

Senate Standing Committee on Environment, Communications and the Arts
Answers to Senate Estimates Questions on Notice
Additional Estimates Hearings February 2009
Broadband, Communications and the Digital Economy Portfolio
Australian Communications and Media Authority

Question No: 144

Hansard Ref: ECA 68 and 69

Topic: Lords of the Forest

Senator Abetz asked:

Can you tell us whether ACMA, in report 1397, which related to the *Lords of the Forest* said, in effect, that an errata sheet had been backdated by three months was a timely correction and appropriate course of action?

Can you also provide information on the investigations that came into this matter and the correspondence which related to the backdating of the erratum?

Answer:

Investigation Report 1397 was concluded by the Australian Broadcasting Authority (the ABA), one of the ACMA's predecessor organisations, on 3 February 2005. The investigation related to a broadcast of the program, *Lords of the Forest*, broadcast by *Four Corners* on 16 February 2004. Investigation Report 1397 does not make a finding as to when the material was placed on the website, simply accepting that it had been done by 12 May 2004 and was timely.

In this regard, Report 1397 says:

The relevant ABC Code requires that, 'Demonstrable errors will be corrected in a timely manner and in a form most suited to the circumstances'. In this regard, the ABC has advised the ABA that, '*Four Corners* has published corrections to the *Lords of the Forest* report on its website...and in its most recent Public Report on Audience Comments and Complaints' (Public Report – Letter from the ABC to the ABA dated 23 June 2004).

On 12 May, shortly after receipt of the complaint, the ABA confirmed that corrections to the *Four Corners* report, including a map which correctly identified those areas in formal reserves, was available on the ABC internet website (the ABA report included, here, a footnote to its access to the ABC website on 12/5/04).

The revised map available on the ABC website is reproduced below (the ABA report reproduced, here, a colour representation of the (corrected) map as it appeared on the ABC website.) In this regard the ABA is satisfied that the steps taken by the ABC to correct the error complied with the ABC code requirement at clause 4.1 to correct demonstrable errors in a timely manner.

Following the conclusion and publication of Report 1397, the ABA received further complaints about the *Lords of the Forest* program. These resulted in ACMA Reports 1418 and 1474 which were finalised on 20 July 2006.

Investigation Reports 1418 & 1474 also considered the question of correction of errors. In this regard these reports noted the ABA decision in Report 1397 and declined to follow it.

On this issue Investigation Reports 1418 & 1474 say:

In this regard, it is noted that the former ABA's decision was made in February 2005. At the time of that decision, the actual date of the correction was not known. Subsequently, the ABA received written confirmation via the complainant ...that the ABC had posted the website correction on 11 May 2004. ACMA considers that at the time of the breach in relation to the map, the ABA focused on the knowledge that the correction was on the website at the time of the ABA investigation and paid insufficient attention to when the actual posting had been made.

The complainant has made several allegations regarding the alleged 'backdating' by the ABC of the Errata Sheet and, of the alleged ABA's knowledge and collusion with regard to the alleged backdating. ACMA has no evidence to support this claim. However, the ACMA has opined that this matter could have been better handled by the ABA in the sense that staff should have been more assiduous in their approach including obtaining written confirmation of the actual date of the website correction from the ABC prior to finalisation of Report 1397.

That insufficient attention was paid to this matter by the ABA has been acknowledged by the ACMA to the complainant previously in writing. ACMA staff are obtaining the complainant's consent to provide copies of this correspondence to the committee.

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Question No: 145

Hansard Ref: ECA 70

Topic: Internet blacklist

Senator Ludlam asked:

In the year ending 30 June 2008, how many different individuals or organisations initiated the complaints that you received and indicate whether it is a large or small number of individuals or perhaps organisations that are referring sites?

Answer:

The *Broadcasting Services Act 1992* does not require a person or organisation to identify themselves or itself when making a complaint about online content. However, ACMA asks complainants to provide contact email addresses for the purpose of advising them of the outcomes of their complaints. While some complainants do so, others do not. It is therefore not possible to accurately determine the number of people or organisations who have lodged complaints.

During the period 1 July 2007 to 30 June 2008 ACMA received 1122 complaints about online content. Forty-six complaints were anonymous and did not contain contact details. Complaints containing contact details in the form of a contact email address came from 740 unique email addresses. Of 469 complaints received from people or organisations who lodged more than one complaint, around one-quarter of complaints were from law enforcement agencies, one-eighth were from child protection bodies (including overseas hotlines) and the remainder were from individuals who did not identify themselves as representing an organisation.

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Question No: 146

Hansard Ref: ECA 71

Topic: URL Blacklists

Senator Ludlam asked:

In the last year or two, how many URLs were added to the blacklist as a result of investigations under the *Broadcasting Services Act 1992*?

Answer:

In the period 1 January 2008 to 31 December 2008, ACMA notified 1206 URLs relating to prohibited content and potential prohibited content hosted outside Australia to the makers of filter software pursuant to clause 40(1)(b) of Schedule 5 to the *Broadcasting Services Act 1992* (the BSA) and the code of practice registered pursuant to clause 60(2) of the BSA.

In the period 1 January 2007 to 31 December 2007, 1812 were notified.

The figures stated above include any duplicate notifications resulting from multiple complaints about a specific URL during the period.

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Question No: 147

Hansard Ref: ECA71

Topic: URL blacklists

Senator Ludlam asked:

Please provide a breakdown of the degree of churn and the number that were taken off both sides of the ledger.

