

**Senate Standing Committee on the
Environment, Communications and the Arts**
ANSWERS TO ESTIMATES QUESTIONS ON NOTICE
Broadband, Communications and the Digital Economy portfolio
Australian Communications and Media Authority]
Supplementary Estimates Hearings October 2008

Question: 53

Topic: Telstra's obligation to report outstanding complaints

Senator Parry asked:

Telstra Complaints

Does Telstra have any obligation to report complaints that are outstanding? Is there any obligation on them, or any other private provider for that matter?

Answer:

There is no general legislated obligation upon Telstra, or any other provider, to report to ACMA on outstanding complaints.

If customers are unable to resolve a complaint directly with their providers, they can then refer the matter to the Telecommunications Industry Ombudsman.

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Question: 54

Topic: Telstra Standard Zones

Senator Parry asked:

Mobile Phone coverage

Minor rural is equal to or more than 200 but less than 2,500 people within a Telstra standard zone; and remote areas are less than 200 people or located outside a Telstra standard zone.

Senator PARRY—What is a Telstra standard zone? I can take that on notice; that is fine.

Answer:

The term 'Standard Zone' is defined in section 108 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. A standard zone is an area where calls between points in that area must be charged at an untimed local call rate.

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Question: 55

Topic: NewsRadio: Rural Communities in Western Australia

Senator Eggleston asked:

Could you take on notice a question as to which rural communities in Western Australian have now got a News Radio Service?

Answer:

ACMA has issued licences for NewsRadio services in Perth, Broome, Kalgoorlie, Karratha, Port Hedland, Southern Agricultural(Albany), Wagin, Carnarvon, Central Agricultural(Northam), Geraldton and Esperance. ABC is responsible for the operation of the NewsRadio services and is the appropriate body to give information on the operational status of the NewsRadio services in WA.

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Question: 56

Topic: Subliminal Material.

Senator Ludlam asked:

Commercial free TV code of practice

The commercial free TV code of practice contains provisions which require that the commercial broadcasters cannot transmit messages or advertising which are at the threshold of recognition. That is the technical term for what you have characterised as subliminal advertising. That has been in the code for a considerable length of time. As you will be aware, we recently breached Channel 10 for breaches of those code provisions in last year's ARIA presentations.

Senator LUDLAM—That is right. That is commercial free-to-air. What about pay TV and government owned stations, community stations?

Ms O'Loughlin—I think it is limited to free TV, but I might need to take that on notice.

Answer:

Provisions which prohibit the broadcast of subliminal material also appear in the following ASTRA (Australian Subscription Television & Radio Association) Codes of Practice and the Community Television Code of Practice. The relevant provisions from the Codes of Practice are outlined below.

No such provisions appear in the SBS or ABC Codes of Practice.

ASTRA Subscription Broadcast Television Codes of Practice (2007)

Clause 2.1 - General Programs

...

(b) Licensees will not knowingly broadcast programs that:

...

use or involve the process known as 'subliminal perception' or any other technique that attempts to convey information to the audience by broadcasting messages below or near the threshold of normal awareness.

ASTRA Subscription Narrowcast Television Codes of Practice (2007)

Clause 1.4 – General Guidelines for programming

...

1.4 Narrowcasters will not broadcast programs that:

...

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(c) use the process known as ‘subliminal perception’ or any other technique that attempts to convey information by broadcasting messages below or near the threshold of normal awareness.

ASTRA Open Narrowcast Television Codes of Practice (2003)

...

1.4 Narrowcasters will not broadcast programs that:

...

(c) use the process known as ‘subliminal perception’ or any other technique that attempts to convey information by broadcasting messages below or near the threshold of normal awareness.

Community Television Codes of Practice 2003 – Clause 3.3 (d)

Code 3 – Programming

...

Community Television stations will:

...

3.3 Ensure no material is broadcast which may:

...

(d) induce a hypnotic state or use subliminal techniques.

