



COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

## SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION  
COMMITTEE

**Estimates**

(Public)

TUESDAY, 13 FEBRUARY 2024

CANBERRA

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**ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE**

**Tuesday, 13 February 2024**

**Members in attendance:** Senators Antic, Cadell, Davey, Faruqi, Grogan, Henderson, Hughes, McLachlan, Liddle, Payman, David Pocock, Rice, Roberts, Sheldon, Shoebridge and Waters

## **INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT, COMMUNICATIONS AND THE ARTS PORTFOLIO**

### **In Attendance**

Senator Carol Brown, Assistant Minister for Infrastructure and Transport

### **Department of Infrastructure, Transport, Regional Development, Communications and the Arts**

Mr Jim Betts, Secretary

Ms Maree Bridger, Chief Operating Officer

Mr Richard Windeyer, Deputy Secretary, Communications and Media Group

Dr Stephen Arnott PSM, Deputy Secretary, Creative Economy and the Arts Group

Ms Shona Rosengren, Acting First Assistant Secretary, Research, Data and Strategy Division

Ms Georgia O'Cianain, Acting Head of Bureaux

Ms Rachel Houghton, First Assistant Secretary, People, Culture and Change Division

Ms Susan Charles, Assistant Secretary, Communication and Change Branch

Mrs Cha Jordanoski, Chief Financial Officer

Ms Jodi George, Assistant Secretary, Financial Management Branch

Mr Mike Hogben, Assistant Secretary, Budget Engagement and Strategy Branch

Ms Donna Tait, Acting Assistant Secretary, Assurance, Integrity, Risk and Governance Branch

Mr Jeff Goedecke, Chief Information Officer

Ms Christine Burke, Chief Counsel, Legal Services, Privacy and FOI Division

### **Program 5.1**

Mrs Lisa La Rance, First Assistant Secretary, Communications Infrastructure Division

Ms Kate McMullan, Assistant Secretary, Telecommunications Resilience Branch

Dr Jason Ashurst, Assistant Secretary, Digital Inclusion and Deployment Branch

Ms Nicolle Power, Assistant Secretary, Universal Services Branch

Ms Shanyn Sparreboom, Assistant Secretary, Competition and Spectrum Branch

Mr Ben Phelps, Assistant Secretary, Broadband and Emerging Communications Branch

Ms Bridget Gannon, Acting First Assistant Secretary, Online Safety, Media and Platforms Division

Ms Margaret Lopez, Assistant Secretary, Media Industry and Sustainability Branch

Ms Pauline Ross, Acting Assistant Secretary, Online Safety Branch

Mr Andrew Hyles, Acting Assistant Secretary, Platforms and News Branch

Mr James Penprase, Assistant Secretary, Media Reform Branch

Mr Mitchell Cole, Assistant Secretary, Classification Branch

Mr Samuel Grunhard, First Assistant Secretary, Communications Services and Consumer Division

Ms Kathleen Sillieri, Assistant Secretary, Consumer Safeguards Branch

Ms Karly Pidgeon, Assistant Secretary, Regional Mobile Infrastructure Programs Branch

Mr Daniel Caruso, Assistant Secretary, Post, International Telecommunications and ACMA Branch

Ms Meghan Hibbert, Assistant Secretary, Regional Connectivity Branch

### **Program 6.1**

Mr Phil Smith, First Assistant Secretary, Office for the Arts Division

Ms Alexandra Wilson, Acting Assistant Secretary, First Nations Languages and Regional Arts Branch

Ms Marie Gunnell, Assistant Secretary, Cultural Policy Strategy and Program Support Branch

Ms Alison Todd, Assistant Secretary, Arts Development and Investment Branch

Mr Jesse Fatnowna, Assistant Secretary, Creative Industries Branch

Ms Ann Campton, Assistant Secretary, Collections and Cultural Heritage Branch

Ms Rebecca Rush, Assistant Secretary, Screen and Arts Workforce Development Branch

### **Portfolio Agencies**

#### **Australian Broadcasting Corporation**

Mr David Anderson, Managing Director

Ms Melanie Kleyn, Chief Financial Officer

Mr Gavin Fang, Editorial Director

#### **Australian Communications and Media Authority**

Ms Nerida O'Loughlin, Chair

Ms Creina Chapman, Deputy Chair

Mr Michael Brealey, General Manager, Communications Infrastructure Division

Ms Helen Owens, General Manager, Corporate and Research Division

Ms Autumn Field, General Manager, Content Division

Ms Rochelle Zurnamer, Executive Manager, Gambling and Mis/Disinformation Branch

Ms Jenny Allen, Acting Executive Manager, Content Safeguards Branch

Mr Paul Howe, Executive Manager, Finance Reporting and Operations Branch

Mr Chris Hose, Executive Manager, Spectrum Planning and Engineering Branch

Mr Jeremy Fenton, Acting General Manager, Consumer Division

Ms Tanya Farrell, Acting Executive Manager, Unsolicited Communications and Scams Branch

Mr Richard Bullock, Acting Executive Manager, Telecommunications Safeguards and Numbering Branch

Ms Rachel Blackwood, Executive Manager, Spectrum Allocations Branch

#### **Australia Post**

Mr Paul Graham, Group Chief Executive Officer and Managing Director

Mr Nick Macdonald, General Manager, Corporate Secretary and Board

#### **Classification Board**

Mr Tristan Sharp, Acting Director

Mr Dominique Irlinger, Acting Deputy Director

#### **Creative Australia**

Mr Adrian Collette, Chief Executive Officer [by video link]

Mr Tim Blackwell, Executive Director, Corporate Resources [by video link]

#### **National Museum of Australia**

Ms Katherine McMahon, Acting Director

Ms Ruth Wilson, Acting Deputy Director

Mr Rohan Haslam, Chief Financial Officer

#### **NBN Co. Limited**

Mr Stephen Rue, Chief Executive Officer

Mr Gavin Williams, Chief Development Officer, Regional and Remote

Ms Anna Perrin, Chief Customer Officer

#### **Office of the eSafety Commissioner**

Ms Julie Inman Grant, Commissioner

Mr Toby Dagg, General Manager, Regulatory Operations Group

Mr Stuart Wise, Head of Business Operations

Ms Kathryn King, General Manager, Technology and Strategy Group

Mr Tim Whiddon, Executive Manager, Strategic Communications

#### **Screen Australia**

Ms Deirdre Brennan, Chief Executive Officer

Ms Irene McMonnies, Head of Legal and Producer Offset and Co-Production

### Special Broadcasting Service

Mr James Taylor, Managing Director

Ms Clare O'Neil, Director, Corporate Affairs

Ms Nitsa Niarchos, Chief Financial Officer

Ms Mandi Wicks, Director, News and Current Affairs

### Committee met at 09:00

**CHAIR (Senator Grogan):** I declare open this hearing of the Senate Environment and Communications Legislation Committee into the 2023-24 additional estimates. I begin by acknowledging the traditional owners of the land on which we meet and acknowledge their elders past, present and emerging. The committee's proceedings today will begin with corporate and general matters relating to the communications and arts portfolio. The committee has fixed Friday, 5 April 2024 as the date for the return of answers to questions taken on notice.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence. The Senate has endorsed the following test of relevance for questions at estimates hearings: any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings.

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has resolved that an officer of a department of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to a superior officer or to a minister. This resolution does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Witnesses are reminded of the Senate order specifying the process by which a claim of public interest immunity should be raised. I incorporate the public interest immunity statement into the *Hansard*.

*The extract read as follows—*

#### Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

**CHAIR:** I remind all senators that, as we continue our work implementing the *Set the standard* report, as chair I will ensure that proceedings are conducted in an orderly, respectful and courteous fashion.

### **Department of Infrastructure, Transport, Regional Development, Communications and the Arts**

[09:02]

**CHAIR:** I now welcome Senator the Hon. Carol Brown, Assistant Minister for Infrastructure and Transport representing the Minister for Communications and the Minister for the Arts. Minister, do you wish to make an opening statement?

**Senator Carol Brown:** No. Thank you, Chair.

**CHAIR:** I also welcome Mr Jim Betts, the secretary of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. Mr Betts, would you like to make an opening statement?

**Mr Betts:** No. Thank you, Chair.

**CHAIR:** Before we commence with corporate matters and general questions, I remind senators that this part of the program relates to matters concerning central departmental administration, such as building services, ICT, staffing levels and media procurement. Questions relating to individual policies and programs should be addressed to officials when specific programs are considered in subsequent sessions. We will be referring them on if they are asked in this session.

**Senator CADELL:** My first question regards MYEFO documents at pages 283 and 284. These documents refer to a number of portfolio savings measures. I will quote from them:

The cost of this measure will be partially offset by redirecting funding from the 2022-23 October Budget measure titled *Better Connectivity Plan for Regional and Rural Australia*, revenue from an increase to the Telecommunications Industry Levy and from within the existing resources of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

Can we go through them one at a time? Number one is the Better Connectivity Plan for Regional and Rural Australia. What is that program currently doing? What is its role?

**Mr Windeyer:** I was just jumping to the document. Just to check, is your question about what the better connectivity plan is doing and what its role is?

**Senator CADELL:** Yes.

**Mr Windeyer:** In broad terms, Senator—Mr Grunhard may wish to add further detail—that is a broad program designed to support, in a sense, digital inclusion and connectivity in regional Australia. It has a number of sub-elements to it. There is work under the heading of that program which is being done in areas such as regional connectivity generally, mobile blackspot kind of activity and improvements in resilience infrastructure. There are a range of subthemes, I suppose, under that program. Broadly speaking, it is focused on digital connectivity and inclusion in regional Australia.

**Senator CADELL:** There are savings in there. How much is being cut from that program?

**Mr Windeyer:** Senator, can you give me the page reference again?

**Senator CADELL:** It is 283 and 284.

**Mr Windeyer:** Which document?

**Senator CADELL:** It is 284 in the second paragraph. It states that the cost of this measure will be partially offset by redirecting funds from the October budget entitled Better Connectivity Plan.

**Mr Windeyer:** My apologies, Senator. I have the portfolio additional estimates document which doesn't go up to page 283. I have the reference here.

**Mr Grunhard:** Senator, you will see that all of these measures are within the communications portfolio. The reference here to the funding being partially offset is that funding from within the Better Connectivity Plan for Regional and Rural Australia is being used for various measures within this program. There's no cut here.

**Senator CADELL:** It's just a redirection?

**Mr Grunhard:** That's correct. It's not a matter of anything being cut.

**Senator CADELL:** I wanted that confirmation. So there will be no impact to the program whatsoever?

**Mr Grunhard:** That's right, Senator.

**Senator CADELL:** The second part of that same part is the telecommunications industry levy. Is there an increase in the levy?

**Mr Grunhard:** Could we clarify? At the top of page 284? I will have to clarify that for you.

**Senator CADELL:** It would be strange to say there is an increase in the levy without there being an increase in the levy, I would say.

**Mr Grunhard:** Understood, Senator. We will check that for you.

**Mr Windeyer:** We can come back to you later this morning.

**Mr Grunhard:** We'll check that for you.

**Senator CADELL:** The questions I have are all follow-ups. I would like to know the quant how much and how it's going.

**Mr Windeyer:** Yes. We can do that for you.

**Senator HENDERSON:** Is it possible to chase that now and come back to us?

**Mr Windeyer:** We'll certainly come back this morning, Senator. We just need to work out what the change in the levy is for.

**Senator CADELL:** The third reason in that same paragraph you're looking for states:

and from within the existing resources of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

Is that other cuts or just efficiencies? How are we making those savings?

**Mr Windeyer:** I can take it away and just check what the final bit of that sentence is referring to after the reference to the industry levy. The general point, I think as Mr Grunhard said, is that the program remains the same. It is an adjustment within it. Let me come back to work out what that sentence is referring to.

**Senator CADELL:** I might revisit this in a bit of time. I am happy to hand over to someone else.

**CHAIR:** Excellent. Anybody else with corporate questions?

**Senator HUGHES:** I want to look at an appointment to the First Nations Digital Inclusion Advisory Group, which was announced on 19 January this year by the minister. The minister said in her statement, and I quote:

The Government has also appointed—Mr Dan Lloyd to the Digital Inclusion Expert Panel. The Panel supports the Advisory Group by providing expert advice on telecommunications, infrastructure, data and broadcasting issues.

She went on to state:

Mr Lloyd is an executive at Uniti Group and joins the Expert Panel with more than 20 years of experience in the telecommunications sector, including working in 10 different countries and holding various roles in TPG Telecom and Vodafone.

Are you aware, though, Minister, that up until recently Mr Lloyd was a senior adviser in the minister's office?

**Senator Carol Brown:** No. I am not aware.

**Senator HUGHES:** Mr Lloyd has that on his LinkedIn page. Why wasn't that included in the minister's statement? Was that information provided in the department's draft of the media release that would have gone to the minister's office?

**Mr Windeyer:** I don't know what we put in or what we provided to the minister's office in preparation for that announcement.

**Senator HUGHES:** Sorry?

**Mr Windeyer:** I said I'm not sure what we would have provided to the minister's office in preparing for that announcement. I'm happy to take that on notice. I don't know what was in it.

**Senator HUGHES:** You can take it on notice. Get a copy of the draft media release provided to the minister's office. I would have thought it was an interesting piece of information. Mr Lloyd obviously has a lot of experience in telecommunications, but I'm not sure why his time as a senior adviser in the minister's office was omitted from her announcement. Any ideas, Minister, why that piece of information was omitted?

**Senator Carol Brown:** I'll have to take it on notice for you.

**Senator HUGHES:** Again, you'll probably have to take it on notice if it was in the draft. Could we find out who in the minister's office removed the reference from the draft? Minister, this is a government that came to office claiming transparency, yet here we are again; the most basic of facts seems to be omitted. This would appear to be another occasion, Minister, where this government has clearly failed in its transparency pledge.

**Senator Carol Brown:** As I've said, I'll take your questions on notice. You are asserting a number of things that we don't yet know to be correct. I think the best thing would be to take your questions on notice and get that information to you.

**Senator HUGHES:** Again, we will be shorter than we thought. Chair, we are shorter than we thought. We're taking everything on notice.

**CHAIR:** We will go to Senator Rice, who does have some questions.

**Senator RICE:** Good morning, everyone. I want to talk about the government's response to the House inquiry into online gambling harm and its impacts on those experiencing gambling harm.

**CHAIR:** This is corporate, Senator Rice.

**Senator RICE:** Yes. Where else would it fit, then, if it's not here in corporate?

**CHAIR:** I would imagine that it's in the next section.

**Mr Windeyer:** It is the next outcome, Senator.

**Senator RICE:** Okay. I was told corporate. I am happy to ask it wherever.

**CHAIR:** Senator Henderson, do you have questions in corporate?

**Senator HENDERSON:** Good morning, Chair. I do. Secretary, good morning. I would like to ask you about the minister's powers to launch an investigation under the misinformation bill. Since the last estimates, we have now learned that the minister intended to give herself the power to launch investigations.

**CHAIR:** Again, Senator Henderson, I don't think this is corporate. Mr Betts?

**Senator HENDERSON:** This is just generally looking at it. I'm asking about the minister and the powers under a particular bill.

**Mr Betts:** This is not a corporate thing. This is a matter of communications policy, which we can readily deal with.

**CHAIR:** Yes. But just not in this section.

**Mr Betts:** Have we finished with corporate?

**Senator HENDERSON:** I have a few more questions. That's fine.

**CHAIR:** It is corporate, though. We will be parking everything else to the next section.

**Senator HENDERSON:** Secretary, I want to ask you about the department's expenditure in relation to FOI applications. Are you able to give us information on any charges that you are proposing or appending in relation to any matter?

**Mr Betts:** I will ask our chief operating officer to answer that. I'm not aware of any charges for FOI.

**Ms Bridger:** Are you asking, Senator, in relation to a particular matter or just in the broad?

**Senator HENDERSON:** I'm asking about the practice of the department generally in relation to charging those seeking to make, or making, FOI applications. How many matters are there where the department is proposing to charge the applicant?

**Ms Bridger:** I'm not sure we actually do charge, but I will take that on notice and I will come back to you this morning.

**Mr Betts:** The practice varies by department. Ours is one of the departments that currently doesn't charge for FOIs, but we'll confirm that for you.

**Ms Bridger:** I will confirm that this morning for you, Senator.



**Senator HENDERSON:** Thank you. Could you give me an update on FOI applications? How many are before you? How many are there in terms of wait times? How many are pending? How many are due or overdue? Are any before the Information Commissioner? Can you give us a snapshot of FOI applications?

**Mr Betts:** Yes, certainly. We're currently managing 44 FOI applications. One is subject to an internal review; 24 are before the Information Commissioner; and one is a case before the Australian Administration Tribunal. We've had an increase of 57.4 per cent in the number of requests received in the year to date to 31 December compared to the equivalent 12 months in the preceding financial year. Pleasingly, the finalisation rate is 62.2 per cent. It has increased by 62.2 per cent. We have a 97.8 per cent statutory compliance rate with the timeframes in the year to date to 31 December.

**Senator HENDERSON:** Secretary, when you talk about a 62 per cent finalisation rate, do you mean a finalisation rate within the statutory time period?

**Mr Betts:** No. My first figure was 57.4 per cent, which was the increase in the number of requests received, and 62.2 per cent is the increase in the number of requests finalised. Our statutory compliance rate is improving. It is at 97.8 per cent statutory compliance in the year to date to 31 December.

**Senator HENDERSON:** So 24 matters are before the Information Commissioner. That seems to be quite a lot.

**Mr Betts:** I wouldn't be able to judge whether it is quite a lot. Obviously, the rate at which the Information Commissioner can deal with that is a matter for the Attorney-General's Department.

**Senator HENDERSON:** I wasn't asking that question. I was just asking about the quantum of appeals before the Information Commissioner. Maybe on notice you could provide us with the data over the last couple of years. Do you have to hand the number of adverse findings made against the department or findings which contradict the department by the Information Commissioner?

