadcasters since then.

Senator CONROY—Free to airs are not allowed to go there, though. It is not a question of them not being prepared to; they are not allowed to.

Mr Tanner—As I understand it, free-to-air broadcasters can take advantage of incremental gains in the efficiency of MPEG2. Once again, everything I have said is going to be gone over by engineers and, if I have got it wrong, they will advise me.

Senator CONROY—I appreciate that. I will not hold you to it. I am less of an engineer than you, so I will not be holding you to it. Is this new compression technology widely available?

Mr Tanner—I understand that the benefits of improvements to MPEG2 are available to broadcasters.

Senator CONROY—So it is online now?

Mr Tanner—There are a number of different sources of incremental improvement. Mr Knowles from the ABC will be following me. You may be better able to talk to him about this than me.

Senator CONROY—What impact will this technology have on the ability of broadcasters to do 1080i HDTV and also run a standard definition multichannel?

Mr Tanner—I will take that on notice. The impression I have been given from broadcasters is that it would impose on them unacceptable compromises in the quality of one of the streams, but I think that is a value judgment in the end.

Senator CONROY—This is with the new technology.

Mr Tanner—Yes, but we are talking about a rate of improvement of 10 per cent; we are not talking about doubling. I am talking about the sorts of improvements in quality that different standards might offer going forward.

Ms Maddock—Can we arrange to give you a briefing on these issues as a way of taking them on notice and making sure that we have the engineers' advice?

Senator CONROY—I will still want the answers. I am happy to be briefed. I have spent some time with Mr Tanner and his chart. I am not sure if I am quite ready for another visit to his chart.

Mr Tanner—We will take the questions on notice. We can answer these questions. Precisely because we have gone over them, I am tempted to do it from memory, but I think that is no substitute for getting the engineers to help.

Senator CONROY—My office tell me we cannot wait.

CHAIR—That sounds like a very good idea.

Senator CONROY—I have a number of questions about ACMA's ongoing broadband over powerline trials in Tasmania. Who wants to take them?

Mr Tanner—I can take those. I am not as up to speed on those, but let us see. Give it a try.

Senator CONROY—What is the current status of the trial? When do you anticipate that the trial will be completed?

Mr Tanner—I am not aware of the completion date of the trial. I will have to take that on notice.

Ms Maddock—Should we take most of these on notice as well?

Senator CONROY—I do not know. I do not have many, so I will run through them and see how we go. BPL interference issues seem to have cropped up again in this Tasmanian trial, I understand. Some parties have recently claimed that the TasTel BPL product has been radiating in maritime distress and safety channels. Are those claims accurate?

Mr Tanner—I would have to take the specific one on notice, but any interference is being tracked down and resolved. One of the purposes of the trial is to see whether these problems can be resolved.

Senator CONROY—What level of danger does ACMA believe this level of interference poses to maritime safety? Do you believe it will be eradicated?

Ms Maddock—The purpose of the trial is to identify what those problems are. If they can be eradicated, we will eradicate them. If they cannot, then we would have to make a judgment at some stage as to whether we allow such technology to be used.

Mr Tanner—ACMA is not going to be tolerant of things which cause maritime safety problems.

Senator CONROY—I would hope not, but can you come back to us on this question: is it correct that there was interference and has it been solved?

Mr Tanner—Yes, we will need to come back on the specifics of what the problems are, whether or not they have been resolved and how, and we are happy to do that.

Senator CONROY—What ability has TasTel shown to notch out certain frequencies for use by emergency services?

Mr Tanner—I will have to take that on notice as well.

Senator CONROY—Is ACMA satisfied with this notching out process?

Mr Tanner—Once again, I will have to take that on notice.

Senator CONROY—Thanks. It was revealed in the budget papers that a review of the funding arrangements for ACMA will be undertaken in 2006-07. Can you give us some detail on the motivation for this inquiry?

Mr Chapman—As I understand it, the original understanding with the minister and the department of finance at the time of the incorporation of the authority was that the funding for the authority for the first two years would be the sum of the funding for the two bodies that were the genesis of ACMA and that there would be a review two years out to make a more informed assessment of how the organisation was tracking against that level of appropriation, and that review is scheduled to start at the end of this calendar year.

Senator CONROY—What is the key objective of the review?

Mr Chapman—I am happy to be corrected on this, but my understanding is that the review is intended to make an assessment of, firstly, whether the funding is appropriate for the level of activity that the authority is undertaking and, secondly, whether the premise upon which the authority came together—namely, the sum of the funding of the two authorities it came from—makes sense. It is obviously an opportunity for all people with the benefit of experience and hindsight over the 18 months that the organisation has been in place to make an informed assessment of the efficiencies and the way in which the organisation has been operating against the funding.

Senator CONROY—Who will conduct the review? Is it the department?

Ms Maddock—That sort of detail is not settled yet. We are working with the department to determine how it will be done.

Senator CONROY—How does ACMA's base funding compare with the combined base funding of the previous regulators, the ABA and the ACA?

Ms Williams—When the two organisations were put together, there were obviously some additional costs, but it was thought there may be savings too. In the initial move, the combined costs of the two agencies were put together. That is why, as the chair said, there would be a review in two years time—to assess the kind of workload that ACMA was under and the funding available to it.

Senator CONROY—I appreciate there were extra costs.

Senator Coonan—The revenue from government increased from \$72.9 million in 2005-06 to \$81.1 million in 2006-07.

Senator CONROY—I understand that ACMA is at \$81 million and its previous incarnations, ACA and ABA, were at about \$74 million.

Senator Coonan—That is about \$158 million, and the administered revenue received by ACMA then was about \$158 million.

Senator CONROY—Does the government think the review may identify cost savings?

Senator Coonan—I do not know. Do we have a review? It may well do, because there are obviously some synergies and savings when you merge two organisations. But ACMA has a very significant workload is a very important regulator, which I think is denoted by the fact that the government saw fit to merge the two organisations. I am certainly not suggesting that it needs to be making savings, because I think we need to look very critically at what its workload is and fund it properly. So I welcome this review; I think it will be timely.

Senator CONROY—The government did not claim any cost savings as a result of the merger at the time.

Senator Coonan—No, that is absolutely true.

Senator CONROY—Will the review look at whether licensing charges paid by regulated institutions should increase?

Mr Chapman—I would not contemplate that being part of the review, no.

Senator CONROY—Will the report of the review be a public document? Will it be tabled?

Senator Coonan—It depends whether or not it is totally in the budget context. As you know, if it is to inform deliberations in that context, it is usually not released.

Senator CONROY—That is all my questions for ACMA. Thank you, everybody. I look forward to catching up with Mr Tanner and his chart.

Ms O'Loughlin—I want to clarify some information I gave to Senator Wortley earlier with regard to the ID checks for pre-pays. We did extend the deadline for submissions from 3 April, as I stated, to 29 April. We did not advertise, but we issued a media release, put it on our website and wrote to stakeholders.

CHAIR—Mr Chapman, this is your initiation to estimates. I think it is the longest we have had this agency before the committee in the time I have been the chair, so that certainly sets a record. Thank you for appearing. We now call the department.

Mr Chapman—Thank you, Chairman; thank you, committee.

[12.20 pm]

CHAIR—We now move to output 3.2, Policy advice and program management which promote accessible high-quality broadcasting services. I welcome the relevant departmental officers.

Senator CONROY—I would like to start with the discussion paper on media policy that was released in March. Public submissions on the paper closed more than a month ago—I think on 18 April. How many submissions were received?

Dr Pelling—The government received a little over 200 submissions.

Senator CONROY—You said the government received them?

Dr Pelling—A little over 200 submissions were made to the review.

Senator CONROY—When will they be released to the public?

Dr Pelling—That is a matter for the minister.

Senator CONROY—Minister?

Senator Coonan—I understand that some have claimed confidentiality, but my understanding is that they will be released very soon and put on the net.

Senator CONROY—The Prime Minister stated a couple of weeks ago that media policy was not the government's top priority. Does the government still plan to introduce legislation dealing with digital TV and media ownership this year?

Senator Coonan—It would be desirable for the government to take a decision over the next few weeks that would settle the policy. Then, from the policy that is decided by the government, we will be able to give some public utterance to the legislative regime that will implement it.

Senator CONROY—So you are hoping that there will be a decision on the policy in the next few weeks.

Senator Coonan—There may be. But what I am saying is that, until there is a settled decision on policy, it is a bit difficult to take the second step and talk about what might—

Senator CONROY—No, I was asking about the first step. You are hoping to take the policy decision in the next few weeks?

Senator Coonan—Certainly we will take a policy decision going forward. Whether it will be in the next few weeks, I am not able to say. But that will determine the legislative roll-out and the time frame for it.

Senator CONROY—Minister, you have said you are looking for 'broad industry support' for the media policy changes. Do you think any of the changes you have put forward in this discussion paper have met that test of broad industry support?

Senator Coonan—We have gone up and down, I think, for a long time on this, and I think I have answered this question before. What I think is necessary, because industry has to actually implement these changes, is a framework that people can live with. That does not mean to say they have to agree on every aspect of it. I do think that considerable progress has been made through the discussion paper and other discussions that suggests that at least there is some ability to live with this framework more broadly in the industry.

Senator CONROY—Last week you were quoted as stating:

It will really be a matter of how comprehensive the package is but there will certainly be some elements that proceed.

I was hoping to explore this with you.

Senator Coonan—You are very welcome to.

Senator CONROY—What elements do you believe are certain to proceed?

Senator Coonan—I am not in a position to say that yet.

Senator CONROY—There is bipartisan support to repeal the foreign ownership restrictions. We have indicated we will support that. Can we get that done? Is that one you think is certain?

Senator Coonan—I am not going to do a check list for you. When I announce the result of the government's deliberations, that will be our policy and that will make it very clear which parts will go forward or which parts will not, and whether it is all of it or some of it.

Senator CONROY—I think you are aware that we have indicated our support for the lifting of the foreign ownership restrictions. Are you aware that we have indicated that?

Senator Coonan—I am very well aware of the fact that you support the lifting of foreign ownership restrictions but not the changes to cross-media ownership laws, which is a curious position to take, actually. But I am aware of Labor's position.

Senator CONROY—Similarly, there is bipartisan support for the lifting of the genre restrictions. Are you aware we have indicated to the government that we would support that if you proceeded with it?

Senator Coonan—You have indicated that, yes.

Senator CONROY—Are you still committed to the proposal to take the power from ACMA to issue the fourth licence? Is that still definitely going ahead?

Senator Coonan—That was an election commitment and, clearly, that will happen.

Senator CONROY—Last time we tried to talk about the diversity test, you indicated that it was not part of a government proposal.

Senator Coonan—No, I did not. I said that it was not government policy, and that is still the position.

Senator CONROY—You have issued a paper.

Senator Coonan—I have indeed, but it is not government policy.

Senator CONROY—So you are refusing to answer questions about the diversity test?

Senator Coonan—I am not refusing to answer questions.

Senator CONROY—I just do not want to get into a fight. I am trying to find out whether I will be able to ask you questions about the diversity test and whether or not we can have a discussion about it.

Senator Coonan—I think it would be better to wait until the government has a settled policy.

Senator CONROY—I would like to ask you about the diversity test. If you do not want to answer, that is okay; I understand.

Senator Coonan—I am saying now that I do not really think it will be fruitful and that it would be better to wait until we have a settled position.

Senator CONROY—I appreciate that. I can understand it from your perspective. I understand that you would rather I did not ask questions because it will not be fruitful.

Senator Coonan—You can ask them.

Senator CONROY—I think it will be fruitful to at least ask the questions, and I will see what responses I get.

Senator Coonan—I am just indicating in advance the basis upon which it probably will not be the kind of exchange you were hoping for.

Senator GEORGE CAMPBELL—And she is accusing us of having no policy!

Senator CONROY—As to the diversity test, do you still think five is a good minimum number of commercial media groups in the mainland capitals?

Senator Coonan—What has been put forward for discussion is in the paper and I see no reason to depart from that as a proposal.

Senator CONROY—What was the rationale behind picking five groups in the major capitals and four groups in the regions? I am interested in what the thinking was behind that.

Senator Coonan—The department can answer that.

Dr Pelling—Mr Neil might be in a better position than me to answer about some of the history behind this, but I think fundamentally the government looked at a balance in terms of looking at a number which would be an appropriate mix of allowing industry to achieve some benefits of scope and scale and, at the same time, providing a floor underneath the number of media ownership groups that can exist.

Senator CONROY—Why not an eight and six test? Why a five and four test? I am trying to get a perspective on why five and four ended up being the floor rather than, say, eight and six.

Mr G Neil—At the time that that was evolving, we were conscious that the British had suggested a three and one test, which was three commercial groups plus the BBC. So at least in one part we were going higher up that ladder. The distinction between five and four was a recognition that if we were to allow some level of efficiency gains in regions then the number would probably have to be lower for that purpose because the level of diversity is significantly lower outside the major capitals.

Senator CONROY—The diversity test proposed, from my reading of it, assigns Channel 9 and the station Radio Sport 927 the same weighting in terms of their contribution to media diversity in Melbourne, for instance. They both count towards the five groups.

Dr Pelling—The test is purely numerical.

Senator CONROY—Yes, so Channel 9 and Radio Sport 927 count towards the same threshold.

Dr Pelling—They do.

Senator Coonan—They do now. There is no voices test or weighting test now.

Dr Pelling—There is no weighting now.

Senator CONROY—The discussion paper defines a ‘media group’ as ‘one or more of a commercial television licensee, commercial radio licensee or associated newspaper’.

Dr Pelling—That is correct.

Senator CONROY—So Radio Sport 927 counts towards the five groups in the same way Channel 9 does.

Mr G Neil—The underpinning is that we looked at entities that were subject to the existing control provisions and the existing cross-media requirements. Essentially, if they were part of that net, the deregulation applied to those entities, therefore they were incorporated into this test. The radio broadcasters are all commercial broadcasters. They all have the same licence.

Senator CONROY—So the weighting towards the five is the same; it is purely numeric.

Dr Pelling—It is a numeric test.

Mr G Neil—We said all commercial radio broadcasters, all commercial television broadcasters and all associated newspapers because they are the entities that are subject to the cross-media requirements limitations. That was the logic for who should count.

Senator Coonan—It stands to reason. How do you measure influence? Do you measure it by ratings? Some broadcasters have higher ratings because they have a lot of entertainment, for instance, so it is a very nebulous thing to try to weight—

Senator CONROY—They have done it overseas, I understand.

Senator Coonan—I understand they have done it, but we have looked at it and we think a better way of doing it is purely numerically.

Senator CONROY—So you have looked at those overseas examples.

Senator Coonan—The department has looked at overseas examples—I just said so.

Senator CONROY—Have you looked at those overseas weightings issues?

Mr G Neil—We watched the British at one stage announce that they were looking at a share of voice test and eventually they announced a three in one—

Senator Coonan—Not to do it.

Mr G Neil—Our interpretation of their reports was that they could not find a way to make a share of voice test work. We looked at the US and its diversity index, and they stressed to us it was a tool to inform; it was not a tool to be used as a test per se. They used it to analyse the

nature of their markets and then they introduced a proposal with various numerical elements because the scale of the US is significantly different from here.

Senator CONROY—You could look at where people got their news and information from. You could not find a way to introduce that into the discussion.

Senator Coonan—It would be very difficult. It might change, for instance.

Senator CONROY—I understand that that is a possible constraint.

Senator Coonan—It is a very nebulous and intangible way to try and administer this. It has been very carefully considered, obviously, because we want to get the best outcome and the proposal puts up something. So far as I understand the submissions, there have been some that have raised this but it has not been an overwhelming issue. I am yet to go through all of the submissions, so I may be proven to be incorrect in that.

Senator CONROY—I understand that you have got a balance. As you say, that is one thing that you considered, but if I appear on *A Current Affair* on Channel 9 on this test, it would be the same—

Senator Coonan—Would that put their ratings up or down, Senator Conroy?

Senator CONROY—Senator Coonan, tragically, I understand that ratings for politicians on these sorts of shows leads to a plummeting for all politicians. They measure it in 15-minute timeslots nowadays, and we just do not rate.

Senator GEORGE CAMPBELL—Look at Campbell on *The 7.30 Report*.

Senator CONROY—He upped the ratings because that ended in comedy. My more serious point is that if I appear on Channel 9's *A Current Affair* or Channel 9's news, it is weighted the same as if I had gone on Radio Sport 927 in terms of its impact. That is the other end of the balance that you have been trying to reach. It is hard to quantify the other, but an objective test that says it does not matter whether I am on Channel 9 or a radio sport station is equivalent.

Senator Coonan—It might depend on what you are on about. If you are on the radio sport station and you are talking about antisiphoning, you might get a huge audience.

Senator CONROY—I would love to think I could attract a huge audience, but I will be modest and suggest I cannot.

Senator WEBBER—Very kind of you to be optimistic on his behalf.

Senator CONROY—It is very generous of you.

Senator Coonan—I am sure it will come, Senator Conroy.

Senator CONROY—Minister, you have claimed that the ACCC can protect media diversity in the absence of cross-media laws. Are you aware of the views of the Productivity Commission?

Senator Coonan—There is no suggestion that all of the media specific laws are being retained—I am just trying to make sure: it is not as if there is an open slather here. You mean with the relaxation of the cross-media laws.

Senator CONROY—I will accept your words: with the relaxation of cross-media laws. Are you aware of the views of the Productivity Commission on this issue?

Senator Coonan—When? A very old report, was it?

Senator CONROY—It is the most recent one on this issue.

Senator Coonan—What was it? It must have been a long time ago.

Senator CONROY—I will get you the date. I think it was maybe four or five years ago.

Senator Coonan—Four or five years ago; that is right, yes. I do not have it immediately to mind.

Senator CONROY—Let me help. I have it here, so I will read it out:

It is clear that the Trade Practices Act as it stands would be unable to prevent many cross-media mergers or acquisitions which may reduce diversity. It is also clear that the adoption by the ACCC of a broader definition of the media market would not adequately address the social dimensions of the policy problem, and would be open to legal challenge.

So the ACCC is not a substitute for tough cross-media laws.

Senator Coonan—I can understand why you are clutching the Productivity Commission's old findings to your bosom, so to speak, but really it has all moved on. My advice is that the current Trade Practices Act is quite capable of looking at these issues; that is the advice I have received. Certainly the current ACCC chairman has indicated a disposition to look at some of the impacts of recent technology on what would be a market. We are looking at regulated platforms here. The chairman has said that he believes that, because of the rise of the internet and some of the exclusive content arrangements that are now part of the way in which media is structured and works, it may require revisiting as to what influence that would have on a market and on substantially lessening competition in a market. He has also said that he will get some clarity and guidelines around how he will approach it. Now, if I were given advice that the act was not capable of doing that, that would be something that I would look at, but my current advice is that the act does not need amendment, and certainly the utterances of the chairman give me confidence that he is well aware of the impact of new technology and is having a look at these matters.

Senator CONROY—You mentioned that you had had advice, and you indicated that this was an old report by the Productivity Commission. Could you advise what changes have been made to the Trade Practices Act since this report was done?

Senator Coonan—In its operation?

Senator CONROY—No. In the Trade Practices Act, what changes—

Senator Coonan—I will take that on notice. There may not be any, but it may be about the way in which the current chairman is carrying out his particular functions. He seems to have certainly moved the debate along from the matters that were before the Productivity Commission.

Dr Pelling—In 2001, I understand the government amended the Trade Practices Act to specifically add 'regional Australia' to the definition of a market. So that is one change.

Senator CONROY—That was one change. I am not sure how that goes to the substance of the issue, but I appreciate that. I do appreciate that there was that change. Are you aware that the ACCC is not even sure at this stage if there is a separate news and information market? I asked Mr Samuel about this in November last year and he said:

... we are examining a number of markets relating to the media and the development of those markets, particularly in the context of convergence. Included in that would be an examination of whether there is, and how one measures, a market for news and information services ...

Do you recall that last year at Senate estimates the ACCC was unable to rule out a merger between News Ltd and PBL if the cross-media rules were relaxed?

Senator Coonan—To start with, no, I do not recall that, but it is going to be a matter of how the ACCC develops the guidelines that will take into account the very contentious matter of whether or not there is a market for news and information. It is a concept that has not previously been considered to be part of the normal way in which the ACCC would look at a market. Because of the rapid changes in technology, I think these are matters that obviously the chairman has under consideration, and no doubt you can ask him: he will be here in a day or two.

Senator CONROY—I have actually had people put to me that the good part about the relaxation you are proposing is that it would allow News and PBL to come together. Believe it or not, I have had people put that to me. Would it disturb you if your policy allowed News Ltd and PBL to merge?

Senator Coonan—It is all very hypothetical. I would assume that the safeguards in the proposal would enable an appropriate outcome to be reached that would take into account the need to not substantially lessen competition in a market. Obviously it seems to me to be unlikely that by applying all those tests that kind of merger would be appropriate.

Senator CONROY—Can you tell me what are the safeguards that you think would stop that merger? At the moment no-one else has been able to identify them?

Senator Coonan—The safeguards are, first of all, the voices test. You have a floor under which the numbers cannot go either in a metropolitan or regional market. You have significant powers of divestment depending on what markets and what licence areas you are looking at. Then, of course, you have the ACCC, which is charged with ensuring that the market operates properly and that there is not a substantial lessening of competition in a market. I would have thought that they are significant safeguards, which would be unlikely to have that result.

Senator CONROY—Is there any way that you can see a merger between PBL and News Ltd could take place that would pass the Trade Practices Act?

Senator Coonan—That is going to be a matter for how the regulator views it. Certainly, from the government's perspective, we are keen to ensure that this is not open slather. What we are trying to achieve is a relaxation of anachronistic rules designed for a previous analog age, at the same time providing new services and significant safeguards.

Senator CONROY—Can you guarantee that if your proposal for the relaxation of cross-media laws passes the parliament News Ltd and PBL would not be able to merge?

Senator Coonan—This is not going to be a legislated outcome. The processes are there, which will be run by the regulators, so it is not for me to be guaranteeing. But my very firm view is that it would be unlikely that kind of outcome would be possible with the safeguards that I have talked about.

Senator CONROY—You mentioned three safeguards. You mentioned the voices test, divestment and the ACCC and the lessening of competition. I must be slower than you because I cannot see how any of those three issues prevent a merger between PBL and News Ltd.

Senator Coonan—You would not know, would you, because the regulator has to apply these tests. Can you explain to me, for instance, how you would see a merger of PBL and News in media—depending on the assets, I suppose? Can you explain to me how that would not substantially lessen competition in the market? Perhaps if you could tell me where you are coming from I will try and answer.

Senator CONROY—You are proposing the changes, Minister. I support the existing laws, which clearly prevent that merger. You are proposing a change and I am trying to explore whether or not your new, relaxed position would prevent that. I support the existing laws, which clearly do prevent the merger.

Senator Coonan—You support no further movement in the media, obviously, on the regulated platforms.

Senator CONROY—That is not true.

Senator Coonan—You support, as I understand it, exactly what is there, with no substantial reform at all. I have never heard you talk about any reform at all of media.

Senator CONROY—For the record, we would support any proposals that protected the existing level of diversity or improved it. We have said that.

Senator Coonan—How do you think you would do that?

Senator CONROY—I said we would support any proposals put forward. We are the opposition; you are the government. I am trying to understand what the tests are under your new proposal that would prevent the merger of News and PBL. Could you explain to me how the voices test would stop News Ltd merging with PBL?

Senator Coonan—I am not going to engage further now, Senator Conroy. You have hit a brick wall because this is something that is not yet government's policy. I think I have explained to you in some considerable detail the safeguards that are there and the objectives that the government sees as important for the further progress of media reform. I do think it is appropriate under these circumstances that we wait until we have a settled position.

Senator CONROY—I then recap what you have put to me. You said there were three things that you believed would militate against PBL and News Ltd coming together: the voices test, the ACCC lessening competition issue and the divestment guidelines. Thank you for that. I come back to one of the questions I started with, which you dodged a bit. Would it disturb you if your policy or any policy that was put forward would allow News Ltd and PBL to come together? Is that an outcome that you would want to see happen?

Senator Coonan—You have already asked me that, and I have already answered it. Clearly it would depend on what the proposal is, for goodness sake. What parts of businesses of News Ltd and PBL might be talked about? You are asking me to give a very general response when we do not even know what the proposal would be, so I am not going there and I do not think I should have to on a speculative basis.

Senator CONROY—I can put my hand up and say that I think it would be bad for diversity and media concentration if News Ltd and PBL came together.

Senator Coonan—I understand that you have a very simplistic view of this, Senator Conroy, but because of the way in which media moves—and the technology in this area moves so quickly—we are going to be flat-footed and look like an absolute dinosaur if we cannot get our heads around allowing some scale and scope and some proper investment in this industry while still maintaining diversity and looking after consumers. It should not be an equation that is incapable of being properly delivered as a matter of public policy. That is certainly the government's objective. I am very happy for your input into it, but I think you need to be a bit more creative.

Senator CONROY—Thanks. I would like to move onto the digital television issues in the discussion paper. Is the government committed to achieving switch off of analogue TV by 2012?

Senator COONAN—What we have said as a proposal is that we clearly think that 2008 is not going to be achieved, and I am sure that, together with me, Senator Conroy, you would not like eight million people to have a blank screen in 2008, so it needs to be reset. With all of the information available to us, the time for roll-out and all of the huge problems of getting to switch off and properly educating consumers, making sure that people have the capacity to receive a digital signal et cetera, we think it can start in 2010. We would like to see the major part of it achieved by 2012. That is very ambitious, but we think that, consistent with what is happening all around the world, we should have a go at trying to do it within a time frame that largely accommodates that same approach.

Senator CONROY—You have been quoted as saying, 'I would not overstate the fact that we'll be there by 2012.' Will the government be setting a firm switch-off date, or is that just a hope?

Senator Coonan—I think we need to do some work around the various issues. I have mapped out a plan to get a framework around this—a time frame or plan, if you like—as to how to get there. We have previously not had a plan to get there, and I think it is critical that we do that and that we do set some objectives in relation to it. I have given you my estimate as to when I think we can start it and when I think we will have most of it completed.

Senator CONROY—Either there is a firm switch-off date or there is not. Are you setting 2012 as your date or not?

Senator Coonan—I think it is important that we have this as an objective. I am not for a minute saying that there may not be some issues that emerge between 2006 and 2012 that may impact on that, but I think it is terribly important that we have an objective.

Senator CONROY—So it is a target rather than a firm date?

Senator Coonan—Of course it is a target.

Senator CONROY—But you would not call it a guaranteed switch-off date?

Senator Coonan—Guarantees in this field are a fairly nebulous kind of undertaking, and I would not give one lightly. I am trying to give a proper and considered assessment of the fact that I think these targets are ambitious but achievable and we will try and meet them.

Senator CONROY—The media policy discussion paper pointed out that continued analogue and digital broadcasting is very expensive. I think, Minister, you said that, for the government alone, analogue broadcasting costs \$75 million a year. This cost includes paying for the analogue transmissions of the ABC and SBS and assisting regional broadcasters. Is this cost expected to grow in coming years?

Senator Coonan—I will take some advice. I had better take that on notice. The assistance to regional broadcasters is for a period of time. There has been no policy commitment to continuing that, but it will be considered. There may be some officials who can add something there.

Dr Pelling—The approximate cost identified in the minister's paper of continuing analogue transmission for the national broadcasters was about \$50 million a year at present.

Senator CONROY—Is that through to 2012? It sounds like it is the same cost.

Dr Pelling—That would probably be a reasonable conclusion, although it may depend on replacement schedules for existing equipment. From time to time there may be additional capital expenditures.

Senator CONROY—So for the ABC and SBS the cost is a minimum of \$50 million a year ongoing through to 2012?

Dr Pelling—I would not use the phrase 'minimum of \$50 million'. At the moment, it is approximately \$50 million.

Senator CONROY—It is not going to go down though, is it? I am not trying to create a big number; I am just trying to get an indication.

Dr Pelling—I suspect it probably will not. I have no information saying otherwise.

Senator CONROY—I would be shocked if you suggested that anyone in the market was going to suddenly start charging less. Then there is the regional program. I anticipate that that would be ongoing, even though the government have not committed to that.

Dr Pelling—At the moment, the cost of the regional program is in the order of about \$25 million a year. It varies from year to year because it is a rebate on licence fees, in the main. It commences when the broadcaster commences its digital transmission, so because broadcasters have commenced at different times in any given year—

Senator CONROY—At this stage, those costs were factored in to end in 2008, when the switch-off was originally targeted. Now that it is moving out and is targeted at 2012, there are four more years of program funding. I am not for a moment suggesting that you would not do the program funding, so I am not trying to create a scare campaign. I am trying to get a rough expectation of cost for the extension to 2012.

Dr Pelling—There is no commitment by the government to extend the regional equalisation plan beyond its current scope so essentially the program, once it provides eight years of funding for regional broadcasters from the date they commence—

Senator CONROY—When was it scheduled to run out? I am assuming it was 2008.

Dr Pelling—It is eight years from the commencement of the service. So, if the broadcaster started on 1 January 2004, which was the latest date on which regionals could have started, then the REP would provide eight years support from that date. It provides, from memory, 50 per cent of the costs of the capital and operating costs as a licence rebate, generally speaking.

Senator CONROY—These are not insignificant costs: \$50 million a year plus \$25 million a year. Both of those will possibly increase, even if just by inflation—that is the sort of calculation you have to do when you are doing your forward estimates. So it is not an insignificant amount of money.

Mr G Neil—On the regional equalisation plan, a lot of that was capital equipment—studio equipment. There is the transmission component, but if there were any continuation of the funding, you would need to recalibrate around—

Senator CONROY—So you think the \$25 million could come down a little bit?

Mr G Neil—You would expect it to, because a large component was capital.

Senator CONROY—That is what I am trying to get an understanding of.

Mr G Neil—The program has a fixed end date.

Dr Pelling—It is a policy matter for the government whether it should be extended.

Senator CONROY—As I said, I was not trying to start a scare campaign that regional TV and radio were about to lose their government funding. I am just trying to ascertain what the rough costs of the decision to go from 2008 to 2012 are. Is it possible for you to come back with a rough calculation?

Senator Coonan—Not really. Not until we take a decision about how we do it.

Dr Pelling—The other factor to consider is that the costs for the national broadcasters are probably tied up in contracts, which would be commercially sensitive issues.

Senator CONROY—The discussion paper stated that the action plan would deal with potential assistance that may be required to move consumers to digital television. In the UK it has been estimated that a program costing between £400 million and £800 million will be required to ensure that disadvantaged viewers will not be left in the dark when switch-off occurs. In the US Congress has authorised a \$1.5 billion converter-box program. Has the department done any work on how much money will be needed to facilitate analog switch-off in Australia?

Dr Pelling—The costs to facilitate switch-off will depend upon the policies adopted by the government in the context of the digital action plan.

Senator CONROY—I asked you if you had done any work at this stage.

Dr Pelling—We have done some internal analysis of a range of issues relating to the digital action plan and are continuing to work on that. We will be talking with the minister about that further.

Senator CONROY—Is there any indication of the numbers you think might be necessary at this stage?

Dr Pelling—All I will say today is that you can do a simple calculation. If a set-top box is worth a certain amount of money and you know the number of households, you can estimate how much it would cost to supply everybody with a set-top box. But I emphasise that there is absolutely no decision made by the government yet about providing any of that sort of thing.

Senator CONROY—Should we expect that achieving the switch-over in Australia will be comparatively cheaper than in the UK or the US? I am not suggesting the numbers I talked about. They are for their population size. On a population-size basis, do you anticipate it would cost us less in the end to get the final switch-over?

Ms Williams—It is really hard because this really depends on government decisions about how we go about switch-off. We really cannot estimate that kind of thing.

Senator CONROY—Has any consideration been given to the question of how the assistance will be paid for? For example, would a proportion of the proceeds of an auction of the datacasting spectrum be set aside? Is that one possible option?

Senator Coonan—We have not developed the plan so let us wait and see.

Senator CONROY—The US are setting aside the proceeds of the spectrum auction.

Senator Coonan—They are indeed. Given that we have not decided how to deal with the spectrum—

Senator CONROY—I am just offering up suggestions.

Senator Coonan—it is a bit difficult to be already knocking off the money for it.

Senator CONROY—I would like to explore the proposal in the discussion paper to allow commercial broadcasters to run a multichannel from 2007 but only in the high-definition format. Can the department advise what percentage of households have equipment capable of receiving HDTV at present?

Dr Pelling—Our understanding, based on advice from the industry, is that somewhere in the order of 30 per cent or perhaps a little more of set-top boxes sold are high-definition set-top boxes.

Senator CONROY—What is that as the percentage of the people?

Dr Pelling—The last available figure we had for set-top boxes delivered to retailers was about \$1.3 million at the end of last year. So it would be roughly 30 per cent of that. But I am not sure if that has been consistent from every year.

Senator CONROY—ACMA's study on digital media in Australian homes in 2005 found that only 3.7 per cent people surveyed said they had a digital television that was capable of receiving high-definition pictures. I am interested in the percentage of households.

Dr Pelling—There are two sets of figures here. ACMA's set was done on a survey basis, and they arrived at a particular set of figures there. The other figures that we have from industry are those collected by an organisation called Digital Broadcasting Australia from its supplier members. It gives us figures on the number of set-top boxes which have been provided to retailers and then estimates how many of those it thinks might still be in stock in retailers and how many it thinks might have been adopted by households getting more than one set-top box, and then it extrapolates that to give an approximate figure. But they are nothing more than approximations in that regard. That does not mean that one figure is more correct than the other.

Senator CONROY—Does the government believe that broadcasters will incur the cost of setting up a multichannel when the market is so small?

Ms Holtuyzen—That is a commercial matter for the broadcasters, Senator.

Senator CONROY—No, I am asking whether the government believes that anyone will actually bother to broadcast an HDTV multichannel when only 3.7 per cent of the population can receive it.

Dr Pelling—The government has received a range of views from industry on the multichannelling proposals and is considering them. As I am sure you would know, Senator, there are—

Senator CONROY—Has any free-to-air network expressed interest in picking this up as an option?

Dr Pelling—I think it is too early to say. If the government chose to go down that route then they might do so.

CHAIR—We will break for lunch and continue with this output afterwards. We have not finished with this one, so don't go. That is the message. We still have two further outputs after we conclude with this departmental output group.

Ms Williams—Are we able to sort out when people should come up?

CHAIR—That remains in the hands of the senators.

Senator CONROY—I am hoping to have the whole department finished in an hour and a half, but that sometimes depends on the sorts of answers I get and whether new avenues open up or close down.

Ms Williams—Does that mean ICT and the information economy as well?

Senator CONROY—I am only speaking on my own behalf, you understand. I cannot promise you that Senator Lundy does not have a raft of questions. I do not want to get your hopes up. I think we will be here for an hour or two. And then Senator Fierravanti-Wells will torture us collectively!

CHAIR—I think the department will be here until at least afternoon tea time, and so all officers should remain.

Proceedings suspended from 1.02 pm to 2.08 pm

Senator CONROY—We were talking about the digital issues and multichannelling. I was just asking if any free-to-air networks expressed an interest in the multichannelling option

being proposed. You gave an answer, so I will move on to my next question. How does the price of HDTV equipment compare with that for standard definition equipment?

Dr Pelling—If you use a set-top box as an example, while the prices vary substantially, the cheapest standard definition set top box is under \$100, and I think the cheapest high-definition set top-box is under \$300.

Senator CONROY—I think it is \$299. And screens?

Dr Pelling—That would depend very much on the technology behind the screen, the number of lines and pixels it displays and whether it is flat panel or cathode-ray tube—all of those factors will influence the price. It is a very difficult question to answer.

Senator CONROY—My research has shown that screens capable of showing HD cost at least \$1,500 and a 51-centimetre standard TV screen costs \$500, so it is three times the price to get a HD screen.

Dr Pelling—I suspect in those figures you are comparing apples and oranges, because a 51-centimetre screen, at that sort of price, is probably the old-style cathode-ray tube television, whereas some of the low-end flat panel screens of 66 centimetres or so might start coming in at about the \$1,500 mark.

Senator CONROY—If the ABC and SBS are already allowed to multichannel in SD format, what is the rationale for setting up a different standard for multichannelling in the commercial television sector?

Dr Pelling—I am not sure I understand the question. Commercial television broadcasters cannot multichannel.

Senator CONROY—They can under the proposal.

Dr Pelling—Under the proposal they would be able to multichannel.

Senator CONROY—What I am saying is that the ABC currently multichannels under SD.

Dr Pelling—Yes.

Senator CONROY—The proposal is for the commercial networks to multichannel in something different.

Dr Pelling—Yes.

Senator CONROY—What is the policy rationale?

Dr Pelling—Fundamentally, the ABC can already do a range of multichannelling, as you said, and the proposal which was put was that you extend that to cover the full range of programming, except for antisiphoning of sports, where there were some rules about that.