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Question: 57

Topic: Subliminal Material

Senator Ludlam asked:

Frames per second

Senator LUDLAM—There is a huge diversity of people watching television. My question to you in this context is whether that is benchmarked against, for example, an adult's threshold of awareness or a child's.

The three frames per second is perceptible to an ordinary, reasonable adult. Are you aware of how that might relate to child viewers, for example?.....

Perhaps it is more worthwhile to take something like this on notice, but could you provide us with information about where that definition of the three frames per second came from and are you aware of any research in the field on how that threshold would be different for people of different ages?

Answer:

In investigating a complaint relating to the broadcast of the 2007 ARIA Awards by Channel 10, the ACMA considered whether an 'ordinary reasonable viewer'¹ would consider the related footage as below or near the threshold of normal awareness.

For the purposes of this investigation, ACMA staff considered the 'threshold of normal awareness' to be:

- Any image visible to the ordinary reasonable viewer at normal speed; and
- Any image that lasts for 3 or more frames (staff calculated one frame to be approximately 1/24th of a second).

ACMA is aware that the large body of research on subliminal advertising does not necessarily provide a single definition of the issue.

As it has in this instance, ACMA has taken into account the audience demographics for a program, during its consideration of any complaints regarding this type of program or advertising material.

¹ A person of fair average intelligence, who is neither perverse, nor morbid or suspicious of mind, nor avid for scandal. An ordinary, reasonable viewer does not live in an ivory tower, but can and does read between the lines in the light of that person's general knowledge and experience of worldly affairs – *Amalgamated Television Services Pty Limited v Marsden* (1998) 43 NSWLR 158 at pp. 164-167..

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Question: 58

Topic: ACMA Annual Report

Topic: Media Monitoring

Senator Birmingham asked:

If the ACMA annual report has not yet been tabled, when will it be tabled and was any consideration given to having the annual report ready in advance of Supplementary Estimates as a courtesy?

Answer:

The ACMA Annual Report 2007-08 was tabled in Parliament out of session on 29 October 2008.

ACMA completed the production of its annual report and submitted it for tabling in parliament during the sitting week beginning 13 October 2008. However, tabling of the report did not occur until 29 October 2008.

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Question: 59

Topic: Staff Recruitment

Senator Birmingham asked:

How many permanent staff recruited since the budget estimates?
What level are these staff?

Answer:

A total of 30 permanent staff have been recruited since the May 2008 budget estimates hearings. Levels are as follows:

APS Level 3	3
APS Level 4	3
APS Level 5	6
APS Level 6	10
Executive Level 1	7
Executive Level 2	1

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Question: 60

Topic: Temporary positions

Senator Birmingham asked:

How many temporary positions exist or have been created since budget estimates?

Answer:

There are currently 24 temporary positions, 6 of which have been created since the May 2008 budget estimates hearings.

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Question: 61

Topic: Contract employees

Senator Birmingham asked:

Since budget estimates, how many employees have been employed on contract and what is the average length of their employment period?

Answer:

Since the May budget estimates hearings, 6 employees have been employed on contract and the average length of employment period is 9 months.

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Question: 62

Topic: Reduction in staffing numbers

Senator Birmingham asked:

Have staffing numbers been reduced as a result of the efficiency dividend and/or other budget cuts?

If so, where and at what level?

Answer:

The ACMA has undertaken the following voluntary redundancies in response to the budgetary situation:

Location	Level	Number
Cairns	APS Level 5	1
	APS Level 6	1
Canberra	APS Level 4	1
	APS Level 5	1
	APS Level 6	1
	Executive Level 2	1
Coffs Harbour	APS Level 5	1
	APS Level 6	1
Melbourne	APS Level 4	1
	APS Level 6	1
	Executive Level 1	2
	Executive Level 2	1
Sydney	Executive Level 1	1
	Executive Level 2	1
Rockhampton	APS Level 5	1
	APS Level 6	1
Townsville	APS Level 5	1
Wodonga	APS Level 5	1
Total		19

The above table includes 7 staff who are still employed but have accepted redundancy as a result of closure of offices in ACMA's Field Operations network.