**Mr Betts:** I don't have that information to hand. Ms Bridger may.

**Ms Bridger:** What was that last question?

**Senator HENDERSON:** How many determinations have been overruled by the Information Commissioner?

**Ms Burke:** We do have that data, if you bear with me one moment.

**Senator HENDERSON:** Yes, please.

**Mr Betts:** Can I just be clear that the information I have just given you is for the whole of the department rather than simply for the communications portfolio.

**Ms Burke:** In the reporting period of financial year 2022-23, there were 18 Information Commissioner reviews. Sixteen of them were agency action affirmed. One was varied on review and one was withdrawn.

**Senator HENDERSON:** Are you on notice able to provide us with the details of the applicants and each matter?

**Ms Burke:** We'll take that question on notice, Senator.

**Senator HENDERSON:** Thank you. Secretary, I want to ask about the department's expenditure in relation to Senate estimates. Do you hire any consultants or any external advisers in relation to your work for Senate estimates?

**Mr Betts:** No. I don't know.

**Senator HENDERSON:** I mean the department.

**Mr Betts:** I'm not aware. No. It's all through internal resources.

**Senator HENDERSON:** It is all internal?

**Mr Betts:** Yes.

**Senator HENDERSON:** What sort of preparation or costs? Do you cost that internally?

**Mr Betts:** I'm not sure whether we do a formal costing exercise. Obviously, we prepare detailed information briefs so that senior officials can present to Senate estimates hearings and be able to answer as many questions as possible. There is a large workload associated with the preparation of those briefs. There is often follow-up work necessary to address questions on notice, which are either asked in the hearing or tabled subsequently.

**Senator HENDERSON:** Sure. Do you mind on notice just providing the committee with an overview of the number of people and the work involved in preparing for Senate estimates?

**Mr Betts:** I would be very pleased to.

**Senator HENDERSON:** And, obviously, the follow-up work, which I appreciate is extensive when you are dealing with questions on notice. I want to get a quick update on security clearances in the minister's offices in the portfolio. Do all staff have security clearances? Minister, do you have that information?

**Senator Carol Brown:** No. Not to hand. I'm happy to take it on notice.

**Senator HENDERSON:** Secretary?

**Ms Bridger:** We'll need to take that one on notice, Senator. I imagine they would, but I would need to take that one on notice.

**Senator Carol Brown:** As you know, staff come and go.

**Senator HENDERSON:** Sure. I understand that.

**Senator Carol Brown:** Some may be going through the process. I honestly do not know.

**Senator HENDERSON:** Is there any way of coming back to the committee on notice?

**Mr Betts:** My understanding is that the Department of Finance is responsible for policy in terms of the security clearance requirements. We'll see what information we can get for you, Senator.

**Senator HENDERSON:** Just to be clear, I wasn't asking about the policy. I was asking just about the—

**Mr Betts:** The administration of that.

**Mr Windeyer:** It is more that the responsibility for handling security clearances for ministerial staff is done through Finance rather than through the line portfolios. That is why it is just not something we have to hand.

**Senator HENDERSON:** I imagine it is you, Minister, in relation to the ministers in the portfolio. Could you take that on notice and come back? If it is possible to do so today, we would be grateful.

**Senator Carol Brown:** Okay. I will see.

**Senator HENDERSON:** Thank you.

**Senator Carol Brown:** I'm pretty sure everyone in my office has.

**Senator HENDERSON:** You are pretty sure everyone in your office?

**Senator Carol Brown:** Yes. But I will confirm it after the break.

**Senator HENDERSON:** To the extent you are able. If you can come back to us, that would be terrific.

**Ms Bridger:** Senator, I have one correction. On the data the secretary gave, we actually have two active internal FOIs under review, not one. I want to correct the record.

**Senator HENDERSON:** Could you define what you mean by under review? There has been a preliminary decision made and that decision is being reviewed?

**Ms Bridger:** Reviewed, yes.

**Senator HENDERSON:** Before it's conveyed to the applicant?

**Ms Bridger:** Correct.

**Senator HENDERSON:** Are there any FOI applications that are run over the statutory time period?

**Mr Betts:** We have a 97.8 per cent statutory compliance rate.

**Ms Bridger:** Yes. That's correct, Secretary. This year, we had 97.8 per cent. That is financial year 2023-24. As the secretary outlined, the statutory compliance rate has been improving. In financial year 2022-23, it was 86.5 per cent. In financial year 2021-22, it was 77 per cent. So we've made a real effort to lift our game there and improve the compliance rate.

**Senator HENDERSON:** Was it a bit tardy before?

**Mr Betts:** It has improved 20 per cent in the last two years.

**Senator HENDERSON:** Thank you very much, Chair. I don't have any further questions in this section.

**Mr Windeyer:** I have a couple of answers to Senator Cadell's questions. The reference, Senator, to the increase in the industry levy, which wasn't a published figure, relates to procurement for AVS voice trials. There is a tender or a request for a proposal out at in the market at the moment. The amount hasn't been published given the commercial interests. However, it will become transparent subsequently as the levy is collected.

**Senator CADELL:** We're not telling how much we're going to collect, but it will become apparent?

**Mr Windeyer:** No. We will tell how much we're going to collect. What we're not telling at the moment is the market how much we're prepared to spend. Once we've done the procurement process, it will be built into the levy for the next recovery period, which is an in arrears recovery process.

**Senator CADELL:** I'm not right across it every day. It is not like a tax that I understand. What is the quantum now? How does it operate?

**Mr Windeyer:** I can come back to you with the quantum. The levy operates to cover a number of things, including contribution to the universal service obligation, contribution to support public interest telecommunications services. That is the costs of things such as running the Triple Zero service and running the National Relay Service. So it is things like that are then paid for or levied upon the industry according to, in effect, their size. It is based on revenue.

**Senator CADELL:** A cost recovery basis?

**Mr Windeyer:** Cost recovery, basically. So it fluctuates a bit year on year. If there are significant upgrades, for example, to the Triple Zero service, for example, they will be built into the next levy recovery. So it does move around a bit. We can get you some figures later this morning to give you the sense of the quantum. That is what it is.

**Senator CADELL:** In summary, it is a cost recovery basis. The quantum hasn't been announced. The industry levy will rise to cover that on a proportional basis based on revenue. Is there any exclusion? Do you have to be a certain size to pay that?

**Mr Windeyer:** I think there is a cut-off. From memory, it is revenue of \$25 million, but I will check.

**Senator CADELL:** Okay. Is this something from consultation with the industry, or is the industry just aware this happens? How big is it? When I say quant you're going to get back to me?

**Mr Windeyer:** We'll come back to you with a bit of detail on that and how we go about it. I think there is a consultation process associated with the formal process of levying them and determining the amount for the levy et cetera, but we'll come back to you.

**Senator CADELL:** There is a formal process? It's not like putting something on the bill and they pick it up later in the day?

**Mr Windeyer:** We'll come back to you with a bit of detail on that. The second point relates to the end of that sentence. It simply referred to the fact that the departmental costs associated with this activity are just being redirected from within the department. That is all that was referring to.

**Senator CADELL:** There are no more taxes, levies and recovery or anything like that in the MYEFO? Everything is steady as she goes?

**Mr Windeyer:** Correct, Senator.

**Senator CADELL:** Thank you very much.

**Ms Bridger:** Chair, I have an update on the senator's question about FOI charging, if I may?

**CHAIR:** Thank you, Ms Bridger. Please go ahead.

**Ms Bridger:** In the broad decisions that relate to charges, they are assessed on a case-by-case basis. This financial year, we have not imposed any costs for any of the FOIs for this financial year. Largely, it is dependent on the number of documents that need to be searched for in an FOI. We have not incurred or imposed any charges this financial year on any of our cases.

**Senator HENDERSON:** Do you have the data for the previous financial year?

**Ms Bridger:** I don't have that with me. I can find out for you and I will get back to you later today.

**Senator HENDERSON:** Thanks very much.

**Ms Bridger:** No problem.

**CHAIR:** Excellent. That concludes the examination of corporate matters. We will now go to outcome 1, program 5.1, digital technologies and communications services.

**Senator RICE:** As I flagged, I want to ask about the government's response to the House inquiry into online gambling harm and the impacts on those who experience gambling harm. That inquiry tabled its final report in June last year. It was chaired by the late Peta Murphy. The report had unanimous support from the Standing Committee on Social Policy and Legal Affairs. It outlined the urgency of responding to, and the significance of, ongoing gambling harm in Australia. I understand that the government said it was going to respond within six months. I want to confirm that is the case.

**Mr Windeyer:** It is certainly something that the government is taking very seriously and working through in a whole lot of detail. It is certainly intending to respond as soon as it is in a position to.

**Senator RICE:** What time line are we looking at, then? You say as soon as they are in a position to.

**Mr Windeyer:** Look, I can't put a time line on it. I don't have a definitive end point. I simply say that I think there is an awful lot of work being done not just in this portfolio but other portfolios that are responsible for some of those recommendations to respond as quickly as possible.

**Senator RICE:** Can you talk me through that broader work that is being done?

**Mr Windeyer:** We can certainly talk through the work that our portfolio is doing in relation to the nine recommendations that relate to, in a sense, the purview of the Minister for Communications. I will pass to my colleague shortly to add further to this. From the moment the report was tabled, we have been working very closely across a whole range of stakeholders to the most effective way to go about introducing restrictions to online gambling advertising in a way that takes account of the complexity of the media landscape, with harm minimisation as the guiding principle behind it. That has involved us doing quite a lot of information gathering from a variety of stakeholders, in particular those involved in the selling of advertising business, to understand not only how advertising works on those platforms but what the impacts will be on them of various types of restrictions. That has all been done to help us understand how we might go imposing the restriction and how restrictions might be phased over time and what sort of impact we need to be aware of on other parts of industry as a consequence of any restrictions.

**Senator RICE:** Can you tell me who those stakeholders that you have been talking with are?

**Mr Windeyer:** We can. In broad terms, we have been talking to lots of stakeholders in the broadcasting and advertising space. To give you a flavour, we have been talking to a combination of people in the gambling harm reduction space—Financial Counselling Australia, Alliance for Gambling Reform and Wesley Mission et cetera. There are a number in that space. We have been talking to some of the wagering organisations—Responsible Wagering Australia, for example. We have been talking probably—

**Senator RICE:** Any other wagering organisations?

**Mr Windeyer:** Responsible Wagering Australia and Sportsbet.

**Senator RICE:** You obviously have a list in front of you.

**Mr Windeyer:** I'm happy to read the names on this. I can't guarantee it is completely comprehensive, but it would give you a sense of it.

**Senator RICE:** Can you table that list for me?

**Mr Windeyer:** We can take on notice and table the list.

**Senator RICE:** I'm happy for you to read out some of the big ones now.

**Mr Windeyer:** We'll give you the names we've got. It is Responsible Wagering Australia; Commercial Radio in the broadcasting space; TikTok; the Australian Trainers Association in the racing industry; Crown Resorts; SBS; Free TV; channels Seven, Nine and 10 and Southern Cross Austereo and WIN. That is the sort of crowd we have been engaging with. We have also engaged with various online platforms that are interested in what might occur in this space—Meta, for example. We can give you a list. I have a list of names in front of me. I can't guarantee it is completely comprehensive.

**Senator RICE:** Okay. What are the impacts that they have been sharing with you? Are there reasons to question the recommendations that the committee made?

**Mr Windeyer:** I wouldn't want to say there are reasons to question the recommendations. I think the committee acknowledged that there is some complexity and issues to work through in how you might give effect to those recommendations or any variation of them. The biggest impact, which we are hearing about, is, in a sense, a financial one on people who rely on advertising for their revenue.

**Senator RICE:** The financial impact versus the impact on people?

**Mr Windeyer:** That's right. I think as the committee report itself acknowledged, in some respects, the people taking the advertising are not the people causing the harm, but they are the people who will feel the financial impact from it. So that is something it is important for us to understand. As we continue to provide advice to government about how to take this forward, we know what sort of impacts might be felt in various markets. I think the other piece that we are interested in exploring, particularly if you were going to phase them in or do them in a phased way, is how you might make restrictions work in practice when you take into account the difference between what is a broadcaster versus what is an online streamed simulcast of a broadcaster—what is a streaming service uniquely, for example. Conceptually, it feels like they are all one and the same. In a practical sense, how you might regulate for them and design something to introduce restrictions over time requires quite a bit of thought.

**Senator RICE:** Obviously in your discussions, the industry is putting to you what impact these will have. Will that data be made public when the government finally makes a response? Will the data that is informing the government's response be made public?

**Mr Windeyer:** We would as a matter of course, as part of this exercise, produce an impact analysis, which will contain some data around the impact. I suspect that quite a lot of data we have gathered over this period of policy work has been provided to us very much commercial in confidence, because it is quite sensitive for them in terms of their advertising revenues vis-a-vis their competitors' advertising revenues. I think disaggregated data around impacts on individual firms, for example, is not something that is likely to be made public. But aggregated impact will certainly end up being made public as part of the impact analysis work.

**Senator RICE:** Given all of this work and the complexity of this work that you are working through, when do you expect the government's response to be released?

**Mr Windeyer:** Senator, I can't put a time line on it. I can say that we are working closely with government providing advice to put government in a position to take a decision on how they do this. I don't have a definitive time line. I can only repeat what I said before. We are looking, and the government is looking, to be in a position to respond as soon as it possibly can.

**Senator RICE:** That is not very helpful.

**Mr Betts:** Well, it's a matter for government, not for Mr Windeyer to decide.

**Senator RICE:** The reason why I am pushing on it is that the government said when the report was released that it recognised the urgency of responding. They did promise to have a response within six months. We are now heading for nine months. You can't tell me when.

**Mr Windeyer:** I appreciate that.

**Senator RICE:** That six-month timetable is looking like it is going to be blown out by two or three times that.

**Mr Windeyer:** I appreciate that, Senator. The only other thing I would add—

**Senator RICE:** Meanwhile the harm is ongoing.

**Mr Windeyer:** The only other thing I would add is, in a sense, to go back to something I said earlier. That report had 31 recommendations. We are looking at about nine of them in our portfolio. The remainder, then, are being looked at in other spaces, in particular in the social services portfolio. The government's capacity to respond to that is not totally in the hands of this portfolio.

**Senator RICE:** Given that, the response will be a whole-of-government response?

**Mr Windeyer:** I would expect so.

**Senator RICE:** Given the response from the various portfolios, do you think there is a case to have one government agency responsible for gambling?

**Mr Windeyer:** I'm not sure I would want to proffer an opinion on that. One thing I would observe, just to make it seem more complex, is that we have already got all the states and territories having a role in this space and in the gambling regulatory space for a long time. So it is not as simple, I think, just looking at one place in the Commonwealth.

**Senator RICE:** That was the first recommendation of the committee. The committee recommends that the responsibility for online gambling harm and reduction be held by a single Australian government minister.

**Mr Windeyer:** That is not a recommendation, in a sense, that we have a lead on. That is something that will be worked through across the whole of government. Our interest, frankly, as a portfolio is relatively narrow. It's not through a gambling lens. It's through an advertising lens in the communications portfolio.

**Senator RICE:** That is part of the problem. It's not through a gambling lens. Your responsibility is through the communications lens, so you are not getting an integrated consideration of the issues that are associated with online gambling.

**Mr Windeyer:** Other than in much government work there are the levers to use to address an issue that may exist across a variety of portfolios. We do work closely across government to pull together, in a sense, a holistic response for government to consider rather than operate just in silos.

**Senator RICE:** In terms of your response, how are you working with the other departments to create that holistic response?

**Mr Windeyer:** I will defer to my colleagues if they have any comments to make about how we are working with DSS. We are working closely with our colleagues and, in a sense, sharing—

**Senator RICE:** What does 'working closely' mean?

**Mr Windeyer:** Sharing where we are at on our recommendations and talking to them about how they are progressing. One area in particular in this space that we find ourselves having to work cross-portfolio on is the impact of any restrictions on the sporting clubs and sporting codes, for example. We have found ourselves having to work quite closely with the Office of Sport on how that might play out. I will hand to Ms Gannon or Ms Lopez to see if they have anything to add in terms of our working relationship with DSS.

**Ms Lopez:** As Mr Windeyer said, we are engaging quite closely with our colleagues, particularly the Department of Social Services. We have regular engagement with them in considering the committee's recommendations. The Department of Social Services also has the Australian Institute of Family Studies, which undertakes research in this space particularly focused on gambling. We are also looking at the data and research that organisation is producing and considering findings from there, particularly in relation to gambling harms.

**Senator RICE:** What does that regular engagement look like? Have you had a cross-party working group working on it that is meeting regularly?

**Ms Lopez:** Meeting regularly?

**Senator RICE:** Are you working together?

**Ms Lopez:** Yes. We are meeting regularly. It is generally fortnightly and weekly, depending on the need for those types of meetings.

**Senator RICE:** Thank you.

**Senator HENDERSON:** I would like to go to the issue of the misinformation bill. I want to ask in particular about the revelation uncovered just recently under an FOI application by the shadow minister in a letter from the minister to the Prime Minister dated 1 June 2023. She stated that the minister, and I quote:

I would have the ability as the Minister to direct the ACMA to commence investigations under the *Broadcasting Services Act 1992* and generally under the *Australian Communications and Media Authority Act 2005* in relation to its new functions.

Assistant Minister, why was this power never revealed by the minister until the moment we discovered this in FOI documents?

**Senator Carol Brown:** The bill does not give the minister any new powers to direct ACMA to conduct investigations. The minister already has powers to direct ACMA to investigate matters under section 171 of the *Broadcasting Services Act 1992* and a power to give general directions in relation to ACMA's broadcasting content and datacasting functions. The bill is focused on ensuring the digital platforms have adequate systems and processes in place to combat online misinformation and disinformation. It's not about the individual pieces of content or individual online users, rather about systems and processes to minimise the spread of seriously harmful misinformation and disinformation.