Senator CONROY—Sorry, I think you have misunderstood me. The multichannelling that will be allowed under the new proposal is at a higher level than SD.

Dr Pelling—You mean the high definition?

Senator CONROY—Yes. I am asking why at the moment we allow the ABC to multichannel in SD, but the requirement in the proposal is to multichannel in HD.

Dr Pelling—There are two parts to the proposal. As far as national broadcasters are concerned, the proposal which was put forward was that, rather than the current genre rules that apply to ABC and SBS multichannelling, you would extend that to cover all programs, except for certain sports programs, and that would be in standard definition. In addition, the paper proposed we consider allowing broadcasters to provide a different high-definition stream compared to the standard definition stream. They are two separate things.

Senator CONROY—Yes. I am asking: why is the ABC allowed to multichannel in standard television today but a free-to-air broadcaster, if they wanted to take up the option, would have to be in a different higher definition?

Dr Pelling—The paper presented the option that multichannelling would be delayed for commercial broadcasters, but as a separate policy line it suggested that the high definition could be different from the standard definition. That is not quite the same as multichannelling in that, at the moment, all free-to-air broadcasters have to provide two streams of programs, one in standard definition and one in high definition, and they have to be the same. The position that was proposed was that the high definition could be different from the standard definition. Under that proposal, to take the ABC for example, the ABC could provide a high-definition program stream which was different from its standard definition program. But in addition to that, if the government chose to allow unlimited multichannelling by the ABC, it would also be able to provide one or more standard definition channels as well, as it does at the moment. It would end up providing, potentially, a simulcast of the analog service in standard definition; a second channel, say ABC 2, in standard definition; and a high-definition channel, which could be different from both of those channels.

CHAIR—It is a very complicated regime. When I first saw standard definition television, or digital television, it was here in the main committee room. A few weeks later I went to Amsterdam to the International Broadcasting Conference and discovered that it was not really about the picture but about multichannelling and interactivity. Our regime is much more complicated than anywhere else in the world.

Dr Pelling—Our regime reflects the particular circumstances of the Australian market at the time when it was set up, back in 1998.

CHAIR—I am not sure it represents what the consumers want, though.

Senator CONROY—You better step in here, Minister; he is badgering the witness. Have you finished badgering the witness?

CHAIR—Yes.

Senator CONROY—At the moment HDTV is really a luxury product in Australia, is it not, given the sorts of prices I have talked about and you have described?

Dr Pelling—HDTV is certainly more expensive than standard definition.

Senator CONROY—It is expensive and few households have access to it, as we have established.

Dr Pelling—I cannot comment on the spending decisions of households, but it is more expensive so, clearly, it will require a greater buying power to access it.

Senator CONROY—The government's proposal, to me, seems to deny low-income Australians the benefits of digital TV, like the extra choice of multichannelling on free TV.

Dr Pelling—Fundamentally the policy would allow a range of services, as has been suggested in the paper. I am not aware that income in particular is a policy rationale behind it.

Senator CONROY—Is that just a natural exclusion that we should accept?

Dr Pelling—The policy is what it is, and it provides for a standard definition simulcast of the analog service. Standard definition receivers are quite low cost at the moment, so there is certainly a low-cost option available for consumers.

Senator CONROY—I turn to the government's position on a fourth commercial network. The government has made it clear that it does not support the establishment of a fourth terrestrially delivered network. The discussion paper says:

It is not envisaged that new freeware licences in the broadcasting service band would be issued prior to analog switch-off.

However, the discussion paper leaves open the option of extra free-to-air services outside the BSB on satellite, broadband or wireless. Could you explain the government's rationale behind allowing possibly free-to-air services outside the BSB on satellite, broadband or wireless? I am intrigued.

Senator Coonan—Currently there are not really any, are there? 'Why restrict what someone might want to do?' was the thinking, of course. The way in which technology is developing there might well be something that can be delivered by satellite or some other technology outside the broadcasting services band. It is consistent with the government view that, unless there is some good reason to regulate that, you should allow technology to take its course and to develop what might be valuable services to consumers. There is certainly nothing immediately likely, and it would certainly involve some significant set-up costs if you are going to have some large-scale service. There is no point in restricting the possibility of that developing.

Senator CONROY—You are firmly against a fourth terrestrial network?

Senator Coonan—What I have said about that—and I will say it again so that we are all perfectly clear about it—is that I think more of the same on a digital only terrestrial commercial free-to-air service would not give consumers much more than they can already get for free and which is readily available. Whereas I do think that this spectrum would be better used for new and innovative services.

Senator CONROY—In terms of the possibility of extra free-to-air services outside the BSB, do you think that is a reasonable thing?

Senator Coonan—There may be some. It is not a developed enough proposition to restrict it before you even know what might be being proposed.

Senator CONROY—I am intrigued. If WorldAudio came to you and said, 'Right. We have failed as a radio station and we want a satellite TV licence,' could they do that? I am just interested.

Senator Coonan—It would depend on what they wish to do, and it is entirely speculative.

Senator CONROY—When you say ‘what they wish to do’, would there be restrictions? At the moment you have basically said ‘laissez faire’.

Senator Coonan—It is a matter for the regulator to look at what you would need to do to issue another licence and, as we do not have any proposition, this is hypothetical upon hypothetical, and I am not going—

Senator CONROY—I appreciate that. As I said, I am intrigued by the thinking behind it.

Senator Coonan—I am pleased you are intrigued.

Senator CONROY—There is currently no plan in place to convert the community television sector to digital. Can the government guarantee that the digital action plan will provide a pathway to get community television into the digital age?

Senator Coonan—That is under consideration as to the best way to accommodate community television. It is subject to discussion.

Senator CONROY—Has spectrum reserved for the community television sector to move to digital broadcasting?

Senator Coonan—That is one of the matters under discussion, as to how they could be accommodated either as a ‘must carry’ or in some other way.

Senator CONROY—Are there alternative ways?

Senator Coonan—There are alternatives to ‘must carry’, yes.

Senator CONROY—Could you let us know?

Senator Coonan—I am not going to give you all the alternatives.

Senator CONROY—No, I am interested.

Senator Coonan—We are currently discussing ways to accommodate community television.

Senator CONROY—I am not looking for a decision. I was just wondering what those other ways would be.

Senator Coonan—They are under discussion. I am not going to go through them all for you.

Senator CONROY—If they are a secret, I am prepared to sign the national secrets act.

Senator Coonan—No, it is not a national secret, but it is under development, so it is inappropriate, I would think, within the realm of these estimates to be talking about it.

Senator CONROY—You would not want to see us ending up with less television if we switched from analog to digital, if the community TVs did not come across. There would actually be less television available by moving from analog to digital, if they got left behind. You would not want to see that as an outcome, I presume?

Senator Coonan—Who said they wanted to see that?

Senator CONROY—That is what I am saying.

Senator Coonan—But you say you do not want to see it. I do not want to see it. None of us want to see it.

Senator CONROY—That is what I am asking. You would not want to see that?

Senator Coonan—You would not want to see it, would you?

Senator CONROY—No, I would not. I am asking you if you would.

Senator Coonan—I would not want to see it.

Senator CONROY—That was all.

Senator Coonan—None of us would want to see it, but I would like to see some community television.

Senator CONROY—Is one of the options the government considering financial assistance to facilitate the conversion?

Senator Coonan—This is under discussion. No comment.

Senator CONROY—I wanted to come to an issue we did talk about a little earlier with ACMA, and that is IPTV regulation. In the minister's recent discussion paper on media reforms she indicated that IPTV services would require a broadcasting services licence under the Broadcasting Services Act. I think we established that earlier today, basically. What is the definition of a 'broadcasting service'? I wanted to get your views on this. That would require a licence?

Dr Pelling—As ACMA said to you, the definition of 'broadcasting services' is set down in the Broadcasting Services Act. It is broadly described as a service which delivers television or radio programs to persons having equipment capable of receiving those programs, but it does not include three categories of service, which is specifically defined as being outside, and one is services that provide no more than text or data, from memory. The second is services provided on demand on a point-to-point basis, including a dial-up service. The third category is services that are deemed by the ministerial instrument not to be broadcasting services.

Senator CONROY—An exemption was provided through ministerial determination for services delivered using the internet?

Dr Pelling—Yes, that is right.

Senator CONROY—As you are aware, we had a bit of a discussion this morning. Is it correct that 'internet' was not defined in the determination?

Dr Pelling—That is correct, yes.

Senator CONROY—What is the department's view of the interpretation of the word?

Dr Pelling—When the instrument was passed, I think the view was that, given the fact that the internet was a dynamic entity, if you can call it that, and was growing, changing and evolving, it would be very difficult to have a definition which spanned more than a few months if we were to be too precise with the definition of the 'internet'. We deliberately, I think, left the scope of the definition broad.

Senator CONROY—So you left it vague?

Dr Pelling—I think, fundamentally, we just used the word the 'internet', which provides a commonly used term to define those sorts of services.

Senator CONROY—So there is no interpretation of the word 'internet'?

Dr Pelling—As far as I am aware, there is no interpretation in any legislation and there certainly is not with regard to that determination.

Senator CONROY—You have probably heard these questions, but just to refresh your memory I will go through them again with you. The explanatory memorandum for this determination provides that the determination exempts service that use the internet, even if part of the means of delivery of the service is technology that may not clearly be part of the internet. What is the department's interpretation of the meaning of that phrase?

Dr Pelling—I think that was designed to make sure that we covered off the situation, as was common in those days, where the internet was done by dial-up. If you like, there might have been a legal uncertainty as to whether the connection that you made between your modem and the switch in the exchange was technically part of the internet or whether the internet was the thing that was behind the switch. Basically, it was ensured that, when you covered the range, or the scope, of that technology, it fell within the determination. The other part, which was the mobile definition, I think, was the same.

Senator CONROY—It was a 'service which enables users to access material from the internet using a wireless application protocol'.

Dr Pelling—It referred specifically to WAP, because that was the technology of the day. Clearly, that is no longer terribly widely used, although I am not sure.

Senator CONROY—Just take me through that part about the WAP again.

Dr Pelling—The wireless application protocol was, in those days, the technology being used from mobile systems to access the internet. I am not sure how widespread it is used anymore, as opposed to being replaced by 3G, but it was just an example that was given.

Senator CONROY—That has explained it perfectly. Has the department ever provided guidance on its changing views on the meaning of the internet to either ACMA or the minister?

Dr Pelling—We have certainly had discussions on this with ACMA and indeed the ABA.

Senator CONROY—Could you have some more discussions with ACMA quickly?

Dr Pelling—We engage with ACMA on these sorts of issues quite regularly.

Senator CONROY—I do not think that you do it enough. You have had conversations in briefing the government and ACMA about your views on the changing nature of the internet?

Dr Pelling—That is correct.

Senator CONROY—What is the department's view of whether a network based on IP protocols, but not publicly available to open access, would constitute the 'internet'?

Dr Pelling—I have seen a range of legal advice on the scope of these sorts of definitions. There are two key issues to emphasise here. One is the policy intent behind the decision, which I think the minister made clear in one of her speeches recently. That is, the government at the time, and I believe it is still the case, wanted to make sure that those sorts of ordinary streamed internet services are not regulated as broadcasting services. As I said, I think that policy intention still applies. The other point I would make is that, at the end of the day, the actual regulation of the services, as was discussed this morning, is a matter for the regulator.

Senator CONROY—The problem is that we always come back to what is the definition of ‘internet’, in all of these circumstances.

Dr Pelling—That is correct. I have seen advice. There are differing advices on what the scope of the internet is. I am not a lawyer, but I am not aware that matters have ever been tested in a court to give any definitive definition of what it actually means. But I think it is important to come back to the intent behind the policy, which is about ensuring that these services are, as far as possible, not regulated.

Senator CONROY—So if you can access something using a modem, is that the internet?

Dr Pelling—I do not know if it is going to be terribly valuable to go through technology by technology.

Senator CONROY—What is the internet?

Dr Pelling—There are differing views that one can take. For example, one could take the view that anything which involves the TCP/IP protocol is the internet, or one can take the view that services available on public networks as opposed to private networks are the internet. I am not aware that there is a settled view on these things. Of course, the distinction between those sorts of things is probably going to have a number of areas of grey in it. Those are likely to increase over time as the internet involves.

Senator CONROY—Yes, I think that is right. It is valuable to me to have this discussion with you about the different possible technologies. I think you are right; there are grey areas, and increasing grey areas. Normally you hope that technology helps you reduce your grey areas, but in this particular case, I think, technology is increasing the number of grey areas. That must make it pretty hard to have a firm view.

Dr Pelling—It is a matter for the regulator, I think, at the end of the day, but I think it is still possible to take a particular service and examine it in the context of the current decisions and regulatory framework and reach a decision about what that service is.

Senator CONROY—This issue is going to become more important because of the minister’s media reforms. Will the department be issuing any guidance on its view of the internet in conjunction with the government’s proposed media reforms? You seem to have quite a well thought through understanding of the differing points. Given ACMA did not seem to be quite as well thought through as you, I was wondering whether you are going to issue anything.

Dr Pelling—The department’s role in this is to advise the minister. That is what we will be doing.

Senator CONROY—You would not be putting anything out separately? You would just advise the minister?

Dr Pelling—That is not something we would normally do.

Senator CONROY—Thanks for that. That was particularly useful. Is the department aware of any other countries around the world that regulate IPTV in the way envisaged by the minister?

Senator Coonan—Hong Kong.

Dr Pelling—Hong Kong certainly has IPTV services, and I believe they are regulated as pay TV services. I am not across the regulatory regimes of other countries so as to be able to say anything.

Senator CONROY—Is that what you are seeking to achieve? Is that the policy?

Senator Coonan—No, not necessarily. I think the current law can be described in such a way as to put into one category general internet and into another category what might be more like broadcasting services with special equipment, including closed circuit, and those not generally available. However, it is fair to say that I think these definitions will ultimately be fluid ones, as you quite rightly point out, as the distinctions become more blurred. As part of the media package, we will clearly be looking at getting some greater clarity around this. One can dance on the head of a pin and it will not necessarily give you the right answer. Going forward, it is our clear objective to regulate as little as possible anything that is a general internet stream or service. The rationale behind wanting to think about licensing was really to make sure that consumers had—and I think consumers would want this—a level of confidence and comfort in the government having at least some kind of potential ability to supervise if somebody wanted to set up, for instance, a pornography television channel or a terrorist training television channel. They are the sorts of issues that I am sure everyone in this room would understand are not desirable outcomes. Within that as a sort of broad, high-level policy objective, you would have to come to grips with all of these very difficult technical things. We are well aware of the fact that as we develop this there may need to be some adjustments, and we are aware of the issues.

Senator CONROY—Could you take on notice whether there are any other countries around the world that regulate IPTV in the way envisaged? The minister mentioned Hong Kong. Could you just take on notice any others?

Dr Pelling—Yes.

Senator Coonan—By the way, when I say ‘Hong Kong’, I am not necessarily saying that is what we should be doing. I am simply saying that is an example.

Senator CONROY—You have made that clear. Given that we are moving into new media areas in Australia, some are arguing that they are being choked off at present. In fact, the chairman of an Australian company with some of the largest new media interests noted yesterday that Australia’s lack of broadband infrastructure is constraining the growth of new media in Australia. It is reported that James Packer of PBL said:

Broadband penetration is a key driver of this growth," Mr Packer told a ninemsn digital market summit.

"But Australia’s position in this area is embarrassing.

"We need faster broadband to stay competitive with the rest of the world."

Minister, you have presided over Australia’s current broadband position. Are you embarrassed by it?

Senator Coonan—Embarrassed by what—James Packer?

Senator CONROY—No, by Australia’s current broadband position.

Senator Coonan—I think it needs to be improved. I think we need to do better, and that is precisely why we have some policies designed to do that.

Senator CONROY—PBL has extensive media interests in the online world. It is PBL's job to know the quality of the broadband available to its customers. So he is in a pretty good position to judge our broadband position.

Senator Coonan—I do not know whether he is talking about metropolitan broadband, where there are some very fast speeds, or quite what he is referring to. I did not get an opportunity to look at it in any detail. But I think the general comment is correct that we need to do better, and speeds are variable, going from very fast in metropolitan areas, where there is a lot of choice, down to fewer available services in regional and remote areas.

Senator CONROY—This position has been echoed at Fairfax. The new Fairfax Digital CEO, Jack Matthews, has publicly stated that Australia's antiquated broadband infrastructure is holding back digital business and productivity. For instance, he has stated:

We are increasingly constrained in our ability to deliver what we know to be the most valuable reader experience.

So, then, you have got—

Senator Coonan—Just a minute. What is 'the most valuable reader experience'? Can you tell me what he is referring to there?

Senator CONROY—I think what he is saying is that he cannot deliver a valuable—

Senator Coonan—But what does he need to deliver the most valuable reader experience? You can quote bits out of papers, and I can sit here and quote speeds that are lightning fast that ought to be available to Fairfax readers to get the most valuable reader experience. It is meaningless.

Senator CONROY—Are you saying it is not available?

Senator Coonan—Unless you had him here, you would not know what he was talking about or where.

Senator CONROY—He is saying that we have antiquated broadband infrastructure and it is holding back his digital business and productivity.

Senator Coonan—I do not agree that there is antiquated broadband infrastructure in metropolitan areas.

Senator CONROY—We have two of Australia's largest new media companies—

Senator Coonan—You might have 12, but unless you say where it is they are talking about and what it is they are criticising, other than a generic description, it is very difficult for me say, 'Well, look, they could access any one of these services and they would be able to deliver whatever experience they wanted in metropolitan areas.'

Senator CONROY—The point is that the digital media companies in Australia feel constrained in what they can do without better infrastructure in Australia.

Senator Coonan—Interestingly, none of them has approached me about it, not one of them. Nor have they said in what way they are constrained. Nor have they said what other

technology they want to have access to. Nor have they said what speeds they need. Nor have they said what they are trying to deliver. This is not something that I can deal with in estimates.

Senator CONROY—I will let Mr Matthews and Mr Packer know you are feeling distinctly unloved because they have not spoken to you about this.

Senator Coonan—No. They love me a lot in other areas. Funnily enough, in all the conversations I have had this has not been raised.

Senator CONROY—They have both raised it publicly and, knowing the department of the minister for communications has an excellent clippings service, I am sure they were hoping that it would come to your attention.

Senator Coonan—I am quite sure that, if they were concerned, other than to deliver a speech, they would bring it to my personal attention, as they do with other matters of concern to them.

Senator CONROY—James Packer sounds very concerned:

But Australia's position in this area—

broadband penetration—

is embarrassing.

Senator Coonan—I am not making any further comment. How does this relate to estimates? Certainly, I am not making any further comment. Unless you can give me some detail, I would be very happy to deal with the question.

Senator CONROY—I am sure Mr Packer's speech is on the net, if you get your department to—

Senator Coonan—I am not going to be looking on the net for Mr Packer's speech. You are asking me a question and I am asking you for some details so I can deal with it.

Senator CONROY—As I said, I—

Senator Coonan—And you cannot provide it—

Senator CONROY—I have read you the quotes from their speeches and no-one is suggesting I am verballing them. They are fairly direct and succinct.

Senator Coonan—No. I mean—

Senator CONROY—But given you have said you will not answer any more questions, I am happy to move on.

Senator RONALDSON—Mr Chairman, we have a very busy afternoon. Can we get on with it?

Senator Coonan—It is not very productive to just take bits out of people's speech without any details.

Senator RONALDSON—Can we move on, please?

Senator CONROY—I am just letting the minister finish. You are talking over the minister. I am trying to let her finish.

Senator RONALDSON—At least I have put Timmy's on notice that I might be late tonight.

CHAIR—We should progress.

Senator CONROY—Thank you. I was just waiting for the minister to finish and move on. She said she was not going to answer any more questions. I want to talk about an issue that came up a little earlier today, but I actually was not sure that it came up at the right place, when Senator Fielding was addressing questions to ACMA. I thought it was more of a departmental issue, which is why I did not join in then. I would like to move on to the issue of Internet filtering and ask the department about the broadband filter research project that was conducted in Launceston. This trial was referred to in the last NetAlert in the ABA annual report. Has that trial been completed?

Mr G Neil—The trial in Launceston has been completed.

Senator CONROY—When is it expected that the report of the trial will be publicly released?

Mr G Neil—That is a matter for NetAlert, but I understand they have been considering that issue. It is expected that they will release it in—

Senator CONROY—I will come back to that in a second. The trial was completed in October 2005; is that correct?

Mr G Neil—Late last year, I understand, yes.

Senator CONROY—So that is almost six months?

Mr G Neil—Yes.

Senator CONROY—I note occasionally the minister has actually been selectively quoting from that report. When are we all going to get a copy?

Mr G Neil—Some of the delay was due to the extended period of drafting that followed the completion of the actual trial. That related to changes of staff within the organisation conducting the trial. That explains some of that gap you have alluded to. My understanding is that it is going to be released very soon.

Senator CONROY—What sorts of filters were tested? Can you name the products involved? You can take it on notice.

Mr G Neil—There is an issue of whether or not the companies are prepared to have their filters—they were all commercial filters, brand filters—

Senator CONROY—How many filters were tested?

Mr G Neil—Five, I believe.

Senator CONROY—You can take it on notice—

Mr G Neil—One of the things that NetAlert was wrestling with was the issue of what it could release publicly, given that they were testing commercial filters of—

Senator CONROY—The only problem is that, if some of them did not work, I am sure that they are not going to write a report that says, 'Oh, by the way, this commercial filter doesn't actually work', so I do understand there is some sensitivity. Were the filters involved

blacklist filters that block access to specific addresses or were they complex filters that search the content of web pages?

Mr G Neil—Their main functionality was list based, but they had other capabilities as well. There are varying degrees of capability to do other things, a sort of dynamic analysis. I would like to take that on notice, if I can.

Senator CONROY—It just goes to which strand of questions I go down next, depending on what your answer was. I am caught now, because you gave a sort of half-half answer.

Mr G Neil—Yes. I am sorry.

Senator CONROY—That is okay.

Mr G Neil—They all start with a blacklist. That is the heart of them.

Senator CONROY—Did the trial test the filters used overseas by companies like BT and Telenor to block content such as child porn?

Mr G Neil—These were commercial filters. The BT technology, to my knowledge, is not commercial, it is a basic blacklist. It is created by a separate body for BT. It is not a commercial filter, in my understanding. The answer is, no, it was not tested. I am less familiar with the Telenor technology, but I suspect, if it is like BT's, then it is basically a list and there is no dynamic analysis and no filter technology is employed other than a list.

Senator CONROY—Did the trial test the Internet Sheriff product that is going to be used in a three-month trial in Tasmania, starting at the end of July?

Mr G Neil—Given that NetAlert is still wrestling with whether it has to make a decision about whether or not it will identify the filters that were used, then I do not think we are able to answer that question. That would essentially undermine the confidentiality. I think they could answer that question.

Senator CONROY—I do not think that Internet Sheriff is shy in any way about being identified. They have put themselves right out there publicly.

Mr G Neil—I can take it on notice and see if we are able to answer that question. Again, we would need permission from the company.

Senator CONROY—I appreciate that it is a general position that you cannot just drop a name out there, but I am sure they would not mind. Is the government aware that Internet Sheriff is so confident of its product that it wants the government to ask the CSIRO to analyse the results? I did mention that earlier today. Was the department previously aware of that?

Mr G Neil—I was not aware of that.

Senator CONROY—I think the minister has indicated that she is happy to look at that.

Senator Coonan—I am happy to look at whether or not that could happen.

Senator CONROY—Turning to another issue on Internet safety, there was a report in the *Financial Review* on 13 May that suggested the government was talking to the manufacturers of PC based filtering software about a proposal to allow people to download these products for free from the NetAlert website. Can the department confirm these reports?

Dr Pelling—The government is looking, as the minister said earlier today, at a range of options in relation to improving the filter system, and that is really all we can say at the moment.

Senator CONROY—It was on the front page of a newspaper. It is not a state secret anymore. Can you confirm that that is—

Senator Coonan—I am always looking at alternatives. That is one of them.

Senator CONROY—So this is an option under consideration?

Senator Coonan—It is one of the options. I think it is important to state at this stage that filtering is only one option and only one of the initiatives the government undertakes. I do not rule anything in and out in this particular kind of evolving technology. I like to try to look at how everything we are doing can be done better.

Senator CONROY—Does the fact that these talks are under way mean that the government now accepts that PC filtering software is too expensive for some families?

Senator Coonan—No. It does not indicate anything other than if we can do better we will.

Senator CONROY—Do you recall that, in September last year, you rejected Labor's plan to give parents a \$30 rebate on filtering software, stating:

The government has required Internet service providers to provide affordable content filters to consumers since 2000.

If this is the case, why are you now looking to give them away?

Senator Coonan—Who said I am looking at that?

Senator CONROY—Downloading them for free?

Senator Coonan—You are looking at a newspaper report. I have not confirmed anything.

Senator CONROY—You said it was one of the options you were considering.

Senator Coonan—I said it is an option.

Senator CONROY—Yes. The point I am making is—

Senator Coonan—You just said the government—

Senator CONROY—will you propose giving—

Senator Coonan—is going to give them away. I have no stated position and I am not going to discuss matters that I am currently considering.

Senator CONROY—No. You bagged our \$30 rebate proposal, and now one of the options you are considering is to give them away.

Senator Coonan—One of the things I have said is that I do not agree with the fact that a rebate will really achieve very much. What you have to do is improve the performance.

Senator CONROY—What does that have to do with the cost? If an option—

Senator Coonan—That is what—

Senator CONROY—What does that have to do with—

Senator Coonan—I am looking at issues to do with cost. I am looking at issues to do with performance.

Senator CONROY—According to NetAlert research, two-thirds of households do not have PC based filters. Do you think that this is purely because of cost?

Senator Coonan—It is not my job to think about these kinds of issues. You can ask me about policy. I am not going to give you some kind of running commentary about matters that I have under consideration that is not announced policy—

Senator CONROY—I did not ask you about a matter.

Senator Coonan—You asked me what I thought. That is not the subject of estimates.

Senator CONROY—No, I did not ask you about something that was under consideration; I asked you about an existing factual situation.

Senator Coonan—You said ‘think’ in that question. If you read it back—

Senator CONROY—No, I know, but I asked your opinion of the fact that NetAlert research shows that two-thirds of households do not have a PC based filter. Is it your opinion that this is purely because of cost?

Senator Coonan—I do not have to tell you my opinion on that.

Senator CONROY—If you want to avoid questions about why kids can get access to child porn—

Senator Coonan—It is not an estimates question.

Senator CONROY—that is fine.

Senator Coonan—Excuse me, Senator Conroy. The chairman, at the start of this session today, read out very clearly the fact that no-one has to give an opinion in this particular set of hearings unless it is relevant to give one, and I do not think that that is relevant.

Senator CONROY—I am actually asking you about the rationale behind some of your policy considerations, which you have spent an hour talking about.

Senator Coonan—I am not talking about policy considerations. You can ask me about announced government policy. I do not have to tell you about what I am thinking about, what I believe or what my opinion is, unless I choose to give it.

Senator CONROY—You have just indicated that one of your policy options is—

Senator Coonan—I am not going to tell you any more about my policy thinking on this matter.

Senator CONROY—I am trying to understand what the difference was in having a conversation about your policy options paper on media reform. You have just stated that a policy option you are considering is to give away free PC filters. Both of those are policy options that you are considering.

Senator Coonan—I am not going to tell you any more about it. I do not have to and I will not.

Senator CONROY—You willingly answered questions about your media reform options, and when I asked you about an option you just told us about it. You have just confirmed that you are considering this.

Senator Coonan—I have not confirmed anything.

Senator CONROY—Your words were that it was an option you were considering.

Senator Coonan—I said I was considering a number of options.

Senator CONROY—Yes, and it was one of them, you said. We can get Hansard to read it back to you.

Senator Coonan—This is not estimates. Could we go back to order 26 and look at what estimates are about, please, Mr Chairman? Would you be kind enough to do that?

CHAIR—Yes, we can do that.

Senator Coonan—Because it is certainly not about opinions.

CHAIR—I think we went through this last night, Senator Conroy.

Senator CONROY—I appreciate that the minister had a meltdown last night, and for some bizarre reason she is having another meltdown.

CHAIR—We are not talking about a meltdown.

Senator RONALDSON—Failed Labor policies and the minister's opinions and commentary are not what we are here for.

Senator CONROY—I am sorry; we had a discussion this morning on internet filters and the minister engaged in it for an hour.

Senator RONALDSON—Mr Chairman, I think the minister has been extraordinarily generous so far with Senator Conroy. She has said she is not prepared to continue to participate.

Senator Conroy interjecting—

Senator RONALDSON—Let me finish!

CHAIR—Order!

Senator RONALDSON—She is not prepared to continue answering questions about a running commentary on personal views. She said that, so let us get on with other things.

Senator CONROY—She had an hour's discussion this morning. You two sat there and let Senator Fielding and the minister have an hour's discussion—

CHAIR—Senator Conroy, come to order. I am going to read out standing order 26.

Senator CONROY—Did you read it out to Senator Fielding?

CHAIR—He heard it, just as you did, because he was here at the opening.

Senator CONROY—Did you pull him up?

CHAIR—Senator Conroy, we went through this last night. The minister is not going to—

Senator RONALDSON—Did you object to it?

Senator Conroy interjecting—

CHAIR—Senator Ronaldson and Senator Conroy, come to order! I have the floor. I am going to read—

Senator CONROY—Why don't you start chairing impartially?

CHAIR—I am now. I am about to read this standing order again.

Senator CONROY—You did not stop them answering questions.

CHAIR—Senator Conroy, I have the floor and I will just re-read this, as the minister has requested.

Senator CONROY—What an arrogant display of chairing this is.

CHAIR—Senator Conroy, we want some order here!

Senator CONROY—Just because you have the numbers—

CHAIR—Senator Conroy, we are trying to run an orderly meeting and we will proceed.

Senator PATTERSON—Mr Chairman, I call for a private meeting.

Senator RONALDSON—Good idea.

CHAIR—All right. We will have a suspension and a short private meeting.

Proceedings suspended from 2.53 pm to 3.03 pm

Senator CONROY—The committee has had a chat about trying to find a formulation of words that you find acceptable. I do not agree that I have to formulate my questions in a way that you find acceptable, but I am happy to try and work to find a way not to go outside the debate that we were having before. I will do my best, if you will bear with me, to try and work my way through the issues. I was asking you about NetAlert research. NetAlert is an organisation that comes under the departmental umbrella and that they and ACMA participate in. Its research indicates that two-thirds of households do not have PC based filters. I am trying to understand whether government policy, in responding to the fact that two-thirds of households do not have PC based filters, is addressing this on the basis of cost or on the basis of complexity. I personally could not download a PC filter and put it on; I am not particularly technology literate in some areas. I am just trying to get an understanding of the government's policy to deal with the fact that two-thirds of households do not have access to it. Is the policy trying to address the cost issue or complexity or another issue?

Senator Coonan—A number of issues and they are all under consideration.

Senator CONROY—I understand that you do not want to talk about the solutions, about how you might want to deal with it, but I am trying to understand whether primarily the policy is trying to deal with a cost implication or complexity or both, or other areas. Can you tell me which of those government policy areas you consider the most serious to address?

Senator Coonan—These are matters on which I will take advice, and the matters are under consideration.

Senator CONROY—If parents do not have the skills or confidence to download and properly use PCs, is a government policy that is about an advertising campaign sufficient to deal with the policy objectives?

Senator Coonan—The same answer applies.

Senator CONROY—Before I move on from internet safety, I would like to ask some questions about the situation in public libraries around Australia. Is the government aware of a survey by the Australian Family Association which found that 77 per cent of libraries had no filtering on the internet services that they provide to the public? I am happy to throw that to the department or to the minister.

Mr Gordon Neil—We are aware that there have been various data put out by various groups, including that group.

Senator CONROY—You have seen that.

Mr Gordon Neil—Yes. NetAlert is working closely with libraries and has programs aimed specifically at libraries to raise their awareness of internet safety issues.

Senator CONROY—Does the government believe that it is acceptable that children are able to access pornography at public libraries?

Senator Coonan—Once again, belief and policy are two different things. As it happens, I have written to my counterparts in the states and territories, because they have jurisdiction over libraries in their states and territories respectively, requesting that they address the issue.

Senator CONROY—I will rephrase the question. Does the government have a policy to block child pornography access at public libraries?

Senator Coonan—Public libraries are not a Commonwealth responsibility, so what we are trying to do at the moment is to get the cooperation of my counterpart ministers in the states and territories to address the issue.

Senator RONALDSON—Did you say public libraries were a Commonwealth or a state concern?

Senator Coonan—State.

Senator RONALDSON—I think you might have said Commonwealth.

Senator Coonan—Clearly, it is a state and territory jurisdiction, and that is why I have written to my state and territory counterparts.

Senator CONROY—The Commonwealth does have the power to require public libraries to filter the material, doesn't it?

Senator Coonan—I will take some advice about the precise answer to that.

Senator CONROY—The communications power under section 51(v) of the Constitution is quite broad.

Senator Coonan—I said I would take some advice about it. I do not care what you read out; I will take on notice precisely the division of powers that relates to libraries.

Senator CONROY—So the government is happy to override states on industrial relations—

Senator Coonan—I did not say that. You cannot conclude that therefore the government will do anything. I have just told you what I will do.

Senator CONROY—Does the government have a policy to deal with libraries allowing children to access child pornography under section 51(v) of the Constitution?

Senator Coonan—I will take that on notice.

Senator CONROY—I will take that as a no.

Senator Coonan—You would be wrong.

Senator RONALDSON—It has been taken on notice.

CHAIR—Taking something on notice is a lot different from taking it as a ‘no’.

Senator CONROY—Why has the government failed to use its powers under the Constitution to deal with child pornography being available in libraries?

Senator Coonan—I have not failed to do anything. Mr Chairman, could I please have a ruling from you as to the relevance of these questions to the consideration of estimates?

CHAIR—Under standing order 26, I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege et cetera. It is important that the questions be relevant to the estimates. As we said this morning, privileges resolution 1(9) provides that:

A chairman of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee’s inquiry and that the information sought by those questions is necessary for the purpose of that inquiry.

In this case, this committee is concerned with estimates, which are budget statements and annual reports, so if they do not fall within those parameters the questions are out of order.

Senator CONROY—Thank you for reading the standing order. The minister sought a ruling. I am not sure that the minister can; I thought only a member of the committee could. I understand she is running this Senate estimates process and you just do what she says. I am sorry, Senator Patterson was about to say something.

Senator PATTERSON—I have been around estimates for a fair while—19 years—and questions are often broad ranging. I have most probably been guilty of asking broad-ranging questions myself. The minister can answer a question however they like. I have been on both sides of the estimates table. But when somebody asks a question and you say you will take it on notice, to have that interpreted as a ‘no’ I think is inappropriate and unfair. The minister has said on good faith that she will take it on notice. In all the time I have been at estimates, it has been taken in good faith that the minister will take it on notice and reply. I think we need to accept that. It would have inflamed me, as a minister, to be told that it was a ‘no’ when I was taking something on notice. The minister has every right to take it on notice. People may not be happy with the way the answer comes back, but that is for another estimates.

Senator RONALDSON—If someone is saying that if the government is not doing X then it must mean that they believe in Y, that certainly cannot be part of this process.

Senator CONROY—Do I get to speak to the point of order? There has been a point of order raised and a ruling sought, so I would like to speak on the ruling.

CHAIR—Please proceed, but I would just like to take up Senator Patterson’s point. The minister did say she would take that on notice. She did not say ‘no’. You said you took taking it on notice as a ‘no’.

Senator CONROY—She objected to my interpretation, then I moved on and asked a separate question.

CHAIR—That was a quite unacceptable thing to do. You have asked a separate question.

Senator CONROY—I asked the minister if she disagreed with my interpretation, and she did.

CHAIR—The separate question must fall within the relevance provisions required for estimates, but please proceed.

Senator RONALDSON—Constitutional legal advice, surely, is not within the domain of the minister at the table in relation to these issues.

Senator CONROY—Could you explain to me how six hours of questioning to Telstra yesterday had anything to do with budget appropriations? Senator Ronaldson asked about three hours worth of questions. I was just wondering how you fitted that into your newly narrowed definition of a budget framework. You might want to answer that question later, Senator Ronaldson.

Senator RONALDSON—I am happy to answer it now.

CHAIR—Part 2 of the estimates process involves annual reports. That covers the ground that was covered yesterday with Telstra, because it covers Telstra’s ongoing plans.

Senator CONROY—The point that I would make in response to Senator Patterson—I think Senator Patterson made a very reasonable point—is that there is always a little bit of banter involved in the discussions. Senator Coonan gave an answer which I did not find satisfactory, and I made a response. She indicated that she felt my response was unfair, and that is Senator Coonan’s entitled right. Then I actually asked another question. It was at that point that Senator Coonan sought a ruling from you, but I had actually asked another question. I do not think the minister could repeat what my question was. From the sound of it, you did not understand that I had asked another question.