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Question: 63

Topic: Razor Gang Mk II

Senator Birmingham asked:

What discussions has the ACMA had with the Razor Gang Mk II?
Has the Razor Gang indicated any cuts/savings to be made by the ACMA?

Answer:

Discussions are ongoing with the Expenditure Review Taskforce, with outcomes still to be considered by the Government.

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Question: 64

Topic: Special Accounts

Senator Birmingham asked:

What special accounts does the ACMA currently hold? How much is in these accounts?
Does the ACMA use the interest from these funds to fund ongoing operations?
Has the Razor Gang Mark II given any indication about the future of these special accounts?

Answers:

What special accounts does the ACMA currently hold? How much is in these accounts?

- | | |
|----------------------------------|-------------------------------------|
| • Universal Service Account | Balance of \$0.806m at 30 June 2008 |
| • National Relay Service Account | Balance of \$6.552m at 30 June 2008 |
| • Other Trust Money | Balance of nil at 30 June 2008 |
| • ComCare Trust | Balance of \$0.009m at 30 June 2008 |

Does the ACMA use the interest from these funds to fund ongoing operations?

No.

Has the Razor Gang Mark II given any indication about the future of these special accounts?

We are advised that special accounts are not being considered in the context of the Expenditure Review Taskforce.

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Question: 65

Topic: Underspends

Senator Birmingham asked:

How many programs were underspent in 07-08 financial year?

Answer:

The ACMA budget was fully expended in the 07-08 financial year.

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Question: 66

Topic: Underspends

Senator Birmingham asked:

What requests have been made to roll-over underspends to 2008-09?
Were these requests successful?

Answer:

ACMA has made no request to roll-over underspends to 2008-09.

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Question: 67

Topic: Underspend

Senator Birmingham asked:

How much has been spent on media monitoring to date this year?

Answer:

Since 27 May 2008 to date, ACMA spent \$56,232.00 on media monitoring.

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Question: 68

Topic: Paid advertising and promotional activities

Senator Birmingham asked:

What communications programs has the ACMA undertaken, or are planning to undertake?
For each program, what is the total spend?
Please detail date, location, purpose and cost of each event.

Answer:

The Australian Communications and Media Authority (ACMA) did not run any paid advertising or associated promotional activities between 1 January 2008 and 20 October 2008.

ACMA has no current plans for any future paid advertising or promotional activities.

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Question: 69

Topic: Freedom of Information Requests

Senator Birmingham asked:

Has the ACMA received any advice on how to respond to 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 FOI requests?

Yes, advice has been obtained from external lawyers, including the Australian Government Solicitors (AGS) about contentious issues that have arisen in relation to specific Freedom of Information (FOI) requests. Advice has also been obtained from counsel in relation to matters in which external review has been sought of a decision made by ACMA in response to a FOI request. ACMA staff who have particular responsibility for FOI requests have also attended external training conducted by AGS.

How many FOI requests has the ACMA received?

The following table provides a summary of requests received by ACMA under the Act, since its establishment in 2005:

Year	FOI Requests received by ACMA
2005 – 2006	11 requests
2006 - 2007	33 requests
2007 – 2008	17 requests
01.07.08 – 30.09.08	4 requests

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How many have been granted or denied?

The following table provides a summary of decisions made by ACMA to grant or deny a request made under the Act:

Year	Decision granting access	Decision refusing access	Requests withdrawn
2005 – 2006	Access in full – 3 Access in part - 3	Access refused - 1	4 withdrawn
2006 - 2007	Access in full – 13 Access in part - 14	Access refused - 1	5 withdrawn
2007 – 2008	Access granted - 16	Access refused - 1	
01.07.08 – 30.09.08	Access granted - 1		1 withdrawn

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

No conclusive certificates have been issued in relation to a request made to ACMA under the Act.