Answer:

In the period 1 January 2008 to 31 December 2008, ACMA added 1206 items of content to its list of prohibited and potential prohibited internet content hosted outside Australia, maintained pursuant to Schedule 5 to the *Broadcasting Services Act 1992*. Over the same period, ACMA removed 1048 items that no longer provided access to prohibited content or potential prohibited content. These figures include multiple instances of some URLs that were the subject of multiple complaints over this period.

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Question No: 148

Hansard Ref: ECA 73

Topic: URL blacklists

Senator Minchin asked:

Are you able to give me a number or some idea of the extent to which the blacklist contains anti-abortion sites with images of this kind? Is this a one-off?

Answer:

At 17 March 2009, ACMA's list of URLs relating to prohibited content and potential prohibited content hosted outside Australia, compiled pursuant to Schedule 5 to the *Broadcasting Services Act 1992*, contained around 1100 URLs. Of these, two were URLs that provided access to online images of apparent dismembered fetuses.

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Question No: 149

Hansard Ref: ECA 73

Topic: URL blacklists

Senator Bernardi asked:

Just to follow up on this point, although not specifically about that site, have there been other sites that have featured broken and dismembered bodies that you have listed on the blacklist? Have you chosen any of those for TAC sites? Is it correct that you do not know whether you have not blacklisted any of those sites?

Answer:

In the period 1 January 2000 to 17 March 2009, ACMA investigated and took action in relation to eight items of online content considered likely to be classified RC or R18+ due to the impact of the violence depicted in the material. This includes two items which depicted aborted and dismembered fetuses.

ACMA has not received any complaints about content that purports to depict the consequences of motorcycle accidents as a deterrent, and it has not otherwise taken action in relation to such material.

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Question No: 150

Hansard Ref: ECA 78

Topic: Internet safety initiatives

Senator Lundy asked:

Please provide the committee to get copies of the pack, if that is possible.

Answer:

A hard copy of the Cybersmart Libraries Pack is provided including guides for librarians and families.

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Question No: 151

Hansard Ref: ECA 79

Topic: ACMA programs

Senator Lundy asked:

Please provide us with start dates of the education and outreach strategies and how they proceed and are implemented by ACMA.

Answer:

ACMA's Cybersafety outreach and program development strategies provide a comprehensive national education cybersafety program for parents, children and educators. Programs are evidence based having had regard to internal and external research. They are also guided by stakeholder consultation including members of the Government's Consultative Working Group on Cyber-Safety as well as federal and state education departments, Police and child welfare agencies. Activities and programs are evaluated on an ongoing basis to ensure they remain targeted and current.

In January 2009 ACMA officially commenced a new *Professional Development (PD) for Educators* program as part of its Outreach role. This is a one day workshop made available in all states over the next two years. The program provides teachers with the tools and resources to engage students on cybersafety, prepare appropriate curriculum, understand digital citizenship and strategies to help students have a safe experience online. The PD is recognised by all state teacher registration bodies. In late 2009 teachers will be offered the option of doing the PD program via an e-module.

ACMA has also engaged additional trainers to deliver an expanded awareness program of one hour *Internet Safety Awareness Presentations* to parents, students and teachers. The presentations highlight key cybersafety issues providing basic tips and strategies to minimise risk. To date trainers have presented to over 30,000 students, teachers and parents.

Over the last 12 months 596,950 resources were distributed throughout Australia. A new cybersmart website for children and parents including a schools gateway for educators is currently under development and will be released mid year. A parent's kit will also be developed.

CyberQuoll, CyberNetrix, Wise up to IT and Cybersmart Detectives are also ongoing core ACMA resources available to primary and secondary school students. These were supplemented by ACMA in 2008 with additional resources. These include:

- Cybersmart resources for public libraries. This is a kit developed for families and librarians with 1,331 Library Kits and 80,738 Families Guides distributed to date.

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- A Cybersmart badge is available for primary school students through SuperClubsPLUS Australia, a protected social learning network. The resource was made available in February 2009, with over 3,500 students commencing the activity in the first three weeks.
- A Cybersmart Kids brochure series for children and their families is now also available.

Cybersmart Detectives, an online game for primary school students was played last year in 101 schools with 3,631 students.

In developing its resources, ACMA works closely with international partners to share education resources and ensure its materials are international best practice. For example, on 10 February 2009 ACMA was involved in Safer Internet Day organised by INSAFE, the European internet safety network promoting the day's key messages involving schools through a number of activities including the cybersmart badge.

ACMA has signed Memorandums of Understanding over the past year with two agencies: ChildNet International in the UK and New Zealand's internet safety agency Netsafe. Through these relationships the following resources will be made available to Australian schools in 2009:

- Hector's World - an online safety resource for young children.
- Let's Fight it Together - a whole of school approach to cyberbullying.

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Question No: 152

Hansard Ref: ECA84

Topic: Television Black Spots

Senator Macdonald asked:

- Please provide us with information concerning the Rainforest Estate, and Tully Gorge on Jarrah Creek near Tully.
- There is another issue in relation to [Tully Gorge on Jarrah Creek near Tully]. I did not give you notice about that, but I wonder if your assessments could include that locality as well.