CHAIR—I did understand that you had asked another question, but the point is that it has to be within the terms of the estimates.

Senator CONROY—Have you heard of NetAlert?

CHAIR—Yes, I have.

Senator CONROY—Do they produce an annual report? I understand they do. I would be asking questions about NetAlert at the moment, right? That would be an annual report that falls within the scope of estimates. Just to totally thwart your attempt to gag me, NetAlert produces an annual report, which is the subject of estimates—end of story.

Senator RONALDSON—Yes, but, Mr Chairman—

Senator Coonan—You were not asking about NetAlert.

Senator CONROY—I was the first time you threw a spaz.

Senator Coonan—You were not asking about NetAlert in your last four questions.

Senator CONROY—No. I was asking about libraries and whether or not the government intended to do anything. The question I asked you—

Senator Coonan—To start with, public libraries are not the responsibility of the Commonwealth government. I have already said that.

Senator RONALDSON—I think we can find a word other than ‘spaz’ to describe things.

Senator CONROY—I accept your admonishment.

CHAIR—I think we really have to look at what we are doing here. We are trying to conduct an estimates hearing. We had an episode like this last night and we had one 10 minutes ago. Let us all just consider where we are going and, if we wish to continue, try to formulate questions in appropriate terms and progress this hearing. I do not think that what we are doing is very productive. It is certainly not going to achieve an end result of getting through this agenda. What I would ask everybody to do is to work together in a cooperative way to progress these estimates and conclude the agenda. If we are prepared to do that—

Senator CONROY—I am going to speak to the point of order raised by the minister, before you make your ruling about whether my question was inside or outside. It goes to the unwillingness of a minister to actually answer questions on her portfolio. The minister gave an answer that led to a follow-up question. You cannot possibly try and rule out the follow-up question on the basis that it is irrelevant when the minister’s answer led to the follow-up question. If the minister engages in conversation and questions then flow from it, and she accepts questions at one point and then suddenly realises: ‘I really don’t know what I’m talking about and I should shut up,’ and says, ‘Right, I want the government senators at the table to protect me by gagging the senators asking the questions,’ that is a biased process. If a minister wants to hide behind a biased chair and a brutal use of numbers to avoid answering questions about child pornography, that is fine by me and she can be judged by the Australian public. It is not acceptable to use dodgy rulings from the chair about the relevance of questions.

Senator RONALDSON—Mr Chairman—

Senator CONROY—I am in the middle of a point of order. You are entitled to respond next. How can Ronno decide that he suddenly wants to take issue with comments made by anybody when the minister can say that someone is talking ‘crap’? That was fine and we got a few laughs from the chair. I think that when I raised the question of parliamentary language the chair said, ‘Well, it’s in the dictionary.’ So do not start getting precious with me about language, Senator Ronaldson, when you happily sat back and let the minister abuse me in public. It is a disgraceful double standard.

Senator RONALDSON—I find the use of the word ‘spaz’ deeply offensive.

Senator CONROY—I have withdrawn it.

Senator RONALDSON—Why do you keep raising it, then?

Senator CONROY—My point is that you did not find it offensive for the minister to attack me by saying I was talking crap.

Senator RONALDSON—I think there is a huge difference between the two words.

Senator CONROY—If the minister wants to put profanities in *Hansard* that is fine, and if you are going to let it happen that is fine as well, but do not have a double standard and suddenly not be offended by profanities—

Senator RONALDSON—It is not a profanity.

Senator CONROY—and yet be offended by a comment that I have withdrawn. The fundamental issue here is that the government—

CHAIR—Senator Conroy.

Senator Coonan—Mr Chairman, could we—

Senator CONROY—I am speaking to the point of order. I am allowed to speak. Just because you do not like it, that is tough. You can have your own say.

Senator RONALDSON—Is there much point in continuing this?

Senator Coonan—I suggest that I am not going to sit here whilst the committee engages in debate on the point of order.

Senator CONROY—We are still in open session, Minister. I am sorry. This is not a suspension. You have asked for a ruling.

Senator Coonan—Would you just stop speaking for one minute so that somebody else can finish a sentence?

Senator CONROY—You have interrupted me in the middle of my responding to the point of order. You are not entitled—

CHAIR—Senator Conroy—

Senator Coonan—Call an adjournment, please.

Senator CONROY—I am in the middle of speaking to a point of order.

CHAIR—We have to look at what we are doing. We are not proceeding—

Senator CONROY—How about you start chairing according to the standing orders?

CHAIR—I think this is a political game that is going on, under which you are seeking to disrupt the estimates. We have to decide whether we—

Senator CONROY—So I am not allowed to speak to the point of order.

CHAIR—Senator Conroy, this is all getting out of proportion.

Senator CONROY—The minister has asked for a ruling.

Senator RONALDSON—How can someone's language possibly relate to the question?

CHAIR—I think this is inappropriate to be recorded in *Hansard*, so I hereby suspend this hearing.

Proceedings suspended from 3.19 pm to 4.19 pm

CHAIR—We will resume the hearings.

Senator LUNDY—I would like to ask some questions about Imparja Television, particularly in relation to the proposed timetable and plans for digital conversion, and specifically whether or not the government has a plan and process for the timetable for the digital roll-out specifically in remote areas, with reference obviously to the services that Imparja provides?

Dr Pelling—Imparja operates in a license area called the central and eastern Australian remote licence area. The department and ACMA have been in negotiations with the broadcasters in remote central and eastern Australia for quite some time. There were a number of stages to the process, including a proposal that ACMA considered, put forward and asked views from the broadcasters on relating to aggregation of that market with the Darwin market. That did not eventuate, so now we are moving back into a negotiation process with the central and eastern broadcasters.

Senator LUNDY—Can you be very clear what the status is of the proposal to look at aggregation of that particular market?

Dr Pelling—ACMA suggested that the Darwin and central and eastern markets be aggregated. The Darwin market has a Nine Network station and a Southern Cross station. Southern Cross operates in the central and eastern market with Imparja. Southern Cross is across both markets, and the markets also had one other broadcaster. ACMA's view was that aggregation would succeed only if the broadcasters were able to reach agreement on commercial terms, basically, for that aggregation. That was not able to occur, primarily because Southern Cross, I think, already operates in both markets, so there was not any particular benefit to it from aggregating across both markets, whereas the other two would get access to each other's markets. As a result, ACMA decided not to proceed with that arrangement late last year, and instead started a process rolling in the Darwin market that allowed a new digital only service under the provisions in the act, which we call section 38B, which allow for the provision of a new third digital only service in that market.

Senator LUNDY—Is it the government's intention to introduce that digital only third service?

Dr Pelling—In Darwin, yes.

Senator LUNDY—What about the central and eastern regions?

Dr Pelling—The law allows it to happen and ACMA has started the process to let that happen in the Darwin market. It is also an option in the central and eastern Australian market and we are currently negotiating whether or not that can take place in the central and eastern markets.

Senator LUNDY—So has a decision been made to introduce that digital only third license in the central and eastern region?

Dr Pelling—Not yet. That is part of the negotiations we have been conducting with the broadcasters.

Senator LUNDY—What is the time frame for the decision making on that point specifically?

Dr Pelling—There is no particular time frame in the act by which remote broadcasters have to actually start. We are hoping to advance those negotiations over the next few months, so we will progress it as quickly as possible.

Senator LUNDY—Can you outline the reasons that led to the decision not to aggregate those markets and to move on then to this next stage of negotiations with Imparja and other broadcasters?

Dr Pelling—I am not sure if I have quite got the facts right here, but aggregation, I think, could proceed only on the basis that the broadcasters all agreed, and I believe that ACMA did not have power to force the aggregation to take place if they did not agree. In the event, they were not able to agree that it should take place. Aggregation has been fairly successful in a number of other license areas, but that has in every case, I believe, been on the basis of cooperative agreement by the broadcasters to essentially share their licence areas. That is how, for example, Canberra got three services, because we were able to combine a number of small licence areas in southern New South Wales to ensure that consumers got the three services affiliated to the three metropolitan networks in Canberra. But aggregation, because of the differing economic circumstances of the broadcasters, was not able to be achieved in the central and eastern Australian market.

Senator LUNDY—My understand is, as well, that there was some concern expressed that were Imparja to aggregate that would effect their independence and their capacity to broadcast their local content. Is that your memory of some of the issues raised in that discussion?

Dr Pelling—I think the opposite was the case, that in fact Imparja were quite keen to aggregate and argued that the alternative, to go without aggregation but to adopt the section 38B option in the central and eastern market, would place undue financial pressure on them and would impact on their ability to continue to provide the local presence that they do and the Indigenous services that they do.

Senator LUNDY—In terms of negotiations about the digital only third licence, what is the program for Imparja in their own digital conversion process and, in particular, how well is the government apprised of the likely impact of that program for conversion on remote broadcasters specifically?

Dr Pelling—We have had quite a lot of discussions with Imparja and Southern Cross over this issue. We have also seen some detailed cost impacts that Imparja has provided to us. We are broadly across the impact of those.

Senator LUNDY—The remote and central area includes some 250 retransmission sites. How is it envisaged that they would be upgraded for digital conversion and how would that be funded?

Dr Pelling—The process of conversion of retransmission sites, including self-help sites, is a matter that the government will consider in the context of the digital action plan and so will funding for that process.

Senator LUNDY—For completeness, my understanding is that 2012 is at least now a target date for digital conversion and analogue switch-off. Does that time frame apply to remote areas as well?

Dr Pelling—All that the government's paper said is that the period of 2010-12 was a proposed target date for commencement of the switch-off process, but the details of how you would deal with it region by region, and indeed whether you would do it that way or some other way, will be a matter that the government looks at in the context of the digital action plan.

Senator LUNDY—I have a few more questions about that. These might end up going more to policy issues. The minister's paper suggested that the availability of additional services will be a major driver towards digital conversion. Has either the department or the government considered framing remote area legislation so that Imparja can deliver its community and Indigenous radio and TV services as remote area narrowcast digital multichannels?

Dr Pelling—The impact of the conversion process on Imparja's narrowcast Indigenous service will be one of the factors that we consider in the conversion process. In addition, as you would be aware, the government committed significant resources to an Indigenous broadcasting service, and there is a range of work going on in relation to establishing that. It is my understanding that Imparja will have a key role in the transmission of that, or the satellite uplink of that service.

Senator LUNDY—In terms of that being considered by government at the moment and given that not having a set plan does impact on decision making, how soon is it likely that some firmer direction will be able to be provided to Imparja?

Dr Pelling—Now that the aggregation option is off the table, we are moving towards further refining our negotiation positions. Once we have the minister's agreement to an approach, then we will get in contact with the broadcasters and move forward as quickly as possible.

Senator LUNDY—Can you envisage anything in those ongoing discussions that is likely to negatively impact upon Imparja's ability to provide its local content obviously to the market it has developed?

Dr Pelling—All I can say is that that issue is going to be a key part of the consideration that we will have. Clearly, if decisions were made that impacted on Imparja's viability, then that would be an issue. It is my understanding that it is not the government's intention to move down routes that will significantly affect its ability.

Senator LUNDY—One policy question I have is to ask the minister: what level of commitment does this government have to maintaining the viability of Imparja as a provider of local content to that central and eastern remote market?

Senator Coonan—It is a very central commitment to the government's strategy. As Dr Pelling said, it also is reinforced by the fact that we have a package in the order of about \$50 million to ensure that local content is developed and available.

Senator CONROY—Can I ask a few questions about the antisiphoning regime. I understand those operations are administered by the department and ACMA. And the department?

Ms Williams—We advise.

Senator CONROY—You advise on the operation of it?

Ms Williams—Yes.

Senator CONROY—Minister, in launching the media policy discussion paper back in March, you stated:

... I am of the view that there is scope for further scrutiny of the anti-siphoning list and the number of events on it.

I would like to explore the government's policy and plans for the list. On an ABC media report on 16 March, the Minister said that there are about 1,000 events currently on the list. Could you explain what the government means by an 'event'?

Senator Coonan—That will be a question for the department.

Mr G Neil—That is a definitional question and, to some degree, depends on what we choose to define as 'event'. For example, we can list all the Australian Rules football, so an event in that case will be every match in every round.

Senator CONROY—You are defining each match in the AFL or each match in the Australian Tennis Open as a separate event?

Mr G Neil—We can and, depending on the context, we can—

Senator CONROY—The minister's—

Mr G Neil—It is an issue of whether you can say that Wimbledon is an event and there are subevents to that or Wimbledon is a tournament comprising several hundred events. In this context, clearly, the number indicates that each of the rounds at Wimbledon, each match at Wimbledon, is an event. For the purpose of delisting, we can define down to that level and extract certain events in that manner.

Senator CONROY—So if the Australian Tennis Open is a tournament, it consists of, what, 260 matches?

Mr G Neil—Yes.

Senator CONROY—So 260 events under the title of the Australian Tennis Open?

Mr G Neil—Yes.

Senator CONROY—For the definitional purposes of the syphoning list?

Mr G Neil—It depends on the actual wording. In the case of the Olympic Games—sorry, I keep jumping events, but that is a top one—it says that it is each event held as part of the Olympic Games. So that would be every single contest.

Senator CONROY—That would be each time one horse rides around and jumps over one of the hurdles, that is an event?

Mr G Neil—I think the—

Senator CONROY—That's a competition?

Mr G Neil—Each element of the equestrian would be an event in its own right. Unfortunately, you are now asking me a legal question, and it is probably wiser for us to take

that on notice and give you a proper answer after we have consulted, because we are now talking about a legal document, which is the antisiphoning list.

Senator CONROY—I am always talking about it. What document are you talking about if you are not talking about the antisiphoning list?

Mr G Neil—I would prefer to take the question on notice and give you a properly considered answer. Essentially, each contest in its own right is an event and therefore—

Senator CONROY—The minister has defined that there are a thousand events currently on the list, and I am trying to understand how she reached that figure, and she has referred me to you.

Mr G Neil—I am sorry. That was on previous advice from us, and I would prefer to consult that advice and tell you how we constructed that. It essentially comes from counting the number of matches in Wimbledon, in the Australian Open.

Senator CONROY—I understand that aspect, but I am interested only in your Olympics definition, because you defined it as a contest.

Mr G Neil—What I am saying to you is that I would prefer to give you a considered answer.

Ms Williams—The problem with the Olympics—for example, you mentioned horses—is: is the three-day event an event or is each part of the three—

Senator CONROY—That is what I am trying to understand.

Ms Williams—Yes, and we do not know that. That is unfortunately—

Senator CONROY—I am trying to understand whether that is in the 1,000 events or not.

Ms Williams—In others it is easy; it is each match. But that is the kind of thing, I think, that Mr Neil wants to come back to you with advice on.

Senator CONROY—As you say, there are different levels and gradations. So you are not sure whether each time the person gets on the horse and does dressage—

Mr G Neil—Not each person. It would be that defined event.

Senator CONROY—Each competitor competes individually in the equestrian, when they are hopping around on their horse.

Ms Williams—For the three-day event, for example, we are not sure whether that it is one event or whether it is dressage, cross-country and jumping, and that is three. So we do not know whether it is one or three.

Senator CONROY—I am asking whether each individual activity within that—

Ms Williams—No. No, certainly not.

CHAIR—We have a resident expert who wishes to clarify everybody's minds.

Senator ADAMS—Can I just butt in?

Senator CONROY—Are you participating in one event or about 1,000 events, from the sound of it?

Senator ADAMS—No. It is called a three-day event. In the Olympics you have a team of four, normally, who all compete in the dressage on one day, they compete in the cross-country the next day and in the showjumping the next day. The three phases of the event are all one competition, so you have to be able to complete them all—

Dr Pelling—You only get one medal.

Senator CONROY—No, you do not. You get individual medals as well. That is one of the issues.

Senator ADAMS—Your horse has to be vetted fit each day so—

CHAIR—Just let Senator Adams finish.

Senator ADAMS—it is quite a complex event. But it is a three-day event. It is run over three different phases and it is normally over three days, because of the number of people competing. If you have a one-day event, you will have those three phases in the one day, which is very difficult.

Senator CONROY—Thank you for that, Senator Adams. I think you have explained it. There are individual medals awarded within the three-day event as well, though, I understand?

Senator ADAMS—It depends on how the competition is set up, but each person who competes in that team of four will get a gold medal—

Senator CONROY—But there is also an individual winner as well?

Senator ADAMS—Yes. They run concurrent competitions within it.

Senator CONROY—Yes, they are concurrent.

Mr G Neil—I can confirm that we have done such calculations and have determined numbers that constituted ‘events’, and we have made decisions about whether or not the golf is one event or a series of events. I apologise that I cannot reproduce that for you right now.

Senator CONROY—I am happy for you to take it on notice and give us that, but I actually wanted to ask you about the rationale behind that.

Mr G Neil—Yes.

Senator CONROY—The three-day event is probably one of the more challenging ones to work your way through. I probably started with the hardest. Athletics is not, I presume, defined as an event itself?

Mr G Neil—No, I do not believe so.

Senator CONROY—I just want to move down to the next level. You have the 100 metres and the 200 metres. Would they be events or are the heats within the 100 and 200 metres individual events for the purposes of—

Mr G Neil—I would need further advice to give you a precise breakdown. I believe we can give you that and I think we can answer it, but I would be guessing now. I can tell you that, in the football, we treat each match as a separate event. Every match in every round is an event for the purposes of the—

Senator RONALDSON—What about the four quarters?

Mr G Neil—I am sorry?

Senator CONROY—Your team did not turn up to play four quarters on the weekend, did it?

Senator RONALDSON—You are just having a lucky break at the moment.

Senator CONROY—With respect to athletics, do you define the semifinals, the individual heats and the final as separate events, or is the 100 metres, covering all of the heats and finals, an individual event?

Mr G Neil—We could. I think we could take that view. If you are asking me whether we did for the purpose of calculating that number, I cannot answer that question now.

Senator CONROY—Forgetting calculating that number, then, would you define those as individual events, or is that the same answer?

Mr G Neil—On our list we have treated finals separately from ordinary rounds, so that now for the French Open we list only the quarters, the semis and the final.

Senator CONROY—I understand that.

Mr G Neil—So we do it as a separate event.

Senator CONROY—So a heat in the 100 metres at the Olympics would be a separate event from the semifinal or the final?

Mr G Neil—At the moment, the entire Olympics is listed. Everything that happens in the Olympics is listed. Similarly for the Australian Open in tennis, every event is listed and—

Senator CONROY—I am trying to understand whether one Olympics got recorded in the thousand or hundreds of individual contests.

Mr G Neil—I do not think so. I think we treated the Olympics as a single event, but—

Senator CONROY—Please come back and confirm.

Mr G Neil—I cannot do the maths for you now and I have not got it with me. But we have provide numbers before, and calculations. I cannot recall how we treated those large events that have enormous multiples in them. I do not believe we counted them, because I do not think we could have readily counted every contest within the Olympics. I would have remembered worrying about it.

Senator CONROY—I am trying to understand the argument that says: use it or lose it.

Mr G Neil—Yes.

Senator CONROY—If they say, ‘Look, we have given 24 hours straight Olympic coverage; we have covered the Olympics live,’ but they have only shown three swimming events, is that going to be counted as having covered the Olympics? Or do you have to show every event—athletics versus discus? I am trying to get an understanding of—

Mr G Neil—In the terms of what is being used and what is being broadcast, I think they are decisions we have not yet made in an event like the Olympics. It is somewhat easier in football, where you have very discrete events, or tennis, where we have discrete events. There are still decisions to be made there. I do not believe we have made that decision in relation to the Olympics, as to how we would break it down.

Senator CONROY—The reason I am asking is that the minister is saying there are too many events on the list and that we need to know what could be pruned if it is not used. So the definition of what an event is is actually the most critical issue, firstly.

Mr G Neil—Yes.

Senator CONROY—Then, on from that, it is: what is the definition of using it? So I am trying to understand the rationale when the minister says there are a thousand events on the list. I want to get to the thinking, and the minister has referred me to you, unfortunately.

Mr G Neil—My recollection is that we treated the Olympics as a single event, but I would need to verify that.

Senator CONROY—For the footy was each match counted separately for this thousand?

Mr G Neil—Yes, I believe so. But I would need to check.

Senator CONROY—No, I am not trying to catch you out. I am happy for you to come back and correct.

Mr G Neil—There are 20 rounds, and—

Senator CONROY—So each round was not an event?

Mr G Neil—eight matches a round. I think in Australian Rules there are eight.

Senator CONROY—It is 22 rounds.

Mr G Neil—Twenty-two rounds times eight. The NRL would have a similar number of rounds times seven. For each contest in the Australian Open, each contest at Wimbledon, you can add up a series of events and get to a significant number. But, again, I am now digging back for advice on something we did some time ago and in discussion with our legal area about what constituted an event, bearing in mind that the definition changes.

Senator CONROY—I am just interested in why your legal department suddenly decided to define Wimbledon as every single match at Wimbledon.

Mr G Neil—For the purposes of the list, the Olympic Games is listed in its entirety. It just refers to the Olympic Games as the event.

Senator CONROY—I said Wimbledon.

Mr G Neil—Yes.

Senator CONROY—I am interested to understand why the legal advice says that the Olympics is an event but Wimbledon is all these separate contests.

Mr G Neil—Because it says ‘each match in the Wimbledon Lawn Tennis Championship Tournament’.

Senator CONROY—So the way it is described is germane to the definition of how many events?

Mr G Neil—Yes.

Senator CONROY—Thank you.

Mr G Neil—So, similarly with—

Senator CONROY—The Australian Open.

Mr G Neil—In Australian Rules, it is each match in the Australian Football League premiership competition, including the finals series. In calculating the number, you would rely on that. Hence the Olympics is one event. And the Commonwealth Games is one event. I am sorry, that was a tortuous way to get to the answer.

Senator CONROY—No, that is spot-on. In the government's discussion paper, it proposed introducing a 'use it or lose it' approach to the antisiphoning list. I would like to explore how that will work in practice. Can you explain what factors the government will take into account in determining whether an event has been used?

Mr G Neil—I cannot, because the government has not decided. In a discussion paper it indicated a disposition towards a 'use it or lose it' scheme, and it has outlined some of the factors that might be considered.

Senator CONROY—There is an extensive discussion in the discussion paper, though.

Mr G Neil—It is—

Senator CONROY—You worked on it?

Mr G Neil—Yes.

Senator CONROY—You would have helped prepare this?

Mr G Neil—Yes.

Senator CONROY—So you must know the thinking behind it. There is quite an extensive discussion on this matter in the paper.

Mr G Neil—I know only the advice that we provided. I do not know the government's thinking beyond the advice we provided. I know what is in the paper, as do you. It has invited comment from stakeholders on that, and that is being considered now. I would say that it is entirely possible that some things may change as a result of the input from the stakeholders.

Senator CONROY—I am interested particularly in the treatment of items on the list that comprise a competition or tournament, such as the AFL, NRL and the tennis. The discussion paper suggests that in these cases partial delisting of events comprising these items may be feasible. Does this mean that you are considering an approach that would allow delisting of preliminary rounds of the tennis tournaments similar to what has happened with the French Open?

Mr G Neil—And the American Open. What the paper suggests is that you ought to start by looking at the totality of the coverage of the series of events. So if it is Australian Rules, you look at it as a totality. But you may want to consider, for the purposes of 'use it or lose it' whether the free-to-air broadcasters have used the AFL, and you would look at it as a totality first. But it then acknowledges that it may be feasible to delist part of that, for example.

Senator CONROY—I am from Melbourne, and we have a very unhealthy obsession called the AFL.

Mr G Neil—I would rather talk about the Rugby League, if that is possible.

Senator CONROY—In terms of TV coverage of the AFL, it would be fair to say that I think we get five matches free to air a weekend and three on pay, whereas in NRL I think it is—

Mr G Neil—Two out of seven.

Senator CONROY—Two out of seven, so it is two and five.

Mr G Neil—Yes.

Senator CONROY—I would suggest to you that that shows there is a bit more of an obsession in the general public in Melbourne with AFL than perhaps there is with the Sydney public in—

Mr G Neil—And Adelaide, I can assure you.

Senator CONROY—Yes, sorry, Adelaide and Perth. That is out there. Am I reading this paper right that there is a suggestion in the paper that some home and away AFL matches could be individually delisted? Is that what the paper is suggesting?

Mr G Neil—No. The paper says that partial delisting of events comprising the item may be feasible but would be informed by the consideration of the coverage of the item in its entirety. It is only a discussion paper and it is only a model. It is saying that it might be feasible but you would look at the totality of the coverage. In the case of AFL, you would say a large part of it is covered, and that would inform whether or not you wanted to delist parts of it.

Senator CONROY—There is a very big debate at the moment in AFL about how many matches they are going to on-sell to pay TV for the next raft of coverage. It is the five-three equation—five free and three pay—to the four-four. Foxtel obviously would like to get four of the matches. The free-to-air would prefer to give them only three. I am trying to understand whether or not there is an opportunity, reading what it says in the paper, for there to be fewer matches listed on the antisiphoning list for AFL.

Mr G Neil—The event has been sold, so it is delisted. Antisiphoning would have no influence now on the decisions of the AFL. It has been sold and delisted.

Senator CONROY—I would have to disagree with you. I do not think that is right. At some point, you have to say the totality of every AFL match is on free-to-air; it is on the antisiphoning list.

Mr G Neil—But once the event is sold to free-to-air television, it is delisted; it ceases to be on the list.

Senator CONROY—Let us say Channel 7 suddenly decided they were going to get out of coverage and on-sold the whole package?

Mr G Neil—That would be their right. They own the event. It is delisted. This has no bearing on what Channel 7 does. The list only gives free-to-air the advantage in the negotiation. It biases the market towards the free-to-air. Once they have bought it, it is entirely within their—

Senator CONROY—If they bought it and then did not show it on free-to-air, that is covered by ‘use it or lose it’. The fact that they have on-sold it to someone else—

Mr G Neil—But that would be a question for the subsequent sale. We could change the listing for the purposes of the next round of the sale, but it would not influence the current—

Senator CONROY—It would be in breach. They would be hoarding. They would be denying it to free-to-air if they sold it all, let us, to ESPN.

Mr G Neil—There would not be any breach, because that period of the event is not subject to the list once it is sold to a free-to-air broadcaster. The list becomes irrelevant.

Senator CONROY—At present, free-to-air stations show only two matches of Rugby League out of seven each weekend. What is the current position on the NRL?

Mr G Neil—In?

Senator CONROY—The definition under the antisiphoning list? Is it each match?

Mr G Neil—Yes.

Senator CONROY—So they are able to sell it five-sevenths off and, as far as you are concerned, that is it?

Mr G Neil—Once Channel 9, in this case, has bought the rights, the list ceases to be relevant. It is entirely a matter for Channel 9. Of course, bearing in mind that the NRL would normally resolve some of these issues in the contract, as the AFL does, I believe, given it is their event and part of the terms and conditions say, ‘What will you do with the rights that we sell to you?’

Senator CONROY—That is true.

Mr G Neil—The antisiphoning list ceases to operate once the event is sold to a free-to-air broadcaster. It is automatically delisted and it ceases to be relevant. The relevance is to the next round of sales, if we change the conditions for that.

Senator CONROY—One of the discussions that is taking place as part of this discussion paper is how you choose which matches would be shown in the tennis, if you were going to delist some parts of the tennis—Wimbledon, Australian Open, whichever—and how you would actually go through that delisting discussion. Let us say centre court became the event—and don’t hold me literally to the word ‘event’. But free-to-air should show all the centre court matches, all the Margaret Court Arena matches and a couple of the others—from the first four major courts. But say an Australian suddenly does really well but is scheduled to play on court 27. How can you take that into account? At Wimbledon it is easier. Basically, we cover the centre court matches and, if there is an Australian playing on court 2, usually there will be some coverage. But, if an Australian is playing on court 27, that would be the one that is of the most national interest. The purpose behind this list is about national icons and national interests. How do you try and fit that into this regime? How do you fit that into a discussion about which matches get delisted when the Australian might not end upon on centre court; the Australian might end up on 27. But here in Australia, watching Wimbledon, we might want to watch the Australians play. I am not saying that I have an answer; I am just wondering is this is the sort of thing you are having to grapple with.

Mr G Neil—I should ask the minister, but the intent of asking ACMA to monitor is to better understand some of these issues on how events are used in that sort of detail so that we can better understand the implications of different options.

Senator CONROY—But you can understand the concern that you cannot arbitrarily say it will be all the outside courts as opposed to the major courts. If you are staying up late at night and you want to watch the Australians in it, that is what you want to watch.

Mr G Neil—I understand the point. They are all issues that will come out of the monitoring, I think.

Senator CONROY—As I said, I am trying to understand the concept of ‘use it’. If Channel 7, for instance, say, ‘We’ve shown seven or eight hours of the tennis’—and they may have shown six matches straight—have they complied with the ‘use it’ concept?

Mr G Neil—The paper asks that question, I think. They are the issues that need to be considered. But the department does not have a view on that. It is something that needs to be considered. Given the constraints on a broadcaster about how much they can show, is the fact that they have shown as much as they can sufficient to say it is used, even though that might be a small proportion of what is available? Those are questions that have to be considered.

Senator CONROY—I understand with the Australian Open tennis that Channel 7 and Fox have reached an agreement and that there are plenty of matches being shown on pay TV at the same time as the free-to-air coverage with, if you like, the main matches, if I can describe it that way.

Mr G Neil—In its monitoring, ACMA has been asked to include: what rights have you bought; of those rights, what did you broadcast; and what did you on-offer, if anything, to anybody else? We are interested in those questions. We do not, I do not think, at this stage have any view. We think they are issues that need to be considered.

Senator CONROY—I understand with golf events recently in Australia the way it has worked is that the first rounds have been on pay TV and the last two rounds have been on free-to-air; is that right?

Mr G Neil—That has occurred in the past. I am not sure that it still occurs.

Senator CONROY—Will showing all four days of a golf tournament fall into ‘use it’ and showing only two will not?

Mr G Neil—We have said that perhaps—and this paper suggests it—one of the criteria might be what proportion of the event you show. So if there were four days and you showed two, the paper says that may be a relevant consideration. There may be other considerations.

Senator CONROY—Under the proposals, what are the consequences if a free-to-air broadcaster does not adequately use its rights to an event on the antisiphoning list? Is it proposed to remove the event completely from the list?

Mr G Neil—There is nothing more proposed than is here.

Senator CONROY—I am looking to understand what the words ‘lose it’ mean. Is it removed from the antisiphoning list if someone does not show it? The next time the bidding rights come up, will that TV station be banned from bidding for it, with the other free-to-air TVs being able to bid for it?

Mr G Neil—The government has delisted events in the past on the basis that they were not shown.

Senator CONROY—But this is ‘use it or lose it’.

Mr G Neil—In the context, I would think that the ‘lose it’ means that the event or part of the event would cease to be on the list, as now the cricket that is listed is only England and Australia and not any other cricketing match.

Senator CONROY—In the past, there have been complaints that people have hoarded it. In other words, they have bought it but not shown it.

Mr G Neil—Yes.

Senator CONROY—It has not been removed from the list. In subsequent rounds of bidding for it, other companies have been able to bid for it, and the person who hoarded it last time has been allowed to bid. I am trying to understand whether the proposal is that, if you have hoarded it, in other words, you have won the bid—by definition there may have been other bids—and then not shown it, that penalises the other free-to-airers because you then say, ‘It is off the list because Channel X’—and I do not mean Channel 10—‘have not shown it, so we are going to punish all the free-to-airers by taking it off the list,’ even though Channel X may have outbid the other two channels. Am I making sense? Do you understand the point I am getting to?

Mr G Neil—What we are doing with the monitoring is providing a diagnostic tool to the real value of the event. If one commercial channel chooses not to show it, that may indicate something about the commercial value of that. Or, if they choose to move it to be on at 12 o’clock, that may indicate something about it. In the end, the set of criteria are quite diverse and, finally, it is a matter of judgment for the minister about what events are or are not on the list.

Senator CONROY—I understand.

Ms Holtuyzen—Importantly, the ‘use it or lose it’ scheme clearly has not been decided and confirmed at this point. Part of the monitoring that ACMA is going to be doing will be to help provide the government with information to make decisions in this area. It is very difficult for us to talk about particular and individual events.

Senator CONROY—The minister referred me on to you to talk about it.

Ms Holtuyzen—Yes, but I am saying I do not think there is much more we can say in relation to it.

Senator CONROY—If you would like to refer it back to the minister, that is okay.

Ms Holtuyzen—There is not much more we can say in relation to how it operates, because basically we are getting information to be able to make decisions about how it might operate if the government decided to proceed with it.

Senator CONROY—Minister, as you are aware, we have broadly been supportive of the ‘use it or lose it’ concept.

Senator Coonan—Have you? Sorry, I did not realise that.

Senator CONROY—We have been broadly supportive of the ‘use it or lose it’, but I am interested particularly in this issue around the hoarding, which is what causes the most angst, and where one channel buys the rights but does not show it.

Senator Coonan—Yes. I understand.

Senator CONROY—We then move to the ‘lose it’ and whether or not the intent is to have it then removed from the antisiphoning list, thereby punishing the other free-to-airers that may have taken up the opportunity to show it—in other words, the next time it came up you would allow all the free-to-airers, bar the one that hoarded it, to bid or none of the free-to-airers would be able to bid?

Senator Coonan—Yes. These are all tantalising possibilities that we have under our purview to have a look at how we might regard this as working.

Senator CONROY—As I said, we are generally supportive of the ‘use it or lose it’. I am just trying to understand what—

Senator Coonan—It is very complex. There is no doubt about that. That is why it is so important that we have a good, clear look at how it is working and then we can address these issues in our policy response.

Senator CONROY—The only item on the antihoarding list at the moment is the 2006 World Cup. Is that correct?

Mr G Neil—Yes, that is correct.

Senator CONROY—So we have an antihoarding list as well as an antisiphoning list?

Mr G Neil—Yes.

Senator CONROY—What are the criteria for being listed on the antihoarding list?

Mr G Neil—That it be listed.

Senator CONROY—What does that mean?

Mr G Neil—It has to be on the antisiphoning list.

Senator CONROY—What is the practical implication of the antihoarding list? What does it actually mean in practice?

Mr G Neil—If a free-to-air broadcaster purchases events, it must on-offer to the national broadcasters, at a nominal fee, all those parts of the event that it does not choose to show itself. Channel 9, in the World Cup held in Korea and Japan, chose to buy only a limited set of matches and left the rest. As I recall it, they bought a subset and left the rest for somebody else. In this case, SBS bought them. That was an alternative way of addressing the antihoarding list.

Senator CONROY—I just wonder whether FIFA would agree to sell only part of it or whether they would sell it all.

Mr G Neil—That is my recollection.

Senator CONROY—I vaguely had the same initial reaction as you, that it was all bought and then on-sold. But you may be right in your subsequent—

Mr G Neil—I thought they bought a limited number of events. We had anticipated it being sold as a total event and were surprised that that occurred. In the subsequent sales, as you say, FIFA has sold to SBS the entire event.

Senator CONROY—Yes. I think 2010 and 2014 have now both been purchased by SBS, so at least for the next eight or nine years we do not have to worry about the World Cup. The last issue I would like to discuss with the department concerns ACMA's enforcement powers. The minister's media discussion paper indicated that ACMA's powers would be strengthened. Can anyone outline what changes are envisaged?

Mr G Neil—We released a discussion paper on options for ACMA powers and identified five possible changes to their powers and invited comments on those.

Senator CONROY—Could you quickly summarise the findings?

Mr G Neil—The first one was with civil penalties. Under the Broadcasting Services Act most of the significant offences attach criminal penalties. The proposal was to bring in an alternative to civil penalties, for a range of reasons, but retain the criminal penalties as an option. There was also a proposal to bring in a power to seek injunctions in certain circumstances. This is where a broadcaster would be operating without the appropriate licence. The third one was a power to seek enforceable undertakings. They would be voluntary and negotiated, but in this case they would be enforceable in front of a court if they were subsequently breached. There was a proposal to potentially require on-air statements relating to ACMA findings—so it would not be apologies or admissions of guilt; it would be a requirement to acknowledge that ACMA had found a breach, normally in the same time period as the breach occurred.

The final one was infringement notices, and this relates to situations where currently people are required to do certain things in relation to providing annual advice to ACMA. Where they fail to do that, there would be an automatic penalty, which is simply a means of ensuring that people report in a timely manner. ACMA has a significant problem in that it produces a lot of public data about the performance of the industry and needs to gather everybody's information together so that it can provide accurate data. It often finds that, for various reasons, its reports are delayed by that. A financial incentive might improve the reporting in limited cases where there is a problem.

Senator CONROY—Is it the government's intention to deal with the ACMA powers separately from any broader media reform package?