**Senator HENDERSON:** Assistant Minister, this is quite a controversial revelation in the context of this bill. As you say quite rightly, this provision is not in the misinformation bill. Australians were not aware on the face of this bill—we haven't seen a final version—that the minister held this power in relation to misinformation. It is not in the bill. This is deeply concerning. Why wasn't this made transparent, which of course is what the Prime Minister promised the Australian people—that this government would be a government of transparency? Now we discover that the minister has this reserve power to launch her own investigation into misinformation, including possibly, of course, on political grounds.

**Senator Carol Brown:** What is important to understand here is that the misinformation and disinformation threatens the safety and wellbeing of Australians and undermines democracy. As you have indicated in your question, this is an exposure draft that is out there. The government has welcomed the community's feedback and is now considering refinements, including definitions, extensions and the stronger user of empowerment mechanisms. I might ask the department to provide some more information.

**Senator HENDERSON:** In particular, Mr Windeyer, where in any of the department's materials about this bill was it made clear that the minister held this reserve power and would be seeking to exercise this power in relation to the misinformation bill?

**Mr Windeyer:** Firstly, there's nothing to suggest whether or not the minister might be seeking to exercise this power. I would have to check. I will hand to Mr Hyles to see whether he can comment on the extent to which that has been referred to. I would reiterate the points the minister has made. We are talking about provisions in acts that have been in place for some considerable period of time. There is nothing that is not transparent there in terms of the powers that the minister in the communications portfolio has in a general sense under the *Broadcasting Services Act* or in relation to the *Australian Media and Communications Authority Act*. However,

another thing that I think is most important to understand is that there was an exposure draft put out. We did get considerable and very helpful feedback from a very large number of Australians. We are now working through that to take on board many of the comments, suggestions and points raised in that. The final form of the bill, and including in relation to how it might deal with powers et cetera, is something that we are working through.

**Senator HENDERSON:** That was a very long answer. Can you keep your answers a bit more succinct. You made reference in the beginning of your answer to the fact that this wasn't a power that the minister particularly sought. In the context of this bill, as we've now discovered under FOI, she has made it very clear that she would have the ability as the minister to direct the ACMA to commence investigations in relation to this bill on disinformation and misinformation. Can you clarify?

**Mr Windeyer:** Sorry, you—

**Senator HENDERSON:** Why isn't that power made clear in the bill? I go back to my earlier question. Do you have any materials, including in the explanatory memorandum or in other advices or briefs, in relation to this matter? Why wasn't this issue made public?

**Mr Windeyer:** Well, Senator, the point you have articulated from that letter is, in a sense, a statement of fact. That is how the law as currently passed operates. As a matter of drafting, it would be unusual to put into a bill provisions that already exist in the act that is being amended. There is nothing there that is unusual. I will see if Mr Hyles has anything to add on whether and how this was discussed—

**Senator HENDERSON:** It is unusual. I say this as a former lawyer. It is unusual that when there is a whole new section in relation to misinformation and disinformation this very important matter is silent in the bill. I am sorry, Mr Windeyer, but that is not typical.

**Mr Windeyer:** Senator, I think there have probably been a number of bills that have amended the BSA over some period of time in which that power continued to apply. That power was not replicated in the amending bill.

**Senator HENDERSON:** Let's go to the—

**Mr Windeyer:** In the interests of the question you asked about whether and how this might have been dealt with in any of our explanatory materials, et cetera, which you have asked, I will see if Mr Hyles has anything in particular to add on that.

**Mr Hyles:** I haven't got anything further to add. I would reiterate the fact that the powers exist within the legislation already. The misinformation and disinformation bill was intended to add a new schedule to the bill. It was slotting that into what was already there. The power is to direct under section 171 of the BSA for ACMA to investigate matters if the minister is satisfied they should be investigated in the interests of due administration of the BSA or for future regulation or operation of a carriage service or content service. It is important to note that the direction of powers under section 14 of the ACMA Act can only be general in nature. To the point about directing specific individual things, the power is general, not specific. Generally speaking, it is expected that the Minister for Communications would be able to direct the ACMA to investigate and report on concerns raised by everyday Australians, media organisations or parliamentary committees if necessary.

**Senator HENDERSON:** What does this mean in practice? The minister has a general power to direct the ACMA to investigate a matter in relation to misinformation. How would that be implemented in practice?

**Mr Windeyer:** Senator, I think we need to see what the final form of the bill and legislation look like.

**Senator HENDERSON:** This is your legislation. We are reading the minister's letter in which she says that she has this power. Given this power currently exists under the act and she is now seeking to use it in the context of the misinformation bill, how does the minister intend to use this power in relation to the misinformation bill as proposed?

**Mr Windeyer:** I am saying that I think we need to see what the final bill, as proposed, looks like rather than the exposure draft. We and the minister have acknowledged that we are looking at it very closely in light of the comment. It's not something that we are turning our minds to on how the bill as currently drafted might operate. We are looking at how we might adjust the bill for a final piece of legislation that can be introduced into the parliament.

**Senator HENDERSON:** On notice—

**CHAIR:** I need to rotate the call.

**Senator HENDERSON:** This is my last question. This is a question on notice. On notice, Mr Windeyer, can you please provide to the committee all advices, correspondence and emails in relation to this matter—the intersection of this power of the minister with the misinformation and disinformation bill, including any concerns

raised and any possible stakeholder submissions? I am keen to understand the information that you hold in relation to this reserve power and how it intersects with other misinformation bill.

**Mr Windeyer:** I'm happy to take that on notice, Senator.

**Senator PAYMAN:** Good morning, all. My questions are about age verification. I am curious to understand what progress has been made with the department on scoping options for a pilot of age verification, as recommended by the regulator.

**Ms Gannon:** You are right; the minister has indicated that the department is undertaking scoping on an age verification trial. That work is underway, although I would describe it as being in the fairly early stages. The scoping work will consider user and industry views on a requirement to provide ID documentation. I would describe that as the willingness to use age verification. There is also the effectiveness of various kinds of age assurance technologies. We see around the world that industry is starting to bring in improved age assurance and age verification technologies. We are watching closely those technologies to see how they work for different services and whether they might have broader application. We are looking at safety by design considerations. We are also looking at compliance and enforcement. For example, if you were to trial a single type of technology, how would that fit with the underlying assumption in the Online Safety Act that industry would be responsible for the safety of their own services? On more micro terms, our scoping work will include identifying a body to conduct a trial and planning across government the initiative, which was recommended by the regulator in the roadmap. We're also looking internationally at what is happening. Countries around the world and different jurisdictions are grappling with this very same problem. We are looking closely at what they are doing to see what we can learn as things move quickly.

We're also looking at what consultation we would need to do. I recall at the last hearing Senator Cadell asked about the consultation that we had undertaken as part of the government's response to the age verification roadmap. At that point, the department had consulted within government and had relied on the eSafety Commissioner's consultation with industry and stakeholders more broadly. I think if we're going to do a trial, that consultation by the department would need to broaden out to do the trial properly and given the time that has elapsed since the roadmap was delivered to government. There's a lot of different elements that a trial would also need to consider as part of the evaluation phase. A lot of that is still being developed by the department.

**Senator PAYMAN:** Thank you, Ms Gannon. You mentioned international efforts. What lessons can we learn on implementing age verification in particular from the UK's online safety bill?

**Ms Gannon:** As I said, countries around the world are grappling with this very same problem. We're looking at the policy and the regulatory and industry responses to how it works. The UK's Online Safety Act actually has a similar system to what Australia's legislation provides. Under part 9 of the Online Safety Act here in Australia there would be industry codes. They are the phase 2 codes that the commissioner is expected to start work on later this year. The UK similarly expects industry codes to deal with this. I think the test under the UK's Online Safety Act is that industry must introduce highly effective age assurance to determine whether a user is a child or not. And Ofcom has issued industry guidance of what highly effective methods might look like. They are the sorts of things that were explored in the age verification roadmap by the eSafety Commissioner, although because it is guidance to industry, it is a bit more detailed for that audience. More broadly, we've seen France, Germany and different states in the US introduce age verification as well. Those international experiences don't provide us with a clear way forward. In a lot of cases, there is litigation to challenge the civil rights aspects of age verification. In some states in the US, what it looks like is that users are bypassing age verification perhaps for privacy reasons. We don't really know. Accessing porn has declined to such an extent that it doesn't look like people have stopped looking at pornography; it looks like they are bypassing the technology. That goes back to my earlier point about also needing to consider Australians' willingness to participate in a regime.

**Senator PAYMAN:** Thank you, Ms Gannon.

**Senator DAVID POCOCK:** Thanks for your time this morning. I want to start with a few questions about the Murphy review. I understand that Senator Rice has already asked some questions. Hopefully I won't double up. I overheard talk about the number of stakeholders that have been consulted since the release of the Murphy review. A number of names were read out. I would like a bit more detail on notice, if that's alright. Could you provide on notice the name of each stakeholder, the department they are with, the name of each stakeholder the minister has met with, the date of each meeting and the duration of each meeting. That would be really helpful. Minister, yesterday we saw a story in the *Guardian* where children as young as 12 years believe gambling ads and celebrity endorsements are having an impact on their generation. There is a really troubling, but not surprising, quote from a 12-year-old:



if my idol, my favourite YouTuber, Instagrammer, TikToker is gambling maybe I should give it a try.

I'm interested in how it makes you feel knowing that 12-year-old boys want to give gambling a try. Are you worried about the next generation and the impact this is having?

**Senator Carol Brown:** Senator Pocock, I think many Australians are concerned about the extent and the impact of gambling ads on children. I have children myself. Of course, I would be, and am, concerned. The government is concerned. When the government does act in this area, we want to make sure our approach is comprehensive. The committee's recommendations will underpin the government's consideration of what further reforms are required to reduce gambling harms. As we've heard just earlier this morning, this is a complex piece of work that we are undertaking. There has been lots of consultation. A lot of submissions have come forward. We need to consider multiple channels over which advertising is delivered. Of course we're concerned.

**Senator DAVID POCOCK:** I'm concerned about the urgency. Looking at this issue, last year a review of Coroners Court data in Victoria found that, over the last eight years, gambling was a contributing factor to 184 suicides. The vast majority of them were men. Some were as young as 17 years old. This is clearly a national tragedy—I would argue a national disgrace—to be the biggest losers in the world when it comes to gambling. We have this incredible piece of work in the Murphy review—multipartisan backed report—yet we're not seeing the urgency from the government.

**Senator Carol Brown:** I think this is a really important piece of work. I am a daughter of a compulsive gambler. This is work that the Australian government takes very seriously. We are working as quickly as we can. We've had thousands of submissions that the department is working through. We will look at this in a comprehensive way. We've got to get it right, Senator Pocock.

**Senator DAVID POCOCK:** What I am hearing from Canberrans is that they feel there is no safe place to watch TV with their kids any more. You put on sport and you get hounded by gambling companies. You watch something on streaming services and it is the same. Given the amount of work done in the Murphy review and how strong the recommendations were about a staged full phaseout of gambling advertising, do you think the government should be releasing their policy ahead of the Dunkley by-election?

**Senator Carol Brown:** I've already indicated the way we're looking forward to progress this matter. It's an extremely important piece of work. It's urgent. We are working methodically through the timelines and the submissions that we have received. We will look to put something together as soon as possible.

**Senator DAVID POCOCK:** Is there a time line on that?

**Senator Carol Brown:** I will have to take that on notice. The Murphy report was a comprehensive piece of work. I feel that Peta Murphy would like the Australian government to get it right.

**Senator DAVID POCOCK:** Surely getting it right is implementing what a committee has unanimously put forward as a solution, which would be a staged phaseout of all gambling advertising.

**Senator Carol Brown:** We need to do the work to make sure that what we put forward is comprehensive. We want to get this right. We have to do the work to make sure it is.

**Senator DAVID POCOCK:** I feel this frustration, too, for an issue that is so urgent. I think the majority of Australians are far ahead of politicians, like on a number of issues, unfortunately. We have this report. It is six months of silence. I understand the need for consultation. The government has managed to bring through some pretty big reform in other areas in a shorter time frame and without having multipartisan backing through a report.

**Senator Carol Brown:** What I can direct you to is evidence that the last time there were some changes to gambling advertising, there was an increase in gambling advertising. That goes to show that we need to have a comprehensive process that feeds in to what the government puts forward.

**Senator DAVID POCOCK:** Thank you, Minister. Finally, I have some questions I think for Ms Gannon. My understanding is that the eSafety Commissioner recommended to the government that they introduce age gating for pornography and that the government has not accepted that recommendation. Is that correct?

**Ms Gannon:** I will just get my other folder. I disagree with that characterisation of what has happened with the age verification roadmap. The commissioner delivered a report about 12 months ago that made six recommendations. Action had already been taken to do what had been recommended. That came through in the budget last year when esafety got a boost in funding. There was also consent education being run out of the education portfolio. The one recommendation where the government didn't straight agree to that recommendation was for a pilot of age verification technology. The government did agree to consider that pilot once the phase 2 industry codes were in place. It wasn't a no. It was that we will consider it when the Online Safety Act is fully implemented, because the Online Safety Act does regulate pornography online. The department is undertaking

scoping work so that once those phase 2 codes are in place or well underway we can move quickly should the government decide to proceed with that trial. That's why I disagree with your characterisation.

**Senator DAVID POCOCK:** Sure. Did the government give a reason? I have just come from asking some questions of the Office for Women. Look at the horrendous statistics around family and domestic violence. You have 15 women a day hospitalised in Australia. We've got all these big plans. The thing that they keep saying is that this is about cultural change. We've got this mounting evidence around young boys and young men accessing all sorts of pornography in their teens and having an impact on the way they view women and sexual relationships. What is the excuse of not pushing forward with a pilot if that's recommended by the experts in the field?

**Ms Gannon:** Sure. I don't think there's any disagreeing that there is a problem here.

**Senator DAVID POCOCK:** Where is the urgency, then?

**Ms Gannon:** I think the issue is that—and as the government response makes clear—online pornography is regulated under the Online Safety Act. The phase 2 industry codes, which will address online pornography, will do the heavy lifting to address pornography online. The reason I say that—

**Senator DAVID POCOCK:** Does that include age verification?

**Ms Gannon:** Sorry?

**Senator DAVID POCOCK:** Does that include some sort of age gating or verification?

**Ms Gannon:** Well, industry would be expected to put in place measures to prevent children from accessing pornography.

**Senator DAVID POCOCK:** Like a button that says, 'I'm over 18'? What are we talking about here?

**Ms Gannon:** That would be a matter for the eSafety Commissioner as to what sort of standard in the code she would accept as meeting community standards.

**Senator DAVID POCOCK:** But my understanding is that they've said they would like to see more action on some proper age gating here.

**Mr Windeyer:** I think, Senator, the two can work in parallel. In a sense, some of the evidence that Ms Gannon was giving a bit earlier and which may perhaps have been before you entered the room pointed out that we're doing the work about how a trial or pilot might best be given effect to. Even as acknowledged, I think in the age verification roadmap from the eSafety Commissioner herself, there's quite a lot of stuff that is unknown and needs to be worked through to make sure we don't have what seems to have occurred in some jurisdictions that have quite quickly moved to a technology based solution to this problem, which is the perverse outcome of causing people to go around it and bypass it. I think—

**Senator DAVID POCOCK:** Is that not why they recommended a pilot?

**Mr Windeyer:** Well, yes, but it is a question of making sure we design a pilot and make sure we are piloting and testing the right thing.

**Senator DAVID POCOCK:** This is more for the minister because it goes to policy intent. Why has the government not accepted this recommendation from the eSafety Commissioner given community concern and the statistics we're seeing coming out? Why aren't we running a pilot on age gating pornography when every teenage boy now has a smart phone?

**Senator Carol Brown:** You have just heard that we are actually undertaking scoping work on options for a pilot that has recommended it. When the—

**Senator DAVID POCOCK:** Sorry, my understanding is that the eSafety Commissioner recommended that you crack on with the pilot. You have said that you'll only do a pilot once you've done this other work. Again, there are all these urgent issues. We talk about cultural change. Women are getting murdered every week and hospitalised. This is one thing that we could be cracking on with, yet it is like, 'Let's kick it down the road' even though the experts are warning us and urging us to do something.

**Senator Carol Brown:** I have to disagree with you, Senator Pocock. An extensive amount of work has been undertaken. Part of that, of course, was the receipt of the roadmap. The minister wrote to the eSafety Commissioner to request the work begin on the mandatory codes to address online pornography. The government is also now undertaking a scoping work on options for a pilot, as recommended by the regulator.

**Senator DAVID POCOCK:** Thank you. On notice, it would be great to see some of that work that is being undertaken and some of the timelines, please. Thank you.

**Senator CADELL:** I would like to go to the Triple Zero outages for Optus. I will be referring to FOI 24-166. Of lesser note is the Optus network outage information pack that this secretariat provided. On page 4, there is a time line that will be slightly referenced. I will start with that FOI document. There is an email—I won't name the individual—regarding a brief for a meeting with the minister, the minister's COS and someone representing Telstra. The email is dated 10.20 am, so the meeting must have happened prior. Do we know what time that meeting actually occurred?

**Mr Grunhard:** Yes. That meeting occurred at 10.10 am on 8 November.

**Senator CADELL:** Thank you.

**CHAIR:** Did you say Optus or Telstra?

**Senator CADELL:** Telstra.

**Mr Grunhard:** A meeting with Telstra.

**Senator CADELL:** In that meeting, the first point in this email says that Telstra's briefing was, however, there is some evidence that some calls are not making it through. Is that correct? The minister's office at least was aware at that stage that they weren't making it through. Who else was at that briefing? There are three names there—a representative from Telstra, the minister and the minister's COS. Did the department have anyone at that meeting?