Answer:

- Rainforest Estate is in the Cairns suburb of Kamerunga. It is a housing estate part way up Stoney Creek Gorge. Reception of analog and digital terrestrial television services in the estate will be poor as the estate is shielded by local terrain from nearby television broadcast sites.
- Residents of the estate received analog television services via a master antenna television (MATV) system implemented in the 1990s by Telstra. In 2008 Telstra advised residents that the MATV system had reached the end of its life and they would close the services. Options for residents of the Rainforest Estate with inadequate terrestrial television reception are dependent upon government decisions regarding re-transmission and blackspot solutions.¹
- The Tully Gorge enquiry presumably refers to reception complaints from residents who live “south west of Tully in the hilly ranges near Tully Gorge on Jarra Creek, seven kilometres out of town”. Details of that complaint are provided on an ABC web site <http://www.abc.net.au/local/stories/2008/11/05/2411302.htm>.
- Jarra Creek Road follows the foot of the northern slope of Tully Gorge. Reception of analog and digital television services on Jarra Creek Road would be very poor as local terrain would shield reception of the Tully analog and digital television services transmitted from Mt Myrtle.
- Jarra Creek Road and Tully Gorge is in an overlap of the Regional Queensland TV1 licence area and the Remote Central and Eastern TV licence areas. As mentioned in the ABC website article, the suite of television services licensed to serve the Remote Central and Eastern TV licence areas are available via satellite direct-to-home reception.

• ¹ Mr Townend provided a DST response to this enquiry later in the Senate Estimates Hearing (Hansard ECA98).

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Question No: 153

Hansard Ref: ECA 87

Topic: In-flight telephony

Senator Minchin asked:

Is there a legislative prohibition on the use of mobile phones? Am I liable for prosecution under the law if I use my mobile phone on a plane?

Answer:

Depending on the circumstances, you may be liable for prosecution under the law. The unauthorised use of mobile phones in an airborne aircraft is an offence under the *Radiocommunications Act 1992* (the Act) and the *Civil Aviation Regulations*.

Radiocommunications Act 1992

Section 46(1) of the Act makes it an offence to operate radiocommunications devices such as mobile phones unless their operation is authorised by a radiocommunications licence issued by ACMA. ACMA issues three kinds of radiocommunications licences: spectrum licences, apparatus licences and class licences.

The *Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2002* (the Class Licence) authorises the operation of mobile phones in many, but not all, circumstances (base stations operated by carriers are authorised under other licensing arrangements). The Class Licence authorises the operation of mobile phones in most geographic areas of Australia. However, the Class Licence does not authorise the operation of a mobile phone that is in an airborne aircraft.

As indicated above, the operation of mobile phones in some geographic areas and some frequency ranges is not covered by the class licence. These are areas that have been designated or declared by the Minister for allocation by way of spectrum licences. The use of mobile phones in spectrum-licensed areas can only be authorised by the spectrum licensee in accordance with the conditions that apply to the spectrum licence.

Emergency use of unlicensed devices

Section 49 of the Act states that a person does not contravene section 46 by operating a device in the reasonable belief that operation was necessary to deal with any of the following types of emergencies:

- Securing the safety of a vessel, aircraft or space object
- Serious threat to the environment

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- Risk of death or injury to persons, or
- Risk of substantial loss of, or damage to, property

Civil Aviation Regulations

Civil Aviation Regulation 309A (CAR 309A) authorises the operator, or pilot in command, of an Australian aircraft to issue instructions (prohibiting or limiting the doing of an act) if he or she is satisfied that the instruction is necessary in the interests of the safety of air navigation. It is an offence to fail to comply with such an instruction (CAR 309A (5)).

ACMA understands that all commercial airlines instruct passengers to turn off mobile phones and other radiocommunications transmitters before take-off and to leave them off while the aircraft is airborne.

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Question No: 154

Hansard Ref: Written

Topic: URL blacklists

Senator Ludlam asked:

Given that ACMA identified 30 overseas hosted items as R18+ during the period 20 January 2008 to 30 November 2008, is it correct that there were 65 R18+ URLs on the blacklist at 30 November 2008?

If so where did the other 35 URLs come from, and why aren't these 35 shown in the monthly statistics?

Answer:

In November 2008, ACMA reviewed its list of URLs relating to prohibited content and potential prohibited content hosted outside Australia, compiled pursuant to Schedule 5 to the *Broadcasting Services Act 1992* (BSA) to remove URLs that no longer related to prohibited content or potential prohibited content. As part of this process, where the content at a URL had changed since it was initially investigated by ACMA, ACMA reassessed the material and amended the likely classification of the content where appropriate. Content that was no longer accessible or no longer contained prohibited content or potential prohibited content was removed from the list.

The 65 URLs relating to R18+ items at 30 November 2008 therefore included:

- The 30 items investigated in the period 20 January 2008 to 30 November 2008 and found likely to be classified R18+, not subject to restricted access systems and hosted outside Australia; and
- Another 35 URLs relating to content which was likely to be classified RC or X18+ when initially investigated prior to 20 January 2008. When reviewed by ACMA it was determined that the content had changed since the material was initially investigated, such that the content was likely to be classified R18+. None of these 35 items was subject to a restricted access system, and the content therefore remained potential prohibited content under clause 21 of Schedule 5 to the BSA at the time it was last reviewed by ACMA.

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Question No: 155

Hansard Ref: Written

Topic: URL blacklists

Senator Ludlam asked:

In your Annual Report 2007-2008 you state that ACMA actioned a number of "RC - Child – depiction". How many items were referred by ACMA to the Australian Federal Police or State or Territory police forces?