Dr Pelling—As Mr Neil said, the government has put up the discussion paper and got comments. Certainly, it was raised in the context of the government's media policy discussion paper. But precisely how, at the end of the day, the government deals with those issues and makes decisions on those issues—

Senator CONROY—Minister, is the—

Senator Coonan—Cabinet decides how to take it forward, whether it will be part of the broader package or whether it will be a stand-alone process.

Senator CONROY—I believe you received a report on these issues from Professor Ramsey, commissioned by the ABA, in September 2004; is that correct?

Mr G Neil—Yes.

Senator CONROY—The minister received it?

Mr G Neil—ACMA received it and passed it on to us, yes, and the minister.

Senator CONROY—It has been nearly two years since Professor Ramsey identified a number of issues—September 2004.

Mr G Neil—That is possible. I am not aware of the dates. I do not have it in front of me, I am sorry.

Senator CONROY—That is when it was commissioned.

Mr G Neil—I suppose the issue is when did he report. We can certainly advise you of that.

Senator CONROY—It just seems a long time. Are you aware that, last year, the ABA reported that breaches of the code by commercial television stations tripled?

Senator Coonan—I am sorry, say that again?

Senator CONROY—Are you aware the ABA reported last year that breaches of the code by commercial television broadcasters tripled?

Senator Coonan—I am not sure what breaches you are referring to, because they come into different categories.

Senator CONROY—I am just talking about the total. I have a table here. You can you add the total up. I was not trying to break it up individually. Will the government commit to strengthening ACMA's powers by the end of the year so that broadcasters start taking the codes, and the community sentiments they reflect, seriously?

Senator Coonan—The government has a process in place, and I have a policy response under consideration.

CHAIR—That means we have concluded the department. I would like to know whether there are any senators who wish to ask questions of outputs 3.3 or 3.4? Since there are not, that means we can dismiss all departmental officials and thank them for being here today. I would now like to call the ABC.

[5.16 p.m.]

Australian Broadcasting Corporation

CHAIR—I welcome the ABC to these estimate hearings. I understand you have a new CEO, so we look forward to meeting him in due course. Senator Ronaldson?

Senator RONALDSON—Mr Cameron, if I could go straight to you, please. I quote:

The ABC takes great care to not label groups and organisations as terrorist. That is not to say that blatant acts of terrorism shouldn't be described as such, but we should let others describe the group(s) involved as terrorist, per se.

Are they your words?

Mr Cameron—They could well be.

Senator RONALDSON—So they are your words?

Mr Cameron—It sounds familiar.

Senator RONALDSON—Did you issue that in a memo to your news and current affairs staff in July of last year?

Mr Cameron—I will take your word for it. I cannot recollect the actual memo that said that. It sounds like a number that have gone out in recent years.

Senator RONALDSON—I will take that as a yes. I again quote:

The following is yet another plea on grammar, style, content and other bits and pieces that help make the ABC the best show in town when we try. This memo is, as usual, directed at all news and current affairs staff across all programs in all states and territories and elsewhere. The rules are not optional, they are mandatory.

Are they your words and did you issue that memo in approximately March of 2003?

Mr Cameron—Yes, I probably did.

Senator RONALDSON—I again quote:

As pointed out previously, the guidelines must be treated as directives, not suggestions.

Again, are they your words and did you write those in a second memo to staff later in March 2003?

Mr Cameron—I will take your word for it.

Senator RONALDSON—I then take you to the answers to questions on notice from the estimates of November last year:

The words ‘terrorist’ and ‘terrorism’ can be used by ABC reporters and presenters in appropriate circumstances.

Which is it? That the ABC takes great care not to label groups and organisations as terrorists? Or can the words ‘terrorist’ or ‘terrorism’ be used in appropriate circumstances?

Mr Cameron—The latter, really. I do not think they are entirely contradictory. I see your point, but if blatant acts of terrorism are obviously such, we do not resile from using the term.

Senator RONALDSON—Can I just take you back to your first quote, and they are very much at odds:

The ABC takes great care to not label groups and organisations as terrorist. That is not to say that blatant acts of terrorism shouldn’t be described as such, but we should let others describe the group(s) involved as terrorist, per se.

What your memo to staff is saying is that the ABC will not label groups as terrorists; if there are blatant acts of terrorism, they can be described as such. If there is going to be a reference to the word ‘terrorist’, it is only in the context where you let others describe the group involved as terrorists.

Mr Cameron—I think the keys words would be ‘takes great care’.

Senator RONALDSON—Do you want me to re-read it, or do you understand the difference between the two?

Mr Cameron—I understand your point.

Senator RONALDSON—Can I take you back to the questions on notice answer:

The words ‘terrorist’ and ‘terrorism’ can be used by ABC reporters and presenters in appropriate circumstances.

Which is it? Is it your memo of July last year or the answer from Senate estimates?

Mr Cameron—I think they can be read as complementary. Honestly, I do. I think ‘takes great care’ would be the key words. We take great care not to label.

Senator RONALDSON—I am terribly sorry, but clearly you say that the ABC takes great care not to label groups and organisations as terrorists. You then go on to say if the word ‘terrorism’ is used that can be used in some circumstances. You then go on to further clarify the terrorist issue by saying that, if the word is going to be used, it will need to be attributed to others. In the answer to Senate estimates last November, the answer that came back to the committee was that the ABC can use the word ‘terrorist’ not with any attribution, on its own, in appropriate circumstances. I am asking you: is the correct position your memo? Or is the correct position as was indicated in the answer in Senate estimates—

Mr Cameron—I do not think one rules the other out. I think ‘takes great care’ is the key qualifier. ‘Takes great care’ not to, but it does not mean we do not in circumstances where there is no question.

Senator RONALDSON—No. That is terrorism. That is the point. Acts of terrorism. I am going to be getting to that shortly. It is the expression ‘terrorist’. You said that the ABC is not to use the word ‘terrorist’. You then went on to say that, if the word ‘terrorism’ is going to be used, that can be used in certain circumstances. You then went on to say that, if the word ‘terrorist’ is used, it must only be by way of attribution to someone else. In the November answer there was a contradictory statement, that the word ‘terrorist’ can be used by ABC reporters and presenters in appropriate circumstances. I think I have made my point. I will be returning to the issue of ‘appropriate’ shortly. An answer to questions on notice from Senate estimates I think of May last year said:

The style guide is just that, a guide on matters of style.

Just before I get to my question, because it again concerns apparent contradictions, can I clarify who in the News Division actually writes these answers to Senate estimates questions? It is not you, is it?

Mr Cameron—Not in the first instance, no, but I would see them.

Senator RONALDSON—I think I saw her name referred to in the press recently. Is it Heather Forbes, the News Division Complaints Liaison Officer? Would it be correct that she drafts these responses?

Mr Cameron—Some of them she would be involved in.

Senator RONALDSON—Is she primarily responsible for it?

Mr Cameron—No.

Senator RONALDSON—She is not? Who is primarily responsible for them?

Mr Cameron—We have a policy officer, who is here today with us, who has primary responsibility.

Senator RONALDSON—Who is the policy officer?

Mr Cameron—Steven Alward, who is directly behind me.

Senator RONALDSON—Mr Alward, you had better come to the table, I think.

Mr Cameron—I would make the point that I endorse the responses on behalf of news and current affairs.

Mr Alward—They are discussed with John before they are done.

Senator RONALDSON—You are the one who is responsible for drafting these responses, are you?

Mr Alward—I gather responses from staff members and put the responses together in discussion with John.

Senator RONALDSON—Do you also get them from Heather Forbes?

Mr Alward—Yes.

Senator RONALDSON—Is she the main contributor?

Mr Alward—No, a range of people contribute.

Senator RONALDSON—Who are they?

Mr Alward—Program makers.

Senator RONALDSON—Has Heather Forbes got responsibility in relation to any particular areas for responses?

Mr Alward—No—

Senator RONALDSON—Mr Alward, you are the one that looks—

Mr Alward—No, it is shared between all of us.

Mr Cameron—Not primarily, I mean—

Senator RONALDSON—So who distributes them?

Mr Cameron—It depends what the issue is. We would go to the executive producer of a program if there was a particular program issue, and they would help formulate a response to a particular question or complaint.

Senator RONALDSON—People take up different issues and have responsibility for those responses; is that right? What are the particular issues that Heather Forbes is responsible for?

Mr Cameron—I do not really understand the question, because she is one of a team of people who handle audience contacts and complaints. She has a general view of the incoming correspondence and would advise Steven and liaise with EPs of various programs on gathering the information that is required.

Senator RONALDSON—I thought you told the committee that people have various areas of responsibility and they are given questions to respond to, and then I presume they are collated. What is Heather Forbes' special area of responsibility? What does she normally respond to?

Mr Alward—She shares the workload.

Senator RONALDSON—Sorry?

Mr Alward—She shares the workload of the questions.

Senator RONALDSON—Do you know who prepared the answer to the question on notice and made the comment:

The style guide is just that, a guide on matters of style.

Mr Cameron—That was probably, again, a combination of us and certainly primarily me. I would have signed off on it.

Senator RONALDSON—Who prepared it?

Mr Cameron—It comes through Steven.

Mr Alward—Probably me.

Senator RONALDSON—You prepared it?

Mr Alward—Possibly. There are hundreds of them.

Senator RONALDSON—I appreciate that. If you do not know, just say so. But if it was you, please say so. You think it was you?

Mr Alward—It could have been, yes.

Senator RONALDSON—You are sitting—

Mr Alward—But in consultation with John.

Senator RONALDSON—You are sitting beside each other, which is probably handy, because one of you has given one answer and one has given another.

Mr Alward—I do not think we are.

Senator RONALDSON—Is this style guide optional or mandatory? Because according to you, Mr Alward, it is only a style guide and that is as far as it goes. According to you, Mr Cameron, the rules are not optional, they are mandatory, and:

The guidelines must be treated as directives, not suggestions.

So which one is it?

Mr Cameron—It is the former, because it is only a guide. By definition, it is a guide, I think as the response probably says. While it is a guide, it is absolutely mandatory for everyone in news and current affairs to be aware of it and to follow it generally, but even the guide itself has qualifications within it saying that there are exceptions to rules. There almost always are, when it comes to a guide. That is why it is a guide.

Senator RONALDSON—It stated:

As pointed out previously, the guidelines must be treated as directives, not suggestions.

Mr Cameron—That would—

Senator RONALDSON—It further stated:

The following is yet another plea on grammar, style, content and other bits and pieces that help make the ABC the best show in town when we try. This memo is, as usual, directed at all news and current affairs staff across all programs in all states and territories and elsewhere. The rules are not optional...

You are not seriously suggesting but that that means that the rules about having an understanding of the guidelines is not optional? You are not seriously suggesting that to the committee?

Mr Cameron—It is a memo obviously imploring staff to be fully aware of the guide and the guidelines that it contained.

Senator RONALDSON—And to meet them?

Mr Cameron—Well, yes, to meet them. As I say there will always be an exception or two and there almost always is. If we go through the guide, and there are 100 pages of it, you will find that on almost every page there is a rule that can be broken in certain circumstances. I could mention—

Senator RONALDSON—So it is not mandatory?

Mr Cameron—It is mandatory that people are absolutely aware of them and follow them.

Senator RONALDSON—And is it mandatory for them to follow them?

Mr Cameron—Unless there are acceptable exceptions, and sometimes there are.

Senator RONALDSON—Acceptable exceptions?

Mr Cameron—I can give you an example, if you wish?

Senator RONALDSON—Are they a guide, or are they mandatory? It is one or the other? Are people obligated to follow these guidelines or are they not?

Mr Cameron—Yes, they are obligated to follow the guidelines.

Senator RONALDSON—Thank you. They are obligated to follow the guidelines. And the style guide?

Mr Cameron—The memos usually relate to the style guide, yes. The style guide is, again, a guide by definition.

Senator RONALDSON—So it is not optional? It is not just a guide, it has got to be followed? The rules in relation are not optional, they are mandatory?

Mr Cameron—If you read the guide, you will see that it has its own qualifications within it. You will not have it there because, as I said, it is a 100 page document, which is again in revision.

Senator RONALDSON—So it is mandatory to follow the guideline; you have accepted that?

Mr Cameron—Yes, it is. That is right, but if you read the entire style guide and the guidelines—as I say, they do come with exceptions, if that is your point?

Senator RONALDSON—And that includes all matters? Well, presumably it must?

Mr Cameron—It is a style guide for all staff.

Senator RONALDSON—So it has all matters in relation to style. Can I read again from this answer from May of 2005, ‘The style guide was just that,’ and I have referred to it, ‘a guide on matters of style. The guideline in relation to quotation is not a rule.’ Is that right? Is it mandatory, or is it not a rule?

Mr Cameron—I am sorry, I misunderstood that.

Senator RONALDSON—The guideline in relation to quotation under the style guide obligations is not a rule. So which one is it? Is it just a style guide and they can do what they like, or are they obligated to follow the style guide? I take it, it is the latter, is it?

Mr Cameron—I will just repeat my answer. They are obligated to follow the guidelines within the guide. Again, is it worth making the point that the style guide itself has qualifiers which say that there are exceptions, and of course there are, because it is a guide, it is not a law book.

Senator RONALDSON—So, for example, labelling of groups and individuals, is that part of the style guide?

Mr Cameron—Yes.

Senator RONALDSON—So people are obligated to follow the style guide, is that right?

Mr Cameron—Well, as Steven points out, it is also in the editorial policies document.

Senator RONALDSON—So what are the situations in which they are not obligated to follow the style guide, or the sections within it? Is it mandatory, or is it not mandatory? If it is not mandatory, where is the flexibility?

Mr Cameron—Well, the flexibility is on a case-by-case basis, because it is a guide, and because quite often there will be qualifiers in the guide to say: if in doubt refer up. Sometimes there are situations where you do not have to stick to the chapter and verse of the guide itself.

Senator RONALDSON—Can you give me one example of where you have gone outside that? Despite your view that it is mandatory, can you give me an example off the top of your head where someone has approached you for—

Mr Cameron—Almost every day there are examples.

Senator RONALDSON—Just give me one.

Mr Cameron—There is a celebrated one over the use of first names, or otherwise, and there are occasions when the use of first names in news and current affairs scripting or copy is acceptable.

Senator RONALDSON—And have you given anyone any discretion in relation to, for example, questions about labelling?

Mr Cameron—Common sense usually applies to labelling.

Senator RONALDSON—No, have you, or have you not, gone outside the guidelines and used your discretion to give someone some leeway which is outside the labelling requirements of the style guide?

Mr Cameron—I do not have an example for you now, but maybe you have one there for me, I do not know.

Senator RONALDSON—I do not need to have one; I am asking the questions. I am relying on the fact that you say it is mandatory and therefore there is no discretion. So, if you are saying that is not the situation and you sometimes give leeway, you have got to give me examples, not the other way around—

Mr Cameron—At the risk of repeating myself—

Senator RONALDSON—because otherwise I and the committee are quite able to assume that what you said was correct, that they are mandatory and that they should be abided by. I would have thought that something as important as going outside the style guide in relation to the labelling of groups, with the political sensitivity, I would have thought that you would very well remember anyone that you had given some discretion to.

Mr Cameron—There is general discretion in the fact that, if it is an obvious act of terrorism, we call it terrorism. I think that is accepted and has been discussed here a number of times.

Senator RONALDSON—But, according to you, you take great care not to label groups and organisations as terrorists.

Mr Cameron—We do take great care not to, that is exactly right, but it does not mean that it is forbidden.

Senator RONALDSON—Who do they approach if they are to go outside the guideline?

Mr Cameron—In such obvious cases of terrorism being terrorism, they do not have to approach anyone.

Senator RONALDSON—With the greatest respect, we have got terrorists and we have got the act of terrorism. Now, you know exactly what the difference is, so let us not try to muddy the water with that. The style guide, which you say is mandatory, says that the ABC is not to describe groups and organisations as terrorists. You quite rightly say, from your memo, that in appropriate circumstances an act of terrorism is something that can be described as an act of terrorism.

Mr Cameron—Presumably carried out by a terrorist.

Senator RONALDSON—Under your rules, in your memo, the only way that can happen is, ‘but we should let others describe the group involved as terrorists.’ So it is only with attribution, not a bald statement from someone on the ABC saying that this person is a terrorist, or this organisation is a terrorist. Acts of terrorism and appropriate circumstances, yes, but only with attribution do your rules, which you say are mandatory, allow the ABC to use the word, or to label someone as a ‘terrorist’.

Senator FIERRAVANTI-WELLS—Can I just follow on from what Senator Ronaldson has stated? We have given you, and I have given you, examples of where if there is attributing by Israeli sources that somebody is a terrorist, or it was a terrorist act, you refer to it as militant. See, you make that value judgment at the ABC. If one entity describes it as terrorist, but you do not like that because of your particular approach on issues, then you will describe it as a militant. I have sat time and time again watching your programs and you just describe people as militants. Even when we show you where it is attributed, clearly, from another source, whether that be an independent military source, but you still do it, so Senator Ronaldson’s point is a very valid one. We could sit here and show you example after example and you would still take us around the garden with this sort of explanation. I think Senator Ronaldson has probably exhausted the point.

Senator RONALDSON—I might possibly do that, I think, given that prompt. I want to take you to the answers of the questions on notice from last year, again, in the November senate estimates, and the quote is from a question from Senator Santoro, or it might have been my colleague:

The question is based on the false premise that the ABC has a policy that involves labelling certain groups as terrorists and others not. There is no such policy.

Are you aware of that answer?

Mr Cameron—Yes.

Senator RONALDSON—They go through you, so presumably you are. I have another quote for you. It is a memo issued by, I think, your former international boss, John Tulloh, is that right?

Mr Cameron—Yes.

Senator RONALDSON—The memo is from 2004 and I quote:

Hamas, Hezbollah, and Islamic Jihad are NOT included in the UN's list of terrorist organisations and therefore must not be described as such.

Do you recognise that wording?

Mr Cameron—I remember it.

Senator RONALDSON—Okay. At previous senate estimates—in fact in May of last year—Senator Santoro provided you with an exhaustive list of examples where your journalists had on dozens of occasions, and my colleague also has referred to this, used terms like 'terror group' and 'terror organisations' to refer to some 20 different groups. Do you remember that? You were here, so presumably you remember it. Yes?

Mr Cameron—Yes.

Senator RONALDSON—The IRA, the Ulster Defence Association, the Greek group November 17, Columbian terrorists, ETA, the Japanese Red Army, Asbat al-Ansar, Carlos the Jackal—the list went on. What memos did you or your news executives issue to journalists when they breached the UN rule?

Mr Cameron—We do not use that anymore, and I thought we had covered off this in previous replies to either on-notice answers or directly here.

Mr Green—The ABC board has considered this matter extensively and in March 2005 introduced a new policy on labelling, and that is the policy that is now binding. I just make the point in passing that there needs to be a very firm distinction made in terms of the editorial policies of the ABC, which is a document that outlines expectations for all editorial staff. That is a document of the ABC board, and it is a fulfilment of the board's responsibility under section 8 of the act to ensure that the gathering and presentation of news and information is accurate, impartial and objective. So the board, in responding to that obligation, produces the editorial policies. Those policies, as we have previously indicated to the committee, were revised in March 2005. The current labelling policy is in 6.14 and says:

6.14.1 As a general rule, the ABC does not label groups or individuals.

- 6.14.2** The ABC prefers clear, thorough reporting rather than the use of labels to describe groups or individuals.
- 6.14.3** The overriding objective for the ABC is to report the facts clearly, accurately and impartially to enable our audiences to make their own judgements and form their own conclusions. At times, labels can provide valuable information or context. However, if inappropriately applied, they can also be seen as subjective, over simplistic or as portraying stereotypes.
- 6.14.4** Where labels have been ascribed to an individual or a group by a third party, this will be made clear within the broadcast.

That is the current policy on labelling that you are discussing.

Senator RONALDSON—That is mandatory?

Mr Green—That is right. If I may say so, it is not clear in your discussions to date that there is an understanding of the difference between the mandatory force of ABC editorial policies and the style guides or the practice notes that individual divisions might put out about the use of particular words or circumstances story by story.

Senator RONALDSON—Is it mandatory for your journalists, current affairs and news people to abide by this document which you have just read from?

Mr Green—Yes. It is the editorial policy.

Senator RONALDSON—Thank you. That is mandatory.

Mr Green—The 6.14 that I have just read to you is mandatory and binding on all editorial staff of the ABC.

Senator RONALDSON—Thank you very much. So what currency does the memo have that was put out by Mr Cameron in July last year?

Mr Green—It predates this March 2005—

Senator RONALDSON—Sorry, it does not.

Mr Green—Sorry, the memo went out in July. What individual divisions might put out in terms of a practice note for their staff is that of a guide. That is why it is called a guide and why it is not called a policy.

Senator RONALDSON—What do you call it that? Is that a policy or a guide?

Mr Green—I cannot see what you are holding up.

Senator RONALDSON—It is 6.14, on labelling. Is that a policy or a guide?

Mr Green—It is a policy and it is part of the mandatory obligation of all editorial staff.

Senator RONALDSON—Thank you very much.

Mr Green—I thought I made that clear.

Senator RONALDSON—You say that any comments that Mr Cameron might have made in relation to this do not override this mandatory requirement.

Mr Green—That is right.

Senator RONALDSON—I take it the UN rule became defunct in March last year, did it?

Mr Cameron—I think it was before that.

Senator RONALDSON—When did it become defunct? I thought you said before that it became defunct when this new policy came into being.

Mr Cameron—I think the ABC per se stopped using that as a guide maybe as long as three years ago, but I cannot recall exactly.

Senator RONALDSON—I do not think so, because the quote from Mr Tulloh I gave you was in 2004. We are only in early 2006 now, so when did it stopped being used?

Mr Cameron—He left the ABC a good couple of years or so ago.

Mr Alward—It was not in 2004, I do not think, that note from John Tulloh—

Senator RONALDSON—When was it?

Mr Alward—I do not know, but I do not think it was 2004.

Senator RONALDSON—Mr Cameron said he agreed that there was a note in 2004.

Mr Alward—It is a note from John Tulloh.

Senator RONALDSON—And I said 2004.

Mr Alward—I think the date is wrong.

Senator RONALDSON—You tell me when it was then.

Mr Alward—I am not sure.

Senator RONALDSON—Why did you not jump in before and say, ‘No, that’s not right, Mr Cameron’?

Mr Alward—I was not taking notice of the date, I was listening to the words of the memo.

Senator RONALDSON—When was it?

Mr Alward—I am not sure, but it was before that.

Senator RONALDSON—Mr Tulloh’s memo was before when?

Mr Cameron—We are just saying that we suspect it was. We can check that for you, obviously, but I think he left more than two years ago.

Senator RONALDSON—When was the UN policy apparently abolished?

Mr Cameron—As a guide it was probably abolished, as I say, two to three years ago.

Senator RONALDSON—Was there a memo put out saying, ‘We are no longer using the UN requirements as the’—

Mr Cameron—There may well have been. It is beyond my recall.

Senator RONALDSON—How long have you been there?

Mr Cameron—In this chair, two years.

Senator RONALDSON—You remembered Mr Tulloh’s memo, so presumably you saw it or were told about it. You will provide the committee with a copy of it, I take it?

Mr Cameron—Can I?

Senator RONALDSON—Yes.

Mr Cameron—Quite possibly, if it is still in circulation.

Senator RONALDSON—I am not too sure about the rider. Surely this was a very important document used by your news and current affairs staff as to how they were going to potentially label terrorists or terrorist organisations. Either you view this seriously or you do not—and, with the greatest respect, with some of your answers I am just wondering how seriously the ABC views this issue.

Mr Cameron—I have said here before, and I will say again, that we view it very, very seriously. There is not a staff member who is not aware of the issue, thanks in part to the reaction we have had in this environment.

Senator RONALDSON—As in estimates?

Mr Cameron—Yes. It is treated extremely seriously. It is the reason you are quoting from some of the less formal memos—the semi-formal or informal memos—that I put out to staff to urge them to be aware of our style guide and the requirements to follow it.

Senator RONALDSON—In fact, viewed so seriously that you told them it was mandatory. It was a directive, not a suggestion and not optional. That is how seriously you viewed it. We are just about to break for dinner, and I presume that someone can track that memo down over dinner and report back to me as to when the memo went out to say that the UN directive was no longer to be used?

Mr Cameron—It is possible. It is a little distant memory, sadly, for me now. I do not know, Murray, whether you have any recall of this.

Mr Green—No, I do not.

Mr Cameron—So we will do our best over dinner.

Senator RONALDSON—So there was a memo. You acknowledge there was a memo that went out saying that the UN rules were no longer in use.

Mr Green—That would have been clear from the March 2005 policy that went out in response to the debate about what the guidelines were for determining what groups might be appraised in a particular way—

Senator RONALDSON—Could I just take up that point? So it is possible that the UN requirement or rule was actually still in place until March of last year?

Mr Green—No, no. As John Cameron has indicated earlier, there was quite a bit of internal discussion as to what is an appropriate way of appraising whether a group could be ascertained as being terrorist or not. In fact, it is very interesting that the BBC has committed themselves to this task just very recently in terms of their coverage of the Middle East, and in particular—

Senator RONALDSON—I am sorry—

Mr Green—It is relevant.

Senator RONALDSON—That is fascinating in a modern context, and we will probably get to that a bit later on. With the greatest respect, I am not remotely interested with what has happened with the BBC recently, I want to know what happened to the UN rule where Mr Tulloh made it quite clear in that memo in relation to Hamas, Hezbollah, and Islamic Jihad

that they are NOT, capital letters ‘not’, to emphasise the point clearly, included in the UN’s list of terrorist organisations and therefore must not be described as such. I hope you are not suggesting to the committee that a memo from someone of Mr Tulloh’s ranking indicating what a course of action was going to be would be just dissipated through a bit of general agreement amongst some people that maybe it does not really apply any further, because that would be absolutely beggaring belief that a memo in relation to something as important as this would have just been allowed to dissipate without some clear decision, communicated to the people that Mr Tulloh’s communication was communicated to. There would have been, one would assume formal communication, and I just wonder whether indeed the view now is that in March last year—was that May or March, 6.14?

Mr Green—6.14 was considered by the board in March, but it was implemented later.

Senator RONALDSON—In May?

Mr Green—Yes.

Senator RONALDSON—Just out of interest, was it approved by the board in March?

Mr Green—I cannot recall. I was not a member of the board at that time.

Senator RONALDSON—Was it implemented in May as a result of a March board decision or not? That would be a good indication about whether—

Mr Green—Yes, there was a slight gap between the board resolving the matter and the matter being republished as part of editorial policies, because there were a number of other changes that were republished at the same time.

Senator RONALDSON—Such as changes to the UN rule, is that what you are saying?

Mr Green—No, not related to this issue at all, relating to complaints handling and some other matters.

Senator RONALDSON—You can either find it for me, or take it on notice.

Mr Green—I would prefer to take the matter on—

Senator RONALDSON—Can I be clear about what I want. I want to know when this document was sent out by Mr Tulloh, and I want to know whether there was a memo, which presumably there was, indicating that the Tulloh rules no longer applied. I do not think this committee, or anyone else in the Australian community, would accept that something as important as that to be overturned would not have required a formal internal decision and communication to the people that Mr Tulloh’s memo had been communicated to.

Mr Green—We will take that on notice. I am not confident at this particular hour of the day that we can access the archives that you have asked us to do, but we will take that on notice.

Senator RONALDSON—I am a little staggered that Mr Cameron or someone—Mr Alward, how long have you been there for?

Mr Alward—Since March 03.

Senator RONALDSON—So was the UN—

Mr Alward—I was just recalling after I said that before, that I think the UN note from John Tulloh was before my time, the original note, so it must have been in 2002.

Senator RONALDSON—We are back to 2002?

Mr Alward—I think so.

Senator RONALDSON—Just off the top of your head, do you remember whether there were any memos from news executives issued to your journalists when they breached the UN rule? Are you aware, historically, of that ever occurring?

Mr Cameron—It may well be the case again.

Senator RONALDSON—Will you take that on notice?

Mr Cameron—I will. We can check that. I suspect that there may well be a case or two over the last two or three years.

Senator RONALDSON—Mr Cameron, at the last two Senate estimates you were provided with another long list of examples of ABC journalists breaking your strict rule that the ABC takes great care not to label groups and organisations as terrorists. Here is one from Michael Rowland in Washington in September 2005, just a month after your memo:

Azzam was also seen as the terror group's money man.

Was your memo sent to Mr Rowland? Was Mr Rowland advised of your views on—

Mr Cameron—He would have. All staff hopefully see and hopefully read the memos.

Senator RONALDSON—Were you aware of those comments?

Mr Cameron—I do suggest that, again, the interpretation of my original memo is such that it allows no room for qualification. I say, 'Take great care not to.' That does not disqualify the use of that term, per se.

Senator RONALDSON—Did Mr Rowland contact you asking permission to use that word?

Mr Cameron—Maybe you misunderstand my point. No, he would not have.

Senator RONALDSON—Even if you go to the May 2005 policy, which I find fascinating that someone in your position has issued a very strict memo in July, but this was in place in May, 'As a general rule, the ABC does not label groups or individuals.' You say there are exceptions to that. You said sometimes you give people discretion to go outside that.

Mr Cameron—As a general rule.

Senator RONALDSON—You did not say 'as a general rule', you said, 'Sometimes there is discretion, depending on circumstances, for people to not abide by that rule.' And I asked you whether you had people coming to you seeking your permission to go outside the guideline, and you said, 'Sometimes, yes.' I am asking you: did Mr Rowland contact you to go outside the guidelines?

Mr Cameron—No. I would probably recall if he had called me about that, so no.

Senator RONALDSON—Were you aware that he had made those comments?

Mr Cameron—I do not know. Have we had a—

Senator RONALDSON—‘Azzam was also seen as the terror group’s money man.’ Those words are from Michael Rowland from Washington in September. Would you have sent him a memo seeking an explanation as to why he had not contacted you to go outside the guidelines, had you known about it?

Mr Cameron—Again, it is a guideline.

Senator RONALDSON—No, it is not a guideline; it is a mandatory requirement which has been reinforced again today by Mr Green that your news people and your current affairs people are obligated to abide by. It is not optional; let us discontinue that. Would you have contacted Mr Rowland telling him he was going outside the guidelines had you known about his comments on Azzam?

Mr Cameron—That we never, ever use the word ‘terror’: is that the question?

Senator RONALDSON—‘As a general rule, the ABC does not label groups or individuals.’ Labelling someone—

Mr Cameron—As a general rule.

Senator RONALDSON—When do you move outside the general rule? Have you got control of that, or do people just break the rule and, if someone is caught out, they are contacted? You said before that, for there to be some discretion to move outside that, you would be responsible for giving that permission.

Mr Cameron—If there was ever a case which required referring up because there was some doubt about the use of that word, absolutely.

Senator RONALDSON—‘Azzam was also seen as the terror group’s money man.’ Is that labelling a group?

Mr Cameron—I would have to have a look at the whole context of the story, because it may be quite an appropriate use.

Senator RONALDSON—‘Azzam was also seen as the terror group’s money man.’ Is that labelling a group? Clearly it is labelling a group, is it not? So he has gone outside. Had you known about it, would you have sent him a memo that he was labelling a group?

Mr Cameron—I go back to the point that it is a general rule. If in fact the group is demonstrably a terror group, where there is no question of that, it is not necessarily outside the rules of editorial decency.

Senator RONALDSON—So the rules are now whether someone is demonstrably a terrorist group. They are the rules, are they? If they are demonstrably a terrorist group they can go outside the guidelines; that is what you have just told the committee?

Mr Cameron—I will refer to 6.14.3, where at times labels can provide valuable information or context.

Senator RONALDSON—‘Demonstrably a terrorist group’. That has nothing to do with the matters you have just referred to in 6.14.3, I am afraid.

CHAIR—Senator Ronaldson, I have to interrupt and call your attention to the time, which is 6 o’clock, and we are due to break at this point.

Senator RONALDSON—Some valuable informational context will be my question, to put you on notice, Mr Cameron, and we will talk about it when we get back.

Proceedings suspended from 6.01 pm to 7.03 pm

CHAIR—We will resume.

Senator RONALDSON—Mr Cameron, with respect to the July 2005 memo that you sent to staff, my understanding is that you had been concerned about expressions such as ‘our troops in Iraq’, and that you were so adamant about this that you had warned in that memo or in separate memos about employment consequences if this was not abided by. Is that correct or incorrect?

Mr Cameron—I think it is incorrect to link the two. A memo which included, but not by itself, a reference to ‘our troops’ included a whole lot of other references to ‘our’ many, many other things. It was a number of years before that. Whether I mentioned that in another memo in 2005 I cannot recall. Certainly, I remember a line in a memo that I wrote and that you have referred to, which said that continued transgressions against basic issues of style and grammar would have consequences in staff appraisals, if that is what you are referring to.

Senator RONALDSON—But part of your comment in the memo about consequences, including employment consequences, was part of the memo that included, ‘The ABC takes great care to not label groups and organisations as terrorists.’ It was part of this same memo, was it not?

Mr Cameron—I take it it is, if you have got the memo there.

Senator RONALDSON—You viewed the requirement for these to be directives and not suggestions very passionately, did you not?

Mr Cameron—They are very important issues of style. Again, can I qualify that, lest I mislead you, that every style note, every memo and our style guide itself carries riders and qualifications. It is not our editorial policies. They are in-house intradivisional news and current affairs notes about best practice when it comes to grammar and style.

Senator RONALDSON—Are your notes and memos normally accompanied by your view about potential consequences if they are not followed?

Mr Cameron—I do not think that memo was 2005. It may have been; if you have it there, maybe it was. But I thought that was an earlier one. But, no, they are not normally. Maybe I am expressing a level of frustration in an ongoing campaign to try to make sure that our standards are as high as they possibly can be. I suspect that in one of the memos, which you must have there, I have added a rider, ‘Please be aware’—I presume I say—‘that continuing transgressions by individuals on points of style across-the-board will be taken into account when your staff appraisals are performed,’ or words to that effect.

Senator RONALDSON—No, I do not have the memo indicating that, but I was advised that that was the situation and I just wanted some clarification. Prior to dinner, you—or it might have been Mr Alward, I think—indicated that the UN policy had had no currency for a number of years. Can I then direct you to an answer to the May 2005 estimates hearings, question 70 from Senator Santoro, which referred to these matters and to correspondence between Minister Downer and Minister Coonan and the ABC. You stated:

Prior to introduction of the ABC's current policy on labelling groups—which was either March or May, depending on which interpretation we give to Mr Green—and individuals, the corporation used the United Nations list as a guide.

Mr Cameron—Yes. As a guide, that is correct.

Senator RONALDSON—You have indicated—

Mr Cameron—I do not know about the timing.

Senator RONALDSON—Mr Cameron, I have given you the full quote so there is no doubt about it. You told the committee prior to dinner, and Mr Alward confirmed it, that this policy had not had any currency for two, three, possibly more years. Yet in an answer to a question asked on 24 May last year, you said that the United Nations list was still being used as a guide. Therefore, it had currency, and very significant currency. Why would Mr Alward and you tell the committee prior to dinner that this had not had any currency for a number of years, when you are acknowledging that, as I put to Mr Green earlier on, it had currency, it was still being used by the ABC up until this change of policy in 2005? I should not implicate Mr Green; he denied it. But Mr Alward and you said that this had had no currency for many, many years. Why would you make that comment to the committee when it was clearly wrong?

Mr Cameron—I do not know about the timing. Obviously, if what you say is correct, then we are out by a year or so, are we not, on our recollection?

Senator RONALDSON—No. Let us be very clear about this. It is not a matter of what I said. It is what you and Mr Alward said. I specifically asked you, and you specifically responded, that it had not had any currency for a number of years. Those were the words that you used yet, in response to a question from May of last year, you acknowledged a position I put to Mr Green, denied by him, that the UN policy was still in force until the change of guidelines in March or May of last year.

Mr Cameron—That may be the case. If that is the case, my apologies for my lapse of memory on it. It was a guide and it was a guide up to a certain point in time. If that point in time was May last year—

Senator RONALDSON—But it was not a guide. It was a very clear direction—

Mr Cameron—It was a guide.

Senator RONALDSON—from international boss John Tulloh that:

Hamas, Hezbollah, and Islamic Jihad are NOT—

not just 'not' in lower case but in capital letters—

NOT included in the UN's list of terrorist organisations and therefore must not be described as such

That was more than just a guide, that was a very firm direction from Mr Tulloh in relation to this matter. I am afraid that the evidence that you gave to the committee before dinner was clearly not correct. I express my surprise, given that everything ultimately goes through you, in answers to questions, that you would mislead this committee by saying that it had had no currency for many years when, clearly, it had. You advised the committee that, if a group is

demonstrably a terrorist group, they can be described as such, and that that fits within the guidelines. What is a demonstrable terrorist group and what is a demonstrable terrorist act?

