

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

Question No: 109

Hansard Ref: ECA77

Topic: AL-MANAR TELEVISION

Senator Birmingham asked:

Do you know what reach it has or where and how it broadcasts into Australia?

Answer:

The ACMA understands that Al-Manar Television is currently being carried by an Indonesian satellite owned and controlled by PT Indosat, located at 113 degrees East orbital position, broadcasting on the 4080Mhz frequency. In general, the coverage of the satellite is understood to span India, Australia, New Zealand and Papua. With the appropriate equipment, a person would be able to receive the signal from the satellite anywhere in Australia.

The ACMA understands that PT Indosat provides satellite transponder lease services for broadcasting and telecommunications applications. The service is understood to involve rental of a specified bandwidth on the satellite. It is presumed that Al-Manar Television leases satellite transponder services from PT Indosat.

Payment of subscription fees is not required in order to receive the service - however specialised receiving equipment is required.

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

Question No: 110

Hansard Ref: ECA77

Topic: AL-MANAR

Senator Abetz asked:

Al-Manar

What costs are associated with:

- i) subscribing to Al-Manar;
- ii) subscribing to Indosat; and
- iii) the equipment required to receive telecasts?.

Answer:

Al-Manar Television is available, through PT Indosat, to persons having equipment appropriate for receiving the service, using satellite direct-to-home (DTH) facilities. The information required to receive the service is publicly available on the internet, for example the LyngSat website. A person requires only the frequency and orbital slot co-ordinates to set up the equipment.

The ACMA has only limited information on costs to consumers for the necessary equipment.

The ACMA purchased the relevant equipment in 2008 to undertake its investigation. The cost to the ACMA of a standard consumer satellite receiving system (not including mount installation) comprised of a C band satellite dish, LNB (low noise block-downconverter) and satellite receiver was approximately AUD\$375, with mount installation costing approximately AUD\$940. With the appropriate equipment, a person would be able to receive the signal from the satellite anywhere in Australia.

Payment of subscription fees is not required in order to receive the Al-Manar Television service.

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

Question No: 111

Hansard Ref: ECA84

Topic: AL-MANAR TELEVISION

Senator Abetz asked:

Do these broadcasts only go into the east coast of Australia, including Melbourne and Sydney?

Answer:

The ACMA understands that Al-Manar Television is currently being carried by an Indonesian satellite owned and controlled by PT Indosat, located at 113 degrees East orbital position, broadcasting on the 4080Mhz frequency. In general, the coverage of the satellite is understood to span India, Australia, New Zealand and Papua. With the appropriate equipment, a person would be able to receive the signal from the satellite anywhere in Australia.

The ACMA understands that PT Indosat provides satellite transponder lease services for broadcasting and telecommunications applications. The service is understood to involve rental of a specified bandwidth on the satellite. It is presumed that Al-Manar Television leases satellite transponder services from PT Indosat.

Payment of subscription fees is not required in order to receive the service - however specialised receiving equipment is required.

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

Question No: 112

Hansard Ref: ECA85

Topic: AL-MANAR

Senator Abetz asked:

- i) Were all the programs during that nine-day period reviewed in-depth, with detailed translations?
- ii) How many hours were subjected to a detailed translation?

Answer:

The investigation report released in July 2009 looked into potential breaches of the *Broadcasting Services (Anti-terrorism Requirements for Open Narrowcasting Television Services) Standard 2006* (the Anti-terrorism Standard 2006) which prohibits the broadcasting of content which solicits funds or directly recruits people to join, or participate in the activities of, a terrorist organisation.

In the absence of complaints about specific content, the ACMA undertook full monitoring and recording of Al-Manar Television service between 28 August 2008 and 5 September 2008 (inclusive). The ACMA recorded the material on a twenty four hour cycle over a total of nine days. Thus a total of two hundred and sixteen hours of Al-Manar Television content was recorded and reviewed by the ACMA's staff, including an Arabic speaking member of staff. This review comprised a thorough and rigorous assessment of the recorded material in relation to whether it potentially breached the Anti-terrorism Standard 2006.

Staff found a broad range of program formats and content. Programming included: religious programs discussing aspects of the Koran, news and current affairs, talk shows, drama series, soap operas from the Middle East, feature documentaries, children's programs and cartoons, game shows and 'infomercials'. Staff also noted that Hezbollah's senior officials were a presence on Al-Manar Television.

Of the two hundred and sixteen hours, eleven excerpts, totalling four and a half hours, were referred to an accredited Arabic translator for summary translation, as outlined in the ACMA's investigation report. These excerpts were initially selected on the basis that each appeared to contain some material specifically relating to Hezbollah, which would be most relevant to the Standard.

Of the eleven excerpts, two were identified for full translation, which amounted to approximately one and a half hours of content. The two programs were selected for full translation because they included material which it was considered, prima facie, might be covered by the Anti-terrorism Standard 2006. These programs contained Hezbollah's General Secretary and Deputy General Secretary expressing their views. Material relating to the General Secretary occurred in the context of

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

a current affairs talk show, and the material relating to the Deputy General-Secretary occurred during the broadcast of a speech.