**Mr Grunhard:** Yes, Senator. I was there.

**Senator CADELL:** When we go through all of this, what concerns me is the fifth point. It says that the minister didn't want to cause panic and wanted to be able to say that mobiles still connect. She has just been advised in this meeting that there is information that is not happening. Why was it important that the minister be able to say that they connect?

**Mr Grunhard:** The minister wanted to give accurate information to the public and not suggest to them that there was a widespread problem if there wasn't. What Telstra had told us, as you can see in this note, is that they could see that Triple Zero calls were successfully coming through the camp-on mechanism. They could clearly see that there was an increased number, as you will see later in the email.

**Senator CADELL:** The 1,246?

**Mr Grunhard:** That's right. So they could clearly see that something was working and that an unusual number of calls were successfully coming through to Triple Zero because of the Optus outage. There was anecdotal information coming through that there may be a problem with some calls. Obviously, that was a matter of concern. That is why it was being discussed on this call. The only thing that was clear at this stage was that Telstra could see that a large and unusual number of calls were successfully coming through. The minister didn't want to suggest to the public that they wouldn't be able to get through if, in fact, Telstra could see that the calls were coming through successfully.

**Senator CADELL:** I accept that calls are coming through; that's clear there. Clearly, the first line says, 'However, some evidence that some calls are not making it through.' It is not anecdotal. There is some evidence that some calls are not making it through. Correct?

**Mr Grunhard:** Yes. It certainly was anecdotal. Telstra doesn't have information available to it that sees every call that is happening on every other provider's network. They were relaying anecdotal information to us.

**Senator CADELL:** When did Telstra, given Triple Zero is a mandated government service, advise the department or the minister's office that they were noticing ramp-on issues or ramp-up issues? When did Telstra advise you that there may be a problem with Triple Zero, reading through it?

**Mr Grunhard:** Certainly on this call you can see at 10.10 am they did so.

**Senator CADELL:** Not prior to that?

**Mr Grunhard:** I will just clarify that. Maybe Ms Silleri can assist.

**Ms Silleri:** We had conversations with Telstra. We initiated conversations with Telstra earlier in the morning. I will need to check my notes. I think it was before 9 am. When we became aware of the Optus outage, we touched base with the emergency call person—that's Telstra's official title, as the provider of Triple Zero—just to find out how things were from their perspective. At that time, there was a bit of confusion about exactly what was going on. As Mr Grunhard said, Telstra can't see what is happening in other networks.

**Senator CADELL:** Did the department have people using their own Optus phones trying to call Triple Zero?

**Ms Silleri:** We had a couple of people, yes, just to see what was happening.

**Senator CADELL:** How many?

**Ms Silleri:** Three people.

**Senator CADELL:** Were those calls successful?

**Ms Silleri:** One was, two weren't.

**Senator CADELL:** What time was that?

**Ms Silleri:** I'll have to check that for you. It would have been close to 10 am.

**Senator CADELL:** We've had anecdotal evidence that Telstra is saying that there are some calls not going through. Departmental staff themselves have tried. Two-thirds, two out of the three, have not been able to connect through. Why did Minister Rowland go on TV and do a press conference at 11 am saying that Triple Zero calls would get through?

**Mr Grunhard:** I think you are referring to the 11 am press conference?

**Senator CADELL:** Yes.

**Mr Grunhard:** What the minister said at that press conference was that Telstra had advised that the camp-on mechanism, which is the mechanism by which calls come through from other networks if their home network is not available, was working, which was correct. I note that the Optus CEO had been on the radio about 20 minutes earlier confirming from her point of view that Triple Zero calls from mobiles would connect. What the minister said was that Telstra had advised that the camp-on mechanism was working, which was accurate. Of course, we were concerned about those anecdotal reports in the couple of test calls we made. We were continuing to seek information about that from Optus, from Telstra and from the emergency service organisations around the country that take the Triple Zero calls. At that stage, we certainly had not identified a clear problem other than that there were anecdotal reports that some were not getting through.

**Senator CADELL:** Minister, the minister has gone out and said that a specific part of this—the camp-on part—is working, but the anecdotal evidence is that calls aren't getting through. The trial of the department is that calls didn't get through. It is like saying that in my car the engine is working but I've got no wheels on it; it doesn't work. Why would the minister be selective and try to give false confidence that Triple Zero would work if only the mechanics were working but it wasn't actually coming through?

**Senator HENDERSON:** People weren't successful.

**Senator CADELL:** People weren't getting through.

**Senator Carol Brown:** I'm not sure whether the information the department just relayed about their own testing—

**Senator CADELL:** Camp-on?

**Senator Carol Brown:** Yes, I know. Whether that was actually provided to the minister. But the situation on the day was fluid and rapidly changing. Wherever possible, the government provided timely information on the outage. Minister Rowland's statement in relation to the ability of Optus customers was based on the best efforts of the minister, her office and the department to ascertain the factual situation, which I think has been proven by the statements that you have by the officer at the table. Senator Cadell, the situation on the day of the outage and the information that was available was fluid and changing, which you would expect in an unfortunate incident like this.

**CHAIR:** Ross, would you mind if I ask a follow-up?

**Senator CADELL:** Go for it.

**CHAIR:** You can say no.

**Senator CADELL:** No.

**CHAIR:** In looking at this issue, one of the things that I was concerned about is Telstra as the Triple Zero provider has a line of sight over what comes to them. They don't have a line of sight of what is happening in another provider. Is that correct? Their understanding of what was going on was—this is a great new term for me—network wilting. That is what was supposed to occur. Not being an expert, I am not going to explain it, but you might like to. I also met with Optus and Telstra over this issue. Telstra can only tell so much. They have experts in the Triple Zero situation. They look at what is happening and go, 'This isn't normal. This isn't the kind of pattern we would normally see', but it's only indicators. It's a kind of best guess based on solid knowledge. The only people who can tell them what is going on is the provider. That would be Optus, right? Maybe you can explain a teeny bit and quickly the wilting piece and what was supposed to happen and what didn't.

**Mr Windeyer:** I will make a couple of quick points. Others will have possibly more to add. I think the point you make is right, Senator. The key indicator that Telstra had available to it was that it was working. They were seeing a significant spike in calls using that mechanism, which was unusual and considerably different to the normal operating knowledge. That was the one thing, as you say, that we knew with confidence and that they knew with certainty. Another point, just to confirm something the minister suggested before, is that, from the minister's perspective, three people tried to call Triple Zero. That wasn't an attempt by us to do a sort of structured test for the purposes of gathering evidence et cetera. It was us trying to work out what was going on in the fluid environment. That information, I don't think, had been passed by us to the minister at that point in time. So the only thing we knew definitively and the piece that the minister knew definitively at the point in time was what Telstra had said, which is that the camp-on mechanism does seem to be working. However, there was this sense that there was something unusual going on. I will pass to colleagues to talk a bit about what we think happened. I caveat that I am not sure we're absolutely certain yet. The wilting conversation, the camp-on conversation, we can talk a bit to, but I don't think yet we're definitive on exactly what in a technical sense might have happened.

**CHAIR:** Fair enough. And you're still investigating that situation?

**Mr Windeyer:** That's right, Senator.

**Mr Grunhard:** Thank you, Chair. You noted the visibility that Telstra does or does not have of the entire ecosystem. Of course, the minister announced a review led by Richard Bean into the circumstances and the lessons that can be learned from this outage. One thing we are looking very closely at in that review is what visibility each player in the ecosystem has and whether there is sufficient visibility across the ecosystem such that anybody really knows what is going on in a particular crisis like this. That is something we are looking at very closely. You mentioned that there may have been some technical difficulties on the day. We are still working through the report. We are still meeting with stakeholders and gathering information. The review is due to report to the minister by the end of this month, so anything I say here will certainly be interim. We are concerned about that lack of visibility. We know that a portion of callers on the day were not able to get to Triple Zero. Obviously that is of extreme concern. The recommendations that the report I makes, I expect, will go to how to ensure that those circumstances don't recur and how to ensure that there's more visibility across the ecosystem.

**CHAIR:** Thank you, Ross. I'm not sure we got to wilting, but maybe that is just a curiosity, because I am quite interested in it.

**Senator CADELL:** What concerns me is that you've trialled three. You haven't trialled any more and haven't passed that on to the minister. Did we stop after three and say, 'Oh, well?' Did you raise this in the meeting with Telstra?

**Mr Windeyer:** No, Senator, I don't think we did. But I think it was in the context of, as people have said previously, a pretty fluid period where we were trying to gather information and trying to understand what was going on. We weren't interested in, and we would not want to pass on, information that was at best anecdotal. We were keen to try to get to the bottom of what was going on. We did know it was working; I guess that's the key. The key point there from a public safety perspective is that it is important to make sure that we didn't tell people that something wasn't working when it was.

**Senator CADELL:** Ninety-eight per cent of the *Titanic* didn't hit an iceberg. This is the bit that matters—these thousands of calls that didn't get through to Triple Zero. We've had an incident where staff have called Triple Zero and it hasn't worked. There has been a meeting with Telstra where they see it as anecdotal information that some calls aren't coming through.

**Mr Windeyer:** And Telstra has said that thousands of calls are getting through.

**Senator CADELL:** I understand that.

**Senator HUGHES:** But that's no comfort if you're the others that can't get through. I think the government is responsible for Triple Zero. The minister did not even say there may be issues. This is extraordinary, this obfuscation that it's anecdotal when you've tried three times. I find it difficult to believe that not more people had Optus in the department. You tried three times. Two-thirds of them did not get through.

**Senator CADELL:** They say, 'It's okay.'

**Senator HUGHES:** It's okay, but that's only anecdotal. That is outrageous. Imagine if your parents couldn't get through. I mean, c'mon. Could we at least acknowledge that we might have given people a heads-up?

**Mr Windeyer:** Senator, I think that is completely mischaracterising what was going on in the department. We were not shrugging our shoulders at three and saying it's all okay.

**Senator HUGHES:** But you didn't say anything to the minister.

**Mr Windeyer:** We were trying to talk to Optus, Telstra and the emergency service organisations receiving calls to understand what was going on so that we could make sure we were providing the best possible and most accurate information available to people. I completely understand that it is an awful situation for people who had difficulties or couldn't connect to Triple Zero during that period of time. As Mr Grunhard said, that is something that is front and centre in the investigations we're doing now, which is to try to understand how that happened and how we can make sure that it doesn't happen in a future outage of this nature. At that point—

**CHAIR:** Telstra is the Triple Zero provider. Where was Optus in this conversation? What were they telling you? Had they said there was an issue? Had they said it was working? Was Telstra speaking to Optus?

**Mr Grunhard:** Yes. Frankly, everyone was trying to get answers out of Optus. What was happening at this time was that Optus was making public statements that mobile calls to Triple Zero would work. They had stated that on social media. The CEO had stated that on radio. They stated it publicly a number of times. That was their position.

**CHAIR:** But when they did they confirm with you that there was an issue? Surely they are ones that would know what was happening or that they didn't know what was happening and there was some technical challenge?

**Mr Windeyer:** Correct. So—

**CHAIR:** When did they advise you and when did they advise Telstra that they knew there was a problem?

**Mr Grunhard:** I think Optus ultimately made a public statement much later in the morning or possibly after midday on its social media channels that there may be some problems with some mobile calls getting to Triple Zero. But certainly at the time—we're talking about that period up to about 11 am—Optus was publicly stating repeatedly that calls would get through.

**Senator HENDERSON:** But knew that some calls weren't getting through at that point?

**Mr Windeyer:** Well, Senator—

**Senator HENDERSON:** Hang on. You knew that, didn't you? The department knew that?

**Senator CADELL:** You knew that at least two didn't get through.

**Senator HENDERSON:** That's right. Did you convey that to the minister?

**Mr Windeyer:** As I have said, Senator, I don't think we conveyed the three calls that were made by staff in the department to the minister before the 11 o'clock press conference. No, I don't think we did.

**Senator HENDERSON:** Isn't that negligent that the department didn't do that? If you discovered information that contradicted what Optus was saying, that is a very serious situation.

**Mr Grunhard:** I will just clarify. In the document we were referring to earlier released in the FOI request, we knew that the minister had heard directly from Telstra that there were anecdotal reports that there might be some problems. I was on that call with the minister. She had heard directly that there may be some problems with some calls.

**Senator HUGHES:** So yet she still then said there was no problem getting through because she didn't want to cause panic.

**Mr Windeyer:** She said that the camp-on system was working.

**Senator HENDERSON:** Well, hang on.

**Senator HUGHES:** That's a lie.

**Mr Windeyer:** No, it's not, Senator. Senator, it is not.

**Senator HENDERSON:** She knew that some calls were not getting through and yet she went out and did a press conference and told Australians there was no problem with the Triple Zero service.

**Mr Windeyer:** Senator, at this point in time, unfortunately, it was difficult to get information out of Optus. As we have tried to explain, Telstra indicated that the system was working, that calls were getting through, but there was something that wasn't quite right.

**Senator HENDERSON:** Exactly. What wasn't right, Mr Windeyer, was that some calls were not getting through.

**Mr Windeyer:** Senator, let me finish.

**Senator HENDERSON:** The minister went out and told Australians there was no problem.

**CHAIR:** Senator Henderson, you've asked a question. Can you please allow the official to answer.

**Mr Windeyer:** It is also the case that, as we've tried to explain, Telstra can't see what is going on in the Optus network. So the question really came down to then trying to understand from Optus what they could see happening on their network with respect to calls. As Mr Grunhard has just pointed out, the evidence, the public position and the information that Optus had and was putting out publicly at that point was that it was working. Over time that shifted. At that point in time, the only person that can see and understand what is happening on the Optus network is Optus. Their information was that it was working. We were trying to understand in a fluid environment where there seemed to be a variety of positions being put, but only one network operator had definitive information about what the situation was.

**Senator CADELL:** Initially there were 229 failed Triple Zero calls. How many were there in the end?

**Mr Windeyer:** We've got that number. It is the Optus number.

**Mr Grunhard:** Senator, you will know that Optus issued an update to that number in January. Indeed, they wrote to the Senate Environment and Communications References Committee that was conducting the inquiry into Optus and suggested that an additional 2,468 unique service numbers were not able to get through. Obviously, that was a very significant increase in the number, a matter of deep concern and something we're looking into as part of the review we mentioned earlier.

**CHAIR:** We are going to rotate the call. It is going to Senator Henderson, as you determine between you. You may well have a different line of questioning. That is why I am saying it.

**Senator CADELL:** On this point: you were on a call where Telstra raised that it was anecdotal with the minister, who was about to make a public statement. You were aware that calls from your office had gone out and were unanswered by Triple Zero at that stage. When Telstra said that there is anecdotal evidence, you didn't think to advise the minister that those calls had happened?

**Senator HENDERSON:** No. She knew that.

**Senator CADELL:** No. She didn't. You didn't advise the minister, the chief of staff or the office that two calls had been made from the department and they'd been unsuccessful?

**Mr Windeyer:** Senator, that wasn't something that we advised the minister in that call. There could be any number of reasons. On any given day, there will be people who will attempt to call Triple Zero who won't get through first time. We didn't think two calls were at the point where we had definitive information that was any different or changed anything beyond the conversation we had with Telstra.

**Senator CADELL:** It is simply phrased; data plus context equals information. That call did not give the minister information; it gave it data. There was no context to what was going on because of these other things around it. The minister has gone out there. I accept the words that ramp-on was still working, because it was. There was nothing to indicate to those 2,468 people who didn't get through that they may have problems. There was nothing out there for people who knew their phone was down to say that if they have an emergency, they can't get through on this. I have been made to feel really good that my handset works. I could have a crash, a family member could die or have an accident or my children could get sick. The minister went out and intimated by inference that the ramp-on was working, which I grant you is accurate. The implication was that Triple Zero was working. I am now left in the lurch because part of the information, some data, has come out, not the context. Is that fair?

**Mr Windeyer:** I don't think that's quite fair, Senator, I'm sorry. I will keep coming back to the fact that we now know that 2,700 calls didn't get through from Optus mobile. We have been trying to say and explain that, at the point in time, trying to get accurate information about what was and was not working was difficult. The very fact that Optus itself only worked out in January that there were another 2,400 suggests that getting information out of Optus about what was really going on was tricky. What we can see from Telstra, and in a sense from what we know subsequently, is that in the order of 5,000 or so camp-on calls were carried on the Telstra network. That is considerably above the normal operating day. If Optus wasn't able to determine and communicate the problems that were occurring, it was very tricky for anyone else to be in a position to confidently confirm what was going on in terms of attempts to call from the Optus network.

**Senator CADELL:** Minister, it is three months since this. We're hearing today that we still don't know what happened. Triple Zero is a mandated government service. Why aren't we moving quicker so this can never happen again?

**Senator Carol Brown:** Obviously, the minister did move very quickly when she announced the post incident review by the department the day after the outage to ensure that the industry learns lessons from this outage. We've heard today in evidence that report will be completed at the end of this month. But it is important to take on board that the advice that was being received by the minister from Optus, publicly and privately, throughout

the morning was that mobile calls to Triple Zero were working. That advice changed later that day after a press conference. The minister has been at great pains to talk about why the government has stressed the importance of clear and timely communications from Optus. As we look down the time line and what was said and when it was said, we can see that didn't happen. That is why the minister, quite rightly, announced the post incident review the day after. Of course, we've got the ACMA review as well.

**Senator CADELL:** This is my last question. Did the two staff who were unable to get through to Triple Zero receive post call follow-ups from Optus?

**Ms Silleri:** I know for sure that one has. I would have to check the second.

**Senator CADELL:** Thank you very much.

**CHAIR:** This might be a slightly cheeky question. In the review that will report at the end of the month on this incident, do you think there is a high likelihood of some recommendations around communications for providers such as Optus in terms of how they deal with such crises and how they keep in touch?

**Mr Grunhard:** Yes, Senator. There's a high likelihood.

**Mr Windeyer:** Yes.

**CHAIR:** Good.

**Senator HUGHES:** I want to go to the Mobile Black Spot Program. The government has described round 6 as the improving mobile coverage round. The Auditor-General is investigating the minister's role in hand picking sites ahead of the last election. The ANAO report is due to be tabled in May this year. Could you talk us through how the department has been working with the Auditor-General on this investigation?