Mr Cameron—My point being that there is no ban in our editorial policies on using labels where appropriate. That is a decision made editorially, either with upward referral or not, depending on whether the journalist involved has any doubt about why they are doing it. It is as simple as that. It is a day-by-day, case-by-case, story-by-story—

Senator RONALDSON—With the greatest respect, that is actually not what you said. You said that if they are demonstrably a terrorist group then they can be described as such, without any reference to anyone else—not to come back to you. That fits within the guidelines. In fact, I think—

Mr Cameron—It does not.

Senator RONALDSON—You might have referred to the commentary in 6.14.3, I think, on context and information. I will ask you the question again: what is a demonstrable act of terrorism that would make an organisation demonstrably a terrorist group that would enable the ABC to use the expression without reference anywhere else? Give an example of a demonstrable terrorist act.

Mr Cameron—If they are a self-described terrorist group, I presume that would remove much doubt. But I would have to ask you to, as we have done many times before, look at individual cases where you say we are transgressing on our own rules and we can look at those and answer those specifically.

Senator RONALDSON—I am afraid that you just cannot pass the buck by putting it back to me. You have made the comment that, if a terrorist group is demonstrably a terrorist group, then they can be described as a terrorist group. That is what you said. Give me an example.

Mr Cameron—I just did.

Senator RONALDSON—You are now qualifying that statement, are you?

Mr Cameron—You asked for the qualification.

Senator RONALDSON—I did not ask for a qualification at all. I asked you what a demonstrable act of terrorism was—

Mr Cameron—And I gave you the answer to the question.

Senator RONALDSON—Mr Cameron—

Mr Cameron—Yes, Senator.

Senator RONALDSON—you told this committee prior to dinner that, if they were demonstrably a terrorist group who therefore must have demonstrably performed acts of terrorism, that they could be described as such. I would assume that is why, if I can find it here, Peter Cave in Jakarta in an article of 23 March this year—just a few weeks ago—said, ‘The regional terrorist organisation Jemaah Islamiah.’ Presumably they are demonstrably a terrorist group. Does Jemaah Islamiah, that you are aware of, self-describe itself as a terrorist group?

Mr Cameron—I suspect certain members of the group do, yes.

Senator RONALDSON—No. If we are going to go along the path of your qualification, has it described itself as a terrorist group? You do not know, do you?

Mr Cameron—I presume that Peter Cave is an extremely experienced journalist and who has worked in the region a lot. I suspect that he knows what he is talking about. I have not had a complaint about that particular example.

Senator RONALDSON—When did you indicate to him that he was allowed to use that expression if it was a demonstrable terrorist group? Where is there a memo that says that?

Mr Cameron—Why does there have to be a memo?

Senator FIERRAVANTI-WELLS—Most organisations give some directive. Do you just go around and tell people on a case-by-case basis how they should operate? Is that your way of doing business?

Senator RONALDSON—What does 6.14.1 say?

Mr Cameron—I do not have it in front of me.

Senator RONALDSON—You do not know? It states:

As a general rule, the ABC does not label groups or individuals.

Peter Cave has labelled this group a terrorist group. The view must have been, on your criteria, that it was demonstrably a terror group. You cannot tell me whether it has described itself as a terrorist group.

Mr Cameron—They have certainly been involved in acts of terrorism.

Senator RONALDSON—They most certainly have, and that is what qualifies them as demonstrably a terrorist group; they have performed demonstrable acts of terrorism. Now that we have got that acknowledged, I can move on. If someone sent by the organisation Islamic Jihad as a suicide bomber killed civilians in a bombing in Israel, you would accept clearly that that is a terrorist act?

Mr Cameron—It certainly sounds like one.

Senator RONALDSON—It does, does it not? Why are your journalists not allowed to call Islamic Jihad a terrorist organisation? It is an organisation that has performed terrorist acts. On your own definition, it is therefore a terrorist group. Why are your journalists not allowed to call Islamic Jihad a terrorist organisation?

Mr Cameron—I think we have provided responses along these lines to questions in the past.

Senator RONALDSON—I am asking you the question.

Mr Cameron—We have described various groups from all parts of the world as—

Senator RONALDSON—Do you view Islamic Jihad as a terrorist organisation?

Mr Cameron—There are answers provided in the piece of paper that has just been handed to me where we have done so on a number of occasions, and I presume it has been sent to you.

Senator RONALDSON—Are you confirming that the ABC views Islamic Jihad as a terrorist organisation?

Mr Cameron—We have described in these examples here—

Senator RONALDSON—Is the answer yes or no? The answer clearly is yes, is it not?

Mr Cameron—The answer is yes.

Senator RONALDSON—It is now on the public record that the ABC acknowledges Islamic Jihad as a terrorist organisation. Have you given any directions, either de facto or otherwise, to your journalists that they are not allowed to describe this organisation as a terrorist organisation?

Mr Cameron—I do not think that I have, no. I think, again, it is case by case, but we would not as a matter of course describe every group involved in terrorism, every time we mention them, as a terrorist group.

Senator RONALDSON—Are they a terrorist group one day and they are not the next, and they might be a terrorist group the day after?

Senator FIERRAVANTI-WELLS—It depends who is describing them as a terrorist group. That is the answer. It depends who it is and what suits the occasion.

Senator RONALDSON—There seems to be an element of that. Again, your views are on the public record. What about Hamas? Do you view it as a terrorist organisation?

Mr Cameron—Again, in a case-by-case situation, I am sure—

Senator RONALDSON—You cannot have a case-by-case terrorist group. Please do not treat this committee with such contempt. It is either a terrorist organisation or it is not. You have acknowledged that Islamic Jihad is a terrorist organisation. What about Hamas?

Mr Cameron—If Hamas has been involved in acts of terrorism, we would have called it that at the time. I am sure we have and I am sure we have examples of same.

Senator RONALDSON—Is it a terrorist organisation as well?

Mr Cameron—In the situations that you are describing and that I am describing, yes, they are.

Senator RONALDSON—Is Hezbollah a terrorist organisation as well?

Mr Cameron—It is exactly the same answer to the previous question. The situation changes with the story. We would not always, as I say, per se call every group involved in terrorism a terrorist group every time we mentioned them.

Senator RONALDSON—You would not call a terrorist group a terrorist group unless it had been involved in acts of terrorism. Once it has been involved in acts of terrorism, as you said to the committee before, it then shows demonstrably that it is a terrorist group, and that is the way it is described.

I am acutely aware of the time and, as Senator Wortley said before, it depends on the responses that you get as to how long you are going to be. Prime Minister Tony Blair, in a recent speech to Jewish Care, which is the largest health and social care charity for the Jewish

community in the UK, gave a speech, and I actually think it was an inspired speech. During that he said:

We want to ensure that things change in that part of the world—

that is, the Middle East—

that have such huge consequences for the whole of the region, but it is really time that we stopped the hypocrisy of believing that we can oppose violence and terrorism everywhere but in the state of Israel. That is not the way of peace, that is the way to continue separation and conflict.

Can I suggest to you that, in light of the evidence that you have given to the committee in the last 10 minutes, you give a very clear indication, by way of memo, to everyone in the ABC that the ABC acknowledges that Islamic Jihad, Hamas and Hezbollah are terrorist organisations and that from now on they should be referred to as such. Because, quite frankly, if it is good enough for Prime Minister Blair, then in my view it is good enough for the ABC.

Senator WORTLEY—My first question relates specifically to staff turnover. Mr Cameron, in August 2004 you addressed a meeting of producers in Sydney, and I understand that this meeting was recorded on videotape for in-house purposes. Do you recall that meeting?

Mr Cameron—The date?

Senator WORTLEY—August 2004.

Mr Cameron—Yes, I recall the occasion.

Senator WORTLEY—At this gathering, can you recall saying words to the effect that you were not happy with the mix of salary bands and that this needed attention?

Mr Cameron—Yes, in general terms.

Senator WORTLEY—What exactly did you mean by that statement that you were not happy with the mix of salary bands?

Mr Cameron—I think we have had a similar conversation here before, but I will go over it very quickly. I recall telling a group of executive producers, state editors and other senior program managers that we needed to get a reasonable balance of senior, intermediate and junior reporting talent through the ranks in all the individual program areas. As you know, there are something like 70 or 80 of them.

Senator WORTLEY—What was your issue specifically with the banding levels?

Mr Cameron—Just the fact that we needed to get a decent balance so the salary budget was properly spread.

Senator WORTLEY—At the time you made statement, did you not think there was a decent salary spread—

Mr Cameron—I think it is fair to say that in some programs I felt that there was not an even spread of senior, intermediate and junior to enhance our chances of employing as many people as possible, if you know what I mean.

Senator WORTLEY—Was it at the higher end of the scale? Were you concerned that there were too many people paid at the higher end of the scale or was it the lower end of the scale?

Mr Cameron—A little bit of both, but I suppose the higher end of the scale is the more worrying if you are trying to make the budget stretch. Certainly in some places we did not have enough experience.

Senator WORTLEY—Were state editors or those responsible for setting salaries given permission or instructed to address this issue and, if so, was this because of inadequate funding of the ABC?

Mr Cameron—No. Inadequate funding of the ABC has nothing to do with it. Whatever the budget for news and current affairs is it is, and we were working within that salaries budget. Each individual program area—state editors, as you mentioned, and everyone else—is expected to manage within their salary budget. It was as simple as that, and probably talking about making sure that we were coming in on budget.

Senator WORTLEY—What affects the budget for salaries in news and current affairs?

Mr Cameron—The level of hiring, the increments—the obvious things.

Senator WORTLEY—Mr Cameron, you said at the additional estimates in February:

We generally have a staff turnover of more than 10 per cent in our editorial staff, news and current affairs.

When you said ‘more than 10 per cent’, what did you mean by that?

Mr Cameron—I probably meant that we have up to 60 or 70 journalists leaving the ABC per annum, or maybe 80 or 90, something like that.

Senator WORTLEY—If you were running a small business of 50 to 60 people, would you consider a staff turnover of around 40 per cent, even slightly higher, over two years, to be high?

Mr Cameron—I have no idea. I have never been a small businessman. Your point is whether it is a high figure. On the face of it, it could be taken that way.

Senator WORTLEY—In the South Australian newsroom this is what happened. You were, I understand, aware of the exodus from this newsroom even though previously you have said:

I do not know that the turnover there has been any greater necessarily than at other places.

But then you went on to say:

There has been quite a bit of staff movement over the last two or three years.

That staff movement was very high, and the journalists working in South Australia considered it to be high. Of course, the impact was on them. Did this cause concern for you? What did you do to address the issue of the staffing exodus in South Australia?

Mr Cameron—A number of factors contributed to that. Because you asked about this last time, I have a little bit of research at my fingertips. Our figures indicate that 21 staff left news and current affairs in South Australia over that two-year period, or over a two-year period

almost. That included a permanent part-time staff member, five people on fixed term engagements. They were due to finish, anyway. That is the point of that, I think. One person retired, one left on medical grounds and related underperformance. One person quit to move to New Zealand, it says, because her husband got a job there. Some of them, four of them, are now back working at the ABC as casuals, apparently, of the people who had departed in that period. I suppose the bulk of that figure, seven, took up job offers from either rival networks or from the state government for more money.

Senator WORTLEY—Or sought jobs in those areas?

Mr Cameron—They may well have.

Senator WORTLEY—Were exit interviews conducted with these people?

Mr Cameron—If they request them, they have them. I do not have that information with me.

Senator WORTLEY—In relation to the fixed term contracts at the ABC, where you say five people left, the fixed term contracts were generally, as in most areas of employment at that particular time, renewed unless there is an underperformance; is that correct?

Mr Cameron—I do not know about that.

Senator WORTLEY—That is the case. What sort of cost is this high staff turnover to the taxpayer and what was the impact on the salary budget for South Australia, particularly given that some of the positions were not filled for some time?

Mr Cameron—Off the top of my head, the salary budget in South Australia is about the same as it is with all other program areas around Australia, that is, running a fraction under.

Senator WORTLEY—So the state director came in with money to spare?

Mr Cameron—The state news editor?

Senator WORTLEY—Yes, the state news editor.

Mr Cameron—I do not have the figures, but I suspect a very modest amount.

Senator WORTLEY—Would you be able to provide us with the figures for that?

Mr Cameron—If that is appropriate, and I presume it is, yes.

Senator WORTLEY—At the additional estimates in February I asked that you take on notice and look into the journalists who have replaced the senior journalists leaving the South Australia newsroom. I have not been able to locate a breakdown of those figures. Do you know if they were provided?

Mr Cameron—I thought they were. I was told they were.

Senator WORTLEY—What I have located is the journalists and banding structure in each of the newsrooms but not the senior journalists, who they were replaced by and their banding structure. In fact, more significant than their banding structure, I think, would be the point level. As you are aware, there is a significant difference between the bottom end of a band and the top end of a band.

Mr Cameron—I can give you that, if that is what you want, yes.

Senator WORTLEY—If that information, as you say, had been provided, I imagine that you would have looked at it. Are you able to confirm that in the overwhelming majority of cases the journalists were replaced by journalists with less experience and at lower band levels but expected to fulfil the same or similar roles and responsibilities?

Mr Cameron—To the first part of your question—that is likely, because that is often the case. To the second part—I would have to have a look at that. I would think that they were be given adequate training, et cetera, if they were being asked to perform roles above the grading that they were replacing, if you get my drift, or the job that they were filling. At the end of your questions, I will make an observation, if that is all right.

Senator WORTLEY—In relation to the adequate training, I did ask a question last time and you gave quite a general response on that at the February additional estimates. Would you be able provide details of the formal training provided for these new journalists who have come in at lower levels to replace senior journalists?

Mr Cameron—Yes. If you have finished on that, I need to make an observation for the sake of the record. I think our South Australian newsroom is operating now as well as it has in my history in the ABC. It is working healthily. I think it has had good leadership in the last couple of years. That leadership is about to change, as you may have heard. I do not want to let the occasion pass without recording that, because I think it is a particularly healthy part of the ABC's operation.

Senator WORTLEY—I am sure that the journalists in South Australia will be pleased to note your vote of confidence in management in South Australia. I think that is all that needs to be said on that. You may hear some response with regard to that. In 2005, the human resources consultancy firm IHR Australia was commissioned at the direction of Russell Balding to independently review the ABC's anti-bullying policy and procedures. Mr Pendleton, at the additional estimates in February you said that you 'expect to see a report towards the end of February, which will be made available to staff'. Has that report been made available to staff?

Mr Pendleton—Not as yet. The report was only received on 18 April, the final draft report. That report will be provided, with management responses to the recommendations, to the next board meeting and then, after that board meeting, will be released to staff in full with management's responses to the recommendations.

Senator WORTLEY—Can you give an approximate time for that?

Mr Pendleton—Later this week it will go to the board, and very soon after that, within days after the board meeting, it will be provided to the staff. It will be before the end of this month.

Senator WORTLEY—Before the end of?

Mr Pendleton—May.

Senator GEORGE CAMPBELL—What was the reason for the delay?

Mr Pendleton—An extensive amount of work was undertaken by the consultant. The work was extended beyond the original scope in terms of interview analysis. It is an extensive report.

Senator GEORGE CAMPBELL—Is that because more people complained to the consultant than you expected or they expected?

Mr Pendleton—There was certainly a lot more feedback than we expected, yes.

Senator GEORGE CAMPBELL—That was, what, a couple of months' extension?

Mr Pendleton—Yes. It ran over the Christmas period, which delayed it to start with, and then getting enough of the random samples. I think we ended up with about 373 random sampled staff, when I think we had originally thought only 150 would be needed. A large number of people came forward wanting to do individual feedback sessions with the consultants. I think we had 75 staff who volunteered to do that. It is quite a comprehensive review.

Senator GEORGE CAMPBELL—What has been the cost of the review so far?

Mr Pendleton—The cost of the review to date is about \$130,000.

Senator GEORGE CAMPBELL—\$130,000?

Mr Pendleton—Can I check that for you?

Senator GEORGE CAMPBELL—Yes, you can confirm it, if you like.

Senator WORTLEY—Mr Cameron, for the record I might say that perhaps I used the word 'pleased' inappropriately in regard to some of the staff in South Australia. Perhaps it would be more relevant if I used the word 'interested' to hear your comments. I am sure you understood the intent.

Mr Cameron—Yes.

Senator WORTLEY—In regard to radio current affairs, in December 2005, ABC Radio CAF employees felt so strongly over the introduction of studio technology and their loss of a position they believed threatened the immediacy and quality of the programs *AM*, *PM* and the *World Today* that they participated in industrial action. ABC Radio management agreed to a trial of the new technology and to meet weekly with the executive producers and broadcasters to monitor the impact of the trialled change. Firstly, what is the cost of the implementation of the new technology and what were the indicators for the trial, in particular those developed to gauge the immediacy, quality and integrity of the program?

Mr Cameron—I will have to give you a proper answer in writing on that one. I do not know the cost. It would be modest. The other answers would need a proper response.

Senator WORTLEY—So you will take that on notice?

Mr Cameron—Yes.

Senator WORTLEY—Has the trial actually commenced and, if so, how many meetings that were agreed on with the EPs and broadcasters have taken place?

Mr Cameron—It is still a work in progress. There is training happening as we speak. Meetings are held regularly. A senior news and current affairs employee—an additional one—is working with the teams involved to ensure a smooth transition or to iron out problems and to take feedback.

Senator WORTLEY—When you say it is a work in progress and there is training going on at the moment, my understanding was it was a trial. It is a fait accompli or is it actually a trial?

Mr Cameron—I have said before that, if it does not work—and we are not going to compromise the quality of those flagship programs; and I mean that—if it is demonstrated to be unsuccessful, we will look at it again. But at the moment, it is being trialled on-air, if you know what I mean; it is a happening thing.

Senator WORTLEY—When is it expected to be completed and the staff to be made aware of the outcome?

Mr Cameron—I will have to let you know. I do not quite know exactly what stage it is at.

Senator WORTLEY—Was it going to be a three-month trial or a six-month trial?

Mr Cameron—Again, I am not certain. I am not plugged into the daily operation of that one.

Senator WORTLEY—Would you take that on notice?

Mr Cameron—Yes, I will.

Senator WORTLEY—Turning to drama productions, Mr Dalton, the ABC received only half of what it sought for Australian TV content production. In its triennial funding submission, the ABC estimated that, if it got \$60 million, the output would be, in the first year, 12 hours of new documentary programming, 13 hours of children's programming, 12 hours of drama and one and a half hours of family drama, and four hours of arts. Given that the allocation is half of what you requested, what is now the projected output of programming in the first year of funding, or increased programming? It would be good if you could answer for both?

Mr Dalton—I was not involved in the preparation of those estimates. I would simply say that work is under way at the moment to look at the allocations across different genres. There will be a process of talking that through and thinking about mechanisms. We will be putting a paper to the board in June and I would expect, as part of the overall budget process, we will make those allocations and we will work through the process of gearing that money up and what the outcomes will be in terms of increased production across the different program genres.

Senator WORTLEY—Is it the case that, in the past four years, the ABC's development of first-run Australian drama has gone from 103 hours down to 13 hours?

Mr Dalton—I think that those figures would be in that sort of vicinity, yes.

Senator WORTLEY—You do not yet have an idea of what the projected outcome for this year would be, for the first 12 months of the new funding?

Mr Dalton—Do you mean what we expect to be the hours of Australian drama that go to air this financial year, or in production?

Senator WORTLEY—Production.

Mr Dalton—I can probably get back to you in a few minutes.

Senator WORTLEY—Minister, when will the ABC KPMG review be available?

Senator Coonan—It identifies some commercial-in-confidence information. It also identifies a forward work plan of matters that need to be attended to. These discussions are ongoing with the ABC. When that is settled, a version of the report will be released.

Senator WORTLEY—Were the findings of the KPMG review taken on board for the recent funding allocation?

Senator Coonan—Most definitely.

Senator WORTLEY—Did all of the areas highlighted in the review that required funding receive the funding?

Senator Coonan—My belief is that that is correct.

Senator WORTLEY—What did the review say of areas that did not receive recommended funding?

Senator Coonan—At the moment the report is not publicly available and, when it is publicly available, or a version of it, you will see that.

Senator WORTLEY—So the continued refusal to release the report is not because the report recommended significant increases that were not delivered in the May budget?

Senator Coonan—That has nothing to do with it. I have just given the reasons.

Senator WORTLEY—Were there increases that were recommended that were not delivered in the budget?

Senator Coonan—You will have to wait and see that.

Senator WORTLEY—Why is the recent funding allocation for drama, in particular, tied funding? Why have you chosen to tie the funding?

Senator Coonan—It basically replicates the very successful independent commissioning arm model of SBS, SBSI, and it enables the ABC to leverage its funding in a way that has been discussed with the ABC and which I think will deliver significant and appropriate outcomes on local content.

Senator WORTLEY—Many would beg to differ on the issue of SBS and tied funding.

Senator Coonan—You might beg to differ, but that is the reason why, and it also assists the local production sector. I do not know whether you ever look at the triennial funding submission, but that is what the ABC sought.

Senator WORTLEY—I have looked at that, thank you.

Senator Coonan—Why are you asking a question like that?

Senator WORTLEY—Minister, I ask the questions; you are here to answer them.

Senator Coonan—If you had read the triennial submission, which you say you had, you would see that the ABC sought funding of that kind.

Senator WORTLEY—In March of this year, in answer to a question in relation to advertising that I asked, you replied, ‘The ABC has just had its triennial funding looked at,’ and you went on to talk about how it funds itself.

Senator Coonan—Can you speak a bit more slowly? Sorry, I cannot hear you.

Senator WORTLEY—I asked you a question, and you responded, ‘Clearly, in the circumstances, advertising is not permitted under the ABC’s current charter.’ That was your basic response. Will you confirm that you would not support advertising as a source of revenue for the ABC in any form?

Senator Coonan—My answer stands.

Senator WORTLEY—Can you explain the prohibitions on advertising under the ABC’s current charter and as to whether it clearly excludes online advertising?

Senator Coonan—It does not exclude online advertising.

Senator WORTLEY—Is it your intention to move forward with online advertising in the ABC?

Senator Coonan—No.

Senator WORTLEY—Is it the government’s policy?

Senator Coonan—No.

Senator WORTLEY—Has there been discussion regarding change of the ABC’s charter in any way?

Senator Coonan—No.

Senator WORTLEY—I am not sure who should answer this one. We do not really have the people that I expected here. To management, are you aware that consideration is being given to the licensing of ABC content to third-party websites for a fee based on the advertising revenue generated? We are talking about discussions.

Mr Green—Yes, there has been long established licensing of ABC content to third parties, so that is nothing new.

Senator WORTLEY—We were talking specifically about advertising as well.

Mr Green—Sorry, I did not quite catch that.

Senator WORTLEY—Specifically regarding advertising, has there been discussion regarding advertising as a source of revenue for the ABC, and in particular online?

Mr Green—We do license our content to third parties, and some of those third parties have advertising on their sites.

Senator WORTLEY—Could you elaborate on that?

Mr Green—We have a number of licence agreements in really four key market areas: in online delivery in terms of other sites that might use some of our content; the mobile market, where ABC content is licensed to be used, for example, on mobile phones. There is the third category of vendor licensing, where market aggregators who reassign, reformat or reorganise information might access under a licence agreement ABC content, and there is a whole new emerging category in terms of licensing ABC content on trains, for example, video on demand and categories like that.

Senator WORTLEY—And discussions regarding online advertising? The minister has said that it is excluded.

Mr Green—That is a matter for the board. I am not aware of any firm proposals to place advertising on the ABC online sites.

Senator WORTLEY—Any firm proposals?

Mr Green—There is always advertising as an option. What I am saying to you is that I am not aware that that option is being pressed at this point in time.

Mr Pendleton—The content that is licensed is hosted on other people's websites, and that is where the advertising is.

Senator WORTLEY—Yes, as opposed to the ABC?

Mr Pendleton—As opposed to the ABC.

Senator WORTLEY—Thank you. Minister, in relation to the tied funding allocation and the employment of commercial production companies—and it could be the ABC management that answers this—will it not be difficult to maintain the necessary infrastructure and the skilled specialist staff for drama production if funding is, firstly, only short term and, secondly, on a stop-start basis?

Senator Coonan—I do not believe so.

Senator WORTLEY—Could ABC management answer that?

Mr Green—Could you please restate it?

Senator WORTLEY—On the point of the tied funding allocation and the employment of commercial production companies, will it not be difficult to maintain the necessary infrastructure and the skilled specialist staff for drama production given that funding is, firstly, short term and, secondly, on a stop-start basis? Guaranteed ongoing funding. Is this not just a step towards privatising the production of ABC drama?

Mr Green—I will ask the director of television to respond to that.

Mr Dalton—The ABC has primarily derived its content in the area of children's drama, documentary and adult drama from the independent sector now for 10 to 15 years or so. The degree of specialisation and skills that are available is quite substantial within the independent sector. The level of capacity within the independent sector to provide content to the ABC and work with the ABC in the terms of that content is significant and substantial, so I do not see any problems whatsoever.

Senator WORTLEY—Can you comment on the specialist staff who have been lost to the ABC in recent years with regards to production in those areas?

Mr Dalton—I cannot, because I have worked at the ABC for only a few months. I can only say that I have worked in the industry's independent sector and have been involved in providing content to the ABC as far back as the 1980s in that particular area, so I do not see that as an issue.

Senator WORTLEY—You do not think that this is just a move towards privatisation of production of ABC drama? If I come back and ask the same question in three or four years

time, do you think the ABC will still have a production department where it is producing drama, or will it all be outsourced?

Mr Dalton—I think the independent sector welcomes the additional funding that has been provided to the ABC and looks forward to a continuing very productive, creative, robust and expanding relationship with the ABC.

Senator WORTLEY—You are talking about the commercial production?

Mr Dalton—I am talking about the independent film and television production sector.

Senator WORTLEY—Can anyone else who perhaps has been there for some time shed some light on the production in ABC drama, staffing and what it means for drama being produced at the ABC in relation to the independent or commercial production sector receiving this tied funding?

Mr Pendleton—I do not see that there is any direct impact on the current internal production capability of the ABC as a result of the additional funding that has been provided in the form of the ABCI to commission drama with the independent sector. This is on top of our current internal production. We will continue with the same levels of internal production. There is no plan at this stage to change that.

Senator WORTLEY—So in three years time, if I come back and ask the same question, the existing ABC production department will still be producing drama?

Mr Pendleton—I could not comment on something in three years time.

Senator WORTLEY—A prediction? An educated guess?

Mr Pendleton—The business is constantly evolving.

Senator GEORGE CAMPBELL—The triennial funding submission summary states that supporting the independent media production industry can help deliver both economic and cultural benefits to the whole of the nation. Is it the intention that the whole of the \$30 million will be spent on external production?

Mr Dalton—Yes, it is the intention that 100 per cent of those funds will be spent in external production, or on productions with the independent sector.

Senator GEORGE CAMPBELL—The submission argued that there will be an extra 57 hours of original and memorable drama, and then it sets out 13 hours of children's drama, 12 hours of new documentary programming, 12 hours of drama, one and a half hours of family drama, and four hours of arts. You have only half of what you sought. What will be the impact of that cut in funding on the proposed production in those areas? Have you made a decision yet as to what areas will be cut?

Mr Dalton—We will not be cutting anything, we will be increasing. But we have not made the decision—

Senator GEORGE CAMPBELL—But you will not be able to produce 57 hours, will you, with half the amount of money?

Mr Dalton—Until we decide how those funds are going to be allocated, in terms of which particular genres, and then assess what producers are able to do in terms of gearing up

additional funding from other sources within Australia and internationally, then I think the actual picture of the number of hours in each of those genres will not be clear.

Senator GEORGE CAMPBELL—When will that decision be made about the number of hours across the genres?

Mr Dalton—The financial allocation against the genres will be made as part of the budget process, and I would expect that that is going to be made across the next couple of months. The degree to which those funds are then geared up with individual projects will be a rolling process, which will happen across the year as projects are funded.

Senator GEORGE CAMPBELL—The decision will be made over the next couple of months as to—

Mr Dalton—As to the allocation of funds to X amount to documentaries and X amount to drama and X amount to children's drama, yes.

Senator GEORGE CAMPBELL—If you argue you get 57 hours for \$60 million, you are saying that that might not necessarily mean 28 and a half hours for \$30 million?

Mr Dalton—No, I think it will depend on, as I said, how we split that allocation. In terms of what level of gearing we can achieve, there will be discussion with producers and with other institutions in Australia interested in investing in those projects.

Senator GEORGE CAMPBELL—I will look forward to finding out in a couple of months what areas will benefit as a result of it. I just wish you would put some subtitles on those BBC dramas. I have difficulty understanding the Scottish ones. They are very good, but very difficult to understand. Mr Green or Mr Pendleton, I am not sure which of you will answer this. I asked a question at the February estimates in relation to Kerry O'Keefe and comments he made during the Pakistan cricket Test in January at the SCG. Mr Balding took the questions on notice and provided me with a written answer. In that written answer he said:

Kerry O'Keefe's comments did not constitute a serious attempt to gain any personal advantage or solicit goods or services, so there is no parallel with this incident and the case of Mr Cox.

On what grounds did he make that assessment? Did Mr Balding actually write the response, or was this written in Mr Cameron's think tank/response tank, whatever you call it?

Mr Green—I believe Mr Balding certainly wrote that response.

Ms Howard—Perhaps if I may?

Senator GEORGE CAMPBELL—Please do.

Ms Howard—The issue of Mr Cox has got rather confused here. The comments by Kerry O'Keefe and another broadcaster were a clear breach of the editorial policies, and they both received formal written warnings for those breaches of the policies. The issue with Mr Cox is more complicated and is a matter of a number of outstanding editorial matters. It is not just one issue, it is part of a number of ongoing editorial issues that we have had over the last few years.

Senator GEORGE CAMPBELL—Separate and apart from the event with the mullet? I would have thought the lobster was a much more serious offence than the mullet.

Ms Howard—Indeed, this is separate from what we are now calling the fish incident, I believe. If I might continue to call it the ‘fish incident’, this is a really minor matter and one which, under normal circumstances, we would have discarded a long time ago. The issue with Mr Cox is that there have been a number of editorial breaches since then, which we keep trying to address with him and which he refuses to meet with management to discuss.

Senator GEORGE CAMPBELL—I will come to that issue in a moment, and I am pleased you have drawn a distinction and you sent the fish down the proverbial.

Ms Howard—I think back to sea.

Senator GEORGE CAMPBELL—Back to sea, where it came from. The thing that perturbs me is that, when Mr Balding wrote that response, I emailed him and Mr Pendleton and drew their attention to the fact that the episode with the lobster was on the ABC website. You are telling me that Mr O’Keefe and another reporter were counselled as a result of what happened during the Test. Why are the photographs of the lobster still on the website?

Ms Howard—This is a long and confusing story, so bear with me. The photographs are actually from the previous year, when the cricket commentary team were given a lobster, completely unsolicited, and do not relate to the editorial breach of the most recent commentary team.

Senator GEORGE CAMPBELL—It is interesting, because it says, ‘The view from the box, Australia v Pakistan.’

Ms Howard—I checked and, in fact, they were the photos from the previous year, when some very generous listener had sent a lobster along with, I gather, a couple of cakes from primary schools, completely unsolicited—things like that. I did check.

Senator GEORGE CAMPBELL—That is good. Are they going to stay up there?

Ms Howard—I think they have probably disappeared by now.

Senator GEORGE CAMPBELL—They were there yesterday.

Ms Howard—Were they? Oh, good.

Senator GEORGE CAMPBELL—On the issue of Mr Cox, what is the status of Mr Cox’s position at the moment?

Ms Howard—Our human resources department has recently written to him. He has had his claim to Comcare rejected on the grounds that the work factors Mr Cox claimed to have caused his condition fall within what they call exclusionary provisions, being reasonable disciplinary action. The ABC has written to him seeking a meeting with him to deal with the disciplinary matters, and we are proposing to commence a mediation process with him. We have written suggesting a meeting in early June. As I understand it, Mr Cox has not yet replied.

Senator GEORGE CAMPBELL—As I understand it, Mr Cox has appealed to Comcare against its decision.

Ms Howard—I was not aware of that.

Senator GEORGE CAMPBELL—I ask if that has been taken into consideration in terms of how you proceed, because I think he is entitled to have that decision reviewed before you

move any further. Also, I understand that Mr Cox has serious concerns with the ABC—and I do not know if you are in breach of the Privacy Act; I have not had time to look at it—that his Comcare report and assessments by a doctor in respect to his situation have been made available to his immediate management. In fact, I understand that five people in the ABC have had copies of that report. Can I ask you why that was circulated so widely?

Ms Howard—I am not aware that it has been circulated widely. It would be circulated, under the normal course of events, to the people dealing with this matter. I do not believe it has been circulated widely, but I am very happy to find that out. Under normal circumstances, we would simply circulate to the people who were dealing with the matter.

Senator GEORGE CAMPBELL—That could be pretty wide indeed.

Ms Howard—Not really in this case.

Senator GEORGE CAMPBELL—In this instance, I have been told this in an email from Mr Tim Burroughs. I do not know how senior a person he is. He is the head of employment services.

Ms Howard—In human resources, yes.

Senator GEORGE CAMPBELL—Yes. He said it had been circulated to Ms Hurley, who I understand is the immediate manager—

Ms Howard—His manager; yes, that is correct.

Senator GEORGE CAMPBELL—Mr Mason?

Ms Howard—Yes.

Senator GEORGE CAMPBELL—Mr Trainor?

Ms Howard—That is the human resources manager in Tasmania.

Senator GEORGE CAMPBELL—Yes. And himself, Mr Colin Palmer and Ms Vanessa McBean. That is a pretty wide distribution of a doctor's report, which may or may not contain some extremely sensitive material.

Ms Howard—The three radio managers mentioned there are all dealing with the case at one level or another and the case would be kept quite confidential.

Senator GEORGE CAMPBELL—Would you have a look at the Privacy Act to see whether or not this practice in fact breaches it? There is some considerable concern about it. I am also concerned about an aspect of the email which could be taken, and I am not suggesting it is, as an implied threat. In fact, Mr Cox does not proceed with the meeting on 8 June which was scheduled. Whether or not his appeal to Comcare is pending, in fact the ABC may proceed to consider the matter anyway.

Ms Howard—It is a difficult one to manage, this one. All I can say to you is that I will do my best to make sure that people proceed carefully and with some sensitivity.

Senator GEORGE CAMPBELL—I know sometimes it can be frustrating, but I think at least the processes ought to be allowed to follow their course before people take pre-emptive action in respect of it.

Ms Howard—No. I can guarantee that it will not happen.

Senator GEORGE CAMPBELL—On the issue of training, what progress has been made on the failures in training that were identified by the audit into the ABC Learning Department?

Mr Pendleton—There are a number of recommendations that were made from that report, for which I think we have advised that most of those recommendations have either been implemented or incorporated into the learning review that is currently being undertaken within the ABC.

Senator GEORGE CAMPBELL—Is it true that there are times when, instead of the training budget being spent on training, and instead when, say, the production unit employees have down times, it is sometimes allocated against the training budget, rather than simply allocating it to down time?

Mr Pendleton—The only time it would be allocated to training is if training was being undertaken during that down time.

Senator GEORGE CAMPBELL—As I understand it, there is no training being taken, that the down time has been allocated against the training budget.

Mr Pendleton—Within production resources?

Senator GEORGE CAMPBELL—Yes.

Mr Pendleton—That is not my understanding.

Senator GEORGE CAMPBELL—Can I ask you to take that on notice?

Mr Pendleton—I can look into that for you.

Senator GEORGE CAMPBELL—Make some inquiries, because that is the clear understanding of people who work in that area.

Mr Pendleton—We have procedures that sit around how the training time is allocated, how you actually tag time that you spend on training towards training and have it credited as part of a budget. There are processes and procedures in place to actually have that vetted by human resources before it is credited.

Senator GEORGE CAMPBELL—I am being told that it is not being applied in this area.

Mr Pendleton—I will look into that.

Senator GEORGE CAMPBELL—Yes, and that in fact their down time is being allocated against training and no training is being undertaken. Does the ABC regard the local radio awards as training?

Ms Howard—No, the awards are not training. The two-day forum which is conducted for the finalists and the winners of the awards is training, but the awards themselves are not.

Senator GEORGE CAMPBELL—How much of the training budget is spent on that?

Ms Howard—I could not tell you offhand, but I am happy to take it on notice. A very small amount, I would say. It is a select and invited group of staff who are, as I said, the finalists in the awards who attend.

Senator GEORGE CAMPBELL—Take it on notice. Does the ABC have any plans to introduce regular audits into training to prevent a misallocation of resources?

Mr Pendleton—Our group audits regularly conduct audits across all the business. They did a review, as you are aware, of training last year. I am not sure what is on their plan into the future, but the learning review itself is also having a bit of a look at how we track what sorts of incentives and KPIs we have in our training.