Answer:

In the financial year 1 July 2007 to 30 June 2008, ACMA took action on 410 items of prohibited content and potential prohibited content which were hosted outside Australia and which were considered likely to be classified RC in accordance with item 1(b) of the Films Table of the National Classification Code. Of the 410 URLs, 344 URLs were referred to a hotline which is a member of the International Association of Internet Hotlines (INHOPE), for assessment under applicable legislation in the country concerned, and referral to the relevant law enforcement agency in that country, if appropriate. This arrangement is by written agreement with the Australian Federal Police pursuant to clause 40(1)(a)(ii) of Schedule 5 to the *Broadcasting Services Act 1992*. Sixty-six items of content were referred directly to the Australian Federal Police, due to the lack of an INHOPE member hotline in the country in which the content was hosted.

In the same period, a further 11 items of prohibited content which were hosted in Australia, and which the Classification Board classified RC in accordance with item 1(b) of the Films Table of the National Classification Code, were referred to Commonwealth, and State or Territory law enforcement agencies.

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Question No: 156

Hansard Ref: Written

Topic: URL blacklists

Senator Ludlam asked:

How long does ACMA generally take to make decisions about prohibited content in response to reports from members of the public?

Answer:

Complaints about suspected online depictions of child sexual abuse – most of which is hosted outside Australia – make up the bulk of complaints about online content that have been received by ACMA. Complaints about such content that is hosted in Australia are assigned the highest priority by ACMA’s online content investigation area. ACMA aims to undertake preliminary assessment of suspected online depictions of child sexual abuse and, if required, make contact with the relevant law enforcement agency within 48 hours of receipt of the complaint. Once ACMA has received advice from the law enforcement agency, ACMA then issues an interim take-down notice to relevant hosting service provider within 48 hours, and asks the Classification Board to classify the content.

In the case of other Australian hosted content likely to be classified RC, ACMA generally issues an interim take-down notice and asks the Classification Board to classify the content within 2 to 5 working days of receipt of the complaint. As the process for content hosted outside Australia does not require initial consultation with a law enforcement agency or mandate classification of the content by the Classification Board, ACMA is also able to make a decision about and take action on such material within two to five working days in most cases.

ACMA must ask the Classification Board to classify all potential prohibited content that is hosted in or provided from Australia. This process generally takes 5 to 10 business days from the date of the request. Complaints about other content hosted outside Australia are generally able to be resolved within five business days.

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Question No: 157

Hansard Ref: Written

Topic: URL blacklists

Senator Ludlam asked:

One study conducted in July 2008 by Drs. Richard Clayton and Tyler Moore from Cambridge University in England found that responses to complaints by banks to phishing websites was very fast – about 3.5 hours, but that child sexual abuse website took 150 times longer than banking fraud sites to take down. Would you say that this is the case in Australia – that a prohibited content decision takes over 100 times longer to take down than a bank fraud site?

Answer:

ACMA understands that the July 2008 study examined processes undertaken outside Australia. As ACMA is not aware of comparable studies of reporting and take-down processes undertaken outside Australia it is not in a position to advise on such a comparison. ACMA can however provide information on the general timeframes which apply to its processes for dealing with complaints about suspected online depictions on child sexual abuse.

Under clause 47 of Schedule 7 to the *Broadcasting Services Act 1992* (BSA) (and prior to 20 January 2008, clause 30 of Schedule 5 to the BSA), if in the course of an investigation ACMA locates online content that is prohibited content (as defined by clause 20 of Schedule 7 to the BSA) or potential prohibited content (as defined by clause 21 of Schedule 7 to the BSA) hosted in Australia, it must direct the host to take-down the content or otherwise take action to ensure that it is not prohibited content. A person who is given such a notice by ACMA must comply with the notice as soon as practicable, and in any event by 6.00 pm on the next business day, after the notice was given to the provider. Since 1 January 2000, ACMA has directed the take-down of 372 items of prohibited content hosted in Australia. In all cases the content host, hosting service provider or links service provider has complied with the notice within the required timeframe.

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Question No: 158

Hansard Ref: Written

Topic: URL blacklists

Senator Ludlam asked:

How many distinct URLs have been the subject of referrals received from ACMA in each 12 month period from 1 January 2000 to 31 December 2008? How many of those referrals resulted in criminal investigations (broken down by year)? Of those investigations, how many individuals became the subject of criminal charges (broken down by year)? Of those, how many individuals were convicted (broken down by year)? How many judicial findings were made pursuant to the *Crimes Legislation Amendment (Telecommunications and Other Measures) Act (No. 2) 2004* to assert that URLs reported by ACMA were “Child Pornography Material” or “Child Abuse Material” as defined by the Act?

Answer:

The number of items of online content referred directly to Australian law enforcement agencies each year for the period 1 January 2000 to 31 December 2008 is set out below.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Referred to State/Territory police (Items)	89	43	11	4	0	27	8	1	13	196
Referred to Australian Federal Police (Items)	156	197	84	49	168	216	83	163	66	1182

Actions taken by law enforcement agencies on ACMA’s referrals and findings under Commonwealth criminal legislation are matters for those agencies.

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Question No: 159

Hansard Ref: Written

Topic: Efficiency Divided

Senator Birmingham asked:

1. How has the ACMA implemented the one-off two per cent efficiency dividend (ED)?
2. Where have savings been achieved – i.e. which programs/resources have been cut?
3. Has the ACMA had to reduce any activities that it considers to be ‘core business’ or has it had to reduce service standards as a result of the ED?

Answer:

1. The ACMA has absorbed the impact of the efficiency dividend through the reduction of discretionary expenses.
2. The ACMA has not cut any programs. However, the following have been reviewed and efficiencies realised:
 - business areas’ structure, discretionary spending and priorities including the closure of operational centres;
 - ongoing activities through, where appropriate, business process re-engineering;
 - management of accommodation resources;
 - key technologies through the rationalisation and modernisation of Information and Communications Technology systems; and
 - discretionary areas of expenditure have been reduced, for example, travel and non-‘critical path’ consultancies.
3. The ACMA, to date, has not had to reduce any ‘core business’ activities. However, it has re-prioritised some activities resulting in the pushing out of service standard timeframes, including responses to investigations.