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

Question No: 113

Hansard Ref: ECA89

Topic: COST TO THE AUSTRALIAN COMMUNICATIONS AND MEDIA AUTHORITY OF MAINTAINING THE PROHIBITED CONTENT LIST

Senator Ludlam asked:

Provide us with a figure in 2009 dollars of the total amount that ACMA has spent since 1999—in the last 10 years—on internet content regulation, specifically maintenance of the blacklist.

Answer:

The list of Uniform Resource Locators relating to prohibited online content hosted outside Australia is a product of the online content complaint-handling function performed by the Australian Communications and Media Authority (ACMA), and is one of a number of online content regulation functions of the ACMA under the *Broadcasting Services Act 1992*.

The following estimates for each of the years 2005-06 to 2008-09 are based on the total budget for the administrative unit responsible for the online content complaint handling function, and an estimate of the proportion of that budget specifically attributable to investigating complaints about online content and taking action on prohibited content hosted outside Australia. Comparable data is not available for the years prior to 2005-06, as the financial records of the former Australian Broadcasting Authority did not include attribution of costs to specific activities.

Year	Online content complaint handling cost (\$m)
2005-06	0.241
2006-07	0.304
2007-08	0.442
2008-09	0.424
Total	1.411

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

Question No: 114

Hansard Ref: ECA92

Topic: CYBERSAFETY - CONSEQUENCES

Senator Wortley asked:

Are you able to provide additional information or point me to some research on the real life consequences of severe and on going cyberbullying

Answer:

There is a considerable body of research available describing the impacts of bullying, and cyberbullying, both on the person who experiences it and on the person who perpetrates the bullying behaviour.

Authoritative Australian sources include the *Australian Covert Bullying Prevalence Study* (ACBPS), 2009, conducted by the Child Health Promotion and Research Centre, Edith Cowan University, and *Behind the Scenes: Insights into the Human Dimension of Covert Bullying*, 2008, conducted by the Hawke Research Institute for Sustainable Societies, University of South Australia, and the Centre for the Analysis of Educational Futures, Flinders University South Australia.

Both of these projects highlight the negative impact on those who are experiencing this type of bullying in terms of their emotional adjustment, level of academic achievement, physical health, sense of loneliness, and low self-esteem.

The research findings also illustrate the negative impact on the person carrying out the bullying behaviour, in terms of low self-esteem, the sense of loneliness and lack of 'connectedness'.

Links to the principal reference sources can be found on the Australian Communications and Media Authority's (the ACMA) Schools' Gateway¹, which forms part of its Cybersmart website.

The ACMA's 'Click and Connect' research, released in July 2009, examined the role online interaction currently plays in the lives of Australian children and young people, and how their peers and families influence their behaviour. The findings of this research has informed the adaptation and development of anti-cyberbullying resources such as 'Let's Fight It Together', which was launched in September 2009.

In 2009, the Government commissioned the Edith Cowan University to review existing Australian and international cybersafety research. This research was released on 11 September 2009 and

¹<http://www.cybersmart.gov.au/Schools/Common%20cybersafety%20issues/Cyberbullying/Resources%20and%20useful%20links.aspx>

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

included findings on cyberbullying. The report is available on the Department of Broadband, Communications and the Digital Economy's website at www.dbcde.gov.au/cybersafetyplan.

A repeatable survey is also being undertaken by the Government to track changes in cyber-safety behaviour and attitudes over time. The research methodology will be finalised early in 2010, with surveying to take place in the first half of the year. The research will involve surveying teachers and parents or guardians about young people's internet use. Cyberbullying will be explored in this research.

These studies are complemented by new data recently published by the Australian Bureau of Statistics on children's internet and mobile phone use and safety practices.

Such research will continue to inform the Government's solutions and priorities for action relating to cybersafety, including cyberbullying, and e-security.

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

Question No: 115

Hansard Ref: ECA92

Topic: SWEETFM AND LAP VARIATIONS

Senator MacDonald asked:

Are you having staff resourcing difficulties in dealing with these applications for variation of LAPs?

Answer:

No.

The Broadcast Planning Section is appropriately resourced and is managing the program of LAP variations effectively. There are a significant number of outstanding requests for LAP variations due to the necessary priority given to planning and allocating spectrum for the ABC News Radio rollout. Further, many of the ACMA's broadcast engineering resources have been occupied on work connected to digital television switchover and the digital dividend. However, a dedicated team has now prioritised the outstanding requests for LAP variations and their progressive consideration is being managed efficiently.

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

Question No: 116

Hansard Ref: ECA93

Topic: ADVERTISING TARGETING CHILDREN

Senator Lundy asked:

Can you

- (i) update the committee on what developments have taken place within the industry code. For example, I know Free TV have made some efforts in the past—or claim to have made some efforts in the past—to tighten up their code of practice with respect to advertising targeting children.
- (ii) Provide correspondence relating to those undertakings or progress made by the Food and Grocery Council and indeed Free TV.