Senator GEORGE CAMPBELL—Is the ABC capable of accounting for the money that is spent on training and matching that against outcomes?

Mr Pendleton—We regularly report to the board on performance against the training targets that we have.

Senator GEORGE CAMPBELL—Is it possible to make that information available to this committee?

Mr Pendleton—I can.

Senator GEORGE CAMPBELL—In reference to the issue raised on the last occasion with Valerie Geller, I accept the point that was made at the time by Ms Howard in respect to that questioning, that there is nobody in Australia who can provide that sort of training. I do not know whether there is, but I accept what you say. Despite the fact there is no-one here that can provide the training, I am sure there are other people around the globe who perform a similar type of training as Ms Geller. Was there ever any attempt to tender this process?

Ms Howard—We did not tender the process. I guess we and the BBC and the CBC and a range of public broadcasters see a range of these trainers at conferences and so on, and over the years I think all of us have come to the conclusion that Ms Geller is probably the best at the particular motivational training that she does. She is not, I dare say, the only one around, but one of the pluses for us is that she actually understands the ethos of public broadcasting.

Senator GEORGE CAMPBELL—How do you judge whether or not you are getting the best bang for your buck, if there is no tendering process undertaken?

Ms Howard—It is difficult to know. I take your point. I am just not quite sure what we would tender for. It is very difficult to know how we would go through that process, seeking people internationally, given that I am not aware of the—

Senator GEORGE CAMPBELL—Do you know of others internationally that do a similar type of training?

Ms Howard—I know of others internationally who do training. I cannot think of anyone who does this sort of training that is public broadcasting focused rather than commercially focused. That was always a consideration for us.

Senator GEORGE CAMPBELL—I can understand that aspect of it. I have a number of other questions, but I will put them on notice because I am conscious of the fact there are a number of others who have questions for the ABC. Can I ask that those questions you have taken on notice you give us as quick a response to as possible? Can I assume, Ms Howard, that in respect of the Tasmanian saga the proper procedures will be followed through in terms of finalising that issue?

Ms Howard—I give you that undertaking.

Senator WORTLEY—The national interest initiative funding cuts out before the end of the triennium, 2008, is that right?

Senator Coonan—I am not sure. I will just check. Perhaps I will let someone from the department answer that.

Senator WORTLEY—Perhaps while they are looking for that, why did the government not meet the ABC's request to roll the funding into its triennial funding?

Senator Coonan—This funding?

Senator WORTLEY—Yes?

Senator Coonan—Just a moment. We will just check what you are trying to ascertain here.

Mr Pendleton—The original was for four years.

Senator WORTLEY—Yes, it was for four years. It was renewed in 2004.

Mr Pendleton—We are in the first year of the new three-year period. So the renewal runs for this year, up to the end of 2008.

Senator WORTLEY—Will the ABC be requesting renewal of that funding?

Mr Pendleton—Yes.

Senator WORTLEY—As they did in 2004? Are you just checking on that?

Senator Coonan—Sorry, now what was it that you asked?

Senator WORTLEY—The funding actually runs out—

Senator Coonan—That has been answered.

Senator WORTLEY—Yes, before the end of the triennium, so the ABC have said that they intend to request funding. Will that funding be forthcoming?

Senator Coonan—Let us wait and see. It is reviewed like every other funding request.

Senator WORTLEY—Why was it not rolled over, or why was it not put into the triennial funding?

Senator Coonan—Well, it was not and it will be reviewed, because it is on a different time scale.

Senator WORTLEY—So, the programs that were established under that funding could be under threat, then?

Senator Coonan—No, they could not be under threat. They will be reviewed.

Senator WORTLEY—Well, one could take that, if they are only being reviewed and that there is not forthcoming funding for them—

Senator Coonan—That is a big assumption.

Ms Williams—Senator Wortley, you probably know that all programs are reviewed. It is part of the budget process. They are reviewed before they are considered in the budget process. This one was agreed outside the normal triennium and therefore it will come up again for review outside the normal triennium.

Senator WORTLEY—I understand that a lot of that particular funding, in fact something like 80 per cent of it, was spent in rural and regional Australia, so they will be waiting to find out what that means for them down the track.

ACTING CHAIR (Senator Ronaldson)—I think the minister has answered the question.

Senator ADAMS—My questions are for Mrs Howard. Nice to see you here this time. I missed you last time. Firstly, on the subject that I was pushing during our last encounter on the regional radio in Western Australia and with Liam Bartlett, I must say that I am still getting a lot of letters about Liam not being with the ABC any longer, and I would just like to ask why he finally decided to leave.

Ms Howard—I believe he was made a very generous offer by our commercial competition. That was certainly the indication that I was given.

Senator ADAMS—In the editorial in the *West Australian* it did cause quite a lot of media with his departure to the other commercial radio station. His main reason was stated as having his hours reduced covering regional radio, and unfortunately where I live down in the great southern, we still have the ABC to listen to, but the north-west are rather lucky, and the mid west now that Liam is actually with Spirit Radio and his ratings are going up very rapidly, being commercial radio, so you will unfortunately be losing ABC listeners. Rural people are very, very loyal to the ABC, but it still is a problem and my office is still being inundated as I am the only rural based senator in Western Australia. I am just getting enormous amounts of mail about our program.

Ms Howard—I understand people get very attached to presenters. I do not think there has been a rating survey since Liam actually moved.

Senator ADAMS—Yes, I have got one here, actually.

Ms Howard—Have you?

Senator ADAMS—It is just on your website. I was just going to mention that. In November—

Ms Howard—No, I think there has not been a rating survey for Mr Bartlett since he moved to commercial radio, has there?

Senator ADAMS—There has been a survey taken. He left on 24 March.

Ms Howard—Yes, there would have been one survey.

Senator ADAMS—From 29 January to 18 March, before he went, 12.1 per cent, and from 12 February to 29 April, 10.6 per cent. I just think that is important.

Ms Howard—I think that was the station overall that dropped. I think Eoin Cameron had a bit of a fall in ratings—the breakfast presenter—and that affected the overall station ratings.

Senator ADAMS—I would just, for the record, like to mention that and I will get on to another topic. In November 2005 on your website they stated:

In the important morning talk back market, Ian Bartlett increased the audience share between 8.30 and noon to 13.4 per cent, giving 720 ABC in Perth its highest audience share figure on record, between 9.00 and noon.

So, you have lost a really great contributor to the ABC.

Now, Mr Green, you did comment earlier about how important it was to be reporting accurately. As a politician it is terribly important that the ABC, when they are present at a number of rural meetings, do report accurately. I would just like to give you an example of how important that is. With the AWB issue in Western Australia and especially in the O'Connor electorate in which I live, Mark Vaile was over there speaking at a rally of wheat farmers on 27 April. There were over 500 people there. The single desk is a huge bone of contention for Western Australia, as 80 per cent of our wheat crop is exported. This is a letter of a request for retraction of a comment on what Mr Wilson Tuckey's staffer said in reading a speech at this rally. She states:

The ABC's lack of accuracy has done Mr Tuckey an enormous amount of damage in his electorate. Wheat growers are extremely anxious to protect the single desk and, thanks to your reporting, they genuinely believe that Mr Tuckey is not listening to their concerns and not representing them as they have asked.

That was on the 27 April. On the 28th at six o'clock, the ABC acknowledged that two radio news bulletins on this issue as well as the online story to which you were referred 'were inaccurate in reporting that Federal Liberal MP Wilson Tuckey had called for the single desk to be scrapped. The ABC sincerely regrets these errors.' The apology and retraction was broadcast on ABC Radio National at six o'clock on Friday the 28th, and then finally they put it onto local radio the following Monday. This has caused great angst. Wilson Tuckey has suffered quite badly. He is up for pre-selection in another month's time and that probably will affect it. I know a lot of people may have different ideas about Wilson Tuckey, but I do feel that, under the circumstance, the ABC has retracted its statement and apologised but these are the things where accuracy with your reporters are so important, especially out in the rural areas where we have two coalition parties fighting one another. The single desk in one respect is absolutely sacrosanct, and in other areas people are trying to change things. So that is just an indication of something that was not accurate.

Now, we get to the ABC funding and the Friends of the ABC, who also are writing me lots of letters. I would just like to ask: are you aware of the comments of the Friends of the ABC after the recent federal budget in relation to the additional government funding? In a letter to the *Australian Financial Review* on 15 May 2006, Judith Rodriguez from the Victorian wing of the Friends of the ABC stated, 'The government budget allocation for the ABC is more cause for concern than celebration.' Would you agree with her assessment that the government has used the budget to increase its control over the ABC operations and that targeted funding overrides the ABC's responsibility of ensuring all areas of the broadcaster's charter of responsibilities are met?

Mr Green—Can I respond to that, and I responded to the *Financial Review*. I certainly do not agree with that assessment. The budget outcome for the ABC was the best budget outcome we have had for 20 years, and the proposals that the Friends of the ABC, in this case, were accusing us of, in terms of surrendering our independence, ignored the fundamental fact that the very proposals that we put up in our triennial funding, those proposals the government responded to in the budget allocations, so that is not my view of independence, it is my view

of the government being responsible to the ABC's case. As I said, we were delighted with the budget outcome.

Senator ADAMS—She has also gone on to say, 'This year's budget, which will deliver \$822.7 million in the next financial year, is starving the ABC of resources and amounts to privatisation by stealth.' Would you disagree with that assessment? I am really worried about the Friends of the ABC; just where are they coming from?

Mr Green—I do not agree with that assessment. If we did not have any response to our triennial funding allocations, then the ABC would have been going backwards. We have a response. As I said, that was the best response we have had from government for 20 years and that means the ABC can go forward and take advantage of opportunities before us. We are very grateful for that response. So I certainly do not agree with that analysis.

Senator ADAMS—We have got the New South Wales wing of the Friends of the ABC with a similar view. Spokeswoman Margaret O'Connor, speaking after the ABC was allocated almost \$90 million in additional funding, described the ABC's funding situation as grim and dire. She also described the additional funding as the fiscal equivalent of a sandwich and a milkshake. I just wonder what you are going to do with these people.

Mr Green—These are great images to put out, but the fact of the matter is that the ABC has some \$800 million of public money. We have a charter to respond to; we have 13 million Australians who watch ABC television every week, over six million who listen to ABC radio and just under two million unique users in terms of our online services. So we have a great task before us and a great investment in terms of confidence, in terms of public investment, in that task so I certainly do not agree with that analysis.

Senator ADAMS—Then Mrs Rodriguez suggests that this new funding will lead to more lightweight programming and less investigative reporting.

Mr Green—The ABC has a balance in terms of different styles of programming. I think the pejorative use of lightweight is an insult to some of the hard work that goes into some of our programs that are more accessible and get widespread appreciation from a large range of the Australian population. So I do not agree with that analysis.

Senator ADAMS—Where do the Friends of the ABC and the ABC itself sort of sit? Do you talk to them or how are they—

Mr Green—We certainly do have conversations, but the Friends of the ABC is a separate community group—

Senator ADAMS—I realise that.

Mr Green—who analyse public broadcasting in a variety of ways. Our position, as I said, is that we have been given \$800 million a year of public money. That is a massive investment on the part of the Commonwealth. We have a job to do and we will do that job within the allocation of the money that is given to us.

Senator ADAMS—I would suggest perhaps that somehow someone talks to the Friends.

ACTING CHAIR—I think there is an old saying that God gave us our relations, thank God we can choose our friends. In this case I think someone gave us our friends, thank God we can choose our relations.

Mr Green—I should say I do not want to demean the commitment of people who are faithful members of Friends of the ABC, and I have spoken at a number of their AGMs and various other occasions, but the analysis sometimes of the plight of public broadcasting certainly does not match the analysis that I or our management team would apply to the provision of resources that have been given to us.

Senator Coonan—Can I also just add a little comment there, please, that I think it is a very good thing when people are passionate about the public broadcaster and certainly, as minister, I welcome that kind of commitment that the Friends show to all of the values that I think we all share in relation to our aspirations for the ABC. But I think in this respect they are seriously misguided. They have overreached in a way that is almost absurd and very insulting to the good work that is done by the ABC.

Senator WORTLEY—In relation to your comment about the budget outcome being the best budget outcome for 20 years, did you take into consideration the \$66 million that this government actually took away from the ABC budget and the impact of that over 10 years?

Mr Green—If you look at what—

Senator WORTLEY—That was 1996.

Senator Coonan—Let him finish the answer.

Senator WORTLEY—And the impact over 10 years is considerable.

ACTING CHAIR—The senator has asked a question.

Mr Green—The budget result that we have before us in the last budget is in fact the best budget result that the ABC has had for 20 years, and that is a plain fact. It is something that we are very encouraged by.

ACTING CHAIR—Thank you, Mr Green.

Senator ADAMS—This question has come from Senator Ferris who is chair of the back bench rural committee and currently in another committee meeting. The budget has made available additional funding for regional services within the ABC. Can you please explain to the committee what additional services will be made available to the rural department as a consequence of this additional funding?

Mr Green—The first thing that has to be said about the additional funding in this area is that it will enable us to keep on doing what we are doing, and that was a big question mark as we put in our triennial funding submission. But also it will give us the opportunity of assessing what more we can do, and that process will take place in the next few months.

Senator ADAMS—Who will be doing that? Where can we find out more about it?

Mr Green—That will be assessed in the first case by the ABC executive team, then by the board and, as soon as we have come to some conviction and resolve about the matter, we will be very keen to inform you and other people who have a strong interest in this area.

Senator ADAMS—Could you do that on notice for us then, please, when you have a result?

Mr Green—What I will undertake to do is, as soon as the board has resolved this matter, we will certainly make it public and I am very happy to send what public release we have to your office.

Senator ADAMS—Thank you very much. I will now move on to digital television. What has the feedback been that the ABC has received in relation to its digital services, ABC Online and ABC2?

Mr Green—If I may respond to that, we have just passed our first year of ABC2 and it has been a fantastic initiative. Initially our approach was to time shift existing ABC programming with a modest range of new content. That range has shifted even within the short space of a year to the point where we are now having far more original content on ABC2 and our daily reach is in the vicinity of something like 160,000 people a day. For digital television in its infancy in Australia, that is a very encouraging sort of response. I just want to commend the efforts of the ABC2 team. It has an extremely modest budget, \$2 million, and to produce a television service with the range and quality and innovation that ABC2 provides with those sorts of resources and that sort of public response a year down the track is a terrific indication of what is yet to come.

Senator ADAMS—Can you tell me what percentage of TV programming is shown on ABC2 that is not shown on ABC's analogue channel?

Mr Green—Yes, I would be happy to get back on notice to you on that.

Senator ADAMS—Also this one may have to be on notice too. What percentages of the programs shown on ABC2 are produced locally?

Mr Green—There is a great investment increasingly in local production that is coming from the broadband environment of ABC Online. One of the things about ABC2 is that it represents a whole new way of doing television and it really is indicative of the new opportunities that are available to the ABC through new media delivery and through digital domains. To see the way in which people are working differently and working in different way in terms of producing content that not only appears on ABC2 but also on broadband and a number of other digital domains is an indication of the way in which we are getting increasing value for money in terms of being able to have this content by a variety of means, to deliver content when and where people want it.

Senator ADAMS—My last one is about Anne Sargeant. You are all aware of who she is. Are the ABC staff here familiar with the achievements of Anne Sargeant, a former ABC employee? From 1983 to 1988 Anne Sargeant was the captain of the Australian Women's Netball team, also a member of the world champion teams of 1979 and 1983. In 1988 she was awarded the Order of Australia medal and was inducted into the New South Wales Hall of Fame. In 1992 Anne was named Australian communicator of the year. Are you aware of the ABC's decision not to renew the Anne Sargeant contract as a netball commentator?

Mr Green—Yes, I am, and I will ask Kim Dalton to talk to that, please.

Mr Dalton—Yes, we are certainly aware of Anne Sargeant's contribution, particularly to the sport of netball, to the ABC's efforts to bring that to interested viewers and more generally her other achievements. The decision by the ABC in regard to its approach to the presentation

of netball this year and the decision not to include Anne Sergeant as part of its commentary team this year in no way reflects on those achievements.

Senator ADAMS—What was behind the decision not to renew Anne Sergeant's contract?

Mr Dalton—The ABC decided to review and look at its approach to presenting netball, and in the process looked at the experts on its commentary team and it decided that it would seek to have experts who had recent on-court experience and put together a new commentary team on that basis.

Senator ADAMS—Is the real issue here that she was too old to do the job?

Mr Dalton—No. It has nothing to do with her age.

Senator ADAMS—Can you confirm that Ms Sergeant was simply told, as she has reported, that she did not have the contemporary look the ABC was looking for?

Mr Dalton—I cannot confirm the exact words. My understanding is that those words were not used, but the explanation that was provided to Anne Sergeant was the explanation I just provided to you, that we were looking for expert commentators who had recent on-court experience.

Senator ADAMS—This 'contemporary look' seems to have been around in the media and, from what Ms Sergeant has said, that was what she was told. Does the ABC consider the wisdom and experience of its commentators, or is the issue of a contemporary look considered to be the primary criterion for sports commentators?

Mr Dalton—Contemporary and recent involvement in actually being on and playing on the court was a consideration, and I think that is a valid consideration. From time to time the ABC, along with all broadcasters, looks at the way their live events, and particularly sport, are presented. That was the process that we went through and we arrived at that conclusion.

Senator ADAMS—Does the ABC sports section feel that Jim Maxwell has a contemporary look?

Mr Dalton—This decision was made, as I said before—

Senator ADAMS—I am about to get on to the weather man in a minute.

Senator FIERRAVANTI-WELLS—It is okay for the old males, but not for the women.

Mr Dalton—This decision was made in the context of a review very specifically about netball and about attempting to increase the numbers of people who would avail themselves of the games that we were presenting in the way that we were actually presenting the code and the way sport was played across Australia. So that was a decision that was made, to revamp that. It was made in the context of within the ABC an absolute commitment to women's sport, the only broadcaster, I believe, who has that very substantial ongoing and historical commitment to women's sport, and particularly netball. So that is how the decision came about, and I think that there was some very real commitment to the sport and continuation of our coverage of the sport in making that commitment.

Senator ADAMS—As you have got such great coverage, and this might be a survey that you could do perhaps, what would you say is the age of the viewer that watches netball?

Mr Dalton—I think there is a concern with—

ACTING CHAIR—Or who is likely to watch the netball that you have replaced her for.

Mr Dalton—We can certainly give you some information about the demographics if you would like me to follow up on that. Our concern always is to look at the numbers of people but also the spread of that audience, and obviously it is a game that has a lot of interest amongst younger people and we would be quite concerned to make sure that our presentation was appealing to that audience. I would have to take that on notice if you want some more detail about the demographic.

Senator ADAMS—Just as a last shot, seeing as we are on the age side of things, we are very disappointed in Western Australia to have lost John Colwill as our weather man. He has gone, Liam has gone, so we will just continue on watching the ABC and hopefully they will do the right thing by rural and regional Australia.

Senator CONROY—I want to briefly talk about funding. I have been listening with interest to Mr Green's comments. While the minister has not released the final KPMG report there have been media reports of the draft version, and according to reports the draft KPMG report stated, 'Even with indexation we do not believe the ABC could sustain its present range, quantity and mix of outputs at its present level of funding.' It further found that the minimum level of additional funding required by the ABC to sustain its present output was \$126 million in excess of indexation over the next three years, and this does not cover any new services. Can the ABC confirm that these findings were included in the draft KPMG report?

Mr Green—No, I cannot. I have not seen the final draft.

Senator CONROY—You did not get to see it at all?

Mr Green—No.

Senator CONROY—Does it surprise you that that is the finding?

Mr Green—I am not really prepared to make any comment on it because I do not know if that was in the final draft.

Senator CONROY—It has been fairly publicly bandied around.

Mr Green—That may well be, but I am not in a position to comment on what might be in a document that one does not know the origins of.

Senator CONROY—Everyone knows where the origin was. It was a leak of the draft. You want to play that you do not know what it is, that is fine. Everyone knows it was the draft. Did you receive \$126 million in excess of indexation over the next three years in this budget?

Mr Green—No. We received, as is publicly known, \$88.2 million.

Senator CONROY—So is that 60 per cent of what KPMG said you need to sustain your present range of quantity and mix of outputs at its present level of funding?

Mr Green—I do not know what KPMG have said.

Senator CONROY—Good grief. In the budget the government allocated \$45 million over three years to capital renewal. Can the ABC confirm that the draft KPMG report said that capital injections of \$73.8 million were required over the next triennium?

Mr Green—No, I cannot, because I have not seen the final draft of the report.

Senator CONROY—Is \$45 million more or less than \$73 million? It is a mathematical question.

Mr Green—It is a mathematical question, but it alludes to the previous question which I said I am not in a position to comment on.

Senator CONROY—I did not ask you to comment on it. I am just asking you a mathematical question. Is \$45 million more or less than \$73 million?

Mr Green—With respect, your mathematical capacity equals mine.

Senator CONROY—I am not sure it does. I am worried about yours at the moment.

Mr Green—Let us leave that as an open question then.

Senator CONROY—That is what I am worried about, your mathematical ability. I will move on, seeing as we are struggling with maths. The draft KPMG also said, did it not, that the ABC required an extra \$52 million in funding above indexation to cover operational expenses. How much did you receive in the budget for operational expenses?

Mr Green—The last budget?

Senator CONROY—The one just gone.

Mr Green—There is an operational component in our capital allocations, perhaps 15.

Senator CONROY—Is 15 more or less than \$52 million, Mr Pendleton? Perhaps your maths are better.

ACTING CHAIR—Senator Conroy—

Senator CONROY—Please, Senator Ronaldson, I do not mind your running a commentary, but I watched your earlier contribution. You were thumping the table and harassing far beyond my asking a simple maths question. I am only asking for some consistency in performance here, Senator Ronaldson.

Senator PATTERSON—If you do not want to go, I will take over the chair. Just ask the question.

Senator CONROY—I am more than happy. Thank you, Senator Patterson. I would note, the Honourable Senator Patterson, as your tag says there. So, Mr Pendleton, is \$15 million more or less than \$52 million?

Mr Pendleton—It is less.

Senator CONROY—Thank you. Despite claims that this is the best budget in years for the ABC, is the triennial funding allocation not well below the amount KPMG said was needed to sustain existing services?

Mr Green—I have no idea of what KPMG have finally said in their draft.

Senator CONROY—Minister, at any stage are you going to let the ABC see this?

Senator Coonan—I have already answered that this evening.

Senator CONROY—I apologise. I missed it. Are you going to give a copy to the ABC?

Senator Coonan—Absolutely.

Senator CONROY—Soon?

Senator Coonan—Shortly.

Senator CONROY—Mr Green, you will perhaps be able to come back to us after you have seen the report. Is the board considering charging people for downloading podcasts of its programs?

Mr Green—There has been a review of the way in which certain ABC—sorry?

Senator CONROY—I am listening while I am collecting my cup of tea.

Senator Coonan—It is incredibly rude to ask a question, turn your back, go to get a cup of tea and then expect the witness to keep addressing you. So, now you are back—

Senator CONROY—He is addressing the committee but, please; thank you, Mr Green, for pausing while I was just picking up my cup of tea.

Mr Green—Our listeners and viewers do pay for content at present when acquiring that content through ABC shops, for printed publications that we publish or CDs or other forms of music or records of programs. We are looking at an equitable balance between providing information that is free and available, as we do in terms of the Boyer Lectures, for example. When they were made available following the lectures, they were available on a modest fee basis. It is a balance between equity and our being able to get a return, as our act allows us to, in terms of ABC Enterprises.

Senator CONROY—That sounds like we will have to pay for a Radio National media report.

Mr Green—That is certainly not a proposal that is before us at the moment. Perhaps the director of radio might like to make some comments about the radio division's approach to this. The initiative for what is available on a free basis and what is available on a modest fee basis will be determined by the providing content divisions. Sue, do you have a comment?

Ms Howard—It is my view that the podcasts that are available at the moment, particularly from Radio National and some from Classic FM and local radio, which are free, will remain free. However, as Murray mentioned, where we would make material available for sale through the shops, for example, the Boyer Lectures, which we would normally put on CD and sell, it is my view that if they go up as podcasts they should be charged for. But the current free-to-air podcasts would remain free to air.

Senator CONROY—So, news and current affairs?

Ms Howard—That would be for Mr Cameron to decide.

Senator CONROY—Mr Cameron, currently I access a number of your items on the website free of charge. Would any of those news and current affairs shows be charged for?

Mr Cameron—It is not something we have discussed in depth, but I think that I would agree with Sue. My top-of-the-head reaction would be that if it is there and freely available, free to air at the moment, it would remain so.

Senator CONROY—So if I called up a *7.30 Report* or a nightly news or *Four Corners*, is there is a difference when I had a look at them on the website?

Mr Cameron—I do not think so, no. A top-of-the-head answer, but no. I would not think so.

Senator CONROY—Okay.

Mr Green—Some other public broadcasters have dealt with this at a sort of public policy level, and my understanding is that it is the practice of the BBC, for example, to provide a window of seven days for free downloads; then, after that, there is a fee.

Senator CONROY—What is the rationale behind that? I mean, storage is not the sort of issue on the Internet that—it is not like you have got a warehouse and you have got to send someone out the back.

Mr Green—No. Well, there are server implications for this. But there has to be a balance in public policy terms between providing equitable access and, at the same time, being able to exploit the value of content in order that the returns from that value might go into further program making. That is the whole notion behind, as I was saying before, ABC Enterprises, our commercial arm, which not only runs our retail stores, but has—

Senator CONROY—News and current affairs, probably, I would put to you, falls into a slightly different category. I am barracking hard for you there, Mr Cameron.

Mr Cameron—Yes.

Senator CONROY—Feel free to jump in and support me any time. News and current affairs probably falls into a different situation from that of an opera broadcast or some of the other ones that Ms Howard mentioned.

Mr Green—We have not resolved that matter in terms of what should be freely available on an ongoing basis, what might be freely available for a reasonable window and what might be charged for by way of a small fee in a longer term situation. That has not been resolved.

Senator CONROY—AM/PM is podcast. Would that be one that falls into the category—

Mr Green—That is Mr Cameron's domain?

Mr Cameron—Yes, it would, but, again, because I am not the expert in this area and have not had any in-depth discussions corporately about this issue, I would hate to commit to something here that we had a change of heart on policy on. Certainly, at the moment, that is the way it is.

Senator CONROY—I have not experienced through 9MSN or Fairfax being charged for any news or current affairs information that is on their website. Has anyone—

Mr Green—It is certain—

Senator CONROY—It may be that that is the case. I just say, I have not experienced it.

Mr Green—The practice of some newspapers, certainly, is to make available transcripts for a free period during a certain window but, after that, you would have to pay \$1.20, \$1.50 or whatever the fee is in order to get it. We have not gone down that path yet, but it is still being worked out.

Senator CONROY—So they are charging for an archiving on the Net—is that what they do?

Mr Green—Yes, that is what they do.

Senator CONROY—As I said, I have never actually gone back far enough.

Mr Green—For example, my understanding is that if you wanted material from some of the Fairfax papers, for example, that went back over several months, you would be required to pay a fee.

Senator CONROY—Would you be charging the Parliamentary Library for access to archival ABC material on news and current affairs if they went to your website?

Mr Green—We have a very good relationship with the Parliamentary Library.

Senator CONROY—Sounds like it is going to get a bit rocky very soon.

Mr Green—No. I would have to take that on notice. I would be very surprised if that was the case. But can I take that on notice, and I will give you a description of the relationship between the ABC archive and library services and other public archival entities.

Senator CONROY—How much money are you looking to raise from these fees? Are there any estimates?

Mr Green—No, no. We have not done anything like that.

Senator CONROY—Downloads from Radio National and Triple J? Are they a target of fees?

Ms Howard—No.

Senator CONROY—Is there is a difference in terms of content between that which is ABC produced and that which you buy from somewhere else, like some of the overseas series, if people wanted to download those? There is an argument that the taxpayer has already paid to create this content and they are going to be double-paying, or double-taxed, by being charged. Is there a difference between ABC created content and the overseas content?

Mr Green—I think there is, and they are the public policy considerations I was alluding to before, to find a balance between equity and access and at the same time allowing the corporation to exploit the value of its content in order that any revenue from that might go back into creating more content, and that is the whole rationale behind ABC Enterprises.

Senator CONROY—I am interested in exploring where you might draw that public policy line in terms of your deliberations. If you purchase a series from overseas and put it on either the radio or the TV and then you produce the video for it, like *Dr Who*, let us pick a simple one. You buy *Dr Who* and you sell it through your shops after you have put it on TV. Instead of selling it in the shops you could also put it up on the web and maybe download it that way. Would that be something you would be comfortable with, putting a download—

Mr Green—There are separate licensing agreements in relation to each of those process that you have described.

Senator CONROY—Let us say you have got permission.

Mr Green—It is not automatic that just because you have got the television rights—

Senator CONROY—But you could do it. Would that be one that—or would the BBC say no, if they actually want it they should come to our website.

Mr Dalton—The overseas copyright holder would expect something. As Murray said, you would have to negotiate an agreement and certainly no copyright holder from overseas is going to freely allow the ABC, simply for the payment of a broadcast fee, to then start giving it away online. They just would not do it. They would not give you the licence.

Senator CONROY—If you are going to allow it to be downloaded you are going to have to at least to cover the costs for it—

Mr Dalton—In the same way that they are not going to allow you to give free CDs away or DVDs away. The principle is the same. My contribution to the discussion would just be to say there is an extraordinary fluid and dynamic situation at the moment, and I think copyright holders around the world are attempting to think through what the business models are and what the approach should be.

Senator CONROY—My job here in the Senate is to try and work my way through the fluid situation by asking questions of the experts such as yourselves, but I appreciate it is moving around. What about drama production with independent production companies, that is the next step back from the overseas production? Is that one that you would be—

Mr Green—Again it would depend on the agreement that we went into in terms of the production, and the more that we obtain by way of rights the more the cost goes up. Kim knows far more about this than I do.

Mr Dalton—As new areas of rights emerge, then you move towards a situation of attempting to understand what the value of those rights are. Once again copyright holders would expect payment, whether it is from a public broadcaster or anyone else, to provide appropriate payment. The ABC, given that it has a very respectful relationship with copyright holders, would want to do that. You might initially just leave the question open by simply saying that you will enter into negotiations further down the track when and if you wanted to exploit those rights. But at the moment, the ABC is not involved in the area of video on demand. It is not far away—

Senator CONROY—No, it is not far away. I am moving on to the digital future, and this is where we get into the really serious issues around video download and how you are going to deal with that issue. If you broadcast them free to air, it would seem incongruous if you are video downloading them.

Mr Green—We have got video on demand now with certain programs like, on ABC 2, Australia wide are available in that sort of format and are highly valued.

Senator CONROY—But you broadcast it free to air.

Mr Green—That is right, but people may have missed it so they want to catch it later. That is always part of our current approach to production, but the complication comes when we are dealing with third parties who, of course, will want to protect their rights and get returns on their investments as well.

Senator CONROY—Yes, but the \$30 million extra you are getting for drama, you are the owner, you are commissioning.

Mr Dalton—Our commissioning arrangement is that we purchase rights, so we enter into an arrangement with the rights holder, and the rights holder is not the ABC in that instance. The copyright holder is not the ABC. We simply purchase rights to show it a certain number of times and, if we want to have DVD rights, we would also purchase those. If we want to have download rights, we would want to purchase those.

Senator CONROY—When you purchase them you purchase a number of repeats.

Mr Dalton—Yes.

Senator CONROY—You pay for that and you could purchase the right to a number of downloads.

Mr Dalton—We do not at the moment, because again people are unsure of what the value of a mini-series might be as a video on demand product, but I think that producers would expect the ABC to either now, or at some stage in the future if these things were to be available on a video on demand basis, just as if the—

Senator CONROY—You would pay extra to have the ability to do then with it what you wanted. Just as—

Mr Dalton—We do attempt at times to negotiate certain digital rights, but often what we would do is to negotiate an arrangement which gives us first right of refusal on those—

Senator CONROY—But that is right now. We are talking about the digital future, and, as you say, it is really not that far away that you are going to get caught up in this particular debate. I am just trying to get a drift of your thinking on it.

Mr Dalton—Sure; well, it is a matter of establishing those principles. I think that, as Murray was saying, it is a matter of attempting to look at the nature of the supply and the nature of the product. Producers would see the supply of their programs on DVD as being an ancillary market. Regarding the supply of product into the education system, for instance, the government has a whole system in place for payment for educational rights. Just recently, you are probably aware that an arrangement has been made for the retransmission rights on pay TV, and all of that flows back to the copyright holders. This will be the same with all sorts of other digital forms.

Senator CONROY—Okay. Can we talk about the simplest of the concepts, which is your own material, stuff that you already totally 100 per cent own, you have commissioned; it is your library, you could almost call it, as well as your ongoing material. In an ideal world, I see that your library is up there on the net, video download, no charge for your existing material, putting aside your seven day argument, because I am not talking about news and current affairs, I am just talking about your library of old—I do not know, what is one of your longest running programs?

Mr Dalton—*Mother and Son*, for instance, but all our actors would have a view about that, because our actors are on residual arrangements; our writers would have a view about that, because our writers are on residual arrangements. There are a whole lot of parties involved in developing and creating copyright, and they all have an interest in it, and they all want to participate in whatever revenues may flow out of new markets and new ancillary forms of the distribution, supply and consumption of that copyright as they emerge.

Senator CONROY—But if no revenues flow out of it, is my point.

Mr Dalton—If we wanted to start supplying *Mother and Son* via digital download, for instance, we would have to go back to the people who were originally contracted on that particular program, and they would have a view. They would see themselves as actually having a stake, and I think the ABC, in recognition of and with absolute respect to those creative participants in that program, would want to enter into some sort of negotiations with them.

Senator CONROY—But you already own them completely. We were talking about the stuff you have produced, that you own, say a *Four Corners* episode. Are there those sorts of issues for a *Four Corners* episode?

Mr Dalton—I do not know; once again you would have to ask Mr Cameron. I think it is a matter of slowly working through those principles.

Senator CONROY—When you have paid a salary to the presenter, you have paid a salary to the researcher, you have paid a salary to the writer; they are not on a retainer on residual—

Mr Dalton—But those programs are already made available in all forms at the moment. They are made available on DVD. You cannot walk into an ABC Shop and just have a big bin of *Four Corners* programs and pull them out of a DVD and take them home.

Senator CONROY—That is because there are production costs. With the net—

Mr Dalton—Well, there are production costs with the net as well, but they may well be—

Senator CONROY—What are the production costs on putting it into a library mechanism on the net?

Mr Dalton—In the maintenance and storage and the download fees, but that is not the point.

Senator CONROY—Maintenance and storage on the net?

Mr Dalton—They may be smaller, but again I am just saying it is the principle behind that, that is all.

Senator CONROY—So, no-one sees my utopian concept of all the material from the ABC that you own specifically up there, library accessible and free to Australian taxpayers?

Mr Dalton—Film Australia, for instance, have just said that they will make their whole archive library available on a free basis. The BBC are making their library available—

Senator CONROY—That is what I understood.

Mr Dalton—For certain uses, very restricted uses, but they are putting it all up on the net as a public service.

Senator CONROY—That is where I am drawing this example from. I understood that the BBC were going down this path.

Mr Dalton—Not for programs, not for copyrighted programs, but actual archival material; I think they have given some thought to that.

Senator CONROY—Yes. My understanding is that you will be able to call up a big menu and go bang, bang, bang, and just press it and down they come. I am just seeing whether or not that is the thinking of the ABC. It does not sound like it.

Mr Green—There are some infrastructure costs for all this. You will recall that in our triennial funding submission we flagged that we were going to do some further work and put up further proposals about the infrastructure that is needed to pursue an arrangement where archival stuff would be accessible in the way that you describe it.

Senator CONROY—But you did not get all the money that you wanted.

Mr Green—No, but we flagged that we were going to look at this further down the track. That was not part of our bid for this current point of time.

Senator CONROY—Okay. The government completely rejected your submission for extra funding to expand content on broadband and your digital channel, ABC2. How does this decision impact on the ABC's ability to use the new media to reach its audience?

Mr Green—This is an ongoing story. We have not come to the end of the book yet, because the minister is yet to announce—

Senator CONROY—The road is long and Rome was not built in a day. Is it still the best budget in 20 years?

Mr Green—Well, it is.

Senator Coonan—That must really grate!

Senator CONROY—You did not get the job, it is all right.

Mr Green—The whole context in which the budget appears in relation to the matter of digital content will be addressed in terms of our response to the digital action plan when that is made public.

Senator CONROY—Do you believe that there may be substantial funds of the scale you have said you need contained in the digital action plan?

Mr Green—We will be active submitters when that plan becomes clear.