**Mr Grunhard:** Of course, you would be aware that we are quite constrained by the Auditor-General Act in going into very much detail. Obviously, we have to comply with that legislation. We have been working with the ANAO. We have been responding to all of their information requests in a timely fashion. I understand that audit is on track. Obviously, if you want to ask more detail about the conduct of the audit, that would be a question for the ANAO.

**Senator HUGHES:** I am interested in what the department has done in working with the ANAO and, in particular, any correspondence, notes or submissions that you have made to them. Are they able to be shared?

**Mr Grunhard:** In the general, certainly, Senator, I can say that we have responded to the many information requests. Ms Pidgeon will add some more detail.

**Ms Pidgeon:** In general terms, yes, we have supported the audit. We have responded to information requests. We are not actually able to tell you any more about the progress of the audit. You have to refer questions to the ANAO. There are strict confidentiality obligations in the Auditor-General's Act which constrain us from giving you any further information at this time. I note from the ANAO's website—we checked just then—that they are still progressing towards a tabling date of May. I think they have now tabled it on their website as report preparation phase.

**Senator HUGHES:** Can you advise us, though, of whether any requests for information have been rejected? Has everything that has been requested been submitted to them?

**Ms Pidgeon:** Senator, we have responded to all requests.

**Senator HUGHES:** Again, that might make things a bit shorter. So the Information Commissioner is also investigating the refusal of the minister's office to provide any relevant documents in an FOI request from the shadow minister relating to the round 6 affair. Is the department cooperating with the investigation by the Information Commissioner?

**Ms Pidgeon:** Senator, I would have to refer that to my corporate colleagues. The department is not involved. From our perspective in running the program with the minister's information requests under the FOI legislation, the department responds to the requests made to the department.

**Senator HUGHES:** So you can't answer any questions with regard to that review?

**Mr Grunhard:** I can say that it is our understanding that is still under review by the Information Commissioner. I am certainly not aware of us refusing any requests. I am not aware that we've had any.

**Senator HUGHES:** Okay. Chair, I might leave it there. I might have to come back because I need some more information.

**Senator HENDERSON:** Assistant Minister, I want to return to the misinformation bill. Mr Windeyer, I would like to pick up on a couple of questions I asked earlier. I refer to a letter from Minister Rowland to the Prime Minister obtained under FOI. The date of that letter is 1 June 2023. I referred to what the minister said in



part previously. I am concerned about the way that you've characterised this power of the minister to ask the ACMA to conduct an investigation in relation to a misinformation matter. Of course, Australians would be concerned that a minister might conduct an investigation which has political motivations. In this letter, the minister says with regard to the information gathering powers and the small amount redacted:

In drafting the Bill, the ACMA recommended extending these powers to 'other persons' such as fact checkers and third-party platform contractors to monitor compliance with misinformation codes, standards and digital platforms. The draft Bill would give effect to this suggested change, however to improve transparency, I would have the ability as the Minister to direct the ACMA to commence investigations under the *Broadcasting Services Act 1992* and generally under the *Australian Communications and Media Authority Act 2005* in relation to its new functions.

So this is a power the minister is saying that she wants to exercise in relation to the misinformation bill. Why wasn't that disclosed by the government or the department?

**Mr Windeyer:** Senator, I don't think it was something that in our minds was not disclosed. It goes to the operation of the law if that version of the exposure draft ended up being passed and how it intersects with the existing powers that the minister has with respect to the ACMA or under the BSA.

**Senator HENDERSON:** Well, I accept that the provision is in the act. There's no dispute about that. The minister is characterising this provision as giving her additional powers to improve transparency; I would dispute that, but that's what she says to the Prime Minister. That is in relation to these new provisions, the new misinformation bill. Of course, there is the response from Assistant Minister Gorman on behalf of the Prime Minister. He said:

I agree to your request for additional policy approval, as set out in your letter.

So as part of that policy approval, the minister is making it clear to the Prime Minister that she is seeking specific approval to invoke her powers in relation to the misinformation bill. I again say: why wasn't that disclosed? I put it to you that was kept secret.

**Mr Windeyer:** I don't think anything was kept secret. I think we've undertaken to take on notice your request for what information we have around this issue. I think the only other thing I can say is that, from our perspective, as we said earlier, we are now looking at that bill in light of the comments we received. We are therefore considering the provisions that will end up in the final bill. One of the issues that is certainly being looked at closely and carefully, because it has been raised, is around how transparency should best work in this context. But we are still working through what a revised bill would look like.

**Senator HENDERSON:** I put to you that the government and the minister expressly went out of her way not to disclose that she was seeking to use her powers to direct the ACMA to conduct an investigation as to what is information or misinformation. I refer to her media release on 23 January, I think it is, in relation to the ACMA powers. The minister doesn't refer to the government having powers in this respect, only to the ACMA. Let's not forget that some of these powers are very onerous. There are these investigation powers. The minister now says that she can direct the ACMA to conduct an investigation. They include draconian rules that can compel private citizens to appear before tribunals where there is no right to remain silent or there is no privilege against self-incrimination.

**CHAIR:** This is the last question before we break.

**Mr Windeyer:** Senator, we've undertaken to find what information we have got. I don't think from our perspective there is any attempt to keep something secret in this context. I think what has been discussed publicly was the proposed new rules, powers and responsibilities for the ACMA as envisaged in that exposure draft. It was not talking to existing powers that exist with respect to the ACMA and its functions and the minister. I don't think there was any attempt to keep anything secret at all. I should say that how we end up dealing with transparency around this misinformation—

**Senator HENDERSON:** Just on that point, though: the minister never disclosed that she would be seeking to use her powers to initiate or direct the ACMA to conduct a misinformation investigation. That was never disclosed. We've only ever—

**CHAIR:** We are going to break after he finishes his answer.

**Senator HENDERSON:** Mr Windeyer, could I get you to respond to that?

**Mr Windeyer:** Because it was an existing power that was in the act. I don't think there's any attempt to characterise it. The point has been made that it was a power available to the minister of the day that can be used, not a power to say there was some particular desire to immediately use it. It was a statement of fact that is how the statute would work.

**Senator HENDERSON:** Thanks, Chair.

**CHAIR:** Thank you. Before we break, I will seek from my colleagues, because this is supposed to be the end of this section, whether there are further questions or whether we can move on at this point in time to the next witnesses after the break.

**Senator HENDERSON:** I have a couple more questions, Chair.

**CHAIR:** Senator Henderson has more questions. We will resume after the break at 11 o'clock with outcome 1, program 5.1. We will now suspend until 11 am.

**Proceedings suspended from 10:45 to 11:00**

**CHAIR:** We are back with outcome 1, program 5.1, digital technologies and communications services. Secretary, I believe you have some responses to some questions from earlier?

**Mr Betts:** Yes. We have some information from earlier and a clarification, I believe, which our chief operating officer will give you.

**Ms Bridger:** Thank you very much. Senator Henderson had questions about FOIs and FOI charges. You were asking about whether we had applied charges to any applicants. In the previous financial year 2022-23, we charged applicants a total of \$339. After a request to review the charges, we ended up not charging them at all so we collected zero. In the previous year, 2021-22, we notified to applicants charges equivalent to \$4,982. Again, after request, we reviewed the charges and agreed to reduce them. We ended up collecting \$1,297. Of course, there is none for this financial year to date. We haven't charged or collected any. I want to correct some information on numbers that my colleague Ms Burke provided earlier this morning. You were asking about Information Commissioner reviews, I believe. She had provided you figures that went to internal reviews of department decisions. The Information Commissioner undertook six reviews in calendar year 2023. Of those, after the review, in four of them, the request was withdrawn by the applicant. One of the requests was discontinued by the Information Commissioner. In one, the Information Commissioner varied the departmental decision and in one the Information Commissioner decision set aside the department decision and substituted a new decision. So there actually six.

**Senator HENDERSON:** Thank you very much. Assistant Minister, I want to refer you to a media statement by the minister in June. It is called 'Consultation opens on new laws to tackle online misinformation and disinformation'. It is dated 25 June 2023. The minister says in her media release:

The draft framework focuses on systemic issues which pose a risk of harm on digital platforms. It does not empower the ACMA to determine what is true or false or to remove individual content or posts.

Is that the case, Minister?

**Senator Carol Brown:** Are you talking about the misinformation and disinformation bill? Yes, it is the case. That is my understanding.

**Senator HENDERSON:** If that's the case, the government is not concerned with individual posts or individual pieces of information. It is all about the platforms. Is that right?

**Mr Windeyer:** That's correct, Senator.

**Senator HENDERSON:** I return to the FOI document, which is the letter to the Prime Minister from the minister, including the various attachments. It says in attachment B that the Minister for Communications has the ability to direct ACMA to commence investigations. It states:

The Minister for Communications is able to request the ACMA to investigate matters under the *Broadcasting Services Act 1992* and to give general directions under the *Australian Communications and Media Authority Act 2005*. To ensure consistency with this existing regulatory approach, the Bill extends these existing powers to the ACMA's new regulatory functions on dis- and misinformation. This also includes matters brought to the Government's attention through public complaints or the media about online dis- and misinformation.

Minister, right here, in the minister's own words from her office, it's clear that the minister is very interested in taking action when she receives a public complaint or sees something online through the media.

**Senator Carol Brown:** First of all, I think it does need to again be stated that this is the current law. The misinformation and disinformation bill that we're looking at goes to systems and processes of platforms and not items of content.

**Senator HENDERSON:** Well, you say that, but this document contradicts what you've just said. This document makes it clear—

**Senator Carol Brown:** But this is what the bill does.

**Senator HENDERSON:** Minister, I refer you to this FOI document. It makes it clear that the minister is seeking policy approval from the Prime Minister to use this existing power in the act to extend it in relation to the misinformation powers so that the minister can order ACMA to investigate matters brought to the government's attention through public complaints or the media about online dis- and misinformation. I put it to you that this gives the minister the power to conduct a political witch-hunt.

**Senator Carol Brown:** That's not right.

**Mr Betts:** That's not true.

**Senator HENDERSON:** It's there in black and white, Assistant Minister.

**Senator Carol Brown:** Sorry, Senator Henderson, it is just not true.

**CHAIR:** I appreciate your question and I appreciate the response.

**Senator HENDERSON:** Chair, I have the call.

**CHAIR:** I want to finish.

**Senator HENDERSON:** No. I have the call.

**CHAIR:** We can cease that easily enough.

**Senator HENDERSON:** No.

**CHAIR:** I am just going to say something. Please don't talk over me.

**Senator HENDERSON:** Chair, there is no—

**CHAIR:** So the department has just said, and the minister has just said at the table—

**Senator HENDERSON:** I raise a point of order.

**CHAIR:** that what they believe you are saying—

**Senator HENDERSON:** Chair, a point of order, please.

**CHAIR:** is not correct.

**Senator HENDERSON:** Chair, can I just take a point of order?

**CHAIR:** Would you like to move on to your next question?

**Senator HENDERSON:** No. I would like to take a point of order, please.

**CHAIR:** Certainly.

**Senator HENDERSON:** On the point of order: it's not open to you, as chair, to interrupt me when I have the call. It was not appropriate to intervene in the way that you did. I ask that you not do that.

**CHAIR:** In your humble opinion. As the chair, it is my prerogative to manage the situation.

**Senator HENDERSON:** There was no disorderly conduct. No. You can't run interference there.

**CHAIR:** We have a difference of opinion there. Would you care to continue with your questioning?

**Senator HENDERSON:** It is not open to you to pass me over.

**CHAIR:** Yes, it is.

**Senator HENDERSON:** I would ask you not to do so.

**CHAIR:** Would you care to continue?

**Senator HENDERSON:** Assistant Minister, it's very clear here in these FOI documents that the minister has the ability to conduct a political witch-hunt. What do you say to that?

**Senator Carol Brown:** The bill that we're talking about will empower the ACMA with new information gathering and recordkeeping powers to create transparency around efforts by platforms to moderate harmful content on their services and give users the tools they need to navigate the online environment. I reiterate that the bill goes to systems and processes of platforms, not items of content. The power that you are talking about is something that already exists. I don't know how many times—

**Senator HENDERSON:** I will pick you up on that point. This FOI document makes it clear that the minister's power will be extended to particular issues of misinformation and disinformation. The minister, in fact, wrote to the Prime Minister seeking policy approval to utilise that existing power in relation to the misinformation bill. In other words, it was to extend her powers.

**Senator Carol Brown:** I will not change my response. The bill goes to system processes and processes of platforms and not items of content.

**Senator HENDERSON:** Well, that's contradicted, as I've said, Minister, by the minister's own words. Mr Windeyer, I have put it to the minister. She is reading her talking points. I appreciate that. She didn't address the question. What I'm deeply concerned about and what the shadow minister has raised consistently about this bill, which is a dangerous misstep in terms of the rights of Australians, is that the minister herself has said that she would use these powers to deal with public complaints or other issues raised in the media about online dis- and misinformation, not about the conduct of the platforms. We're talking about the content. She is seeking policy approval to extend her powers so that she can go after content as a result of receiving public complaints.

**Mr Windeyer:** Senator, the characterisation of that is not accurate.

**Senator HENDERSON:** Why did she seek policy approval to extend her power, then?

**Mr Windeyer:** Senator, that letter is in the context of an administrative process associated with legislative drafting to make clear that the policy was that the existing provisions in those acts would apply to this proposed new bill. From our perspective, that is an administrative process associated with settling the drafting of a bill. I would also point out that I don't think there is anything in that letter that says anything about the minister's intention to use or not use a power. It is simply stating the fact that is what those powers are able to do or that they exist. I also point out, as Mr Hyles mentioned earlier, the ACMA power is only in respect of very general directions. It doesn't go to, and wouldn't therefore work in respect of, individual pieces of content. But—

**Senator HENDERSON:** Let's just go to that line.

**Mr Betts:** And there is nothing in that power which overrides that.

**CHAIR:** Just let the secretary add.

**Mr Betts:** There is nothing in that pre-existing power which overrides that. It relates to those general systems and processes, not to individual pieces of content.

**Senator HENDERSON:** I've already said that I accept that there's the existing power in the act.

**Mr Windeyer:** Yes.

**Senator HENDERSON:** There's no debate about that. However, the minister has characterised this existing power in a way that has sought additional policy approval, because she specifically says, 'I want to use this existing power to provide me with additional powers in relation to misinformation.'

**CHAIR:** Could you table that letter that you're reading from, Senator Henderson?

**Senator HENDERSON:** It's a part of the document.

**CHAIR:** Maybe you could give us a reference.

**Senator HENDERSON:** I already have. It is a letter. It is FOI 24-144. I'm not sure that your characterisation is correct by reason that the minister is writing to the Prime Minister seeking additional policy approval. She has written to the Prime Minister saying, 'I'm proposing to use this existing provision in the act to apply in relation to the misinformation and disinformation proposed provisions. Therefore, that would allow me to direct the ACMA to investigate matters brought to the government's attention.' I will now read it:

through public complaints or the media about online dis- and misinformation.

**Mr Betts:** At the systemic level.

**Mr Windeyer:** That's right, Senator. As I say, the letter is unremarkable insofar as it is part of the administrative process of settling the drafting of the bill. It is to confirm, to make clear, that existing provision with respect to the ACMA and the provisions in the BSA do apply in relation to this proposed new bill. They don't change the way those provisions operate and, therefore, make them suddenly specific as opposed to general. It is therefore unsurprising that, in that context, it would be observed that power would give the general powers of direction to the ACMA in relation to mis- and disinformation because that is the nature of the bill we're talking about. I will add, to be clear, that, as far as we are concerned, the government's intent here is very much, as you stated earlier from the minister's press release, that the ACMA is not in the position of considering individual pieces of content. This is about digital systems and processes for digital platforms. If there is concern and issues that have been identified in the consultation around the draft bill that suggests there is some doubt or ambiguity about that, that is the sort of thing we're working through as we look to revise a bill.

**Senator HENDERSON:** I am looking at the way the legislation—

**CHAIR:** I will rotate the call after this question.

**Senator HENDERSON:** I will go on to say in relation to this provision that the minister is relying on this existing provision, section 171 of the act, to say this provides greater transparency and strengthens the powers to hold platforms to account. The ministerial direction may specify the terms of reference for the investigation by the

ACMA, including its scope and the time frame for completion and any other particulars. So it's very clear that there is nothing which fetters the right of the minister to direct the ACMA to investigate any misinformation, because that's clear in the context of this document. It includes matters brought to the government's attention through public complaints or the media.

**Mr Windeyer:** This is not the place and I'm not the person to provide hypothetical advice on how a provision in an act would work in a hypothetical future situation. I simply go—

**Senator HENDERSON:** I'm not asking about hypotheticals, Mr Windeyer. I'm just quoting from the document.

**Mr Windeyer:** But you're going to how the provision might operate. I guess I would say that it is a provision for general direction, not specific direction.

**Senator HENDERSON:** It sounds pretty specific to me when I read it.

**Mr Betts:** It does not create new powers for the ACMA over and above those which are contemplated in the mis and dis bill, which, as we've already described to you, operate at a level of general systems and processes, not the specific content. It's clear-cut. It's absolutely clear-cut.

**Senator HENDERSON:** I am not debating the existing—

**CHAIR:** We're going to rotate the call, Senator Henderson. I have a couple of questions about the NBN. I will ask the NBN this later. There have been some public claims from the shadow minister David Coleman about how pricing changes are operating here. In October 2023, the ACCC accepted the special access undertaking for NBN Co. Can you step out for us what impact that has had on wholesale prices across particularly the six residential plans that NBN has?

**Mr Windeyer:** I think the basic characterisation of the impact of that accepted SAU is that it has seen wholesale prices for the main residential type services reduce.