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Question No: 160

Hansard Ref: Written

Topic: Efficiency Dividend - Staffing

Senator Birmingham asked:

1. Have staffing numbers been reduced as a result of the efficiency dividend and/or other budget cuts? If so, where and at what level?
2. Are there any plans for staff reductions? If so, please advise details i.e. reduction target, how this will be achieved, services/programs to be cut etc.
3. What changes are underway or planned for graduate recruitment, cadetships or similar programs? Are such employment programs being reduced? If so, by how many and has the ACMA done an analysis on long term effect on retention and attrition?

Answer:

1. ACMA's average staffing levels have been reduced to take account of the efficiency dividend and budget cuts. The actual location and classification of these reductions are not able to be determined as ACMA's staffing numbers move over time in accordance with available budget and government priorities. ACMA managers review each vacancy and staffing levels on an ongoing basis with each vacancy being considered in the context of the need to meet ACMA's business requirements, both short and long term, and the availability of resources.
2. Staffing numbers for 2009-10 and beyond are not able to be determined until after the 2009-10 budget is announced by the Government and ACMA has had an opportunity to consider the detail of this budget in the context of its priorities for the coming period.
3. ACMA is not planning to change or reduce its current employment programs (in 2008-09 ACMA ran a cadetship program, while in previous financial years ACMA ran both cadetship and graduate recruitment programs).

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Question No: 161

Hansard Ref: Written

Topic: Consultancy Expenditure

Senator Birmingham asked:

Has the ACMA's consultancy expenditure increased due to reduced staffing?

Answer:

No. There is no correlation between ACMA's staffing and the use of consultants. Consultants are generally used where there is a need for independent or specialist advice.

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Question No: 162

Hansard Ref: Written

Topic: Appropriations

Senator Birmingham asked:

Noting the Government's *Federal Financial Relations Bill 2009*, which appropriates money to Treasury to pass on to the States;

- Does the ACMA receive any appropriations that will be transferred to the Treasury Dept
- What are these?

Answer:

1. The ACMA does not receive any appropriations that will be transferred to the Treasury Department.

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Question No: 163

Hansard Ref: Written

Topic: Data Collection/Analysis

Senator Birmingham asked:

Does the ACMA have enough analytical resources at its disposal? For example, the Government has cut funding to the ABS – is the ACMA provided with enough data collection for evidence-based policy making and evaluation?

Answer:

ACMA undertakes data collection and analysis to ensure that ACMA meets its statutory reporting, advisory obligations and investigation and compliance obligations, and to assist in making informed decisions as an evidence-informed regulator. ACMA's data collection and analysis is undertaken within the constraints of the organisation's budget and resources.

ACMA satisfactorily discharges its abovementioned statutory reporting and obligations.

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Question No: 164

Hansard Ref: Written

Topic: Depreciation

Senator Birmingham asked:

1. Did the ACMA use any depreciation funding for recurrent expenditure in 2007-08?
2. Has the ACMA used any depreciation funding for recurrent expenditure this year?
3. Has any depreciation funding been used for purposes other than the replacement of capital items in 2007-08?
4. How much has the ACMA spent on the replacement of capital items in the first six months of 2008-09?

Answer:

1. No.
2. No.
3. No.
4. \$1.513m has been spent on replacement of capital items in the first six months of 2008-09.

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Question No: 165

Hansard Ref: Written

Topic: Stimulus Package

Senator Birmingham asked:

1. Does the ACMA have any involvement in measures announced as part of the \$42 billion budget stimulus package?
2. If so, was (and when was) the ACMA asked for input before the stimulus package was announced?
3. When did the ACMA know details about the stimulus package affecting its portfolio?

Answer:

1. ACMA has no involvement in the measures comprising the stimulus package.
2. Not applicable.
3. Not applicable.

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Question No: 166

Hansard Ref: Written

Topic: Staffing

Senator Birmingham asked:

1. What is the current total staffing for the ACMA – permanent and temporary?
2. What was the total Full Time Equivalent (FTE) staffing level for the ACMA on 1 July 2008?
3. How many permanent staff were recruited in calendar year (CY) 2008 and in financial year (FY) 2008-09 to date? What level are these staff?
4. How many temporary positions exist or have been created in CY 2008 and in FY 2008-09 to date?
5. For CY 2008 and FY 2008-09 to date, how many employees have been employed on contract and what is the average length of their employment period?

Answer:

1. Total staffing for ACMA as at 17 March 2009 was 595; 569 ongoing (permanent) staff, 26 non-ongoing (temporary) staff
2. ACMA's FTE on 1 July 2008 was 562.97
3. In CY 2008, ACMA recruited 94 ongoing (permanent) staff as follows:

Classification	Total
ACMA2	2
ACMA3	5
ACMA4	17
ACMA5	10
ACMA6	23
EL1	24
EL2	6
Legal Officer1	2
Legal Officer2	2
Legal Officer3	1
Statutory Office Holder1	2
Total	94

To date (17 March 2009) in FY 2008-09, ACMA has recruited 77 ongoing (permanent) staff, as follows:

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Classification	Total
ACMA2	1
ACMA4	17
ACMA5	10
ACMA6	23
EL1	17
EL2	3
Legal Officer2	1
Legal Officer3	3
Statutory Office Holder1	2
Total	77

4. In CY 2008, ACMA created 55 non-ongoing (temporary) positions. To date (17 March 2009) in 2008-09, ACMA has created 44 non-ongoing (temporary) positions.
5. For CY 2008, 32 employees were employed on non ongoing contracts and the average contract length was 7.7 months. For FY 2008-09, 35 employees were employed on non ongoing contracts and the average contract length was 8.7 months.