Answer:

- (i)
 - The Commercial Television Industry Code of Practice 1999 introduced additional provisions in relation to advertising to children, such as provisions which deal with the promotion of products or services in programs directed to children.
 - Subsequently, the Commercial Television Industry Code of Practice 2004 introduced provisions in relation to advertisements directed to children for food and/or beverages.
 - Following a review of the 2004 Code, these provisions remain largely unchanged in the Commercial Television Industry Code of Practice 2010, which is effective from 1 January 2010. The provisions state that advertisements directed at children should not encourage an inactive lifestyle and unhealthy eating or drinking habits and must not contain any misleading or incorrect information about the nutritional value of the product.
 - The 2010 Code has been updated to incorporate changes made to the Australian Association of National Advertisers (AANA) Code for Advertising and Marketing Communications to Children. The AANA Code now contains provisions which include requirements that advertising to children must not:
 - include sexual imagery;
 - use popular personalities to advertise products in a manner that obscures the distinction between commercial promotions and program content; and
 - contain an appeal to children to urge their parents to buy a product for them.

If an advertisement indicates that the personal information of a child will be collected, the AANA Code also now requires advertisers to include a statement that the child must obtain parental consent before engaging in an activity that will result in the disclosure of their personal information.

Senate Standing Committee on Environment, Communications and the Arts

Answers to Senate Estimates Questions on Notice

Supplementary Budget Estimates Hearings October 2009

Broadband, Communications and the Digital Economy Portfolio

Australian Communications and Media Authority

- Following a review of the Children's Television Standards 2005 (CTS), the Children's Television Standards 2009 were registered. The 2010 Code has also been updated to incorporate the new provisions in the CTS 2009. The new provisions in the CTS 2009 include requirements that no material broadcast during children's or preschool children's program periods may contain an endorsement, recommendation or promotion of a commercial product by popular characters.
 - In the review of the CTS 2005, Free TV Australia submitted that the advertising restrictions contained under the CTS 2005 and the Commercial Television Industry Code of Practice 2004 are working effectively to ensure that advertising messages directed to children are appropriate.
- (ii)
- The Responsible Children's Marketing Initiative implemented by the Australian Food and Grocery Council (AFGC) in January 2009 aims to provide a framework for food and beverage companies to help promote healthy dietary choices and lifestyles to Australian children aged under 12 years. Core principles of the initiative refer to a range of activities and measures, including advertising messaging that promotes healthy dietary choices and the restricted use of popular personalities and licensed characters. Currently there are 16 companies participating in the initiative, including major food and beverage manufacturers such as Nestle and Cadbury. The nutritional profiling tool used by signatories varies. Further details about this initiative, including undertakings made by the AFGC and company action plans are available on the AFGC's website at: <http://www.afgc.org.au/index.cfm?id=726>
 - The Quick Service Restaurant Industry (QSR) Initiative for Responsible Advertising and Marketing to Children commenced in August 2009 and aims to provide a common framework for quick service restaurant companies to ensure that only food and beverages that represent healthier choices are promoted directly to children under 14 years of age. Participants to this initiative include McDonalds, Pizza Hut and Hungry Jacks and the initiative requires that advertising or marketing to children for food and/or beverages must represent healthier choices as determined by a nutrient profiling tool developed by Accredited Practising Dieticians. Further details about this initiative, including undertakings made by QSR and company action plans are available on the Australian Association of National Advertisers (AANA) website at: <http://www.aana.com.au/QuickServiceRestaurantInitiative.htm>
 - In announcing the final CTS, the ACMA indicated that it would monitor industry initiatives to assess their impact in addressing community concern. The ACMA is currently refining its framework for monitoring the AFGC and QSR initiatives and is in the process of seeking further information about the operation of the action plans of each signatory under each initiative.

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

Question No: 117

Hansard Ref: ECA95

Topic: ENFORCEMENT OUTCOMES UNDER THE *SPAM ACT 2003*

Senator Lundy asked:

Are you able to provide the committee with a list of those who have been found to formally breach the Spam Act?

Answer:

The ACMA has a range of enforcement options available to it under the *Spam Act 2003* (the Spam Act). These include:

- Formal warnings – these can be issued under section 41 of the Spam Act when the ACMA has formed the view that a contravention has occurred.
- Infringement notices – the Spam Act allows the ACMA to issue Infringement notes up to the value of \$110,000 per day where it has a reasonable belief that contraventions have occurred. Payment of an infringement notice by a respondent is not an admission of the alleged contraventions, but rather a settlement of the matter. For this reason, the ACMA has not provided details below of infringement notices which are yet to be paid.
- Enforceable undertakings – these can be accepted under section 38 of the Spam Act in connection with matters relating to commercial electronic messages or address-harvesting software.
- Federal Court Action – the ACMA may seek Civil Penalties and Injunctions in the Federal Court in relation to alleged contraventions of the Spam Act.