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Question: 70

Topic: Reviews

Senator Birmingham asked:

How many Reviews are currently being undertaken in the ACMA?

When will each of these reviews be concluded?

Which Reviews have been completed since Budget Estimates?

When will the Government be responding to the respective reviews that have been completed?

Answers:

Input to External Reviews

How many Reviews are currently being undertaken in the ACMA?

The Australian Communication & Media Authority (ACMA) is currently providing information in relation to a request for information from the Department of Finance and Deregulation (DOFD) scoping study on telecommunications services supplied to agencies.

When will each of these reviews be concluded?

ACMA is due to complete its responses to DOFD on telecommunications during November 2008.

Which Reviews have been completed since Budget Estimates?

The ACMA has provided input into:

- the Gershon review on IT; and
- the Commonwealth Property Management Survey being conducted by DOFD.

When will the Government be responding to the respective reviews that have been completed?

This is a matter for Government.

ACMA Initiated Reviews

How many Reviews are currently being undertaken in the ACMA?

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There are currently five ACMA reviews being undertaken. Four of these reviews address aspects of radiocommunications spectrum management and the supply and demand for spectrum. The four reviews are;

- Five Year Spectrum Outlook;
- Review of the 400 MHz Band;
- Review of the 2.5 GHz Band; and
- Review of the 3.6 GHz Band.

The fifth review being undertaken by ACMA is the Children's Television Standards Review (CTS). The aim of the review is to ensure the CTS operate effectively in the current environment and to identify the key elements required to position the CTS for the future media environment.

When will each of these reviews be concluded?

Five Year Spectrum Outlook - It is intended that the first publication of the Outlook will be available at the beginning of 2009. It is intended to be a 'living' document that is continually open for comment from industry and will be updated on an annual basis.

Review of the 400 MHz Band (403-520 MHz) – ACMA released an initial discussion paper (*Spectrum Options: 403-520 MHz*) on the review of spectrum management arrangements in the 400 MHz band in April 2008. The next step in the review process will be a more detailed proposals paper planned for release in the first quarter of 2009. The review phase of the project is planned to conclude after the release of a final paper outlining the review's outcomes by the end of 2009.

Review of the 2.5 GHz Band (2500-2690 MHz) – ACMA is initially consulting with broadcasters to determine their future spectrum requirements for electronic news gathering services. ACMA intends to consult more broadly on any alternative options. The timetable for the completion of this review is dependant on both Ministerial and ACMA consideration of any possible options.

Review of the 3.6 GHz Band (3575-3700 MHz) - It is intended that a solution to allow access to the 3.6 GHz band by wireless access services in regional and remote areas be developed initially. This part of the review is intended to be completed in the first half of 2009. Further planning work and review in relation to the 3.6GHz band in medium and high density areas will be deferred until after the demand for broadband wireless services in regional areas has been addressed

Children's Television Standards Review – September 2009

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Which reviews have been completed since Budget Estimates?

No reviews have been completed since Budget Estimates.

When will the Government be responding to the respective reviews that have been completed?

These reviews are expected to make recommendations to be managed and implemented by the Authority, rather than requiring a response or a decision from the Government.

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Question: 71

Topic: ANAO audit of Regulation of Commercial Broadcasting

Senator Birmingham asked:

Has ACMA fully implemented recommendations made in the Australian National Audit Office's Audit Report No. 46 2007-08 into the regulation of Commercial Broadcasting? If not, why not, and does ACMA intend to fully implement these recommendations? If so, when is the implementation of these recommendations expected to be complete?

Answer:

As noted in the ANAO report, ACMA has formally accepted all five recommendations. ACMA's recently formed Compliance and Enforcement Committee has been charged with their implementation. The implementation of the recommendations commenced in July 2008. ACMA has completed or is well advanced on the implementation of Recommendations 2, 4 and 5 and anticipates that all recommendations will be fully implemented by the end of 2008-09.