Senator CONROY—Do you think you will be more successful than you were as active submitters this time?

Mr Green—We have great confidence in the quality of our submission, Senator.

Senator CONROY—Did you put in a weak one last time?

Mr Green—We have put in a very strong one this time.

Senator CONROY—Do you think ABC2 can significantly drive the take-up of digital TV with a budget of just \$2 million a year?

Mr Green—We have demonstrated what we can do with \$2 million. As I said, we have 160,000 people sampling us each day, and that is after a year, and a start-up from zero. We are doing pretty well.

Senator CONROY—I am not being critical of what you currently provide. I do not want you to think that. I think you are doing a great job with an absolute shoestring budget. I was

asking about more the issue of driving digital take-up, which I am really hoping the ABC can do. Again, I do not want you to misunderstand me. I noted the comments of your new MD this morning about how he will drive the take-up of the digital world. I am just wondering how much driving or what sort of gear you are going to be in, or what size engine will you have with \$2 million a year. It is really a sort of scooter, isn't it?

Mr Green—As I said, when we hear about the details of the digital action plan, we will be actively engaging in the possibilities that ABC2 can deliver.

Senator CONROY—Okay. In the UK, the BBC has responsibility for 'building a digital Britain'. Is the ABC able to fill a similar role in Australia, do you think?

Mr Green—I think we are leading the way in terms of digital television, in terms of content.

Senator CONROY—I am not arguing that. Building a digital Britain, and now building a digital Australia—are you able to lead the way with \$2 million?

Mr Green—The fact that we are on 60 locations outside the capital cities provides an infrastructure that enables us to be a very firm leader in this area.

Senator CONROY—The note from my staffer in here said, 'It is hard to see how they could possibly credibly say yes,' but I guess you have proved him wrong. Now, the BBC is focused on delivering content on demand. It has announced plans to introduce downloadable software allowing people to view BBC programs a week after they have been broadcast. We have been discussing that. Is the ABC looking at this sort of initiative?

Mr Green—Not specifically that, but we are certainly looking at the whole downloading environment and the way in which we can progress that.

Senator CONROY—Okay. How much will it cost to implement that sort of technology?

Mr Green—I have no idea. We will have to get back to you.

Senator CONROY—Thanks. Do we have the broadband infrastructure to support that technology?

Mr Green—Does the ABC have the broadband?

Senator CONROY—No, does Australia?

Mr Green—Well, I think there is room for improvement, but in terms of what we are currently delivering via broadband—

Senator CONROY—No, I have no criticism of what you are currently actually delivering; it is a question of whether there are any pipes out there that can take it. I will move on.

Mr Green—In some areas of regional Australia, there is a bit of a struggle, but that is being addressed, I think.

Senator CONROY—The BBC is also looking at short programs for mobile devices to try to get a greater share of the youth market. Has the ABC done any work in this area?

Mr Green—The director of radio would be in a good position to flag how we are reinventing ourselves.

Ms Howard—As you may have read, we are certainly looking at Triple J becoming JTV, and some of that short programming I think will end up on mobile phones.

Senator CONROY—Have you made your submission to the minister yet about the digital action plan? Given that it was such a strong one last time, do you just peel the date off the budget one and stick a new submission to digital action plan and hand it in?

Mr Green—No, it is not appropriate to do that until the terms of the minister's direction are made public.

Senator CONROY—Do you have the whiteout ready?

Mr Green—Pardon me?

Senator CONROY—Do you have the whiteout ready to amend the budget submission?

Mr Green—I do not have such enthusiasm for whiteout, Senator!

Senator CONROY—Will your proposals for the digital action plan go further than your triennial funding submission?

Mr Green—As I said, when we see the terms of the digital strategy that the government announces, then we will respond accordingly.

Senator CONROY—You have not seen the plan yet?

Senator Coonan—It would be pretty hard; it does not yet exist.

Senator CONROY—Oh well, they may be well informed. Yesterday the ABC announced the appointment of Mr Scott as its new managing director.

Mr Green—That is right, Mark Scott.

Senator CONROY—Can the ABC confirm whether Mr Scott was short-listed by the search firm that the ABC engaged for the process?

Mr Green—I am not in a position to answer that. The ABC board is responsible for the appointment of the managing director.

Senator CONROY—Did you not attend the board meeting?

Mr Green—I am currently a director of the board, but it is certainly not appropriate for me to be part of a selection process in relation to the managing director.

Senator CONROY—I am entitled to ask about it. I am not trying to sound silly, but I asked every other agency about their selection processes and they are quite happy to detail them.

Mr Green—Sorry, what is your question?

Senator CONROY—I just want to know whether or not Mr Scott—and I believe the answer is yes—was on the short list?

Mr Green—I assume he was, because he was appointed.

Senator CONROY—No, you should not assume that at all! Look, I can unfortunately point to a number of instances where people did not even apply for the job but got the job, so I am just trying to make sure that that process did not happen in this case. I am entitled to ask, and I am entitled to an answer.

Mr Green—You are entitled to ask; I am not in a position to give you an answer.

Senator CONROY—You do not know, or you just do not want to—

Mr Green—No, I do not know, I honestly do not know. I have not been involved in the selection process.

Senator CONROY—You are the acting managing director, aren't you?

Mr Green—Yes, but the acting managing director does not appoint the substantive managing director.

Senator CONROY—Did you attend the board meeting?

Mr Green—No, not in relation to the appointment of the managing director.

Senator CONROY—You left; you excused yourself?

Mr Green—The board met; the directors of the board met apart from the acting managing director to make the appointment—as is appropriate, I might quickly say.

Senator CONROY—I am not casting judgment on your being there or not; I am just surprised that you were not. I did not realise that that was the process. I am comfortable that that was the process. Can you take on notice of us and give us an answer as to whether Mr Scott was short-listed by the search firm that you engaged, Egon Zehnder, I think it was?

Mr Green—That is right.

Senator CONROY—Could you take that on notice?

Mr Green—Will do.

Senator CONROY—Rumour has it that it was the case, but I would like to have it confirmed. Can the ABC confirm reports that the board asked Egon Zehnder to prepare a revised short list of candidates after its initial presentation? I am happy for you to take that on notice.

Mr Green—I am not in a position to answer that.

Senator CONROY—I am happy for you to take it on notice.

Mr Green—Thank you.

Senator CONROY—Was Mr Scott on the initial list or only the revised list? Again, could you take that on notice? Did the ABC inform the minister that it was considering appointing Mr Scott?

Mr Green—Sorry?

Senator CONROY—Did the ABC inform the minister that it was considering appointing Mr Scott?

Mr Green—I am not in a position to answer that.

Senator CONROY—If you could take that on notice. It is just that during the last estimates, Senator Coonan stated, 'I would expect I would at least be involved in knowing the final deliberations of the board.' When I asked whether you wanted to be in the loop, you replied, 'I expect that I will be.' That is just what the minister said last time, so I just want clarification or confirmation.

Did the minister or her office provide any feedback on the suggestion if she received it? I understand that Mr Howard said yes and it was okay, so it did not matter.

Senator Coonan—What do you mean by ‘feedback’?

Senator CONROY—I am not allowed to ask about advice from any agency or the department to the minister; I am entitled to ask about advice and directions and commentary back, so I can actually ask—

Senator Coonan—I am just wondering what ‘feedback’ is—static or what?

Senator CONROY—I guess we can get a dictionary for ‘feedback’, but did the minister or her office make their views known about the choice—how about that, are you happy with that? I am entitled to know if it came downwards, not to go upwards, if you follow. Thanks on that issue.

Mr Green—I might say that we look forward very much to Mark Scott’s arriving on 7 July.

Senator CONROY—So am I.

Mr Green—He will be leading this team, I imagine, when we meet again in November.

Senator CONROY—I have absolutely no doubt that he will be, and it will be fascinating to watch how the Liberals attack one of their own. It will be really fascinating; we can all have a look.

Senator FIERRAVANTI-WELLS—There might be changes, Senator Conroy.

Senator CONROY—Oh, good grief! I do not think he will have time to have quite swept out the communist hordes by November; give him a year!

ACTING CHAIR—Senators, can we keep this moving, please? You have a lengthy examination; the shadow minister has further questions.

Senator CONROY—Okay, I do not have too much more to go, but I appreciate your admonishment of Senator Fierravanti-Wells for interjecting. I would like to ask some questions about ABC NewsRadio. What is the coverage of NewsRadio at the moment?

Ms Howard—The coverage of NewsRadio?

Senator CONROY—Can it be heard all over the country?

Ms Howard—That is a question I am afraid you will have to address to Mr Knowles, who is in the background. He is the expert on all matters technical.

Mr Knowles—The NewsRadio coverage is currently in the capital cities and Canberra, Wollongong and Newcastle. It is also available on satellite across Australia. There is a program of which you are aware that the government announced for extensions of service, and we are still waiting for funding approval to proceed with that.

Ms Howard—I should also add that the NewsRadio stream over the internet is quite healthy. It is very healthy; in fact, I think it is the most listened to of the radio streams.

Senator CONROY—I am just worried about having to pay for it, that is all. I use it quite regularly, I assure you. I understand the coverage is 78 per cent of the population, is that right?

Mr Knowles—That is probably right, Senator.

Senator CONROY—So, one in five Australians cannot hear it?

Mr Knowles—As I said, you can only receive it in the capital cities and the other places I mentioned, so a lot of rural Australia does not receive it directly but can receive it via satellite.

Senator CONROY—During the last election, the government promised to extend ABC NewsRadio to all transmission areas around Australia with populations above 10,000. Can the ABC advise what progress has been made on this policy and how many additional services have commenced?

Mr Knowles—At this point we are still waiting for final government endorsement of the funding package for a range of services.

Senator CONROY—So the answer is none?

Mr Knowles—Yes.

Senator CONROY—How many areas should get access to the services if the policy was implemented?

Mr Knowles—About 70 stations are on the list.

Senator CONROY—The coalition election policy says about 62, but 70 is what—

Mr Knowles—There are some constraints in terms of what places have frequencies available and so forth and so on, so those are still under deliberation.

Ms Williams—There is involvement by ACMA in terms of the spectrum available.

Senator CONROY—It is now nearly two years since the promise has been made; have the funds been allocated?

Mr Knowles—That is a matter for the department to answer.

Senator CONROY—Have the funds actually been allocated for this?

Ms Williams—We are talking with Finance about the release of funds for the first stage of the roll-out but it is still subject to spectrum considerations.

Senator CONROY—I appreciate the spectrum issue, but if the funds are allocated you would know it is going to happen as opposed to nearly two years in and not knowing if it is actually going to happen. You mentioned that there are problems with the availability of spectrum in some areas but the government's election policy in 2004 said that spectrum was already available in 15 areas.

Mr Knowles—That would be correct.

Senator CONROY—We have spectrum in at least 15 areas. People in Batemans Bay, Goulburn, Wollongong, Griffith, Cootamundra, Wagga Wagga, Cairns, and I could keep going, are still waiting even though spectrum is available nearly two years down the track.

Mr Knowles—We are working with the department on the funding issue before we can place contracts.

Senator CONROY—Minister, are the government going to keep this promise?

Senator Coonan—Absolutely. We are waiting for the funding arrangements in relation to Finance. My information is that ACMA has indicated there is planned capacity for 46 NewsRadio extensions and enhancements. Some of the frequencies are subject to significant restrictions that are being worked through prior to the closure of analog. There is capacity to proceed at Dubbo and Wagga local radio. It is yet to be determined whether Geelong enhancements can proceed because of some frequency issues. In respect of the other matters, we are absolutely ready to go. It is a matter of getting the funding approved and we are away.

Senator FIERRAVANTI-WELLS—Mr Green, I would like to start by asking you some questions about whether the ABC has editorial rules that prevent broadcasters or whole ABC stations from taking sides during elections.

Mr Green—Most certainly.

Senator FIERRAVANTI-WELLS—Would a radio announcer be free to endorse one candidate over another?

Mr Green—Certainly not.

Senator FIERRAVANTI-WELLS—Would an entire station be able to endorse one candidate over another?

Mr Green—Certainly not.

Senator FIERRAVANTI-WELLS—Why not?

Mr Green—Because the ABC's editorial policies in terms of the charter of editorial practice require all news and current affairs coverage to be three things: accurate, impartial and objective. That is spelt out in section 5 of the editorial policies.

Senator FIERRAVANTI-WELLS—Would those rules extend to overseas elections as well?

Mr Green—In terms of our coverage, yes.

Senator FIERRAVANTI-WELLS—I have a CD of Mr Red Symons, on 4 October 2004, just before 7 am, which I cannot play due to standing orders. I will provide you with a copy of it, but in the meantime I will read the transcript:

A good quote in the paper today from Senator John Kerry. 774 ABC Melbourne is of course supporting Senator John Kerry in his endeavour to become President of the United States. We can't take sides in Australia but I've had it from management we can take sides elsewhere in the world. We want Kerry to win.

Ms Howard, did the staff at 774 Melbourne hold a referendum to reach this position? What authority does Mr Symons have to speak for the whole radio station?

Ms Howard—Absolutely none. I think we can assume he was joking.

Senator FIERRAVANTI-WELLS—When you listen to the tape you will hear that it is indeed not a joke. Is it the first that you have heard of this?

Ms Howard—Yes, and I think you will find that Red Symons was joking.

Senator FIERRAVANTI-WELLS—If you have not heard it, how can you say he was joking?

Ms Howard—I will listen to it.

Senator CONROY—He is joking in almost everything he says. It is called satire, humour—something you may not be familiar with.

Senator FIERRAVANTI-WELLS—I will provide the CD to you. Please listen to it. The thing that really troubles me is the words ‘of course’. When Mr Symons says that the ABC ‘of course’ is supporting Senator Kerry, that does not surprise me. Of course the ABC would support somebody who is a left-wing candidate. That is the concern that I have.

Ms Howard—I do not know whether you are familiar with Red Symons at all but he is a comedian. He and I had a conversation about irony just the other day and his employment of irony on his breakfast program. I would be very happy to listen to the CD.

Senator CONROY—Could you have that conversation with Senator Fierravanti-Wells?

Senator FIERRAVANTI-WELLS—Perhaps you might tell him what Mr Green has to say. Obviously, he had no approval to say what he did and to speak for the whole radio station.

Ms Howard—If it was in fact comedy then this is irrelevant.

Senator FIERRAVANTI-WELLS—I hardly think 7 am is comedy.

Senator CONROY—It is political correctness, Liberal style, Ms Howard.

Senator FIERRAVANTI-WELLS—Senator Conroy, I have listened to you all day.

Senator CONROY—And interjected all day.

Senator FIERRAVANTI-WELLS—I think that you could at least do me the courtesy of listening. I want to get through this before 11 pm and, if you do not interrupt me, I will.

ACTING CHAIR—Senator Fierravanti-Wells is being very patient, so let us give her a clear run.

Ms Howard—I would be delighted to listen to the CD. I cannot answer your questions until I hear the context. I think that is the fairest thing to say.

Senator FIERRAVANTI-WELLS—It is unfortunate that I cannot play it this evening, because you would hear the context. He was very serious in his approach. The thing that concerns me is: who will you next support? Will you be running a campaign for Hillary Clinton on the ABC?

Ms Howard—As I said, I think Mr Symons’s ironic style perhaps on this occasion—

Senator FIERRAVANTI-WELLS—Perhaps you might look at the whole issue of supporting candidates on the ABC. Please undertake to look at support for candidates and, if appropriate—and I think it would be, because I am sure that, knowing the history of the ABC’s rather left-wing views, this is probably not the only incident—you might like to consider issuing a memo so that it might be clear for all, including Mr Symons, for the next time.

Ms Howard—I am not in the habit of issuing memos but I look forward to listening to the CD.

Senator FIERRAVANTI-WELLS—Perhaps you might recommend that a memo be put out for this sort of thing. Mr Cameron, your reporter Toni Hassan made a statement recently during the coverage of the arrival of the body of Private Jake Kovco. She said:

A short time ago we heard a lone bagpiper play a classic Christian hymn, Amazing Grace, with the unmistakable words, “I once was lost but now am found”.

I formally complained to you about this and I note your answer in your recent correspondence. Your reply does not explain why ‘unmistakable words’ would be heard when the lone piper was playing. For the record, I reject the claim in your letter that this coverage was ‘observant and appropriate, poignant and relevant’. To my ear and to other people who may have heard this item, I think it was a case of your reporter treating the thing as a joke. I find your reply paltry and unacceptable and I will be referring this matter further. I thought your reply was absolutely appalling.

I want to now move over to another reporting of the Kovco funeral. I note that the ABC has upheld another complaint of mine that you falsely stated that the Prime Minister had entered the hall where the funeral for Mr Kovco was held through the back door to avoid confrontation with the family. In a letter to me, Mr Dawson acknowledged the error by the reporter. Your editorial policies require mistakes to be corrected in a timely fashion. Can you explain to me where and when this mistake was corrected?

Mr Dawson—As I think the letter explains, the reporter checked the claim, found it was not true and did not include it in the report he filed later that evening on the 7 pm news.

Senator FIERRAVANTI-WELLS—Yes, I did read that. Non-repetition is not a correction.

Mr Dawson—That is true.

Senator FIERRAVANTI-WELLS—Were you happy to leave the impression for those who had only seen the midday version that the Prime Minister had sneaked in through the back door?

Mr Dawson—I do not think anybody would be happy about that.

Senator FIERRAVANTI-WELLS—We have heard all night about your policy and the rules about correction. It is very clear: if you make an error you have to correct it. Nowhere can I see that you made that correction. In my view you deliberately wanted to leave the impression that the Prime Minister had ‘sneaked through the back door’. I think they were the words that were used.

Mr Dawson—I am not aware of any correction. I am happy to check whether there was a correction but I am not aware of any.

Senator FIERRAVANTI-WELLS—I would like you to check. Your correspondence did not refer to any correction. I would assume that, if you had followed your procedures and put in a correction, you would have told me about it.

Mr Dawson—I am happy to check that. I am not aware of any correction.

Senator FIERRAVANTI-WELLS—Mr Cameron, I refer to a report by Washington correspondent Kim Landers on *Correspondents Report*, on 5 February 2006, when she

adopted the language of the Australian Labor Party in referring to ‘the so-called wheat for weapons scandal’. The language is a pure invention of Mr Rudd. It is the Cole inquiry into the oil for food program; it is not the ‘so-called wheat for weapons scandal’. I note that you have upheld another of my complaints and agreed that the term is a construct of the ALP. Why did it take a complaint from me to address this issue and why did you not pick it up yourself?

Mr Cameron—I never heard it, personally. I do not know whether it took your complaint to pick it up or not, but I certainly agree that even with the qualification ‘so-called’ it is not a term that does our journalism proud, and that has been pointed out to the person involved.

Senator FIERRAVANTI-WELLS—I hope that your staff take heed of this and do not repeat the transgression. That was certainly in the gist of the correspondence. The object of my complaint was that you are adopting the ALP’s language. You have done it in this instance. What sort of action will you take so that it does not happen in other instances?

Mr Cameron—I think action was taken, even before your complaint, by an editorial manager below me to ensure that this was not picked up and run as a matter of course. Obviously, in this one case, even with the qualification ‘so-called’, it got through the process. I acknowledge that.

Senator FIERRAVANTI-WELLS—Have there been any other instances where it has got through? That is the only one that I am aware of. After you received my complaint, did you undertake to see that it was not used?

Mr Cameron—I am not certain about this, but I think that a note of ‘take great care’ went out even before this was picked up.

Senator FIERRAVANTI-WELLS—Do I have your assurances that it will not happen again?

Mr Cameron—I think that note has been sent to you.

Senator FIERRAVANTI-WELLS—Thank you. Good. Mr Green, I would like to go through some previous admissions of left-wing bias by the ABC. The ABC in the past has been forced to admit that it has used news bulletins to promote the time, place and 1800 number of trade union protests against IR changes. You have had to admit that you reported comments about the IR changes by Senator John Faulkner from the ALP as fact rather than opinion. You have admitted that it was wrong of the Adelaide broadcaster Grant Cameron to present an unbalanced discussion of the new IR laws and that he and his producer had to be spoken to by management. This has all come about through the estimates process. Whilst I appreciate that at times this has been described as pedantic, at least in some instances you are admitting your errors.

I would like to go to one of your Triple J programs and how it is promoting trade union protests. You have allowed the Triple J breakfast show guest book to be used to promote a union rally against IR changes. A union official in Brisbane posted the advertisement on the website on 8 March 2006. Is the following an accurate quote from your ABC editorial policies:

8.2.2 All interactive features—

such as guest books—

should be moderated by appropriately trained production staff ...

Is this site monitored? Who is the monitor? Who is the moderator of this guest book and has he been spoken to?

Mr Green—Ms Howard might have some comments about that.

Ms Howard—Yes, the sites are moderated. I am not aware of who would have moderated that. Clearly, if that entry did make it onto the guest book it should have been picked up very quickly and removed.

Senator FIERRAVANTI-WELLS—It was only removed after I complained. I have made a series of such complaints that have led to things being removed, but it is only because I have complained. Why does your own management not pick up these instances of left-wing bias? We have gone through estimates on issues such as the promotion of union rallies and union activities. Why do I have to keep coming to estimates, repeating and repeating and then the same things appear on your websites?

Ms Howard—On the Triple J guest book, are you saying?

Senator FIERRAVANTI-WELLS—This was an instance on Triple J.

Ms Howard—I am very happy to find out who actually made that error and who was the moderator. It is an activity slightly outside of my area but I am very happy to inquire.

Senator FIERRAVANTI-WELLS—This is an instance that I picked up. This was something that was brought to my attention, but I am sure that there are equally offensive items that fall into this category. Can I ask you to go through that guest book and have a look at the items that are there—and in particular the ones that refer to IR activities and promote IR activities—and make sure that they are removed?

Ms Howard—I will certainly ask my head of national networks to do that.

Senator FIERRAVANTI-WELLS—Given the nature of the complaints and the frequency of these complaints, perhaps somebody might take a little bit more care about what goes onto the Triple J guest book and who moderates this. Is Mr McDougall the moderator?

Ms Howard—I have no idea who moderates the Triple J guest book. My understanding is that it is a new media site.

Senator FIERRAVANTI-WELLS—Perhaps you could find out and give me details on whether whoever moderates it changes every so often or whether it is the same person. Mr Cameron, I now want to move on to an issue that was canvassed previously by my colleague in relation to the rule book or the guidelines. Senator Ronaldson has taken you through these three memos. The memo that I have from March 2003 says:

This memo is, as usual, directed to all newscaf staff across all programs in all states and territories and elsewhere. The rules are not optional, they are mandatory.

The second memo states:

The guidelines must be treated as directives not suggestions. From now on continued transgressions or mistakes will lead to counselling and formal documentation. This in turn can have a major impact on career progression and eventually ongoing employment status.

The third one refers to matters in your style guide as ‘our editorial rules’. Mr Cameron, I think you have admitted that they are mandatory. If you look at a thesaurus you will see that, as

anybody who has been involved in the practice of legal matters will know—as I have been for over 20 years—‘mandatory’ means obligatory and compulsory. It is not optional. It does not mean: ‘I will think about it and maybe in a particular circumstance it might mean this or might mean that.’ It is mandatory, obligatory and compulsory.

There have been repeated issues. Since last May, since the estimates periods of last year and into this year, you have had a thousand breaches of what were mandatory rules. You have described them as mandatory rules. But when they concern our troops in Iraq they suddenly become guidelines. This is the concern that both Senator Ronaldson and I have. When it suits you they become guidelines; when it does not suit you they are rules. This is where the real problem is, because they are mandatory. It is clear from your documentation that you refer to them as mandatory, that they are obligatory and that they should be followed, but you are not following them. That is really the issue that both Senator Ronaldson and I have.

Three years ago we started talking about this issue of mandatory rules. Senators Santoro, Ronaldson and I have produced to you about a thousand breaches. It is only through this process that now, suddenly, you are changing your story and the attitude is becoming, ‘Oh, they are just guidelines.’ They are not; they are mandatory. We will continue to go on about this so that we ensure that you treat them as mandatory, obligatory and compulsory.

Mr Cameron—Is that a question?

Senator FIERRAVANTI-WELLS—It is part question. You conceded that they were mandatory. I am just making the additional point and reinforcing what Senator Ronaldson was saying earlier. Therefore, I do not accept, in the context of what we have said this evening—and with respect, Mr Dawson—your reply to me where you say that they are meant to guide staff in preparing material for broadcast and that you have to be familiar with the contents. With the greatest of respect, that is absolutely ridiculous. They are rules. They are mandatory, obligatory and compulsory; they have to be followed.

Mr Cameron—Every media organisation has a style guide of sorts; this is ours. It is mandatory that people are aware of it, that they follow it to the letter where they can. There are qualifications through it, as I explained earlier. I certainly take issue with the fact that when it suits me they are not mandatory, that I change the rules. That is not the case.

Senator FIERRAVANTI-WELLS—If I have to go through every inconsistent answer that your organisation has given to me, to Senator Ronaldson and to Senator Santoro, I will happily do it. It seems to me that from one process to the other you give one answer and then somebody gives us a different one. We get a different one depending on what the circumstances are. That is the objection that we have. Mandatory is mandatory; it is not mandatory when it suits you in a particular circumstance. That is the point that we really want you to hoist in.

Mr Green—You have outlined some very strong concerns in terms of our coverage. We have attempted to respond in good faith to those concerns. In the end, we may not come to a satisfactory agreement between your view of our performance and our response to your concerns. I would suggest that the way to progress this further is that if you are unhappy with a response from us, take it to the regulator, ACMA, and ask them to make an independent judgment on it.

Senator FIERRAVANTI-WELLS—I can assure you, Mr Green, that I am banking them up one after another. When I do pursue the matter it will be quite a large document. You can see behind me the volume of material that I have collected during this exercise. I have collected it because we have a situation where in one instance you give us one response and then we come back six months later and it is a different version and then a different colour. It seems to change from shades of grey each different time. That is the objection; that is why we keep going on.

Mr Green—I am suggesting that we need, with respect, to find a way forward. You are clearly unhappy with some of the responses.

Senator FIERRAVANTI-WELLS—The way forward is if you tell your people not to use ‘our’, they should not use it. If you tell your people they are not to do a particular thing and they keep doing it, who is running the show? What sort of management do you have at this place when you cannot get basic cadet journalism 101 right? If you say you are not allowed to use the word ‘our’ and then I produce a hundred times since the last estimates that you have used it, what are you doing? Are you not telling your people not to do that? I have used ‘our’; there are a whole series of them. We have been going through this for three years; we tell you that you should not be doing this but you keep doing it. We keep giving you instances but you keep doing it. You come here and tell us that you are giving direction to your people, well they keep doing it. Are they thumbing their nose at you? Are they not familiar with it?

Mr Green—There is a difference which, with respect, I do not think you are acknowledging between what is a guideline and what with your legal background you were outlining to us earlier. There are practice notes and guidelines established for how particular circumstances might be responded to. There are policies that have a binding effect on the way in which those policies are implemented. In the ABC we have the editorial policies that are absolutely mandatory. They are a product of the board, they are an expectation in terms of all editorial staff.

Senator FIERRAVANTI-WELLS—If they tell you not to do something and you keep doing it, you are breaching the rules.

Mr Green—Yes, but I am suggesting that you are, with respect, misapplying the documents you have in front of you. The editorial policies say nothing about ‘our’ or the use of the words to which you have been referring in the last 10 minutes. They talk about accuracy and fairness. We have acknowledged where we have had complaints and where those standards have not been met, corrections have been made and staff have been counselled. In terms of the range of your concerns, after we have responded to you as we have in several cases and in several letters over the past few weeks, if you still remain fundamentally unhappy with the performance and response of the ABC, the way forward is to go to the regulator to which we are responsible.

Senator FIERRAVANTI-WELLS—I will just stop you there, Mr Green. A memo dated 12 March 2003 says ‘our editorial rules’. It specifically refers to ‘our’, it tells me it is our editorial rules. A rule is a rule is a rule. You used the word ‘our’ and that breaches your rules. To me it is quite simple.

Mr Green—With respect, Senator, one has to make a distinction between the application of a parking fine and being had up for murder.

Senator FIERRAVANTI-WELLS—I am not going to labour the point because you do not agree because it is convenient for you not to agree. Senator Ronaldson, Senator Santoro and myself have given you documentation which you do not accept. We will keep pursuing it and going on in this manner.

I want to take you to more ABC bias over trade union protests. Can I ask you about a news report on Tuesday, 22 February 2006 by Cheryl Hall about the dispute at the Dana Car Parts: ‘Dana is the first company to use the new IR laws to cut wages.’ The laws had not come into effect at that point and the company was still in negotiations with its workers, so the wages had not actually been cut. The laws came into effect on 27 March. Therefore you would agree that the statement is patently inaccurate. Everybody knew about the IR legislation but you have gone to air and have not even bothered to check your facts. By all means take it on notice.

Mr Cameron—I will have to because I did not personally check those facts.

Senator FIERRAVANTI-WELLS—I will give you a copy of it so that you do not even have to go and find it. Staying with industrial relations, I take you to your guide regarding demonstrations:

If there is any possible contention about crowd sizes, especially at protests or political rallies, seek estimates from the police or the organisers and credit them, and don’t say at least one thousand turned up or more than one thousand or only one thousand. It may sound like we were impressed or otherwise with the numbers. Best to say about one thousand and let others do the boasting or sneering if necessary. Do you agree?

Mr Cameron—Yes, that is my memo.

Senator FIERRAVANTI-WELLS—There are two reports on Melbourne radio on 22 February about protests over the government’s Work Choices legislation held at the same Melbourne car parts manufacturer. The first is 3AW, ‘About 150 workers have rallied outside the premises.’ The second is the ABC, ‘More than 300 workers rallied outside the headquarters.’ In your answer to my complaint that the reporter had breached your style guide by saying ‘more than’ rather than ‘about’—that is your rules. What I have just read to you specifically says that you are not to use ‘more than’. Call it what you will, whether it is a rule or a guideline or whatever, your people are still not following even the most simple basic things.

Mr Cameron—There are degrees but that does not sound like the best one. There is no harm in saying there are more than 10,000 people at a football match.

Senator FIERRAVANTI-WELLS—Your rivals understand the way they should be doing business. There are numerous answers provided by the ABC where you defend the use of ‘more than’ by saying that it was acceptable because the reporter believed that there were more than the quoted number, but that totally contradicts your rule book that specifically warns against this practice. Do I have to go through the process of quoting the justification to you? You keep doing it and doing it, particularly in relation to industrial relations issues because you want to impress everybody with the numbers that were actually there.

Mr Cameron—I do not personally want to impress anyone about the numbers who want to be there.

Senator FIERRAVANTI-WELLS—Take Eleanor Hall on *World Today* on March 29 this year: ‘In Melbourne more than a thousand union delegates and shop stewards have taken to the streets today.’ More than 1,000 is the very thing that your reporters are not to use. On ABC online reports of the May Day rally in Sydney it says ‘over 2,000 people have attended’. Given the reports that the crowd sizes were down on the 5,000 previously, here you are exaggerating the situation by making the crowd seem larger. You are telling your reporters not to use it and there they are daily going out there using it.

Mr Cameron—I do not know about daily. If you want some context to what seem to be your general concerns I can offer that we put to air something like 3,000 radio news bulletins a week, 15 hours of radio current affairs a week and 42 unique first run hours of television news and current affairs a week.

Senator FIERRAVANTI-WELLS—So that excuses—

Mr Cameron—No, it does not excuse anything, but in those tens of thousands of stories there will be the odd occasion where we do not get everything perfectly right.

Senator FIERRAVANTI-WELLS—This is something that we have been going on not today, not yesterday but for about three years. I would have thought that you would have taken a hint and done something about it. Are you going to do something about it?

Mr Cameron—You are asking me, Senator, so I am telling you that probably out of those tens of thousands of stories a week literally, probably 99.9 per cent of them conform largely with the style guide to which you are referring. We are not going to get 100 per cent strike rate. I am not happy about the examples that you quoted to me but we are working every day in management to try to drum it out—

Senator FIERRAVANTI-WELLS—The thing that troubles me about the ones that I am quoting is that they are about unions and union protests. These are the very things that I have raised in estimates, and you keep doing it.

We were here six months ago talking about this and it is still going on. Do I have your undertaking, Mr Cameron, that you are going to do something about this and tell your reporters, particularly in relation to industrial relations protests, that they should not be undertaking this sort of activity?

Mr Cameron—The very memo you quoted says that I am doing that, Senator, and we are constantly trying to make sure our standards are as perfect as they possibly can be.

Senator FIERRAVANTI-WELLS—You are obviously not trying hard enough, Mr Cameron.

Mr Cameron—I think you are selectively quoting—

Senator FIERRAVANTI-WELLS—I would encourage you to try a little bit harder on this issue.

Mr Cameron—I will let you talk, Senator, because I did have something to say.

CHAIR—At this point, Senator, as it is 10 o'clock I just wondered how we might go with the rest of your questions. Do you have questions for SBS?

Senator FIERRAVANTI-WELLS—I appreciate that, Chair. I have patiently listened to everybody else asking questions. I did allow everybody to go before me and I do have questions that I need to ask.

CHAIR—It may be that you might run through until about 11 with the ABC.

Senator FIERRAVANTI-WELLS—Yes I will finish by 11.

CHAIR—As we are scheduled by resolution to finish at 11 it might be a good idea for you to put your questions for SBS on notice.

Senator FIERRAVANTI-WELLS—I do not think so, Chair. I do have some questions I would like to ask SBS. I understand that we ran over this morning. Is there any reason why we cannot go over until tomorrow morning?

CHAIR—Unfortunately we cannot. The minister is not available tomorrow morning and we have another program tomorrow. We will see how you go.

Senator FIERRAVANTI-WELLS—Regarding the issue of the ABC being on first name terms with the ALP, while I appreciate the ALP needs all the help it can get, I do not believe that it should be at taxpayers' expense. Rebecca Carmody on *Stateline* Western Australia interviewed a Liberal and a Labor candidate and referred to the ALP person by his first name 'Ben', clearly in sympathy I would have thought. We have previously been through the ABC's use of people's first names creating the impression that the ABC sympathises with that person or that issue. On the *Midday Report* of 1 May the ABC reporter twice used the first name basis with trade union leader Mr Shorten, creating the impression that the ABC sympathises with Mr Shorten. This issue has been raised in the past and I am bringing it to your attention so that perhaps you might look into it yet again.

On the issue of double standards on leading with opposition reaction to the budget. Mr Cameron, in 2003 you wrote this memo, 'We leave ourselves open to reasonable criticism when we place opposition comment ahead of government reaction on occasions. Let's keep our news values in perspective.' On the morning after the federal budget this month the presenter of Radio National 7 am news in Canberra led with the following ALP reaction to the budget: 'The federal opposition says it will support the government's tax cuts unveiled in the budget last night.' You would agree that for many people who had not watched the budget that the 7 am news was the first impression they would have about the budget. Two days later the 7 am news in Canberra had the following: 'The federal opposition says a Beazley government would do more for childcare and training than the government. Kim Beazley has delivered his formal reply, as Louise Willis reports.' Why was opposition reaction to the budget deemed more important than the content while reaction to Mr Beazley's speech was relegated when the reaction was the story? This is another example of your pro-Labor bias. Mr Cameron I will provide it to you and you can no doubt provide me with your comment in relation to it.

Regarding double standards on length of answers; when the Prime Minister went on the *7.30 Report* and was interviewed by Mr O'Brien—and again I will provide you with a copy of this—the Prime Minister gave a 15-line answer to a question. Mr O'Brien stated: 'Let's hope for some shorter ones now' and he goes on, 'it's chewing up the interview time'. The PM was

responding to a very complex issue—might I say typically rude and gratuitous of Mr O'Brien. A few weeks earlier when Mr O'Brien interviewed the Labor Party president Warren Mundine, a 22 line answer was unremarked by Mr O'Brien. One standard for the Labor Party and another one for the Prime Minister. Could you investigate the issue, Mr Cameron, and provide your comment to me. It is really demonstrating double standards, particularly in the *7.30 Report* and its treatment of one side of politics as opposed to the other.

Mr Cameron—For the record obviously I cannot agree with you but I will certainly look at the—

Senator FIERRAVANTI-WELLS—I will happily provide you with a copy of it and I hope you will speak to Mr O'Brien again. Regarding the Prime Minister's visit to Washington, last Wednesday, 17 May, your reporter Craig McMurtrie was in Washington and was speaking to Fran Kelly on Radio National *Breakfast*. They were discussing the Prime Minister's visit with President Bush and media speculation about the Prime Minister's future. Craig McMurtrie then volunteers his insight into his attitude towards his job. When asked by Ms Kelly about reporters' questioning concerning the Prime Minister's future he stated: 'We were obviously trying to cause a bit of trouble by asking the question.' Is it the role of your political correspondents to 'cause trouble' rather than purely report the facts?