Senate Standing Committee on Environment, Communications and the Arts

Answers to Senate Estimates Questions on Notice

Supplementary Budget Estimates Hearings October 2009

Broadband, Communications and the Digital Economy Portfolio

Australian Communications and Media Authority

SPAM ACT ENFORCEMENT OUTCOMES

AS AT 12 NOVEMBER 2009

Summary

Enforcement type	Total number
Federal Court prosecution	2 (7 respondents)
Infringement notices	10
Enforceable undertakings	13
Formal warnings	24

Federal Court Prosecutions

Number	Company/Individual name	Date	Amount \$
1.	Mobilegate Ltd	23 October 2009	\$5 million
2.	Winning Bid Pty Ltd	23 October 2009	\$3.5 million
3.	Simon Anthony Owen	23 October 2009	\$3 million
4.	Tarek Andreas Salcedo	23 October 2009	\$3 million
5.	Glenn Christopher Maughan	23 October 2009	\$1.25 million
6.	Clarity1 Pty Ltd	27 October 2006	\$3.5 million
7.	Wayne Mansfield	27 October 2006	\$1 million

Infringement notices

Number	Company/Individual name	Date	Amount \$
1.	Optus Networks Pty Ltd (x 2)	3 December 2008	\$110,000
2.	mBlox Pty Ltd	1 July 2008	\$11,000
3.	Best Buy Australia	28 February 2008	\$4,400
4.	AustralianSMS Pty Ltd	17 June 2005	\$2,200
5.	CarSales.com.au (x 3)	4 May 2005	\$6,600
6.	Simon Burdett	28 February 2005	\$660
7.	Tony Allen	1 December 2004	\$660

Senate Standing Committee on Environment, Communications and the Arts

Answers to Senate Estimates Questions on Notice

Supplementary Budget Estimates Hearings October 2009

Broadband, Communications and the Digital Economy Portfolio

Australian Communications and Media Authority

Enforceable undertakings

Number	Company/Individual name	Date	Amount \$
1.	Vodafone Hutchison Australia Pty Ltd	12 October 2009	\$110,000
2.	Big Mobile Pty Ltd	1 October 2009	n/a
3.	New Dialogue Pty Ltd	1 October 2009	\$22,000
4.	MYOB Australia E1 Pty Ltd	17 August 2008	\$8,000
5.	EMX Pty Ltd	18 December 2008	\$10,000
6.	Oxygen8 Communications Pty Ltd	15 December 2008	n/a
7.	DC Marketing	3 September 2007	n/a
8.	Pitch Entertainment Group	24 May 2007	n/a
9.	Qidi Enterprise Pty Ltd	31 January 2006	n/a
10.	Home Grown Paychecks	4 January 2006	n/a
11.	AustralianSMS Pty Ltd	21 July 2005	n/a
12.	Simon Burdett	7 April 2005	n/a
13.	www.OurGuide.com.au	8 October 2004	n/a

Formal warnings

Number	Company name	Date	Amount \$
1.	TopBuy Pty Ltd	5 November 2009	n/a
2.	Coca-Cola South Pacific Pty Ltd	19 October 2009	n/a
3.	PRM Marketing and Media Group Pty Ltd	18 December 2009	n/a
4.	Hyarchis Company Limited	31 October 2008	n/a
5.	The Ad Company Pty Ltd	21 October 2008	n/a
6.	LJ Hooker Townsville	22 May 2008	n/a
7.	Elders Merrylands t/as Value Rite Pty Ltd	19 December 2007	n/a
8.	Answer Me Pty Ltd	22 November 2007	n/a
9.	RDL investments/Wollongong Nightlife	15 November 2007	n/a
10.	Vision Global Solutions	3 October 2007	n/a
11.	Career Mums	21 June 2007	n/a
12.	Minebox	30 May 2007	n/a
13.	EXA Web Solutions	14 February 2007	n/a
14.	Minebox	25 January 2007	n/a
15.	Manpower Services (Australia)	19 December 2006	n/a

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

	Pty Ltd		
16.	Carwholesalers.com	23 August 2006	n/a
17.	Stephen Gould	10 February 2006	n/a
18.	NG – Linux User Groups	2 December 2005	n/a
19.	Downunder Conglomerate	7 June 2005	n/a
20.	Austrasoft Pty Ltd	26 May 2005	n/a
21.	Messages on Hold Pty Ltd	19 May 2005	n/a
22.	WPS Pty Ltd	10 March 2005	n/a
23.	www.Synecedit.com	8 December 2004	n/a
24.	Tenex Pty Ltd	10 October 2004	n/a

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

Question No: 118

Hansard Ref: Written

Topic: BROADCASTING CODES OF PRACTICE

10.1 – Senator Bernardi asked:

Has ACMA received a proposed revision of the Commercial Television Code of Practice from Free TV Australia for consideration for registration?

Answer:

On 14 December 2009, the Australian Communications and Media Authority (**ACMA**) agreed under section 123(4) of the *Broadcasting Services Act* 1992 (**BSA**) to register a revised Commercial Television Industry Code of Practice submitted by Free TV Australia. The electronic complaints requirement takes effect from 1 March 2010. All other provisions in the Commercial Television Industry Code of Practice 2010 (the **Code**) took effect on 1 January 2010.

10.2 – Senator Bernardi asked:

Noting that both ACMA (in its review of reality television) and this committee (in its inquiry into the effectiveness of broadcasting codes) have recommended that the code of practice require licensees to treat as formal complaints those received by email and other electronic means, will ACMA give an assurance that no new code of practice for commercial television will be registered unless it contains such a provision?