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Question No: 167

Hansard Ref: Written

Topic: Program underspend/lapsing

Senator Birmingham asked:

1. Which programs are currently tracking for an underspend this financial year?
2. How many of the ACMA's funding programs/budget measures lapse this Financial Year and what are they?

Answer:

1. All of the ACMA programs are tracking to meet budgeted forecasts for the 2008/09 Financial Year.
2. The ACMA has one program/funding measure lapsing in the Financial Year 2008/09; Digital Radio – Planning and Licensing Activities.

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Question No: 168

Hansard Ref: Written

Topic: Gershon Review

Senator Birmingham asked:

1. What impact will the Gershon Review have on the ACMA?
2. How much money will be saved?
3. Will the ACMA be required to return any money to Budget for 2009-10?

Answer:

1. The Gershon Review will impact on a range of ICT functions particularly in relation to processes and funding associated with business as usual functions. The details of specific areas impacted will only become clear once the Department of Finance and Deregulation implements the recommendations that have been accepted by the Government. At this stage it is not clear what all of the impacts will be on the ACMA.
2. The Gershon Review has indentified savings of \$0.206m in 2009/10, and potential savings of \$0.620m for 2010/11, \$0.630m for 2011/12 and \$0.630m for 2012/13.
3. Yes, the ACMA will be returning \$0.206m in the 2009/10 budget year.

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Question No: 169

Hansard Ref: Written

Topic: Media Monitoring

Senator Birmingham asked:

1. How much was spent on media monitoring in CY 2008?
2. How much has been spent on media monitoring in FY 2008-09 to date?
3. How many staff in the ACMA are employed for media related duties?

Answer:

1. A total of \$99,802.86 was spent by the Australian Communications and Media Authority on media monitoring in the calendar year 2008.
2. In the financial year to 23 February 2009, the Australian Communications and Media Authority has spent \$95,921.59 on media monitoring.
3. A total of four full-time staff are employed by the Australian Communications and Media Authority to undertake media related responsibilities.

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Question No: 170

Hansard Ref: Written

Topic: Government advertising

Senator Birmingham asked:

1. What communications programs has the ACMA undertaken, or is planning to undertake?
2. For each program, what is the total spend? Please detail including media advertisements (where placed and costs).
3. What was the total spend on advertising by the ACMA in CY 2008 and for FY 2008/09 to date?

Answer:

1. ACMA has not undertaken any formal communications programs or campaigns and has not identified the need for any formal communications programs during CY 2009 or FY 2008/09.

ACMA undertakes a range of communications activities related to its areas of responsibility including its ongoing research program, numbering changes, customer cabling, the Do Not Call Register, e-security and anti-spam, cybersafety, codes and standards, and spectrum planning. These activities include issuing media releases, print and electronic publishing through its website, and engagement with stakeholders.

2. As noted above ACMA has not undertaken any formal communications programs or campaigns.

3. ACMA spent a total of \$162,969.21 on advertising in the calendar year 2008 and \$38,812.08 to date in the financial year 2008-09.

This expenditure covers the cost of a range of advertisements, placed in major metropolitan daily newspapers and regional newspapers, for activities such as the release of discussion papers, other channels of stakeholder consultation and advice, and recruitment. All advertisements are placed through the government-appointed agency.

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Question No: 171

Hansard Ref: Written

Topic: Hospitality

Senator Birmingham asked:

1. What is the ACMA's hospitality spend for CY 2008 and for FY 2008/09 to date?
2. Please detail date, location, purpose and cost of all events.

Answer:

1. Calendar Year 2008 – \$3,436.71
 Financial Year 2008/09 – \$6,628.19
2. The following events were held in calendar year 2008:

Type of Event	Location	Date	Purpose	Cost
International Delegations (4)	Canada (Canberra)	6/2/08	Lunch	\$144.09
	Korea Melbourne	24/11/08	Lunch	160.91
	Korea (Sydney)	25/11/08	Dinner	139.36
	Malaysia (Canberra)	3/12/08	Meeting/Dinner	1,549.25
Chairman/Authority Functions (3)	Minister - (Sydney)	14/5/08	Meeting	785.78
	Member - McNeil (Sydney)	2/7/08	Meeting	43.55
	Member - Luther (Canberra)	4/7/08	Meeting	59.09
Industry Functions (4)	Vodafone (Sydney)	16/4/08	Meeting	351.69
	NetAlert (Sydney)	23/4/08	Meeting	42.27
	Cybersafety (Sydney)	3/6/08	Lunch	145.45
	Industry (Sydney)	17/11/08	Breakfast	15.27
TOTAL				\$3,436.71

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The following events were held in financial year 2008/09 to date:

Type of Event	Location	Date	Purpose	Cost
International Delegations (4)	Korea (Melbourne)	24/11/08	Lunch	\$160.91
	Korea (Sydney)	25/11/08	Dinner	139.36
	United Kingdom (Melbourne)	26/11/08	Lunch	289.09
	Malaysia (Canberra)	3/12/08	Meeting/Dinner	1,549.25
Chairman/Authority Functions (3)	Member - McNeil (Canberra)	2/7/08	Meeting	43.55
	Member - Luther (Sydney)	4/7/08	Meeting	59.09
	Minister/Chairman (Sydney)	20/2/09	Meeting	153.10
Industry Functions (4)	Cybersmart (Brisbane)	8/10/08	Launch	494.48
	Cybersafety (Sydney)	17/11/08	Lunch	15.27
	Cybersafety (Melbourne)	9/12/08	Breakfast	178.64
	Industry (Sydney)	22/1/09	Reception	3,545.45
TOTAL				\$6,628.19

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Question No: 172

Hansard Ref: Written

Topic: Board Appointments

Senator Birmingham asked:

1. What is the gender ratio on each board across the portfolio, and what is the total ratio across the portfolio?
2. In which states/territories do these Board members reside?