**CHAIR:** Reduce?

**Mr Windeyer:** Reduce.

**CHAIR:** Let me try to frame this question. That was my understanding, but I saw the commentary from the shadow minister saying that it had ticked the prices up. I really wanted to confirm. Is there another way of looking at it such that you might interpret it in that manner?

**Mr Windeyer:** Senator, as I understand it—and based on the information in the previous wholesale pricing arrangements and the new wholesale pricing arrangements post the SAU—it's pretty clear that the wholesale prices from NBN have dropped. The one gigabit plan, the 250 megabit per second plan and the 100 megabit per second plan have all seen drops in monthly prices in the order of \$10, \$8 and \$3 across those plans.

**CHAIR:** Would that be in line with inflation or above or below? How does that stack up?

**Mr Windeyer:** That is below inflation. There is one product where there has been a small increase of around two per cent based on what we know of the way the product is used. That is the 50 megabit per second plan. To your last point about whether that fits with inflation: it is considerably below the current level of inflation, which I think is somewhere approaching the four per cent mark. So there has been a two per cent wholesale price increase on average for that product given the way it's used. Otherwise, the higher speed products I ran through have reduced. There is a new entry level low-speed product that is now \$10 cheaper at a wholesale level than the previous entry level product.

**CHAIR:** So the special access undertaking was adjusted. It was originally made in 2022. Is that correct?

**Mr Windeyer:** There was a first version, which was then rejected by the ACCC, and then a revised one that was accepted or a variation, technically speaking, which was then accepted by the ACCC; that's right.

**CHAIR:** Why was it rejected?

**Mr Windeyer:** Look, I can't remember all the details of the ACCC's rejection or the challenges with it. It was certainly quite different in a number of ways from the one that has been accepted, including with respect to pricing. The pricing proposals in that previous SAU, from memory, allowed scope for prices to go up by at least inflation. I think it was inflation plus two or three per cent, from memory.

**CHAIR:** Given inflation at the moment, that would have been quite a significant impact on households?

**Mr Windeyer:** That's right, Senator. I would probably need to take on notice the details of that first one. It was rejected. It was of that order.

**CHAIR:** I am still confused. I'm not asking you for a comment here. I am just editorialising. The shadow minister David Coleman would say that the revised SAU done by the current government had ticked up prices when the SAU that his government had put forward previously had significantly allowed price increases. I will move along.

**Senator HENDERSON:** I might come back, Chair.

**CHAIR:** Are you handing up your call?

**Senator CADELL:** I will stay. I won't use my call. That's fine.

**Senator HENDERSON:** I have a couple of questions. I want to correct the record in relation to the chair's questioning of NBN prices. I'm looking at an article on 30 October 2023 headed 'Australians to be slugged more by telcos for NBN access on low-speed plans.' Isn't it the case, in fact, that Australian telcos, be it Aussie Broadband, Telstra or various other providers, hit Australians hard with NBN cost increases, particularly for those on lower speed plans?

**Mr Windeyer:** Senator, I can't speak or comment on the pricing strategies of the retailers. What I can—

**Senator HENDERSON:** Isn't that relevant, because that's what consumers worry about?

**CHAIR:** No. You are correcting the record. I was talking about wholesale prices.

**Mr Windeyer:** Senator, those retail prices are not set through the SAU process. I would say from the perspective of the NBN and the regulated framework in which it operates and the SAU that was ultimately accepted across the residential products—I have explained the difference with the 50 megabit per second plan, which did have a small increase at the wholesale level of approximately two per cent—that prices went down at the wholesale level.

**Senator HENDERSON:** So you are saying that prices went down at the wholesale level. Isn't what they pay what is important for Australians? We've got a cost-of-living crisis in this country. You are saying to me that you are not aware that retail prices have gone up?

**Mr Windeyer:** Senator, retail prices for broadband products across Australia change relatively frequently. I wouldn't pretend to be across all the various pricing products in the market.

**Senator HENDERSON:** Mr Windeyer, c'mon.

**CHAIR:** Well, Senator Henderson, c'mon. They've been asked questions that they can answer about the wholesale pricing.

**Mr Windeyer:** The only thing I can add, I suppose, as I understand it—I don't have this data in front of me—is that the last time I think the ACCC put out data, the changes in telco prices were very modest, if not declining in real terms, particularly when you compare them to other standard items that people purchase across the economy. But that is a generalised comment across telecommunications prices. I don't have the detail in front of me on that.

**Senator HENDERSON:** Australians saw that, when the pricing of the NBN changed at a wholesale level, it was a golden opportunity for the retailers to step in and drive up their prices.

**CHAIR:** Thank goodness we moderated the prices from your government's projection, then.

**Senator HENDERSON:** Sorry, Chair, I'm just asking the question. It is not appropriate to interrupt. I would put to you that this gave—in fact, this information has been provided to me directly—the providers the cover to hike up their prices. The government stood by flat-footed as Australians on so-called low cost plans were hit with significant increases in their plans. So this change has triggered a big increase right across the board.

**Mr Windeyer:** I couldn't confirm whether there is any causal link. It seems unusual to assume that when the wholesale price goes down that has been the cause to trigger the retail prices to go up. I suggest that obviously there is a range of plans in the market. Shopping around, you will find a variety of different price points. I can't tell you what the range of price points in the market currently might be. The piece that is in the remit of the regulator to have some influence over is the question of wholesale pricing. Retail pricing in the Australian telecommunications market has been left to the retailers and competition to drive for some two decades.

**Senator HENDERSON:** Mr Windeyer, we'll come back to the issue of NBN pricing. We care about what Australians are paying. I am very surprised that you say you have very limited knowledge about the retail plans. I will ask you to provide to the committee on notice any relevant correspondence, briefs, emails or advices in relation to the retail pricing of NBN plans.

**Mr Windeyer:** I'm happy to do that.

**Senator HENDERSON:** I think the department would or should be cognisant and even providing the minister with advice on what has happened to retail prices.

**Mr Windeyer:** I'm happy to take that on notice, Senator.

**Senator HENDERSON:** I really do challenge the way you've characterised this. Secondly, I put to you—it has been put to me directly by one of the providers—that this change in pricing absolutely gave the green light for the telcos to step in and hike up their prices. If you don't think there's any causal link, I don't think, Mr Windeyer, you've been doing your homework.

**Mr Betts:** The causal link is that there has been a reduction in wholesale prices and an increase in retail prices?

**Senator HENDERSON:** That's right, Mr Betts.

**Mr Windeyer:** Senator, I'm happy to take it on notice.

**Senator HENDERSON:** Because the telcos use the price change as a cover to go, 'Bang. We're going to hit Australians hard with increases.'

**Senator Carol Brown:** You are saying that by this government reducing the cost of wholesale prices—

**Senator HENDERSON:** The fact that you are suggesting that there is no evidence of a causal link is, I would put to you, ridiculous.

**CHAIR:** Minister, I missed what you said.

**Senator Carol Brown:** I was saying that it's just extraordinary. We're hearing a story that wholesale prices being reduced is somehow the fault of the Australian government because you are saying that it increased prices. By lowering wholesale prices, you are saying that has increased retail prices?

**CHAIR:** You can only imagine, if you extrapolate that out, what that might have done if we had gone with the original SAU that was rejected by the ACCC.

**Senator HENDERSON:** Chair, do I have the call, please?

**CHAIR:** I am keen to—

**Senator HENDERSON:** Well, Chair, I do have the call. I am going to finish up now. We will come back to this. Mr Windeyer, as I say, I am very surprised that you don't see any causal link. That is completely contrary to the advice that we've received. We will raise this again. Telstra, Optus, Foxtel and Aussie Broadband all announced price increases to come into effect at the end of November on their 25 and 50 megabit per second plans. Literally, these changes came in directly after the new pricing agreement. The fact that you don't see any causal link is concerning. As I say—

**Mr Windeyer:** We're happy to take it on notice.

**Senator HENDERSON:** I welcome that further information on notice, thank you. Thanks, Chair.

**Senator CADELL:** I will return to the Triple Zero situation. I will refer to more FOI documents. It is from the same batch of FOI 24-166. I will start with document 8 and go to document 12. What occurred to me over the break is that I was looking at how much information the department and other arms might have prior to the minister going out. I go to document 8. At 10.15 am, there is an email from Craig Riviere to a number of people. Both of you are included. It states:

Thanks Kath. To be clear, we assume some Optus customers cannot call triple zero right now?

That is answered as correct. It is followed up by this:

I have had staff members here test.

ACMA had people test as well. I looked at it. It continues:

I have had staff members here test and one got a dead call (that went nowhere) and another connected to the recorded message at the start of all Triple Zero calls and hung up. So the camp-on (roaming) capabilities may not actually be working for Optus customers which is a significant issue.

Again, at 10.18 am, you might have been on the call, given your notes. You reply to it:

This was just raised on call with Telstra. Minister is calling CEO Optus to confirm. Telstra is certainly receiving a bunch of camp-on calls, but can't confirm that all are getting to them

Were the staff we're talking about who made the calls departmental staff or ACMA staff? Are they different groups or the same people?

**Mr Grunhard:** Different groups.

**Senator CADELL:** We've now got two different groups from within the organisation who made calls, both having unsuccessful attempts. The presumption is there. When did it change from the presumption from that first thing? It states:

To be clear, we assume some Optus customers cannot call triple zero right now?

When did that change—

**Mr Grunhard:** Sorry, Senator?

**Senator CADELL:** from the first thing, which states:

Thanks Kath. To be clear, we assume some Optus customers cannot call triple zero right now?...

Correct.

When did that assumption change?

**Mr Grunhard:** I think what we heard on the call from Telstra shortly thereafter—you will see the notes from in the FOI request—was the same information. Telstra could see that calls were coming through but they had heard that some were perhaps not. I think for the next hour or so you can see emails back and forth in this FOI suggesting that there was some information that some calls were getting through, but it was clear that many calls weren't.

**Senator CADELL:** So on ramp wasn't completely working? It was partially working, because some Telstra towers were still active and not forming them on to the ramp, the camp?

**Mr Windeyer:** Sorry, some Optus towers?

**Senator CADELL:** Some Optus towers, yes.

**Mr Windeyer:** Possibly that is part of the explanation. I don't think we know definitively at this point precisely what happened to the Optus network.

**Senator CADELL:** So not all Optus things were going to the camp-on?

**Mr Windeyer:** Senator, I think there are a multitude of possible scenarios. There were certainly Optus calls that were camping on and getting through. According to Optus, there are now 2,700 that tried and didn't. It may be that there were some Optus calls that actually got through on the Optus network. But getting to the bottom of that is something that we are still working through with Optus.

**Senator CADELL:** I will go to document 12 before the press conference. There is a redacted address here. I don't know if it is the minister's office or otherwise. It states:

Hi again Craig,

Please be advised that I just received a phone call from Gerard Scholten from ESTA. He says they have been in contact with Telstra's Triple Zero operator who claimed the issue is that the outage is so significant, that calls are failing to leave the Optus network so not getting a chance to go through another provider. In short, the claim is that the failure is from Optus, not that national networks system.

That happened again at that stage before the issue went through. Craig again forwarded that to you. It states:

Sam / Kath FYI, some more information re. calls not getting through to triple zero and where (apparently) the problem lies.

So 20 minutes before, it was becoming more apparent that the Triple Zero calls weren't coming through and no-one spoke to the minister's office, contacted the minister's office, told the minister's office prior to 11 o'clock that was happening. Is that what I have to think?

**Mr Grunhard:** Again, Senator, the minister heard the same information directly from Telstra on that 10.10 am call.

**Senator CADELL:** Do you agree with that? These are post state.

**Mr Grunhard:** That's right. I don't think anything you are seeing in that next half hour or so changed the position. It remained clear that we had some information that there were problems, but there were also calls getting through. I don't think really anything we're seeing there pre 11 am or, indeed, pre about midday changed our understanding at that stage.

**Senator CADELL:** It was your evidence earlier today that on the call it was anecdotal evidence only. Only anecdotal.

**Mr Grunhard:** Yes.

**Senator CADELL:** Here we are seeing a mounting range where literally ESTA are saying they've been in contact; it is so significant. The evidence is mounting more and more that this isn't anecdotal. There is actual real-time evidence for real people in the world. There is an email that went to ACMA before on document 13 that



states as early as 9 o'clock in the morning that Victorians can't get through to Triple Zero and these sorts of things are happening. There is mounting evidence. It is not anecdotal any more. There are serious examples of what is going on and admissions from the Triple Zero operator that it's not working. Why didn't the department connect from that 10.10 am call from the minister or the minister's office that this was not the case and that it may not be accurate any more to say that the camp-on is working?

**Mr Windeyer:** Well, because, Senator, it was working.

**Senator CADELL:** Not all of it.

**Mr Windeyer:** I understand that. But we certainly—

**Senator CADELL:** This is my car where the engine is working but I've got no wheels.

**Mr Windeyer:** No, Senator. I'm not going to try to work with that analogy. I think the key from the way I would see what you've just read out is that you are right; a whole lot of people are beginning to say, 'Hey, there's something here that doesn't seem quite right.' The language that ESTA used with respect to what they heard from the emergency call person, I think you said, was that they claim that some might not be getting through. The key point here is the only person who actually knew what was happening on the Optus network was Optus itself. The minister did contact, or was contacted by, her. I think she initiated contact before the 11 o'clock press conference with Optus itself and was assured it was working. There were lots of people trying to work out what was going on. There were certainly people who were concerned that something was not quite right here and that perhaps not all calls were getting through. But, having said that, the one thing we did know for certain was that some were getting through. The advice from the company itself that has the network upon which these calls were being initiated at that point in time was saying it was working.

**Senator CADELL:** Telstra have had people call on the Optus network and have experience of them not getting through. Your department has had calls not getting through. ACMA has had calls not getting through.

**Mr Windeyer:** Telstra doesn't have experience.

**Senator CADELL:** Your email says that they did.

**Mr Windeyer:** No. They suspected. The calls didn't get through. Telstra didn't see the calls that didn't get through. It is a small point, but Telstra didn't actually see calls that didn't get through.

**Senator CADELL:** Not from the network. But they had staff, according to another email I will go through later.

**Mr Windeyer:** Sorry, apologies.

**Senator CADELL:** Telstra had staff call and they couldn't get through. So we've got these three groups doing it and yet we still believe Optus saying it is all good. I have a bridge to sell you guys. This is the way things are going on. How much evidence do we need that three people in this conversation—ACMA, yourself and Telstra—have all experienced calls not getting through and we go, 'Not a problem. Camp-on is working?'

**Senator HENDERSON:** It is anecdotal.

**Mr Windeyer:** Because we had thousands of calls going through on camp-on.

**Senator CADELL:** We had thousands of calls not going through on camp-on, it seems, as well.

**Mr Windeyer:** At that point in the day, we had a small number of calls had that had been attempted and no ability to work out whether that was a systemic issue associated with Optus or not. Simultaneously at that point in time, we had evidence of thousands of calls successfully camping on. We had the network operator saying it was working.

**Senator CADELL:** Was the minister's office or the minister given any of this extra anecdotal information prior to 11 o'clock?

**Mr Windeyer:** I think, Senator, the information that the minister was working on for 11 o'clock was the call with Telstra, which, as Mr Grunhard has said, has in a sense painted exactly the same picture we were getting from other people and the contact with Optus itself.

**Senator CADELL:** You think that. Can you say that there was no contact with the extra anecdotal information?

**Mr Grunhard:** Senator, I certainly don't want to be in the position of misleading you. I think Mr Windeyer is absolutely correct. Let us take it on notice just to make sure. We don't wish to mislead. We will check our records and give you an accurate answer on notice.

**Mr Windeyer:** The reason I am saying this is I think if we had evidence of that having occurred, it would have been in the FOIs, in a sense. So I will check.

**Senator CADELL:** Everyone but Optus knows there is a problem of some magnitude.

**Mr Betts:** You correctly characterised it as anecdotal evidence a moment ago.

**Mr Windeyer:** They sensed there was something not working properly.

**Senator CADELL:** Something not right. Something was crook in Tobruk. But because Optus says, 'Yep, you bewdy', we go out and say, 'Good on you, people. Dial Triple Zero?'

**Senator Carol Brown:** We said that privately and publicly at this time.

**Senator CADELL:** I understand.

**Mr Windeyer:** From our perspective, at the point when thousands of calls to Triple Zero were able to get through, advising people they would not get through did not seem to us a wise course of action.

**Mr Betts:** It is not a risk-free proposition to advise the community that Triple Zero is not working when people may be under threat or in danger, particularly if you are relying purely on incomplete anecdotal evidence which is emerging in real time and the provider is putting out strong statements that it is working. It would have been a very big call to go out and spread that concern in the community and possibly have disastrous adverse consequences.

**Senator CADELL:** Mr Betts, can you point me to one piece of evidence other than Optus saying that it is all going well that shows it was all going well?

**Mr Betts:** Yes. The evidence that has been provided today.

**Senator CADELL:** All going well, not partially going well.

**Mr Betts:** You don't have perfect information. This is the point. The person who does have the best information is Optus. They were clear in their statements. Anecdotal evidence was beginning to emerge, as you've heard, in real time, minute by minute, moment by moment. The department was providing advice to the minister. The minister was responding as best she could. But to go out and make the call to say that Triple Zero is not working when you don't have the evidence to back it up would be an extremely hazardous course of action.

**Senator CADELL:** Why is it binary between Triple Zero is not working and Triple Zero is working? Why is there not, 'Triple Zero may have difficulties in time. Try another phone if you can't make it?' Why is it binary? Why does it have to yes, working, no, not working?

**Senator HENDERSON:** A non-binary answer.

**Mr Betts:** Optus's answer was the answer that was the one being principally relied on, which is an entirely reasonable thing to do unless you have compelling evidence to the contrary.

**Mr Windeyer:** As we said, Senator, over the course of that day, early in the afternoon, from memory, Optus themselves came out and confirmed or advised that they were aware there were problems. At that point, the situation changed.