Answer:

When considering a code for registration, the ACMA must under section 123(4) of the BSA, among other tests, satisfy itself that appropriate community safeguards are provided for the matters covered by the code.

During the Code review the ACMA vigorously pursued the matter of electronic complaints lodgement and the 2010 Code now includes a requirement that from 1 March 2010 licensees must accept complaints made electronically via a centralised online complaint form available on the Free TV Australia website (www.freetv.com.au). This will provide instructions to viewers to assist them to enter complete complaint details and thereby register a valid complaint.

In registering the Code, the ACMA was satisfied that it provides appropriate community safeguards for the matters it covers, including requirements for the acceptance of complaints.

Senate Standing Committee on Environment, Communications and the Arts

Answers to Senate Estimates Questions on Notice

Supplementary Budget Estimates Hearings October 2009

Broadband, Communications and the Digital Economy Portfolio

Australian Communications and Media Authority

10.3 – Senator Bernardi asked:

Will ACMA give an assurance that no new code of practice for commercial television will be registered unless it applies the same classification time zones to all services including multi-channels?

Answer:

When considering a code for registration, the ACMA must under section 123(4) of the BSA, among other tests, satisfy itself that appropriate community safeguards are provided for the matters covered by the code.

While the new Code allows some greater flexibility for broadcasters in programming digital multi-channels, the ACMA has ensured that industry also correspondingly introduces related community safeguards.

Under the new Code, PG-classified programs may be shown at any time on a commercial television broadcaster's digital multi-channels. However, G classification time zones will continue to apply to the main digital and analog services before and after school on weekdays and between 6.00 am and 10.00 am on weekends.

The ACMA considers it crucial that parents and carers know about the new arrangements. Therefore, licensees must also, for the life of the Code, provide consumer advice with any PG-classified program on the digital multi-channels where material may be stronger than expected by parents and guardians of young viewers and the program corresponds with the main channel's G programming time zones.

In addition broadcasters must also undertake a community education campaign to better inform viewers, particularly at times when classification arrangements have changed. The new Code requires on-air information segments and web-based information over the next twelve months to explain the new digital multi-channel time zones.

10.4 – Senator Bernardi asked:

Will ACMA give an assurance that no new code of practice for commercial television will be registered if it seeks to lower the standard for "sex and nudity" in the MA and AV classifications?

Answer:

The ACMA has ensured that the guidelines for classifying sex and nudity in the new Code have not been diluted in their practical effect. Concerns expressed during the public consultation process resulted in additional wording being incorporated in order to maintain existing limits for depictions of implied sexual activity and nudity; and, for the first time, the Code explicitly places limitations on the usage of verbal sexual references in the MA classification category. Under the new Code, each of these elements must now be relevant to the story line or program content and must not be high in impact.

Senate Standing Committee on Environment, Communications and the Arts

Answers to Senate Estimates Questions on Notice

Supplementary Budget Estimates Hearings October 2009

Broadband, Communications and the Digital Economy Portfolio

Australian Communications and Media Authority

10.5 – Senator Bernardi asked:

Will ACMA give an assurance that no new code of practice for commercial television will be registered if it seeks to loosen the rules on promotions for higher classified programs during or adjacent to the broadcast of lower classified programs?

Answer:

The Code allows more flexibility to promote M, MA and AV programs in lower classification time zones, however only material that is suitable for the lower time zone may be shown.

The Code retains times during which promotions for AV programs must not be shown. While AV programs may now be included in any program listing, no footage is allowed and all material must be suitable for the timeslot in which the listing is shown.

The Code provides that promotions for M and MA programs can be shown at any time except during C and P programs, provided the material is suitable for the classification time zone in which it is shown.

10.6 – Senator Bernardi asked:

Will ACMA give an assurance that no new code of practice for commercial television will be registered if it fails to comply with the provisions of Section 123 (3B) of the BSA regarding material that goes beyond the previous "AO" classification criteria?

Answer:

Under section 123 (3B) of the BSA, if an industry group develops a code or practice that relates to:

- preventing the broadcasting of programs that, in accordance with community standards, are not suitable to be broadcast by that section of the industry;
- methods of ensuring that the protection of children from exposure to program material which may be harmful to them is a high priority; or
- methods of classifying programs that reflect community standards;

then it must ensure that films classified M or MA 15+ do not portray material that goes beyond the previous AO classification criteria.

Codes of practice for the broadcasting industry deal with these matters and, therefore, must comply with section 123 (3B) and cannot be registered otherwise.

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

10.7 – Senator Bernardi asked:

Can you please detail ACMA's response to the Senate Environment, Communications and the Arts Committee report into the effectiveness of the broadcasting codes of practice (which was released on 19 June 2008)?

Answer:

On 21 August 2009, the Government published its response to the Senate Environment, Communications and the Arts Committee report into the effectiveness of broadcasting codes of practice.

The Government requested that the ACMA bring certain matters dealt with in its response to the attention of the broadcasting industry. On 24 September 2009, the ACMA wrote to broadcasting industry groups providing the Government response, bringing relevant recommendations to their attention and encouraging them to take the Government response into account when reviewing their codes of practice.