In many areas, this work constitutes a continuation of activities that started prior to the ANAO audit. ACMA first started to develop new approaches to its broader investigation functions following an independent review commissioned by ACMA in the middle of 2007. ACMA's Compliance and Enforcement Committee, for example, was established in direct response to this 2007 review.

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Question: 72

Topic: Unallocated Spectrum Revenue

Senator Birmingham asked:

What processes are being undertaken to determine how unallocated spectrum will be allocated, particularly in relation to the spectrum commonly referred to as Channel A and Channel B, and when are they expected to be completed?

What opportunities for public and industry consultation exist as part of these processes?

Is the Government budgeting for any revenue from the allocation and/or sale of unallocated spectrum? If so, what revenues are expected and when?

Answer:

The Minister is reviewing the allocation of Channels A and B. Once the Minister has made a decision about the allocation of Channels A and B, the need for any further work by the ACMA will be known, including the need for any further consultation with stakeholders.

The ACMA cannot provide advice in relation to the issue of Government budgeting for any revenue from the allocation and/or sale of unallocated spectrum.

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Question: 73

Topic: Underspend

Senator Birmingham asked:

Has the design and promotional material for the Digital Switchover Taskforce labelling scheme been finalised?

Does this include a specific logo? If so, what is the cost for the design of the logo? What is the cost of the preparation of other materials associated with the scheme?

What is the “take up” of the logo or other labelling by the industry?

What promotional activities to support consumer awareness of the labelling scheme and/or logo will be undertaken, when and at what cost?

Answer:

ACMA is not able to provide advice in relation to this issue, as this question would be more appropriately directed to the Digital Switchover Taskforce, within the Department of Broadband, Communications and the Digital Economy.

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Question: 74

Topic: Underspend

Senator Birmingham asked:

Has/will the Government be providing any practical or financial support, through the Digital Switchover Taskforce or any other means, to the Freeview campaign of free-to-air commercial television networks? If so, in what form is support being provided and at what cost?

Answer:

ACMA is not able to provide advice in relation to this issue, as this question would be more appropriately directed to the Digital Switchover Taskforce, within the Department of Broadband, Communications and the Digital Economy.

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Question: 75

Topic: TIO complaints and mobile premium services

Senator Birmingham asked:

Has ACMA given consideration to the increase in complaints to the Telecommunications Industry Ombudsman?

What proportion of complaints relate to the provision of premium mobile services and SMS subscription services?

What progress has been made in the development of industry standards in these areas?

Answer:

The TIO in releasing its 2007/08 Annual Report on 22 October indicated there was a significant increase in complaints and complaint issues over the previous financial year. Complaints rose by 46.1% to 149,742. Each complaint may be about multiple issues. For example, a person who complains about a landline bill may also complain about a landline fault or credit management issue. Complaint issues rose by 61.0% to 268,645.

The TIO is primarily concerned with resolving individual complaints whereas ACMA's role is about identifying and investigating systemic issues arising from those complaints (i.e. issues which affect, or have the potential to affect, a class of customer). ACMA regularly receives and assesses TIO data to determine whether there may be systemic breaches of industry codes or systemic issues emerging.

ACMA regularly monitors industry performance with relevant telecommunications consumer protection codes registered by ACMA and undertakes compliance activity as required. ACMA's approach to code compliance involves using a graduated suite of regulatory measures which includes support, communications, co-operation or formal enforcement action. Consistent with this approach, ACMA will liaise with those providers where it becomes apparent, through either the TIO quarterly statistics, TIO referrals or ACMA audits, that they may lack processes and policies which ensure they are complying with the relevant telecommunications protections codes. In most cases, informal liaison is effective in ensuring compliance. In undertaking its compliance role, ACMA works closely with other regulatory agencies such as the Australian Competition and Consumer Commission.