**Senator CADELL:** Thank you very much, Chair.

**CHAIR:** Senator Henderson, we do have a hard finish at 11.50 am, just to be clear.

**Senator HENDERSON:** I may have questions that run beyond that, Chair.

**CHAIR:** I am just saying that is the hard finish. That is when we are pulling up for this session.

**Senator HENDERSON:** Okay. I will do my best to get through my final questions before the lunch break. Mr Windeyer, you have indicated to this committee that you've got no real information about retail prices. Do you want to reconsider your answer in that regard? I would have thought that sitting in your department is a large amount of information about the impact on Australian consumers.

**Mr Windeyer:** I'm sure that's right, Senator. I was simply answering that I, sitting here today, do not have details of the various retail packages reselling the NBN to answer this question. I have taken on notice and am very happy to find what information we do have about retail pricing packages for the NBN.

**Senator HENDERSON:** Thank you. I also want to challenge the way you've characterised the wholesale price. Assistant Minister, you said, 'What is it about the wholesale price that goes down that is the government's fault?' Well, I will tell you why it is the government's fault. This is no less than from the Aussie Broadband managing director Phillip Britt, who told NCA NewsWire—this is the same article to which I referred earlier—that:

By not only continuing to charge CVC, but doing so on an individual basis, the NBN has effectively forced our hand to raise prices for the majority of our broadband customers and at a time of heightened financial uncertainty.

So the price changes of the NBN were not just the wholesale price. There was a great deal of controversy about the CVC, which covers the full amount for bandwidth the provider wants to pass between its own network and the NBN's network. What this price change meant was that for low-speed plans, rather than CVC usage being calculated across the user base, for lower cost plans, the NBN now requires that a person's CVC usage is specifically attached and charged to them. That change in the NBN's pricing, sanctioned by the government, as the head of Aussie Broadband has said, forced them to drive up their prices. What do you say to that, Minister?

**Senator Carol Brown:** Well, first of all, I want to again go through what actually the facts in—

**Senator HENDERSON:** Could I ask you to answer that question, please, just to be directly relevant to the question?

**Senator Carol Brown:** Yes. I am answering it. In December, the NBN wholesale pricing decreased on five out of the six plans, including the two lowest cost plans. That is a fact. You are essentially here to apologise for large retail providers who have jacked up their prices.

**Senator HENDERSON:** Where are you reading that from? It doesn't make sense.

**Senator Carol Brown:** What I'm saying is the fact is that the wholesale pricing decreased. That's what I am saying.

**Senator HENDERSON:** I didn't ask you about that, Assistant Minister, with respect. I asked you about the continuing decision to charge the CVC and the way in which the CVC now applies directly to each user for those on lower plans. Aussie Broadband has made clear that it has effectively forced their hand to raise prices. We are not disputing the wholesale price changes. It is the CVC charge. We talk about NBN prices and the impact this has had on Australians, Assistant Minister. I put to you that the government mandated decision of the NBN has hurt customers. In fact, Mr Britt, the managing director, says this:

Regardless of the reasons, we know this will hurt for some customers.

I'm just asking the Assistant Minister to respond to the CVC charge component, please.

**Senator Carol Brown:** What I can tell you is when these retail prices went up, they received a warning from the ACCC. The prices in December using the SAU actually went down.

**Senator HENDERSON:** I ask you to respond to the specific concern the managing director of Aussie Broadband has raised about the CVC charge, which has forced their hand. What do you say to that, Minister?

**Senator Carol Brown:** I will take that on notice. I have responded. That is my response.

**Senator HENDERSON:** Thanks, Minister. I want to return to the misinformation bill. Mr Windeyer, the Law Council, in its submission, has said that the proposed misinformation bill gives the ACMA and, we now know, the government the power to extend to individual conduct. The Law Council has made that clear. That is why they are so alarmed by this bill, along with many other organisations. How do you respond to that?

**Mr Windeyer:** Senator, I know the Law Council raised a number of issues with the bill. I don't have their submission in front of me. I don't have a comment to make on attempting, as I said earlier, to try to work out how the provisions to direct the ACMA would be used. That is not my role here. The only thing I would say is that the Law Council's submission raised some really useful points in relation to the bill. As I said before, the intent with the bill is very clearly to make it such that the ACMA is not in a position to find itself considering individual pieces of content. It is to make sure digital platforms are held to account and have systems and processes to deal with information that could be considered to cause harm. We've received the Law Council submission and many other submissions, which raise really useful points about how the exposure draft might operate against that stated intent. We are now working through those comments and revising the bill accordingly.

**Senator HENDERSON:** How are you revising the bill? What parts of the bill are you dealing with?

**Mr Windeyer:** Again, I can't go to the drafting exercise. I can say that we are certainly looking at how some of the definitions work. We are looking at how the arrangements with respect to transparency work. We are looking at the arrangements with respect to how protecting freedoms work and how they are best drafted in a revised draft to the bill.

**Senator HENDERSON:** Would you be able to provide—

**CHAIR:** We are going to—

**Senator HENDERSON:** This is just a question on notice, Chair.

**CHAIR:** We are ceasing at 11.50 am. I was very clear about that previously.

**Senator HENDERSON:** I will put some questions on notice, thanks.

**CHAIR:** Are you requesting that we continue with this outcome after lunch?

**Senator HENDERSON:** Chair, no. I will put the rest of my questions on notice. Thank you.

**CHAIR:** We can now dismiss outcome 1, program 5.1. We will return at 1 pm with the ABC. We will now suspend for lunch.

### Proceedings suspended from 11:49 to 12:59

#### Australian Broadcasting Corporation

**CHAIR:** I welcome the officers from the Australian Broadcasting Corporation. Before we commence, I would like to note that the committee has accepted the ABC's public interest immunity claim regarding staff remuneration, which arose from a previous estimates round. The committee has deferred consideration of the ABC's public interest immunity claim regarding external legal spend, which I believe has been communicated to you. Welcome, Mr Anderson. I believe you have an opening statement. If you would like to run through that with us, that would be great.

**Mr Anderson:** Thank you, Chair. I do. In the interests of time, I might table it. The opening statement was really with regard to strong audience performance. I was going to highlight our emergency broadcasting coverages, particularly in North Queensland, and give an update to the committee with regard to the review into ABC systems and processes that support staff who experience racism. I will table that in the interests of time, given that we are running behind time and you are for your day. I will table that.

**CHAIR:** Thank you very much for that. I note that given we are a bit behind, Screen Australia and the National Museum of Australia are both now released and will not be called to appear this evening. That will help us make up a little time. Any questions senators have for those two organisations will be placed on notice.

**Senator FARUQI:** Good afternoon, everyone. On Monday, 18 December, the ABC published an article on the Human Rights Watch report which said that starvation is being used as a method of warfare by the Israeli government. I understand this article and at least one other article on this Human Rights Watch report are still up on the ABC website. Mr Anderson, do you stand by this reporting by the ABC?

**Mr Anderson:** Yes, Senator. The reporting that we have that is on our platforms, yes.

**Senator FARUQI:** Mr Anderson, why was journalist Antoinette Lattouf sacked by the ABC for communicating this very same fact which the ABC reported on and which is still on the ABC's website?

**Mr Anderson:** I appreciate the question. Senator, I have been given legal advice that I cannot discuss the matter at the moment between the ABC and Ms Lattouf. That matter is subject to legal proceedings. It is being heard in Fair Work on 8 March. In fact, there was a proceeding about that today. I have been told that I cannot advise or speak to that matter until it goes through the process of those legal proceedings.

**Senator FARUQI:** Mr Anderson, you might be aware of this. You are under parliamentary privilege. It is unlawful for any information in these proceedings to be used in a court or a tribunal. Are you aware of that?

**Mr Anderson:** Senator, I am. I have also received specific legal advice that anything I say with regard to that matter might prejudice the proceedings that otherwise happen at Fair Work, which are considered to be legal proceedings. I have been reminded of my obligations with regard to being managing director and my obligations as per the PGPA with regard to my obligations to the ABC.

**Senator FARUQI:** Mr Anderson, with regard to this prejudice matter, as you know, there is no precedent for this as a legitimate reason to not disclose information at estimates. You would obviously be aware of that. As the Fair Work Commission is a tribunal, not a court, this is the advice that I got from the clerks yesterday. I request the chair to ask Mr Anderson to please answer the questions.

**CHAIR:** Mr Anderson, obviously you have some choices here whether you wish to consider a public interest immunity claim. I think you are well aware that you will need to state both the circumstances, the grounds for your claim, and the harm that you believe. You may wish to take some time to work that through. Otherwise you are obliged to answer the questions.

**Mr Anderson:** Senator, this is with absolute respect. My advice is that at Fair Work they are legal proceedings and that they are a precursor to the Federal Court. I did ask that question specifically with regard to it being Fair Work. I am happy to take that on notice and submit a public interest immunity claim as per the normal practice with regard to it. I can't talk to the claim itself with regard to Ms Lattouf. I'm sure you have other questions that relate to a great many things when it comes to publication, particularly with regard to the Israel-Gaza war. I cannot speak to that specifically. I will take it on notice and submit a public interest immunity claim.

**Senator FARUQI:** I think you have been requested to do that now. The chair has requested you to answer the questions. Frankly, I don't care what legal advice you have. I have—

**CHAIR:** Just to be clear, Senator Faruqi, I have given Mr Anderson his options.

**Senator FARUQI:** Yes. That's right. Sorry, Chair, I am just clarifying.

**CHAIR:** His options are to answer the questions or to provide a public interest immunity claim where he has stepped out both the grounds of that claim and the harm that it may cause. We would need both of them in some level of detail. We have been down this path before, Mr Anderson, as you know. We would need both of them in some level of detail to be able to assess that claim appropriately and for the committee to make a decision.

**Senator FARUQI:** I'm going to ask the questions. Unless a public interest immunity claim is provided, is that what you are saying—that Mr Anderson has to answer those questions?

**CHAIR:** Well, if he is taking it on notice to consider a claim, that is what he is doing, Senator Faruqi.

**Senator FARUQI:** Mr Anderson, have you ever heard of any journalist being terminated for sharing a fact, because I haven't?

**Mr Anderson:** Senator, I think that relates specifically to the matter at hand that is before Fair Work. Again, I will take that on notice and put in a PII claim.

**Senator FARUQI:** So you are going to hide away completely from questioning on why you unfairly sacked, according to the claims that Ms Lattouf is making, and for sharing a fact? You are not going to answer any questions on that? You're going to hide away?

**Mr Anderson:** Senator, I'm not hiding. I'm abiding certainly by my other obligations with regard to the ABC and the legal advice that I've got. What I will say is this will be heard at Fair Work in an open hearing that will be public with lawyers debating the law with regard to the dispute that has been raised. This will be heard in a public way. For me to do so now, to provide information, would otherwise, I believe, and the way I am advised, prejudice the process the way it should actually happen in Fair Work, as I just described, on 8 March. I'm not hiding behind it. I will take it on notice and provide it.

**Senator FARUQI:** You actually are, because my advice is the exact opposite of yours, that this is not a good enough reason to claim that you won't answer my questions. We can argue about that advice until the cows come home, I guess. You are not just going to answer my questions.

**CHAIR:** Senator Faruqi, I could maybe be of assistance here. Mr Anderson will go away and prepare his PII. At that point, following a determination, it's perfectly within the scope of the committee to seek from Mr Anderson to come and speak with us further post that situation.

**Mr Anderson:** Understood.

**Senator FARUQI:** I will continue with a line of questioning that Mr Anderson might be able to answer. We will see where that takes us. Mr Anderson, did you personally order the termination of Ms Lattouf's contract?

**Mr Anderson:** That has already been stated publicly so I can categorically say no, I did not.

**Senator FARUQI:** You did not?

**Mr Anderson:** That has already been made public that I said that is not correct.

**Senator FARUQI:** When was the decision to terminate Ms Lattouf made?

**Mr Anderson:** I cannot answer that by grounds that I mentioned earlier with regard to prejudicing the proceedings, which are otherwise scheduled for 8 March. I will be submitting a claim.

**Senator FARUQI:** Did ABC chair Ita Buttrose contact you in relation to Ms Lattouf's termination?

**Mr Anderson:** Again, that is specifically to the case at hand. I will be taking that on notice and submitting a claim.

**Senator FARUQI:** When did the ABC board and chair Ita Buttrose receive representations from the pro-Israel lobby about ABC's coverage of Gaza?

**Mr Anderson:** A different question. So we've had many representations from different groups with regard to the Israel-Gaza war. They pretty much commenced soon after 7 October. I have had representations previously while I've done this job for the last 5½ years. There was a matter of concern to both lobby groups that was some time ago when Hamish Macdonald hosted *Q&A*. I met with both the ECAJ as well as APAN at that time to hear from both lobby groups. I've had previous correspondence. The most recent correspondence you would have to say started from 7 October.

**Senator FARUQI:** Was there any correspondence between 19 and 23 December about ABC coverage to Gaza to the board and to the chair Ita Buttrose?

**Mr Anderson:** Again, Senator, I can't speak specifically to the Lattouf matter that is—

**Senator FARUQI:** I am talking about these dates. I'm asking you that.

**Mr Anderson:** I am qualifying my answer. I am not speaking about that matter specifically. I have consistently received correspondence from outside the ABC with regard to our Gaza coverage throughout that entire period. I can check on notice. I would have to say that it's highly likely that someone has emailed me about something.

**Senator FARUQI:** During that time period?

**Mr Anderson:** Probably.

**Senator FARUQI:** And you have received emails or direct messages from individuals or organisations between that period of 19 and 23 December?

**Mr Anderson:** Again, outside the case, to be specific that it is not to do with Antoinette Lattouf, I would have to take that on notice and get back to you. I am saying that I have consistently received emails about our coverage since that started on 7 October.

**Senator FARUQI:** Ms Buttrose has said in a response to the pro-Israel lobby group that contacted her between 19 and 23 December that she has passed on their concerns to chief content officer Mr Chris Oliver-Taylor. Was this proper process?

**Mr Anderson:** Senator, specifically that is a matter that is being heard as part of the Lattouf case for the ABC. More generally, I can talk about complaints and complaints handling, should you wish.

**Senator FARUQI:** Yes. I will ask a specific question about that, then. Isn't it normal practice for boards and chairs to stay away from day-to-day operational matters?

**Mr Anderson:** Senator, quite often if somebody emails the chair—I know this for a fact because I would be on the end of an email—the chair would respond and say it is an operational matter and pass it on to me and/or the ombudsman. I would do something similar if I am contacted by people from outside the ABC by email. Sometimes I don't respond. It depends on the complaint. Sometimes I will respond with, 'Yes, and if it's a content specific complaint, I'm passing your complaint on to the ABC Ombudsman as well as the program department.'

**Senator FARUQI:** So they come to you, not necessarily the chief content officer?

**Mr Anderson:** I think officers of the ABC do receive complaints directly to them. I do get complaints as well that come to me. There would be hundreds of complaints that I get. For instance, since the coverage started, there would be hundreds I would have got that come from a pro-Israeli perspective and hundreds I would have got from a pro-Palestinian perspective about similar stories and similar matters. There has been quite a lot of complaints made through that period. Mr Fang is here with me as editorial director. He might be able to give you some more detail on the number of complaints, should you wish.

**Senator FARUQI:** I don't need that. Mr Anderson, did any of the ABC staff who signed the public letter on Australian media's reporting on Israel and Palestine in November face any limitations on their reporting or news production work?

**Mr Anderson:** I don't believe so, Senator. We certainly counselled our staff with regard to signing any petition regardless of what the petition is about. Impartiality and objectivity is foundational to the ABC. It's important that we maintain our ability to be able to do that job and perform that with due impartiality at all times. To put your name to a petition would potentially undermine that. Justin Stevens, as director of news, went to quite some length to explain that to people at the time. I don't believe that anybody was otherwise constricted with regard to what they could do.

**Senator FARUQI:** I will clarify. No-one at the ABC faced any limitations on their reporting or news production work?

**Mr Anderson:** Senator, I will take that on notice and get back to you. I don't believe so.

**Senator FARUQI:** That is a no. I might move on to—

**CHAIR:** We will need to rotate the call.

**Senator FARUQI:** Yes, sure. You can come back to me.

**CHAIR:** Absolutely.

**Senator HUGHES:** Hello, Mr Anderson. How are you? I almost feel sorry for you some days when I read the paper and see another one has tweeted something for you again. I want to start today with TikTok and the strategy associated with that. Can you describe what the ABC's purpose is with regard to having a TikTok platform at all and how it differs from the rest of the services delivered by the ABC?

**Mr Anderson:** It's important that we're there for all Australians. We need to make sure that for distribution purposes we are where our audiences are. Our third party reach has gone up year on year recently by some 20 per cent. I will confirm that on notice. Part of that is effectively audience behaviour for what is vertical behaviour, be it TikTok or Instagram Reels. We make sure that we have some content there so people know who we are, they know the ABC and they know what the ABC stands for. They can interact with our stories. It is not necessarily there for a specific demographic. There are lots of people using short form video. We don't put everything there. We want to make sure that people know who we are. It is awareness as well as for reach. It is with the intent that people come back to our own platforms as opposed to being on a third party platform.

**Senator HUGHES:** Is it predominantly to access that younger market—teenagers and early adolescents?

**Mr Anderson:** That's certainly where the larger growth has been and the demographic across the country with growth of usage of those services, but it's not limited to it being just a youth strategy.

**Senator HUGHES:** There are concerns around the TikTok platform and the people who do use it. What are the ABC guidelines around usage? Teenagers and adolescents are a bit more malleable in their thought processes. Is it more stringent than a news guideline would be? Obviously the content is different.

**Mr Anderson:** Our editorial policies apply regardless of where the distribution of the content is, just as much as they would on TikTok or Instagram Reels as they would on YouTube as they would on our own platforms for what is our published content, yes.