Free TV responded to recommendations of the Senate Inquiry with Code amendments as follows:

- The introduction of electronic complaint-handling responds to recommendation 12.
- The introduction of a clause permitting licensees to provide a generic response to similarly worded complaints, so long as the response substantively addresses the issues raised in the complaints, responds to recommendation 13.

In the context of the Code review Free TV considered:

- in response to recommendations 15 and 17, that existing requirements relating to the timeliness and the nature of broadcaster responses to complainants are operating effectively; and
- that classification and consumer advice in electronic program guides, dealt with in recommendation 9, is not a matter covered by the Commercial Television Code.

Commercial Radio Australia is considering issues raised in the Government response as part of the review of its codes of practice that is currently being conducted.

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

Question No: 119

Hansard Ref: Written

Topic: ACMA INTEGRATED PUBLIC NUMBER DATABASE (IPND) SCHEME

Senator Birmingham asked:

When did the roll-out for emergency services of the Integrated Public Number Database (IPND) begin?

Answer:

Although state and territory warning authorities are provided with access to information that is stored in the Integrated Public Number Database (IPND), direct access is not given to the IPND itself.

On 23 February 2009 an interim regulation was enacted to allow states and territories to obtain access to IPND information for emergency warning purposes.

Also on 23 February 2009 the Commonwealth committed to funding the build of the Location Based Number Store (LBNS) – a secure, central database which holds and geo-codes telephone number and address information drawn from the IPND for use by Australia's telephone-based emergency warning systems, Emergency Alert and WA's State Alert.

This was followed on 26 March 2009 with the amendment to the *Telecommunications Act 1997*, to allow access to IPND information for emergency warning purposes.

The LBNS was operational on 18 November 2009 and access to the IPND information it holds was made possible once Emergency Alert and State Alert connected to it.

Which emergency service agencies or organisations have been granted access?

Answer:

The following emergency service agencies and other relevant organisations have been granted access:

Commonwealth: Australian Federal Police; Emergency Management Australia (Attorney-General's Department)

ACT: Chief Police Officer; Emergency Services Commissioner

NSW: NSW Fire Brigades; NSW Police Force; NSW Rural Fire Service; NSW Department of Health; State Emergency Service of NSW; State Emergency Operations Controller

Northern Territory: NT Emergency Service

QLD: Emergency Management QLD; Department of Community Services; State Disaster Management Group

Senate Standing Committee on Environment, Communications and the Arts

Answers to Senate Estimates Questions on Notice

Supplementary Budget Estimates Hearings October 2009

Broadband, Communications and the Digital Economy Portfolio

Australian Communications and Media Authority

SA: Metropolitan Fire Service; Country Fire Service; State Emergency Service

Tasmania: State Emergency Management Controller

Victoria: Victoria Police

WA: State Emergency Management Committee

Are there timeframes, and if so please outline, as to when emergency service agencies and organisations can expect to have complete access to the IPND on a permanent basis (as opposed to trial form, for example)?

Answer:

Emergency service agencies and organisations have access to the IPND on a permanent basis through the LBNS, as outlined in the previous responses.

How much funding is being allocated to any education campaigns in relation to the IPND?

Answer:

States and territories are responsible for education campaigns to inform the community about the national telephone-based emergency warning system (Emergency Alert) and Western Australia's State Alert.

The Commonwealth has committed \$650,000 to assist the states and territories to develop materials for this purpose.

Is there a competitive tender process in relation to such education campaigns and, if so and not already underway, when is this due to begin? Who will be eligible?

Answer:

Victoria, on behalf of participating states and territories, engaged a consultant to assist in the development of information to inform the community about Emergency Alert. The consultancy is in progress.

The Commonwealth does not have visibility of any other state or territory based education campaigns that may be undertaken for this purpose.

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

Question No: 120

Hansard Ref: Written

Topic: ACMA – CHILDREN’S TV STANDARDS

Senator Minchin asked:

Did the Preventative Health Taskforce consult the ACMA in the preparation of their Report, given your expertise in this area and previous studies on the international evidence regarding junk food advertising?

Has anyone from the Government or Taskforce contacted you since the publication of the Taskforce report to discuss your view?

Answer:

- The Preventative Health Taskforce did not consult the ACMA in the preparation of its report. However, the ACMA’s preliminary decisions in relation to the CTS were publicly released in August 2008 and would have been available to the Taskforce. Staff of the ACMA also briefed officers of the Department of Health and Ageing on the final decisions of the Authority prior to the release of the final CTS.
- The ACMA made its final decision on the CTS and underlying reasoning publicly available on 1 September 2009. While the Taskforce has not contacted the ACMA to discuss its views, the Authority’s views are public and available to the Taskforce in considering the matters before it.

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

Question No: 121

Hansard Ref: Written

Topic: EMERGENCY CALL SERVICE

Senator Minchin asked:

Question:

Has the Telecommunications (Emergency Call Service) Determination 2009 been finalised?

Answer:

Yes. The ACMA made the *Telecommunications (Emergency Call Service) Determination 2009* (the Determination) on 21 December 2009.

Question:

When does/will it take effect?