There are currently no systemic code breaches which have been referred from the TIO to ACMA for investigation. However, ACMA is proactively auditing telecommunications providers in relation to specific requirements of the Telecommunications Consumer Protections Code. One audit involves ACMA investigating approximately 40 providers in regards to their credit management practices and another audit is currently investigating approximately 100 providers in regards to their complaint handling policies. The audit into

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credit management practices has been completed with ACMA currently considering the findings. The audit on complaint handling policies is expected to be completed by March 2009.

ACMA is also in discussions with the TIO and the Department of Broadband, Communications and the Digital Economy on other issues arising from the increase in complaints to the TIO in order to identify potential areas of further action.

Of the total number of complaints there were 13,899 complaints relating to mobile premium rate services (MPRS) in 2007/08 which equates to 9.28% of total complaints. The TIO categorise MPRS complaints under the Mobile Premium Services Industry Scheme (MPSI) and 2007/08 was the first full year in which the TIO received complaints under the MPSI. There were 85,949 complaint issues relating to MPRS which equates to 32% of total complaint issues.

The Communications Alliance has developed a draft new industry code under Part 6 of the *Telecommunications Act 1997* to replace the current Mobile Premium Services Industry Scheme.

The draft Mobile Premium Services Code includes a number of new safeguards which are intended to overcome existing customer difficulties including:

- Identifying the service provider included on their account and who to contact using an SMS number look-up;
- Poor customer complaint handling with a live operator on all customer helplines;
- Receipt of unauthorised services with services requested via non mobile channels requiring a subsequent customer request from their mobile handset; and
- Unwanted marketing messages being received after customer's opt-out of a service will require the customer to not receive marketing messages unless they opt-in to receive them.

ACMA has worked extensively with the Communications Alliance to ensure that the Code addresses consumer concerns in regard to these services.

A final version of the Code is expected to be submitted to ACMA for registration in the first quarter of 2009. Before it will register a Code, ACMA must be satisfied that it provides appropriate community safeguards and that there has been adequate public and industry consultation.

Separate to development to the Code, ACMA and the ACCC have recently taken action against providers of mobile premium services under the *Spam Act 2003* and the *Trade Practices Act 1974*.

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On 30 October 2008 ACMA issued mBlox with an infringement notice and an \$11,000 penalty for failing to include an unsubscribe facility in SMS messages promoting premium ringtones. On 2 October 2008 the ACCC obtained orders in the Federal Court against TMG Asia Pacific for false, misleading and deceptive conduct in advertising its premium mobile subscription quiz services.

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Question: 76

Topic: Fax spamming

Senator Birmingham asked:

Have discussions with industry players been finalised in relation to the issue of fax spamming and, if so, what actions are being taken as a result?

Answer:

On 15 August 2008, the Department of Broadband, Communications and the Digital Economy released a discussion paper titled *Eligibility requirements for registration on the Do Not Call Register*. The discussion paper sought community views on potential changes to the eligibility requirements for registration on the Do Not Call Register (the Register), including whether consumers and businesses should be able to 'opt out' of receiving unsolicited commercial faxes by listing their fax numbers on the Register.

The consultation period for submissions closed on 12 September 2008, and in response, 186 submissions were received. The discussion paper and public submissions to the discussion paper are available on the Department's website at www.dbcde.gov.au.

The submissions to the discussion paper are providing input to consideration of potential amendments to the Do Not Call scheme.

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Question: 77

Topic: Expansion of ACMA Blacklist

Senator Birmingham asked:

Has ACMA finalised an agreement with the United Kingdom hotline operated by the Internet Watch Foundation that will allow sharing of blacklisted websites? From what date is any agreement taking effect?

Answer:

ACMA formalised arrangements to access the uniform resource locator (URL) list maintained by the United Kingdom (UK) Internet Watch Foundation (IWF) during 2008 and is carefully considering the mechanisms that must be put in place to allow the appropriate use of international lists of child abuse imagery sites in the Australian context. ACMA is concerned to ensure that URLs on lists maintained by overseas bodies relate to material that would be prohibited content under Australian law.