Answer:

1. The ACMA does not have a "Board". Rather it has an Authority and as such has Authority Appointments. The Authority currently consists of 8 members, with one of the 8 being the Chairman of the Australian Competition and Consumer Commission, as an Associate member; 6 males, 2 females.
2. Three members reside in NSW;
Three members reside in the ACT;
One member resides in Victoria; and
One member resides in SA.

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Question No: 173

Hansard Ref: Written

Topic: Freedom of Information Requests

Senator Birmingham asked:

Has the ACMA received any advice on how to respond to Freedom of Information (FOI) requests?

How many FOI requests has the ACMA received?

How many have been granted or denied?

How many conclusive certificates have been issued in relation to FOI requests?

Answer:

Has the ACMA received any advice on how to respond to Freedom of Information (FOI) requests?

No. For the period from the last hearing date (20 October 2008) to 23 February 2009, ACMA has received no advice from the government on how to respond to FOI requests. Some ACMA staff involved in processing FOI requests have elected to receive email updates on matters of interest on FOI law and processing. The email service is provided by the Department of Prime Minister and Cabinet (FOIAPPS@pmc.gov.au).

How many FOI requests has the ACMA received?

For the period from 20 October 2008 to 23 February 2009, ACMA received 15 FOI requests.

How many have been granted or denied?

For the FOI requests received in the period from 20 October 2008 to 23 February 2009:

- Granted in full - 1;
- Granted in part - 5;
- Refused - 1;
- Request withdrawn - 5; and
- Decision pending - 3.

How many conclusive certificates have been issued in relation to FOI requests?

None.

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Question No: 174

Hansard Ref: Written

Topic: Consultancies

Senator Birmingham asked:

1. How many consultancies have been undertaken or are underway since November 2007?
2. Please identify the name of the consultant, the subject matter of the consultancy, the duration and cost of the consultancy, and the method of procurement (i.e. open tender, direct source, etc). Please also include total value for all consultancies.
3. How many consultancies are planned or budgeted for this calendar year?
4. Have these been published in the ACMA's Annual Procurement Plan (APP) on the AusTender website? If not, why not? In each case please identify the subject matter, duration, cost and method of procurement as above, and the name of the consultant if known.

Answer:

1. 25 consultancies have been undertaken or are underway since November 2007.
2. The name, subject matter, duration, cost and method of procurement of consultancies undertaken from November 2007 to date are in the attached Table 1.
3. The ACMA has eight planned consultancies for the 2009 calendar year.
4. Two of the eight planned consultancies are detailed in the 2008-09 ACMA Annual Procurement Plan (APP). The remaining six consultancies are detailed in Table 2 with the reasons for non-inclusion detailed below:
 - ACMA has established Standing Offer panels for several subject areas (therefore, in a number of cases, it is unnecessary to approach the open market);
 - some consultancies did not meet the definition of 'strategic and major procurement' for inclusion in the APP, and
 - at the time of writing the APP in May 2008, these Consultancies were not anticipated. As the Government and Department's priorities shift, ACMA responds accordingly.

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Table 1 – Response to Question 2

Description	Organisation	Contract Number	Method of Procurement	Start Date	Anticipated Completion Date	Total Value (GST Inc)
Authority 360 Review	Centre for Strategy Development	09ACMA027	RFQ (Direct Source)	18-Mar-09	30-Jun-09	\$29,250
Literature Review of Research on Commercial Influence in News and Current Affairs Programs on Commercial Radio	Journalism and Media Centre, UNSW	08ACMA053	RFQ (Direct Source)	29-Jan-09	8-Apr-09	\$28,753
AIMS COGNOS Report Building Services	Pelion Group Pty Ltd	08ACMA032	RFQ (Direct Source)	4-Sep-08	3-Oct-08	\$80,000
Research into Community Radio	Uni of Technology, Sydney	07ACMA077	Standing Offer Panel created via Open Tender	27-May-08	7-Jul-08	\$43,620
Current Affairs programming	Strategic Media Solutions	07ACMA074	Standing Offer Panel created via Open Tender	26-May-08	6-Jul-08	\$44,000
Pricing on Radiofrequency Spectrum	Plum Consulting	07ACMA072	RFQ (Direct Source)	3-Jun-08	2-Sep-08	\$79,100
Research on Key Issues	Telco One	07ACMA068	RFQ (Direct Source)	1-May-08	30-Jun-08	\$39,820
Annual Access Fees Services	Access Economics	07ACMA046	RFQ (Direct Source)	31-Jan-08	11-Feb-11	\$94,085
Education Consultancy	Delphian	07ACMA041	RFQ (Direct Source)	13-Mar-08	12-Jun-08	\$44,130
Review of Finance Processes	Alese Pty Ltd	07ACMA039	RFQ (Direct Source)	29-Nov-07	28-Feb-08	\$14,020
Broadband study - Yorke peninsula	Minister for Science and Information Economy (South Australia)	07ACMA028	Funding Deed with SA Government	17-Aug-07	31-May-08	\$50,000
Stakeholder Survey- Lower Microwave Fixed Point to Point Bands	Spectrum Engineering Aust.	07ACMA023	RFQ (Direct Source)	8-Feb-08	30-May-08	\$49,550
Business Analysis Services	Dialog	07ACMA020	RFT (Open Tender)	1-Jan-08	30-Jun-08	\$500,000
Digital TV Retransmission	Intermedia Comms. & Broadcasting	07ACMA011	RFQ (Direct Source)	17-Sep-07	16-Mar-08	\$62,700
Provision of Online Safety Program	IT Vision	06ACMA157	RFQ (Direct Source)	1-Aug-07	30-Jun-08	\$130,000
Project Spectrum Change Manager Consultancy	Pricewaterhouse Coopers	06ACMA147	Standing Offer Panel created via Open Tender	15-Sep-08	30-Jun-09	\$137,060
Telecommunications consumer survey	Roy Morgan Research	06ACMA129	Standing Offer Panel created via Open Tender	4-Apr-08	31-May-08	\$75,871
Research on Community Attitudes	Blue Moon	06ACMA129	Standing Offer Panel created via Open Tender	30-Apr-08	30-Sep-08	\$99,990
Review of ACMA Spectrum Allocation Packages	Luther Consulting	06ACMA113	RFQ (Direct Source)	27-Jul-07	26-Jan-09	\$20,000