Answer:

All provisions in the Determination with the exception of the new requirements relating to Voice Over Internet Protocol (VOIP) 'out only' services commenced on 24 December 2009, the day after the Determination was registered on the Federal Register of Legislative Instruments (FRLI). The new requirements applying to providers of VOIP 'out only' services in the Determination take effect on 24 February 2010.

Question:

How many callers need to be asked for their location when making an emergency call?

Answer:

Only calls from a fixed line present the emergency call person (ECP), Telstra, with a fixed location which can be relied upon to provide emergency response. All other services can be nomadic in nature and the service address may not be the location at which the caller and/or the emergency are located.

In 2008-09, there were 5.8 million calls to the emergency call service (ECS) that were from services other than a fixed service and therefore required the ECP to ask the caller to confirm location details. This is out of a total of 9.6 million calls that were answered overall.

Question:

Is it technically possible for the caller location to be identified when making emergency calls irrespective of whether the call is from a handset which does not allow the display of the incoming call details ie number?

Senate Standing Committee on Environment, Communications and the Arts

Answers to Senate Estimates Questions on Notice

Supplementary Budget Estimates Hearings October 2009

Broadband, Communications and the Digital Economy Portfolio

Australian Communications and Media Authority

Answer:

For fixed line and mobile calls, any blocking of the calling number by the caller (i.e. not allowing Calling Number Display) does not affect the information provided to the emergency call person (ECP).

In instances where a mobile service number is not transmitted with an emergency call (for example, in situations where a mobile handset is locked to a particular network and the emergency call roams to a network other than its home network), a default calling number is assigned to the call prompting the emergency call person to ask the caller the location of the emergency.

Question:

The National Emergency Communications Working Group made a submission on the draft determination and raised concerns in relation to caller location and VOIP services.

How has the Government responded to the concerns raised by NECWG in their submission?

Answer:

The ACMA considered the caller location and VOIP services matters raised by submitters, including the National Emergency Communications Working Group (NECWG), on the draft determination. The ACMA's new determination was made on 21 December 2009. This Determination introduces important new safeguards for consumers of VOIP 'out only' services. Providers of VoIP 'out only' services are required to provide access to the emergency call service or receive a formal acknowledgement from their customers that their service cannot be used to make an emergency call to Triple Zero. Additionally, where a provider of VOIP 'out only' services does not provide access to the emergency call service, it is required to prominently display, on webpages it uses to offer the service, that the service cannot be used to make an emergency call to Triple Zero. Under the previous determination providers of VOIP 'out only' services did not have to comply with any emergency call service requirements.

The ACMA is separately considering the issue of caller location information and it anticipates releasing a discussion paper to specifically explore this issue with interested parties in the first quarter of 2010

Question:

Were any of these concerns addressed in the formulation of the draft determination published after the consultation period?

Answer:

The ACMA considered the issues raised by the National Emergency Communications Working Group (NECWG), along with all other submitters, in formulating the draft determination. All submissions are posted on the ACMA's website.

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

Question:

Also were their concerns addressed in relation to new services and the lack of requirement for them to be able to make and carry emergency calls?

Answer:

The ACMA considered the issues raised by the National Emergency Communications Working Group (NECWG), along with all other submitters, in formulating the draft determination.

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

Question No: 122

Hansard Ref: Written

Topic: SPECTRUM

Senator Minchin asked:

How is the Greenpaper on the 'digital dividend' spectrum progressing? Is this being handled by the ACMA or Department? What role is ACMA playing? Do you know how close it is to release and finalisation?

Answer:

The green paper is being handled by the Department. ACMA staff have provided advice on technical and planning matters and have commented on drafts of the green paper. The ACMA notes that the Minister released this paper on 5 January 2010.

Senator Minchin asked:

When does the ACMA need certainty about the policy intent so that the necessary arrangements can be put in place for any necessary re-stacking to coincide with the digital television switch-over? What lead time is required to implement any re-stacking?

Answer:

We expect the necessary policy decisions will be taken following consideration of responses to the Green paper. The time required for the re-stacking will be affected by Government policy decisions, including the size of the digital dividend.

Senator Minchin asked:

There has been speculation in the media about the value of the spectrum – does the ACMA have an estimate of the value?

Answer:

Estimating the revenue associated for the digital dividend is difficult. This is because the revenue is dependant upon:

- (a) the amount of spectrum available for auction;
- (b) the state of the communications industry at the time of the auctions, the types of licences on offer, and the demand for these licences; and
- (c) the availability of alternative spectrum for similar technologies (e.g 2.5 GHz).

The ACMA has not done any estimates of the value of this spectrum.

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

Senator Minchin asked:

Was the ACMA consulted on the legislation introduced by the Government that would prevent Telstra accessing certain spectrum unless a structural separation undertaking was in place?

Answer:

The ACMA was not formally consulted on a draft of the legislation referred to in the question. However, ACMA technical and legal staff were able to view and comment on a draft of the legislation.