While there are some differences from one country to another in the definitions of child sexual abuse material, the great majority of material dealt with by bodies such as ACMA and specialist organisations such as the IWF are sexually exploitative depictions of actual children under 18. Such material is illegal under definitions which apply in most developed countries.

Other matters currently under consideration by the ACMA include the appropriate security measures to be put in place in the transferring of lists between organisations and to relevant parties in Australia.

Once these matters are resolved, ACMA will publicly announce its proposed approach to the use of the IWF list and other lists sourced from international child abuse prevention organisations.

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Question: 78

Topic: Digital Switchover – Radio and Television Broadcasting Licence Areas Review

Senator Senator Birmingham asked:

Are any reviews or changes to television or radio broadcasting license areas as currently defined by ACMA under the Broadcasting Services Act planned or expected as a result of the switchover to digital broadcasting? If so, what changes or potential changes and on what timelines?

Answer:

There are no reviews or changes planned or expected to television and radio broadcasting licence areas, as currently defined, as a result of the switchover to digital television.

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Question: 79

Topic: Review of Broadcasting License Areas

Senator Senator Birmingham asked:

Are there any regular reviews of broadcasting license areas? If so, when were the last such reviews undertaken? Has there been any review of the license area boundaries on the Eyre Peninsula in South Australia? If so, when? On what rationale are towns such as Kimba, Karanda and Buckleboo excluded from receiving broadcasts in the Spencer Gulf TV1 license area?

Answer:

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 under s.26 of the *Broadcasting Services Act 1992*. Such planning issues typically include minor updates to the licence area boundaries as a result of new Census data (usually after each new ABS Census) but may extend to more significant re-drawing of licence area boundaries.

In May 2004, the licence areas for Spencer Gulf TV1 were redefined using 2001 Census boundaries, but otherwise remained unchanged.

Existing commercial television licence areas are based on 'service areas' that were determined starting in the nineteen eighties under the previous *Broadcasting Act 1942*. On commencement of the *Broadcasting Services Act 1992*, these service areas were deemed to be the licence areas of existing broadcasters.

In defining the original service areas, the government is understood to have taken careful account of the signal coverage of existing commercial television broadcasting services. The rationale for the exclusion of Kimba, Karanda and Buckleboo would have been that these localities could not be served from the existing terrestrial infrastructure of the Spencer Gulf TV service, GTS4.

Also during the nineteen eighties, the government and regulator of the day planned and allocated satellite-based commercial television licences to provide commercial television services to all areas of Australia that fell outside of the service areas of existing (terrestrially-based) commercial television services. Kimba, Karanda and Buckleboo were included in the original central Australian remote commercial television service area that was (and is) served by the IMP (Imparja) service.

The Australian Broadcasting Authority (ABA) reviewed the licence areas of the remote commercial television broadcasting services in December 1996. In order to improve the

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service offering to viewers in the Central and North Eastern Remote licence areas, also the Mt Isa licence area, it decided to aggregate the three licence areas in such a way that all viewers were entitled to receive both the IMP and the QQQ commercial television broadcasting service.

ACMA can vary licence area boundaries for other purposes where there is good reason to do so and in accordance with legislation. The licence areas of the remote and regional South Australian television services have remained substantially unchanged since they were first determined by the Minister under the previous *Broadcasting Act 1942*.

The rationale for the exclusion of Kimba, Karanda and Buckleboo is that these localities cannot be served from the existing terrestrial infrastructure of the Spencer Gulf TV1 licence area.

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Question: 80

Topic: Clean feed and blacklisting filtering on ISPs

Senator Birmingham asked:

When are the live tests of clean feed and blacklisting filtering on ISPs expected to be commenced and completed? How many ISPs will be involved, servicing how many customers? Will customers be able to opt-in or opt-out of participating in the trial? How are the ISPs being selected? How many sites will be filtered by the trials? When is the mandatory ISP filtering promised by the Government expected to commence? What other stages between the trials and commencement of mandatory filtering will there be?