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Table 2 – Response to Question 3

Description	Contract Number	Method of Procurement	Total Value (GST Inc)
Assessment of Efficiency of Various Auction Methodologies for Allocating any Digital Dividend	09ACMA006	RFQ	\$69,500
Key Concepts in Islamic Discourse and Listed Terrorist Use of Broadcast Media	09ACMA010	RFQ	TBA
Economic Review of ACMA Radiocommunications Licencing Regime	09ACMA025	RFQ	\$15,000
Media and Communication Review	09ACMA021	N/A	TBA
Audit of ACMA's Activity Based Costing Model 2007-08	09ACMA019	RFQ	TBA
Property Portfolio Review	09ACMA008	RFQ	TBA

TBA = Contract value not yet determined.

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Question No: 175

Hansard Ref: Written

Topic: Broadcasting licence areas

Senator Birmingham asked:

1. Have broadcasting licence areas been reviewed since the 2006 census? If so, what changes were made? If not, why not and is a review planned, when will it occur and what potential for public involvement will there be?
2. What would communities such as Kimba, Karanda and Buckleboo have to demonstrate or do to gain access to the Spencer Gulf TV1 licence area?
3. Is there a capacity to review licence areas as part of the implementation of digital services? If so, will it occur? If not, why not?

Answer:

1. Have broadcasting licence areas been reviewed since the 2006 census? If so, what changes were made? If not, why not and is a review planned, when will it occur and what potential

No. Broadcasting licence areas are not reviewed regularly. Changes are only considered when planning issues arise that warrant consideration of variations to the relevant licence area plan (LAP) under section 26 of the *Broadcasting Services Act 1992* (the BSA). Such planning issues typically include minor updates to the licence area boundaries as a result of new Census data (usually after each new Australian Bureau of Statistics Census) but may extend to more significant re-drawing of licence area boundaries.

2. What would communities such as Kimba, Karanda and Buckleboo have to demonstrate or do to gain access to the Spencer Gulf TV1 licence area?

ACMA may vary the boundaries of the relevant licence areas so that Kimba, Karanda and Buckleboo are within the licence area for Spencer Gulf TV1. The process of extending the boundaries of a licence area for existing broadcasting services would be through a variation to the relevant licence area plan (LAP) under section 26(2) of the BSA. This process is accompanied by wide public consultation in accordance with section 27 of the BSA.

In general, ACMA assumes that the licence areas of existing commercial and community broadcasting services, using the broadcasting services bands, represent accepted media markets and ACMA will not vary them without good reason, other than to update them where boundaries are based on outdated Census descriptions.

If ACMA were to consider extending the licence area of Spencer Gulf TV1 it is required to have regard to matters in section 23 of the BSA, including the efficient use of the radiofrequency

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spectrum. The planning criteria in s.23 cover a range of issues such as demographics and socioeconomic characteristics of the area as well as technical restraints relating to the delivery or reception of broadcasting services.

The attitude of the television licensees in the Spencer Gulf TV1 to any such extension would be material considerations. There is currently no provision in the BSA that requires broadcasters to provide a service to the whole licence area. Subclause 7 (2) (a) of schedule 2 states 'the licensee will provide a service or services that, when considered together with other broadcasting services available in the licence area of the licence (including another service or services operated by the licensee), contributes to the provision of an adequate and comprehensive range of broadcasting services in that licence area'. This condition does not imply that a licensee is obliged to cover the entire licence area. If this were the case, someone would need to be prepared to fund and provide any necessary additional transmission facilities and, if necessary, any associated program feeds.

The two commercial television licensees in the Remote and Central Eastern Australia (RCE) licence area would also be entitled to be heard on any such proposal, which would potentially represent the excision of part of their licence area and audience.

3. Is there a capacity to review licence areas as part of the implementation of digital services?
If so, will it occur? If not, why not?

No. The power to vary a licence area plan under section 26 of the BSA is the appropriate source of power to consider licence area boundary issues.