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

Question No: 123

Hansard Ref: Written

Topic: AL-MANAR TELEVISION

Senator Minchin asked:

- i) Is it possible to determine how many households have access to Al-Manar in Australia?
- ii) If you had found a breach of the anti-terrorism standard, what penalties are open to you?
- iii) Would legislation be required to prohibit the broadcast of Al-Manar in Australia?
- iv) Does the ACMA have the expertise to analyse content for links to terrorism? Do you seek input from AFP or other government agencies?
- v) When I asked the Minister about this issue during Question Time, he indicated that you had been asked to keep the situation under watch – when was this request made?
- vi) How are you monitoring the situation and the Al-Manar broadcasts? Is this regular, intermittent, or random sampling?

Answer:

- i) It is not possible for the ACMA to determine how many households have access to Al-Manar in Australia.
- ii) Part 10 of the *Broadcasting Services Act 1992* provides remedies for breaches of the licence conditions which apply, inter alia, to open narrowcasting services operating under class licence. These remedies include remedial directions, civil penalties and an application to the Federal Court for an order that the person cease providing the service.
- iii) If the ACMA is satisfied that a person is providing an open narrowcasting service otherwise than in accordance with the open narrowcasting class licence, including compliance with the Anti-terrorism Standards, the ACMA may apply to the Federal Court for an order that the person cease providing the service.
- iv) The obligations under the Anti-terrorism Standards cover whether the content assessed directly recruits or solicits funds for a listed terrorist organisation and such content can be assessed on its merits by the ACMA's staff.

The Attorney-General is charged with the responsibility for listing terrorist organisations, entities and persons under the Criminal Code Regulations 2002 and the Minister for Foreign Affairs and Trade is charged with determining proscribed persons or entities under the Commonwealth's Charter of the United Nations Act 1945.

As required, the ACMA would seek out the expertise and/or input from the Australian Federal Police (AFP) and other government agencies. The ACMA would also refer

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

material to the AFP and the Attorney General's Department as appropriate if such material might require consideration within their jurisdictions.

- v) The ACMA finalised its report into Al-Manar Television and made it publicly available on 31 July 2009. It is understood that concerns were raised directly with the Minister following release of the ACMA report. Consequently the Minister asked the ACMA to keep him informed of the ACMA's ongoing monitoring of the service.
- vi) The ACMA announced, when it finalised its recent investigation, that it would investigate any complaints which arise concerning the content of Al-Manar Television. The ACMA has continued to monitor Al-Manar broadcasts through regular content recording.

The ACMA will shortly indicate its approach to consideration of this content. In addition, the ACMA has also been provided with specific footage alleged to have been broadcast on the Al-Manar Television service into Australia, which it is also currently considering.

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

Question No: 124

Hansard Ref: Written

Topic: ACMA – Digital Switchover

Senator Minchin asked:

As the awareness of digital television increases, so too does the number of households/communities that have reception problems.

Have you had many complaints about digital reception issues?
Do you know when the satellite discussion paper will be released?

What are you doing to identify blackspots?

Answer:

A. Have you had many complaints about digital reception issues?

From June 2007 to date the ACMA has received 868 complaints about digital television reception.

A break up of the complaints on a year by year basis follows:

- 1st June 2007 – 31st May 2008 = 293 complaints logged
- 1st June 2008 – 31st May 2009 = 197 complaints logged
- 1st June 2009 – 3 February 2010 = 378 complaints logged

Complaints received from consumers about digital television include local signal interference received from other Radiocommunications devices or non broadcasting sources as well as a range of household issues such as incorrect antenna selection or alignment as well as the quality of installation and maintenance. In some areas digital signals are not yet available for some services where broadcasters are yet to roll out transmission facilities

B. Do you know when the satellite discussion paper will be released?

This is a matter for the Department of Broadband, Communications and the Digital Economy. The Department has advised that the Minister is in discussions with free to air broadcasters about approaches to deal with signal deficiencies.

Further communications with local councils will be undertaken in the coming weeks, following finalisation of the list of sites the commercial broadcasters have agreed to convert. Local councils and community groups, some of whom currently operate self-help retransmission sites, will be fully informed of their options to receive digital television and will have the opportunity to determine, in consultation with the Taskforce and broadcasters, the most appropriate method for their community.

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

C. What are you doing to identify blackspots?

The objectives of the digital conversion schemes administered by the ACMA include the provision by broadcasters of digital television services having the ‘same coverage and potential reception quality’ as their analog television services. To this end, broadcasters are provided with suitable digital channels in all areas where they have analog channels and the technical specifications of digital services are designed to match analog coverage. As long as digital television performs as expected, digital services should be (or become) available in all areas where there are analog services. Conversely, areas of reception deficiency for digital television should broadly mirror those areas with historically poor analog reception.

To test whether broadcaster digital transmissions have indeed achieved ‘same coverage and potential reception quality’ in their analog coverage areas, the ACMA uses a combination of computer modelling, analysis of enquiries, and information about the location of existing analog transmission facilities to identify areas of potential reception deficiency for digital television. Its assumptions about these areas are then tested and validated by an extensive program of signal measurement in the field.

As it becomes available, it is expected relevant information from the ACMA’s coverage evaluation program will be included progressively in the Transmission Blackspots Report, which is presented quarterly to Parliament.

Many analog black spot areas have been previously identified through a range of past government programs, including the former Department of Communications, Information Technology and the Arts (DCITA) TV Black Spots program and the Alternative Technical Solutions program.