Answers:

ACMA is unable to provide information in response to this question, and the question would be more appropriately directed to the Department of Broadband, Communications and the Digital Economy.

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Question: 81

Topic: Anti-siphoning

Senator Birmingham asked:

How many six monthly reports on the broadcast of programs on the anti-siphoning list were prepared by ACMA and provided to the Minister prior to the cessation of this reporting framework by the current Minister? Were any of these reports or collations thereof made public? Was it ever intended that any of these reports or collations thereof be made public? What were the findings of the latest reports?

Answer:

Eight reports have been provided to the responsible Minister, as outlined in the table below.

Table of anti-siphoning reports

Report	Period covered	Date provided to Minister	Published?
Interim Report No. 1	Jan - Mar 2006	24 July 2006	Yes
Interim Report No. 2	Jan - Mar 2006	1 September 2006	Yes
Interim Report No. 3	Jan - Mar 2006	18 October 2006	Yes
Interim Report No. 4	Mar - Jul 2006	29 November 2006	Yes
Interim Report No. 5	Mar - Oct 2006	19 June 2007	Yes
First Biannual Report	Nov 2006 - Mar 2007	3 August 2007	No
Annual report for 2006-07	Nov 2006 - Oct 2007	3 March 2008	Yes
2008 Half Yearly report	Oct 2007 – Feb 2008	1 September 2008	No (expected to be published in December 2008)

Six of these reports are available to the public on the ACMA website and a further report is expected to be publicly available by the end of December 2008.

Release of each of these reports is subject to a Direction from the Minister. To date, the responsible Minister has directed ACMA to release each of its reports.

What were the findings of the latest reports?

The latest reports cover the periods:

- November 2006 – October 2007, and
- November 2007 – March 2008.

The Minister has directed ACMA to release these reports and this will take place once ACMA has finalised its checks with free-to-air broadcasters on material contained in these reports. All other reports are available on the ACMA's website at

http://www.acma.gov.au/WEB/STANDARD/pc=PC_91821.

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Question: 82

Topic: Anti-siphoning

Senator Birmingham asked:

- a. For the last 12 months of available records:
- b. How many programs or events on the anti-siphoning list were broadcast live?
- c. How many were not broadcast at all (please detail what programs or events)?
- d. How many hours of programs or events on the anti-siphoning list were broadcast live?
- e. How many hours were not broadcast at all (please detail what programs or events)?

Answer:

ACMA released its report for November 2006 - October 2007 on 4 December 2008, and expects to release the report for November 2007 - March 2008 by the end of 2008 following finalisation of its data checking processes.

ACMA's previous reports are available on its website at http://www.acma.gov.au/WEB/STANDARD/pc=PC_91821

In relation to a) and b) ACMA's monitoring of anti-siphoning is complex and significant variability is applied to reporting. Variations in broadcast treatment for a specific listed event may occur amongst network metropolitan licensees and affiliate and independent broadcasters as a consequence of factors such as:

- Local audience traditional viewing patterns
- Time zone differences
- Contractual constraints against broadcasting 'against the gate'
- Competing local programming.

Information regarding events broadcast is therefore best sought directly from ACMA's detailed reports as it is difficult to summarise broadcasting patterns for each event on the basis of its 'live' component, particularly where not all of an event is broadcast.

The only listed event not broadcast at all in the reporting period November 2006-October 2007 was the 2007 French Tennis Open.

In regard to c) and d), ACMA has not been directed to gather the number of hours a listed event has been or has not been broadcast and therefore has not collected or collated material on this basis.

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Question: 83

Topic: Anti-siphoning

Senator Birmingham asked:

What process will the Government follow for the review of the anti-siphoning list next year?

Answer:

This is a matter for the Minister for Broadband, Communications and the Digital Economy.