Mr Cameron—I did not hear the particular interview, but I suspect there was a level of irony, humour and satire or whatever attached to that; it is a live Q and A and I would expect—

Senator FIERRAVANTI-WELLS—Have a look at it and come back to me with an answer. At the last estimates and again in questions we raised your position regarding the counter-terror laws which you describe as 'draconian'. The ABC continues to present an opinion that the counter-terrorism laws are 'draconian' as a matter of fact. Mr O'Brien on *7.30 Report* 3 November stated: 'The government finally tabled its draconian new counter-terrorism measures in the parliament today.' When did the ABC decide that it would agree, again taking sides in this instance with civil liberty lobbies and others whose opinion it is that these laws are allegedly draconian?

Mr Cameron—I am not sure if we have dealt with that but you are obviously tabling it now.

Senator FIERRAVANTI-WELLS—I will provide it to you. It is very clear from an answer you provided me that the ABC's view is that these laws are draconian. You appear to be using every opportunity to emphasise what is your opinion; you are not reporting facts. You are actually reporting this as your opinion because Mr O'Brien says that they are draconian; that is his opinion. I understood he was there to report, not to give us his opinion of what these laws are. Have a look at it. No doubt, you will come back to me with some nondescript answer.

We have canvassed the issue of the use of the word 'our' in previous questions in estimates. I have canvassed those issues before and you say they are basic tenets of journalism. If I did a search today, I am sure I would find 'our' being used throughout the ABC. At the last estimates you stated that all staff are regularly reminded of the preferred usage. I will give you today another 140 breaches of this rule which I am sure you will trawl through and come back

to me. The *7.30 Report* is one of the major offenders of this. Have you raised this with the various reporters on the *7.30 Report*?

Mr Cameron—Regarding the word ‘our’?

Senator FIERRAVANTI-WELLS—Yes.

Mr Cameron—Yes, it is talked about.

Senator FIERRAVANTI-WELLS—What do you mean ‘it is talked about’?

Mr Cameron—If ever I hear transgressions which are of an upsetting nature as opposed to ones which are allowable because they are not offensive to anyone, I will certainly talk to the reporter involved.

Senator FIERRAVANTI-WELLS—But your memos say that you are not supposed to use ‘our’. You are not supposed to use the word ‘our’—‘our troops’, ‘our ABC’, ‘our government’.

Mr Cameron—I never said ‘our ABC’, but all the others, yes. Most—almost all—of the examples in one of the searches that was presented to us were not ABC staff.

Senator FIERRAVANTI-WELLS—I will come to that in a moment. In the past you have tried to blame this on the casualisation of your work force but the offenders seem to be people like Sally Sara, Eleanor Hall, Hamish Robertson, Tim Jeanes, Michael Brissenden, Kerry O’Brien, Mark Colvin, Chris Masters and Jonathan Harley. They are not your casual staff, are they? It gets back to the previous point—you have these rules; your journalists seem to just thumb their nose at it. You can talk to them but they keep offending.

Mr Cameron—We have guidelines and it depends on each individual case. If they are proper transgressions—

Senator FIERRAVANTI-WELLS—They are rules that become guidelines when it suits you. Before we leave this question I want to ask you another question about your answer in 123, and I will provide it to you. I do not know whether you have had a look at the answers that you provided on notice. I gave you 20 examples of the ‘our’ rule and you answered to me: ‘A number of the examples involved interviewees or third parties quoted using the word rather than ABC staff.’ I have them all here and I will give them to you again because you will find, and I will underline where the transgressions are, they were not interviewees; they were your staff, Mr Cameron. We have this time wasting where we go backwards and forwards. I give you documents and then you come back and say no. I will happily table them; I will give them back to you but you are really wasting—well, it is almost like you take this with contempt, Mr Cameron. They are your staff. Why not admit that they were your staff? Why do we go through this process?

Mr Cameron—I will have a look at them.

Senator FIERRAVANTI-WELLS—Mark Tobin on or about 28 April broadcast the following statement: ‘Mr Robb said it’s important that people who become citizens are able to assimilate easily into Australian society.’ This report followed the speech by Mr Robb at the Sydney Institute on 27 April. If Mr Tobin had actually read the speech, and I will give you a copy, he would have seen Mr Robb took great pains to make it clear he was talking about integration and not assimilation. I would appreciate if you could look at this speech carefully.

Mr Robb used the word ‘assimilation’ once and that was only to differentiate it from the word ‘integration’. But your reporter Mr Tobin was very cavalier about the use of language and trying to infer a completely different message from the one that Mr Robb wanted to deliver. I want to ask you to seriously consider how this squares away with the legal requirement under your charter to take account of the multicultural nature of Australian society.

I move to Scott Rush and the ethical versus legal issue that arose in relation to an *Australian Story*. Ms Fleming, the executive producer of *Australian Story*, made a false statement to the Radio National program *The Media Report* on 23 February this year. In the *Australian Story* program about drug mule Scott Rush, when the AFP were strongly criticised—I think you might recall that story—the ABC withheld important information about Mr Rush’s criminal past and simply stated: ‘There are still legal constraints that prevent discussion of some issues.’ But when Ms Fleming was defending herself on *The Media Report* she said:

I think the really important thing that’s getting overlooked here is that the introduction to the story up front, right at the start of the story, made it clear, unequivocally, that because of legal and ethical constraints, there were some issues that we would not be able to discuss in the episode. We made that very clear upfront in the introduction.

This is simply not true. In the program she said absolutely nothing about ethics. She lied, and I want you to go back and examine whether there were in fact any legal reasons. I think there were not legal reasons preventing you reporting the facts of the matter; there were moral or ethical reasons, but your program chose to dress those up as legal reasons. I think that is a very serious matter.

Mr Cameron—We will look at it, but there was legal advice to that effect.

Senator FIERRAVANTI-WELLS—You go back and examine the transcript; that is not what was said at the beginning of the program. I will leave you to take that one on notice and I will expect an answer on that one.

I now want to take you to Robert Fisk. Robert Fisk seems to have received star billing on the ABC during his recent book tour. He was, by my count, on no fewer than seven different ABC programs. When he spoke on *Big Ideas* he encouraged the 9-11 conspiracy theory that includes, among other things, the involvement of President Bush in bringing down the twin towers and the Pentagon attack being not a plane but a missile fired by the Pentagon itself. I have the transcript here and will give it to you. I note that his address was introduced by none other than that fellow traveller on the left, your very own Phillip Adams. Mr Fisk suggests White House involvement in the 9-11 attacks, and Phillip Adams endorses his speech by saying: ‘It’s worth the effort to try to understand his point of view.’ Can I say only on the ABC would a 9-11 conspiracy theory be given star billing on a program like *Big Ideas*. Can somebody comment on this? How could this go to air? Ms Howard, do you have any comments in relation to this?

Ms Howard—Are you suggesting that—

Senator FIERRAVANTI-WELLS—This fondness for people who I can only describe as left-wing lunatics. Why are these people given star billing? Did it need seven different appearances on ABC programs?

Ms Howard—There are an awful lot of ABC programs out there. I would not have called *Big Ideas* ‘star billing’ and, if he has an interesting opinion, he is entitled to express it.

Senator FIERRAVANTI-WELLS—‘An interesting opinion.’ So the ABC thinks that the 9-11 conspiracy theory is an interesting opinion that should be promoted—is that what you are saying to us?

Ms Howard—No. I am saying that it is possibly an opinion that has a right to be heard. I have not heard the program in question.

Senator FIERRAVANTI-WELLS—And heard with the frequency that it is being aired on the ABC?

Ms Howard—How many—

Senator FIERRAVANTI-WELLS—In that case, please take on notice the number of times that this sort of 9-11 conspiracy theory is being advanced on different programs and where it is being covered. In these programs, is there an opposite point of view being given—a bit of balance on the alternative point of view? Could you take that on notice. I will be most interested to see what your research elicits. I now want to move on to Bob Carr and his flying off to the United States to interview another known left person, Gore Vidal, to present another anti-American opinion. Can you explain why this happened and how much it cost to send Bob Carr over to interview Gore Vidal in the US? What was the value of the exercise?

Mr Cameron—I thought we had done that but, if we have not, we will let you know.

Senator FIERRAVANTI-WELLS—Given that Mr Vidal often gives his opinions—in fact I saw a recent quote from him that he always takes advantage of any opportunity on television—I wonder why you had to go to the expense of sending Mr Carr over to the United States to interview him.

Mr Cameron—I can say, for what it is worth, without it being a full answer that we did not send him there; he was already there. But that is a very short answer and I will give you a more detailed answer.

Senator FIERRAVANTI-WELLS—Thank you, and please give me the cost as well. I would like to move on to Mr McDougall and the Triple J breakfast program. I would like a straight answer on his employment. When did his employment relationship, part-time or otherwise, begin with the ABC?

Ms Howard—Offhand I cannot tell you that, but it should not be that difficult to check and we can take that on notice.

Senator FIERRAVANTI-WELLS—When you did respond to me, you were really cute because you said he was not employed at a particular time to do the *Breakfast* program. My understanding was that he was employed in some other capacity on a Saturday afternoon. When you do answer me, do not be cute about it; just answer the question about his employment—full time, part time or otherwise.

Ms Howard—We did answer the question.

Senator FIERRAVANTI-WELLS—No, you did not answer the question.

Ms Howard—We made it very clear that he was not employed. At the time you asked the question, I think about the compilation of a CD, we answered that he was not employed.

Senator FIERRAVANTI-WELLS—You qualified it by saying, ‘to present the Triple J breakfast program’.

Ms Howard—That is correct.

Senator FIERRAVANTI-WELLS—I think he was filling in. I want you to go back and give me the full details of his employment, how long he has been employed and the various capacities in which he has been employed, part time or otherwise.

Ms Howard—I have been told that he was not employed by the ABC at the time that you asked the question about, when he put that CD compilation together. He was not an ABC employee at that time. He had nothing to do with the ABC at that time. That is my understanding.

Senator FIERRAVANTI-WELLS—I would like you to produce for me a detailed response on his whole history with the ABC, what he has done, when he was employed, and the various programs that he has worked on, whether that be fill-in or otherwise.

Ms Howard—Sure.

Senator FIERRAVANTI-WELLS—What troubles me is that he embarked on a crass campaign against the Howard government in 2004. He makes public his personal intention to attack and oppose the government at every opportunity. You rewarded him with a job. He continues to campaign on the airwaves, courtesy of the taxpayers. How do you justify this? Is it not embarrassing to hire somebody, knowing that he intends to campaign in the most venal terms against a person that he described as a C-U-N-T, and then he continues on this campaign? I have only cited one of his antics. This man has a disgraceful history and you continue to pay taxpayers’ money.

Ms Howard—Excuse me, but on the *Breakfast* program on Triple J he abides by the ABC’s editorial policies and we expect his behaviour to be as we expect for all other staff. Activities he may have engaged in before he was employed with the ABC are something I cannot comment on, just as when I employ any other staff member I take into account their behaviour as employees of the ABC, not their prior employment. For example, we have Liberal politicians working for us. I do not discriminate on the basis that they were once Liberal politicians.

Senator FIERRAVANTI-WELLS—They must be few and far between, Ms Howard, because—

Ms Howard—There are more than you would think.

Senator FIERRAVANTI-WELLS—I would be very interested to see a list, and I am sure one would far outweigh the other. You say you do not believe that he has used his position to carry on a political crusade against the Prime Minister. Would you care to explain the following comment in the program’s guest book of 3 November 2005?

Ms Howard—Which I presume Mr McDougall did not write. He is not a contributor to the guest book, is he?

Senator FIERRAVANTI-WELLS—If you listen to what I am about to say then you will understand the context in which I put it. It will save your time and my time as well:

Was listening this morning when you raised the issue of the right awful PM, Little Jackie Howard and the co-inkydink re terrorism threat.

The post also calls Mr Howard a ‘little shitbag’ and ‘Pol Pot’. Is Mr McDougall the moderator? You have said earlier you are not sure of the moderator, but come back to me if he is the moderator of the guest book. This example alone raises two issues: (1) what was said on air that prompted the posting, and (2) why does Mr McDougall who, as I understand it, moderates that site—and you are going to confirm this or otherwise—allow such references as ‘shitbag’ and ‘Pol Pot’ to describe the Prime Minister to remain on that site? If he was not the moderator, how could a moderator allow that sort of stuff to stay on there?

Ms Howard—As I said I will find out about the moderator of that site and the processes. I cannot answer that question.

Senator FIERRAVANTI-WELLS—Could you also go through that guest book and look at the other descriptions. These are the only two that I found but how can one of your moderators allow this sort of disgusting stuff to just stay on there? What is the role of your moderator? Isn’t there some quality control?

Ms Howard—There is absolutely quality control on the guest books.

Senator FIERRAVANTI-WELLS—Can you tell what is quality control about allowing our Prime Minister to be referred in those terms?

Ms Howard—I will take that issue on notice and see what I can find out about it.

Senator FIERRAVANTI-WELLS—While you are at it, take this other example. I quote: ‘Good day Jay. Thought I’d let you know national My Dad F...s’—my moderation by the way, not his—‘John Howard week begins this week. Coincidentally, this is also the launch of my first single My Dad F...s John Howard.’ It goes on. Is this what you call professional management?

Ms Howard—It is what I call tasteless comments by an audience member.

Senator FIERRAVANTI-WELLS—I want you to go through that guest book and find all the other examples of the tasteless.

Senator WORTLEY—Oh!

Senator FIERRAVANTI-WELLS—Senator Wortley, why don’t you take some—

Senator WORTLEY—I am sure Ms Howard has better things to do with her time.

Senator FIERRAVANTI-WELLS—They are using \$800 million of our money, and I do not particularly appreciate taxpayers’ money being used to subsidise this sort of disgusting and disgraceful insert that can be accessed by all sorts of people.

Ms Howard—That is unfortunately democracy at work on the guest book.

Senator FIERRAVANTI-WELLS—May I advise you—

Ms Howard—I agree with you; it is quite tasteless.

Senator FIERRAVANTI-WELLS—about quality control. Why do you not go through and quality control some of the rubbish that is on there. Now, Triple J breakfast have shed nearly 40 per cent of their audience, I believe, in little over a year. Are you happy about that? Quite frankly, their ratings are going down; why do we keep employing this person? Instead of throwing good money after bad. Also, you are advertising Triple J breakfast on ABC television. How much do these ads cost to produce?

Ms Howard—Very little.

Senator FIERRAVANTI-WELLS—Are you going to tell us how much?

Ms Howard—I cannot give you—

Senator FIERRAVANTI-WELLS—Why don't you take that on notice and tell us. Even 'very little' is too much.

Ms Howard—We are curious to know where you got the 40 per cent of the audience figure from? It is wrong.

Senator FIERRAVANTI-WELLS—I will produce that information to you.

Ms Howard—It is entirely wrong, I am afraid.

Senator FIERRAVANTI-WELLS—I am sure you will refute it, Ms Howard. You mentioned jtv before, and I want to take you to some job adverts and other ads for ABC programs. How much are you budgeting to spend on your new TV show jtv?

Ms Howard—I cannot answer that for you. It is a television program, not a radio program.

Senator FIERRAVANTI-WELLS—Can somebody answer it?

Mr Dalton—I will take it on notice.

Senator FIERRAVANTI-WELLS—I have noticed that you have been advertising a number of jobs with some very attractive salaries, and I will give you copies of no less than 11 jobs in Sydney and Melbourne, totalling salary ranges of \$611,000 through to \$744,000. This would be in addition to other costs such as studio, production, camera crews and music rights. What is the total cost? You have obviously done some figures on it because you have been able to advertise for these positions.

Mr Dalton—We have a budget. I am just saying I do not have the figure for that at the moment.

Senator FIERRAVANTI-WELLS—It must be quite a large budget, judging from those advertisements alone. If you are going to spend—

Mr Dalton—It has to take into account a substantial amount of content that will be going out on radio, television and online.

Senator RONALDSON—You must have a rough idea, Mr Dalton.

Mr Dalton—A rough idea of the budget of jtv? No, I do not; I am sorry. I do not carry around the budget figures of every program that is going to air on ABC TV.

Senator PATTERSON—Excuse me, Mr Dalton. I think you should bring those sort of figures to estimates.

Senator FIERRAVANTI-WELLS—This is estimates. It is about the money.

Senator PATTERSON—That is not an unreasonable request from a senator.

Mr Dalton—No, I am sorry, I do not have it in my head and I apologise.

Senator PATTERSON—It should not be in your head. I do not expect you to have it in your head but you should have it with you. At estimates you should be able to provide data on major programs within your area of responsibility in TV. I think that is not acceptable.

Mr Dalton—Okay.

Senator FIERRAVANTI-WELLS—Whilst I appreciate the comments that were made about funding, why has it been necessary for your Sydney local radio station to take out advertisements on Channel 7 pushing viewers to tune into ABC 702 and morning programs by Virginia Trioli and Adam Spencer? How much did it cost to make those advertisements, and how much is it costing to screen them on Channel 7?

Ms Howard—I can get you that information. I will take the question on notice.

Senator FIERRAVANTI-WELLS—Is Channel 7 the only station where you are screening them?

Ms Howard—I am not sure; I cannot recall.

Senator FIERRAVANTI-WELLS—Perhaps you might get back.

Ms Howard—We are also showing them on our own ABC television.

Senator FIERRAVANTI-WELLS—I am sure you are but I am interested to see how much it is costing. Is this not the same Virginia Trioli who was brought in when Sally Loane was sacked, notwithstanding she had boosted her audience ratings? Having dumped Ms Loane, how much is it costing the taxpayers of Australia to boost Ms Trioli's ratings.

Ms Howard—Ms Trioli's ratings are being boosted all on their own. She is doing very well, thank you.

Senator FIERRAVANTI-WELLS—She might be, but I think her ratings are not as good as the person she replaced.

Ms Howard—I am afraid they are.

Senator FIERRAVANTI-WELLS—Perhaps you would like to provide me with some details on that. And how much does the ABC spend each year on its in-house local radio awards?

Ms Howard—We have provided that several times to the Senate and I am sure you will find that in previous estimates we have given you—

Senator FIERRAVANTI-WELLS—Please provide the latest ones, because I understand that the staff recently trekked all over Australia for the awards, and Ms Trioli was nominated broadcaster of the year, or so I heard Mr Spencer say the other day. Mind you, he did not tell us it was only the ABC broadcaster of the year; I thought that was rather deceptive. Perhaps you might provide us with those figures as to what it cost to trek your staff around Australia to attend these in-house local radio awards.

Ms Howard—As I said to Senator Campbell earlier, we have a two-day training forum for the staff who are nominated for those awards, and the awards are an evening in the middle of those awards.

Senator FIERRAVANTI-WELLS—Please give us some details on its cost. Moving on to Australia's alleged secret police on Terry Lane. Why did Terry Lane have a look at this? Radio National's *The National Interest* of 23 October make three references to Australia's secret police, as he describes it, trying to make Australia under John Howard seem like a communist East Germany. Australia, as you all know, does not have a secret police. I will give you a copy of the transcript and I would appreciate if you could investigate it and please explain why this allegation of secret police is made on Mr Lane's program.

Moving now to some of your answers on the previous estimates, frankly I think they border on contemptuous. For example, you were asked about Tony Eastley on *AM* promoting Gough Whitlam's view of the dismissal by saying: 'As you say in your book, the Constitution was subverted.' You replied: 'You say in your book' indicating—

Ms Howard—I am sorry, I do not think this question would have been directed to me.

Senator FIERRAVANTI-WELLS—No, no. I just happened to be looking up at you Ms Howard at the time but it could go to whoever wants to answer it. In your answer you replied: 'You say in your book' indicated it was Mr Whitlam's view being presented. I do not agree with this. Mr Eastley made the statement 'as you say', which clearly indicates that he was accepting that as a statement of fact. I will try again: why did Mr Eastley present Mr Whitlam's opinion as fact? You will probably have to go back and have a look at your answer, which I will provide it as well as the transcript. I would appreciate if you could have a look at this and provide me with a proper answer next time I ask it.

I want to look at Richard Aedy on *The Media Report*. Again, in questions you were asked why *The Media Report* by host Richard Aedy said that counter-terrorism laws would turn Australia into a police state. The quotes were, and I want to be specific: 'It would be a police state and it's still a police state.' This was your answer: 'Mr Aedy was agreeing the end point might be described as a police state. He was not stating this outcome as a matter of fact.' Yes, he was. His words were 'would be' and 'is still', not 'might'. He did not use 'might'. You invented that in your answer. Can you explain to me the basis for the invention? Who answered that question?

Ms Howard—It would have been us, I imagine. I am sorry, we might just have to agree to disagree on that point. I think we had a difference of opinion on that.

Senator FIERRAVANTI-WELLS—Yes, there is always a difference of opinion.

Ms Howard—Not always.

Senator FIERRAVANTI-WELLS—You were asked to clarify a number of other answers. When you read the answers to your questions on notice, the gist seems to be 'the ABC has nothing further to add'. You make some general comment here, you then take it on notice and then we usually get back in a substantial number of answers that you have nothing further to add. Some of the responses I have received are totally incorrect, and I have raised a couple of them today. It puts into question the veracity of some of your answers. When I ask you for clarification, it is totally inappropriate that you reply 'we have nothing further to add'. You are

accountable to the parliament, to this forum and to us as senators in this estimate process. When I ask questions and provide you with the specific transcripts or whatever, and I get that you have nothing further to add, as a general comment, Minister, I find that really disgraceful. I really think that the ABC should be more diligent in its responses. As a matter of course, I will provide every one of those to you because I want you to see the nature of some of the responses that are being provided, which I really think are totally inadequate, and I say that as a general point.

Regarding some of your other concessions. Thankfully, after a lot of questioning you conceded jokes about rape on the Triple J breakfast program were in bad taste. You have also conceded announcements about missing programs that did not reveal the real reason that you missed programs, which was because you were taking industrial action; that staff have been spoken to for making inappropriate and biased comments about the Prime Minister and various other instances. You have made concessions about inappropriately favourable comments about Habib and Hicks. You have conceded that you have made inappropriate comments about the Pope; that pro ALP comments were inappropriate and you have had to apologise; that inappropriate comments were made about a US general in Afghanistan; that inappropriate comments were made promoting the protest against the visiting Israeli president. You have conceded making insensitive remarks about a self-harm incident involving John Brogden, Triple J breakfast again; you have made concessions that your Triple J breakfast presenter, Lindsay McDougall, expressed his personal and utterly unfounded belief that the police had murdered TJ Hickey; and about Stephen Crittenden having been counselled.

These are concessions you have made, Mr Green, and if you look at the big picture—yes, I know you will say that you broadcast a whole lot of things—but there is a pattern here, a pattern that has been going on for a long time, that it is almost like dragging you kicking and screaming. We have to bring it to this forum for concessions to be made and for action to be taken by your staff. Perhaps if Mr Scott is listening, I trust that some action is going to be taken in terms of remedying the situation so we do not have to come to this forum and drag these concessions out in this manner.

I want to make some comments about—

Mr Green—Senator, can I just comment on those conclusions. Every quarter we publish all the errors and complaints that have been upheld on our web site. We do that quickly and voluntarily as part of our commitment to transparency in terms of the process of achieving better journalism. The motives that you are attributing to us are not our motives. We do make mistakes, and we will correct those mistakes, but when one looks at the total pattern of our output, three per cent of our complaints relate to issues of bias. You have catalogued a number, but three per cent of all the contacts that the ABC has with its audience, in terms of upheld complaints, relate to matters of political bias, which has been the focus of your analysis to us tonight. We take each of those instances very seriously and we respond in good faith. As I said earlier in our conversation, if you remain unsatisfied with our response, please take your concerns and our response to the regulator in order that ACMA can make an independent judgment on your matters of concern.

Senator FIERRAVANTI-WELLS—I do review your complaints. In fact I read them, so I appreciate that process. I am talking about a process that has gone on in this estimates over the last three years, which was commenced by Senator Santoro and continued by other senators and Senator Ronaldson and me.

I know that you have a complaints mechanism. I am trawling through issues that have been raised a number of years ago and that we have followed through over a number of years. I am making the point that it has taken this process for us to deal with our issues in this forum. I am putting focus on your reactions to our questioning and the fact that often it has taken two sets of estimates to get even simple concessions out of you.

Mr Green—We have put in considerable effort, as we should, to respond to the questions that you put on notice and your concerns, but, in the end, if you are dissatisfied with the performance of the ABC and our responses to those issues that you raise, you have an avenue of appeal.

Senator FIERRAVANTI-WELLS—Thank you; you have told me that. Believe me, I will be pursuing them. I have heard what you have said, but why does it have to get to that point? Why can't you address the issues right at the beginning?

Mr Green—We have, but we disagree on the outcomes.

Senator FIERRAVANTI-WELLS—I do not know about that. We would not be raising so many issues in this forum if you had addressed them earlier.

Mr Green—We have addressed them, with respect, and you are not happy with the responses.

Senator FIERRAVANTI-WELLS—Let me just move on; it is quarter to eleven and I still have stuff to go through. When, for example, Mr Beazley attended the May Day rally, you had four ABC microphones set up with all the attendant staff. Mark Vaile appeared at the Cole Inquiry and there were 14 ABC reporters and production staff present. Why did you need 14?

Senator RONALDSON—How many?

Senator FIERRAVANTI-WELLS—Fourteen.

Mr Green—I wish to have that confirmed. You must have been there counting them, were you?

Senator FIERRAVANTI-WELLS—Well, I was not there counting, but somebody else was. Please explain to me why there were 14 ABC reporters and production staff present on that day. Now, I want to take you to a couple of other things. As to the use of the word 'boat people' in the headlines of Sydney's 7 pm TV news on 13 April, I had understood that the word 'boat people' had been banned, so why is it still in use?

Mr Green—I am not aware of it. Mr Cameron?

Mr Cameron—It should not be, but it sounds like a slip; I have not heard about this one but now I have.

Senator FIERRAVANTI-WELLS—Will you investigate that and get back to me? I go back now to examples of ABC errors of history. You may think it is trivial, but I raise this because it demonstrates a lack of attention to detail. For example, Rachel Carbonell on

Lateline of 19 April said, ‘But perhaps not as worried as President Ronald Reagan was during the world oil shortages of the 1970s.’ Wrong. Ronald Reagan was elected in November 1980, inaugurated in January 1981; he left office in January 1989. Rafael Epstein on *World Today*, ‘When Elizabeth became Queen in 1953’; well, she became Queen in 1952. ABC online, ‘Edmund Hillary conquering Mount Everest 63 years ago,’ when really it was 53 years ago. You may say that is trivial; but what is the role of your supervisors? What is the process for picking up these sorts of things? Probably you will dismiss them as trivial, no doubt—

Mr Green—No, we are committed to accuracy, and there is a very rigorous process of supervision, but I would invite you, not in order that you might necessarily come to a different position, to come in and sit through the way in which some of our material is produced in terms of our television news, and see the sorts of checks that are going on.

Senator FIERRAVANTI-WELLS—Obviously there are not that many checks because these sorts of things are happening. I am raising it in the hope that you will make your staff more aware of making sure that these checks and balances, if they are in place, are adhered to.

Senator RONALDSON—Could you take that on notice, the processes used to—

Mr Green—The editorial management processes of the corporation?

Senator RONALDSON—The sorts of things you are talking about in the invitation you extended to my colleague. I am sure these could be put in writing as I would be interested to know those processes.

Mr Cameron—I put an invitation in writing a couple of weeks ago, but I have not had a reply.

Senator RONALDSON—No, the processes, not the invitation.

Mr Green—We will certainly provide something in writing, but also we would like to invite the senator or, indeed, any of the committee to—

Senator FIERRAVANTI-WELLS—As you can appreciate, Mr Cameron, I was preparing for estimates, but I will take you up on your offer. I am sure they will be very happy to see me at the ABC.

Mr Green—They will be very interested to see you there.

Senator FIERRAVANTI-WELLS—I have been in a television studio before, but thank you, I will take you up on your offer.

Mr Cameron—Just very briefly—and both senators raised it—but we do have just in news and current affairs a fairly controlled regime of program reviews where random programs are picked and reviewed by senior editorial staff, and they are done diligently and regularly.

Senator WORTLEY—Mr Cameron, I imagine that some of the issues that Senator Fierravanti-Wells has raised with regards to alleged errors—and I do not have the information in front of me so I cannot say—would have been raised with staff and they would have been addressed anyway?

Mr Cameron—I would hope on most occasions.

Senator FIERRAVANTI-WELLS—Perhaps you might take those three instances and just see if indeed they were raised. I have some questions about management of staff over editorial

breaches. It follows from some previous answers, but I will put those on notice. Mr Anderson made a really unfortunate joke about the trapped miners in Tasmania on the *Glass House* of 3 May. I have not even begun on the *Glass House*. Could you provide me with that transcript and also your comments in relation to what I believe were quite inappropriate comments? I understand that there have been a number of complaints about it, judging by some comments that are in the guest book, but could you take that on notice and have a look at that one?

I will also put on notice some references and comments made by Rafael Epstein in relation to the Queen on her eightieth birthday. This is the same Mr Epstein who has had dishonourable mention before on a previous appalling attack on the Queen Mother. In this instance—and I will provide you with the details—he trashes the Queen with the help of a commentator whom he describes as a republican and a communist from Mr Epstein's favourite newspaper, *The Independent*, where the Queen and her family are referred to as emotional cripples with warped psyches. I find that terribly offensive, but I will provide that for you and perhaps you will give me your views on that.

I want to raise something about party drugs, and the *7.30 Report* spends a lot of program time examining the issue of mental health. I have to say that when the Prime Minister announced a major COAG initiative on mental health worth \$1.8 billion, the *7.30 Report* ignored the story. I want to focus particularly on a recent quote by the parliamentary secretary, Christopher Pyne, when he said, 'I don't think there's any such thing as a party drug; it's an insidious terminology which has crept into our vernacular and does people a great deal of harm.' His remarks have been supported by noted drug expert Dr Paul Dillon. What is ABC's policy on this expression 'party drug'? I will provide to you about 20 examples I have found which refer to party drugs; for example, Mark Colvin on *PM* in November last year and Anne Barker on *Lateline* in April last year. What is your policy in relation to the use of this terminology? Also, Mr Dillon has said that he does not use this terminology, but you seem in parts to have cited him. I will put it on notice, but can you have a look at the examples and come back to me on your use and your policy of use of this terminology, 'party drugs'? Do you have a legal section?

Mr Green—We certainly do.

Senator FIERRAVANTI-WELLS—How many lawyers do you have?

Mr Green—We have about 15.

Senator FIERRAVANTI-WELLS—What sort of work do they do?

Mr Green—They do a whole range of legal work, from pre-publication advice through to advising on some of our intellectual and copyright issues, property contracts, employment issues—the whole range of what one would expect an in-house legal team to do in a large corporation.

Senator FIERRAVANTI-WELLS—In your annual report last year, 2004-05, there are legal expenses of \$2 million listed—actually, \$2.6 million. With an in-house legal team, why do you have \$2.6 million legal expenses?

Mr Green—That includes—

Senator FIERRAVANTI-WELLS—Their salaries?

Mr Green—No, no, no. That includes payment in terms of settlement of legal issues and matters where we have been through the courts on particular matters. It includes all of our legal costs. It is certainly not the whole representation of salaries.

Senator FIERRAVANTI-WELLS—There is a qualification on that that talks about supplier expenses; the annual report reads that there is also about \$350,000 or so external suppliers. You have 15 in-house lawyers and legal expenses of \$2.6 million, and then you appear to have these other \$350,000 or so in supplier expenses. Can somebody look at that and tell me how much of your legal expenses—and I would like a breakdown, so could you take this on notice—was actually in defamation and other legal payouts? Could you break down those legal payouts?

Mr Green—Yes, most certainly.

Senator FIERRAVANTI-WELLS—With 15 in-house lawyers, why do you have \$2.6 million? Surely, if you have 15 in-house lawyers, these lawyers must be providing some advice in relation to programming so that you do not get yourself into the problems of being sued for defamation down the track?

Mr Pendleton—The \$2 million within that is a range of costs that relate to the engagement of external legal advice or counsel and senior counsel in relation to matters. Any matters that proceed through to the courts are very expensive in terms of the management of them and run for quite a large number of years. We can break it down for you between what was for advice, what was for settlement, and what was for—

Senator FIERRAVANTI-WELLS—So, the \$2.6 million would include something like the \$60,000 payout to Paul Everingham after a defamation proceeding from ABC Radio current affairs?

Mr Pendleton—I am not sure about that particular matter.

Senator FIERRAVANTI-WELLS—Perhaps you might look at that as well. Mr Green, referring to your letter of 16 May in which you respond to my complaint about a number of instances of personal and even sexual vilification of the Prime Minister, I note that you have not denied that the broadcasts actually occurred. However, I am deeply concerned at the pitiful, and I have to say totally inadequate, explanations and excuses that have been provided to me. As to some of the matters to which I referred, I can only describe them as filth tartered up as satire. I intend to pursue further this matter but, in the meantime, could you please provide me with a transcript of the program of *The Chaser's War on Everything* of last Friday, 19 May? I watched this program with estimates in mind. I was not disappointed at what I can only describe as the usual base-level lavatory humour, but I was particularly disgusted by the comments relating to the Prime Minister. I would like to know how many complaints you may received about that. Have a look at that transcript, because I have to say that some of the comments made were absolutely disgusting.

Mr Green—I did not see the program, but I will certainly have a look at the transcript.

Senator FIERRAVANTI-WELLS—Well, lucky you. I did, and I thought it was appalling—absolutely disgusting. If this is the sort of filth we are wasting our taxpayers' money on, I really find it absolutely appalling. I want to conclude with the overall theme of what I see as the inability of management to enforce simple rules. Apart from the left-wing

political ideology that prevails at the ABC, I think there is what I would describe as an ideological problem. I quote one description I found: 'A variate form of social snobbery that stems from staff culture.' Do you agree with this description, Mr Green, and who in your view runs the ABC?

Mr Green—I do not agree with that analysis. The ABC has a large number of outputs and platforms. The notion of any one culture pervading a staff of 4,500 scattered around Australia in over 60 locations is something that is very hard to comprehend, let alone identify.

Senator FIERRAVANTI-WELLS—But who runs the ABC?

Mr Green—The ABC is run by the ABC executive, which includes the managing director. The ABC board is responsible for the management of the ABC in terms of policy. The ABC executive—the managing director, the executive directors before you on this occasion—is the senior management team.

Senator FIERRAVANTI-WELLS—Ms Howard, what is your view on this? Who do you say runs the ABC?

Ms Howard—I agree with Mr Green.

Senator FIERRAVANTI-WELLS—Ms Howard, I would like to take you to an article by a Paul Gray entitled 'ABC's culture of contempt' in the *Australian* of 16 September 2005. This article cites an interview that you did with Margaret Simons in the Robert Manne edited book, *Do Not Disturb*. It contains a reference to bias.

Ms Howard—I am sorry; I did no such interview with Margaret Simons.

Senator FIERRAVANTI-WELLS—Well, you were quoted. I will give you a copy of it. I will raise it. It says—

Ms Howard—I am sorry; I am not aware of having done anything of the kind.

Senator FIERRAVANTI-WELLS—I will give you a copy of this. It contains a reference to bias, and it says: 'If there is bias at the ABC, it is a vague middleclassness associated with the background of the presenters and program makers, Howard says. She asserts, "It is not party political bias." Howard also directly confirms what many critics of the ABC's ideological culture believe, that the corporation is effectively governed as a workers' collective.'

Ms Howard—I am sorry; I have absolutely no idea what the source is or what you are talking about.

Senator FIERRAVANTI-WELLS—I will give you a copy of the article which I have here which quotes you and quotes an interview that you did, and I am sure that you will come back to me.

Ms Howard—I would be fascinated to see it.

Senator FIERRAVANTI-WELLS—Absolutely.

Ms Howard—It is complete news to me.

Senator FIERRAVANTI-WELLS—Minister, for the record, I advise that since the last estimates I have written to the ABC chairman and the board members. Mr McDonald has neither acknowledged the correspondence nor replied to me, and left it to the managing

director to reply on behalf of the board. I have made references to the inadequacies of those replies. I have actually raised issues of board governance, and I would have thought that, since they were directed particularly to Mr McDonald as chairman of the board, he would have at least done me the courtesy of acknowledging my correspondence. I am expecting a reply. I would have thought that at least out of common courtesy, given the issues that I raised, he would have penned me some note. I note this for the record, and I will put further questions on notice.

CHAIR—It is now after 11 o'clock, and that is when we have an agreement to conclude this hearing. With the minister's agreement, I propose to close this session. Further questions should be placed on notice for SBS. My apologies to SBS; you have been very patient, waiting here all day, but it is just the way estimates go, I am afraid. I am sure that we will be able to give you a good hearing next time around. Thank you for your patience.

Committee adjourned at 11.01 pm