**Senator HUGHES:** I want to come to digital reporter Amal Wehbe, who put a specific post up on the BDS movement. I'm sure I don't need to describe what that is to anybody else. It's clearly—

**Senator CADELL:** They'll have to google it.

**Senator HUGHES:** It is boycott, divestment and sanctions. It is obviously a Palestinian-led movement to encourage and force individuals and companies to dissociate themselves with Israel through economic attrition. This video explained the BDS movement and why people are on board with it. There was no challenge to it. There was no alternative opinion or critique of the movement. Is that appropriate on TikTok?

**Mr Anderson:** Senator, a story on the BDS movement is a legitimate story. When that particular story came to our attention, we took a look at it. We decided that it didn't meet our standards in that it didn't have an alternative perspective that was in the story.

**Senator HUGHES:** That is a big problem, because it didn't have anything.

**Mr Anderson:** Certainly. I am admitting that it wasn't good enough to begin with. That story then was not made public. It was hidden. The story was updated to provide that perspective and then made public again.

**Senator HUGHES:** We are in the middle of a conflict in the Middle East. Israel was attacked on 7 October yet we've still got ABC producers thinking it is appropriate to fundamentally promote activist and anti-Semitic propaganda. I will come to specific guidelines a bit later on regarding the Israel-Gaza situation. Is it the view—I'm not asking you personally, because I think you would not be a supporter—particularly within some of these elements, that BDS is a legitimate thing to promote? Anti-Semitism is okay to promote, particularly to a vulnerable audience?

**Mr Anderson:** Senator, our position is not to promote these things. I think the spread of the BDS movement is a legitimate story for the ABC to do on any platform. It was originally intended as a short profile of one person who had become part of the movement. However, the ABC felt that it did require more context. It was updated to include that context as well as the different perspective.

**Senator HUGHES:** I saw both of them. Has there ever been an instance where there was a pro-Israel story and it had to be pulled down so that some other context could be provided? Is it always only pro-Palestinian that has now had to be pulled down because it was anti-Semitic?

**Mr Anderson:** I am not seeing a trend—I can throw to Mr Fang, who is editorial director—that anything has needed to be updated from one perspective or the other.

**Senator HUGHES:** This did.

**Mr Anderson:** Yes. It needed to be updated and improved. I might add—

**Senator HUGHES:** I did a journalism degree, so I don't feel I'm unfamiliar with this space.

**Senator HENDERSON:** So did I.

**Senator HUGHES:** The very first thing you are taught is to report on issues, not commentate. I know we've had lots of discussions in the past. Too many journalists think they are commentators or participants now as opposed to just being a reporter. But these are digital producers. You are hiring these people. Do they have degrees? Are they given training in journalism? Do they understand what journalistic ethics are? The fact that this was just an ad for BDS would suggest that they are either not up to the job or they don't understand the basics of what a reporter is there to do or what the charter of the ABC is.

**CHAIR:** You could say the same about Sky, I would say.

**Senator HUGHES:** No. Sky is a private company. Sky is not funded by the Australian taxpayer.

**CHAIR:** You are talking about journalists, though. You are making a point about journalists.

**Senator HUGHES:** I am sorry. No, Chair, I have the call. I am sorry. These are journalists whose salary is derived from Australian taxpayers, yet they do not seem to understand the charter of the ABC or basic journalistic standards.

**Senator HENDERSON:** And the ABC Act and the statutory obligations under the act.

**Mr Anderson:** Senator, I hear your question. I think our journalists operate in good faith. I think to suggest that any individual has deliberately done this is unfair. This reporter copped a lot of flak and a lot of pile-on that was unfair and attacked.

**Senator HUGHES:** I don't think it was unfair.

**Mr Anderson:** I am not defending the original story. I am saying that the original story was lacking.

**Senator HUGHES:** Yes.

**Mr Anderson:** I would say that the processes by which that story was published didn't work and failed the journalist with regard to what else it needed. I am saying that I wouldn't rush to the journalist in question.

**Senator HUGHES:** But this isn't the first time we've been here. This isn't our first rodeo of a problem with something that has gone to air where a journalist has said or put their view out that hasn't had to be walked back, reviewed and looked at. This is just an ongoing issue. As I said, I feel sorry for you. Maybe insert it in a copy of *Das Kapital* and someone will read it. Clearly they are not reading the guidelines they are supposed to be adhering to.

**Mr Anderson:** Senator, everybody gets training. Everybody receives editorial training. We update that training particularly when we've had errors that have needed to be corrected or clarified. We incorporate that into the training so people understand where we've got it wrong when we've gone to publish something. I think we do correct and clarify and put our hand up for that and then put an editor's note on it so that in time people can go back and look and say, 'This was originally published but needed more work.' There was one attached to this story. Mr Fang, do you have any more to add?

**Mr Fang:** If I can help provide some additional information. As you pointed out, we do have a series of editorial policies and guidelines. There are 13 editorial standards. We hold very dearly to those standards and those guidelines. They cover things like impartiality, accuracy and independence that make good journalism. With regard to the Israel-Gaza conflict—

**Senator HUGHES:** I'm going to come to that a bit later. I've got a lot of specific questions there.

**Mr Fang:** If I may, since the start of the conflict, we've had about 3,000 complaints raised. There have been about 1,300 issues in those complaints. About 58 per cent of those complaints largely have been about impartiality and bias. About 58 per cent of those complaints have alleged that we have been pro-Israeli or anti-Palestinian, and about 41 or 42 per cent have been running the other way. This is a really complex story. It is a very fast-moving story. We are always trying to meet our editorial policies and our standards. We are always looking to update stories and fix stories where we don't come up to the mark straightaway.

**Senator HUGHES:** Chair, I do have a block that I would like to do on Israel-Gaza, but it's moving along. If it is easier to pass the call around, come back to me.

**CHAIR:** Thanks.

**Senator PAYMAN:** Mr Anderson, last June you released the ABC's new five-year plan. Would you please provide an update to the committee on how the implementation of this new plan is going?

**Mr Anderson:** Thank you, Senator. Part of that was in the tabling of my opening statement, which I of course have handed off. It is going quite well. What you will see is an increase in audience performance for ABC iView, ABC Listen and ABC News. A lot of ABC Listen has been driven by additional sports content that we've had on



there. Over 30 million hours was consumed on ABC iView just last January alone. The growth there is quite good. It is, in fact, a digital strategy about not leaving people behind. We still need to maintain a quality service that exists on broadcast. So it's there to move with our audience into the future to be where they are and how they consume content.

**Senator PAYMAN:** Thank you. What success is the ABC's digital strategy having on delivering on the ABC's charter for audiences? Could you outline any particular standout new programs or services that are having an impact?

**Mr Anderson:** Let's start with the news. News is certainly No. 2 when it comes to digital news in this country behind News Corp. If you were to take the definition of general news, we're actually No. 1. We're the No. 1 BVOD service for ABC iView. Our investigations that we provide and do on behalf of the Australian people to what we do with telling Australian stories—that can happen either through local radio or our storytelling and drama and comedy as well as what we do for kids—helps maintain what is our trust score. So we are more trusted by a long margin to any other commercial media. The value that we provide Australians is still rated at over 80 per cent. The quality of what we're doing and the impact that we're having certainly is making a difference. We are required to do programs of broad appeal. There is the celebration of Australia Day. There is what we do for Anzac Day and what we do around Australian of the Year. A broad appeal would be *Muster Dogs*. It would be *Bluey*. It would be what we do for *The Newsreader* and drama. Programs of a specialist nature are important as well. It could be the arts, science or what we do for religion et cetera. There are a number of things we do. Of course, across the radio spectrum what we do for Australian music is important as well. So maintaining all of that but with consumption lifting on digital is what the five-year plan is all about.

**Senator PAYMAN:** The ABC has stated that, by 2028, you will receive more Australians on a platform of their choice. How does the ABC measure and track the mix of audiences that stream your services between broadcast platforms and traditional platforms, including iView and third party platforms?

**Mr Anderson:** We use a number of different tracking mechanisms. As I said before, we've had growth on our third party platforms as well as our own digital platforms. We also track the mix of use between broadcast and digital. For television, for instance, or video, new VOZ measurement has come in which does track both and puts together what we do for broadcast audience and a digital audience. Certainly through logged in users we get more information with regard to how our audiences are consuming content. That has increased over time. We are above target for that as well. It is important that we reflect the country back to itself through its culture and community and what is contemporary Australia, including in regional, rural and remote areas. It is not just about emergency broadcasting. It is also being there in the good times as well and celebrating Australian life. Digital allows us to be able to connect to people more easily across the country. That is how we're looking at it. That's how we're monitoring it. That's how we're tracking it.

**Senator PAYMAN:** Thank you.

**Senator HENDERSON:** Mr Anderson, good afternoon. I want to return to the issue of Amal Wehbe. Is she a journalist who only works on the TikTok platform?

**Mr Anderson:** Senator, I'm not sure. I don't think so. She has worked on BTN?

**Mr Fang:** She's part of the vertical video team.

**Senator HENDERSON:** She's part of the what, sorry?

**Mr Fang:** Vertical video term.

**Senator HENDERSON:** Vertical video team; what does that mean?

**Mr Fang:** It's platforms such as TikTok, Instagram and the like.

**CHAIR:** It effectively means the way the video is.

**Senator HENDERSON:** Thanks, Chair. So Instagram stories, which is vertical, and TikTok. Anything else?

**Mr Fang:** I would have to confirm that for you, Senator.

**Senator HENDERSON:** How many TikTok journalists do you have at the ABC?

**Mr Anderson:** Senator, I think we have provided that on notice previously. I think the time we provided that on notice, it was nine in the video vertical team. It is not just TikTok; it is for other services as well.

**Senator HENDERSON:** In the video vertical team, are you required to be a qualified journalist?

**Mr Anderson:** Senator, our journalists come to us with a different range of experience. Anyone who is appointed as a journalist or in a position—

**Senator HENDERSON:** No, Mr Anderson. I'm asking about their qualifications.

**Mr Anderson:** No. Not all of them have done that, no.

**Senator HENDERSON:** Okay. What is the minimum qualification you ask of your journalists or your personnel working in the video vertical team and publishing stories on behalf of the ABC?

**Mr Anderson:** Senator, there is a range of issues that we take on board when we are employing people as part of our recruitment process. We need to satisfy ourselves that they certainly have the ability to be able to perform their role and be both impartial and objective in the way that they do it. We also require that they adhere to all our editorial policies as well as what is really a guardrail of Australian law and what the ABC is there to do. Of course we look for experience where that has happened previously.

**Senator HENDERSON:** Sorry, Mr Anderson, my question is: what are the minimum tertiary qualifications?

**Mr Anderson:** We don't have a minimum on that, Senator. Of course, it depends on the level at which somebody comes into the ABC. I met the cadets the other day through to other journalists who are more senior. You asked about minimum qualifications. They wouldn't necessarily be tertiary qualifications. We would look for skills and experience that had been demonstrated on being able to perform the role.

**Senator HENDERSON:** Do you have minimum tertiary qualifications for your journalists across the board?

**Mr Anderson:** No. We assess their skills and experience more broadly on a range of things when people apply for roles or when we appoint people to positions.

**Senator HENDERSON:** So you don't require any tertiary qualification to become a journalist at the ABC?

**Mr Anderson:** No. It's not an absolute requirement, no.

**Senator HENDERSON:** I am concerned to hear about the process that failed, which led to this video being published on TikTok. To whom is Amal Wehbe responsible? Who does she report to? Who approved the publication of that video?

**Mr Anderson:** I might defer to Mr Fang. He might know more about that.

**Mr Fang:** I would have to take it on notice who she reports directly to. I will try to help as much as I can. There would be an editor of the vertical video team. In the normal editorial practice, a story would be run past the eyes of the editor before being published.

**Senator HENDERSON:** There are nine reporters in the video vertical team. How many other members of the team are there?

**Mr Fang:** I don't know those details, I'm sorry, Senator. I can take it on notice.

**Senator HENDERSON:** Is there an overarching editor or executive producer?

**Mr Fang:** There is an editor—

**Senator HENDERSON:** Who is that person?

**Mr Fang:** I don't know the details of that, Senator. I could find out for you.

**Senator HENDERSON:** Could you get someone amongst the 4½ thousand employees at the ABC to perhaps come back to you? Could you come back to us very shortly—

**Mr Fang:** I'm sure I can find that out, yes.

**Senator HENDERSON:** as to who the executive producer or the supervising producer is of the video vertical team. There is one issue about what was produced. Surely the bigger issue here is a complete failing of the ABC to ensure that its editorial standards were maintained. Who on earth let this be published in the first place?

**Mr Anderson:** I don't have a name for you. What would happen in the hierarchy of journalism is that somebody has an editorial manager. Yes, they would normally have seen it before it was published. All I know is that it has been rectified and the team have been spoken to. Who was responsible and precisely what happened I'm going to have to take on notice and get back to you. Normally it would happen that there is a process in place.

**Senator HENDERSON:** Well, this is such a gross derivation from journalism. This is just straight out activism, this piece that was published. It is not journalism. Who is responsible for allowing that to be published in the name of the ABC?

**Mr Anderson:** Senator, it sits in the news division. I think we have admitted that when it was published it was lacking in an alternative perspective, which we rectified within a few hours. I understand your question. You are right; it shouldn't have been published in the state it was. It should have been better. We have undertaken to make sure that won't happen again.

**Senator HENDERSON:** So is Justin Stevens ultimately responsible for the publication of this report?

**Mr Anderson:** Justin Stevens is the director of news in charge of a great many people. There are layers beneath him who would have been responsible for that being published, not Justin.

**Senator HENDERSON:** It is just concerning knowing what a major issue this was and that you haven't got any of this information available. I would have thought you would have anticipated that this would be asked of you at estimates.

**Mr Anderson:** Senator, I did. I didn't expect you to go to precisely who was to blame. Certainly when we have an editorial error like this, I expected you to ask about this particular one.

**Senator HENDERSON:** Who approved it? It's a pretty basic question.

**Mr Anderson:** Somebody more senior than the reporter in question, hence it was a failure in process.

**Senator HENDERSON:** I want to check on the process, though. Was this video approved for publication by the senior person within the video vertical team, or was it not approved?

**Mr Anderson:** I can't answer your specific question. I will have to take that on notice. What I will tell you is that pretty quickly I know the director of news then asked to make sure that entire team knew the editorial process, the upward referral process, to ensure that didn't happen again.

**Senator HENDERSON:** Surely as managing director for something that really did reflect quite adversely on the reputation of the ABC—I know there are a lot of sound stories that reflect positively on the ABC, but this did a lot of damage to the ABC—wouldn't you want to know what happened? Was this published without approval? Was this the responsibility of a more senior supervising producer or someone else?

**Mr Anderson:** The publishing of this will be the responsibility of somebody more senior than that reporter. It should have been picked up in the process. Yes, of course, I asked the director of news to take steps to make sure it didn't happen again. I haven't got anything sitting in front of me that gives you the precise failure in that process with regard to an individual, Senator.

**Senator HENDERSON:** Could you provide those further details on notice? From what you say, this was the failing of a supervising editor.

**Mr Anderson:** I believe so, yes.

**Senator HENDERSON:** What action was taken against that editor, if any, by the ABC?

**Mr Anderson:** Senator, I will come back to you on notice.

**Senator HENDERSON:** You don't know?

**Mr Anderson:** I don't know. I'll come back to you on notice.

**Senator HENDERSON:** Was any disciplinary or other action taken?

**Mr Anderson:** Senator, in instances like this, I agree with you that any instance where we publish something that is inaccurate or lacking in impartiality or objectivity could potentially harm the reputation of the ABC. We do take those matters very seriously. My instruction was to take whatever action was necessary to ensure that this was fixed and it didn't repeat itself.

**Senator HENDERSON:** Mr Anderson, who at the ABC monitors social media published both by the ABC and ABC staff and personnel?

**Mr Anderson:** We monitor what is social media on our own platforms much like we look at what we do for publishing. Of course, there's somebody senior who is looking at what we're publishing within their remit of responsibility.

**Senator HENDERSON:** That is official ABC social media accounts?

**Mr Anderson:** Yes, it is.

**Senator HENDERSON:** That is through the normal editorial processes?

**Mr Anderson:** Yes. Both editorial, legal, the lot. The normal publishing process for anything, be it radio or TV. It extends to what is our own social media platform that is marked an ABC platform. When it comes to personal use of social media, we don't monitor that because we're not responsible for it. It hasn't been through an editorial process. We've made it quite clear that individuals are responsible for their own posts, particularly legally. They are legally responsible for themselves. We haven't got people and we're not wasting energy looking at people's personal use of social media, because we don't take responsibility for it.

**Senator HENDERSON:** But you do, because you have a social media policy which does impose some obligations on your staff. This is a longstanding issue that I have with what is, I think, a very deficient social media policy. You are half in and half out. You're trying to be half pregnant here. You're trying to suggest that

ABC personnel have responsibilities in relation to their own personal social media accounts to the ABC because there are policies and then you say, 'We're not responsible.'

**Mr Anderson:** Well, we're not monitoring. Your question was whether we are monitoring them. We are not. Under our code of conduct, which is not an editorial matter—it is an employment matter—there are obligations on employees not to bring the ABC into disrepute or undermine their ability to do their job. We specifically called that out on personal use of social media. Of course, that extends to their conduct. So by and large I have to say that since we've done this particularly, the instances brought to us with regard to people's breach of this has reduced significantly. I think people understand it. I think they understand what their accountability and obligations are to the organisation. It doesn't mean that they are happy about it. When I go and talk to staff, they are aware of it.

**Senator HENDERSON:** Are staff allowed to issue a media release without the approval of their editorial supervisor?

**Mr Anderson:** On an ABC platform, no.

**Senator HENDERSON:** Are they allowed to issue a media release?

**Mr Anderson:** You mean on their personal social media account?

**Senator HENDERSON:** No. I'm not asking about the platform. Are ABC personnel, no matter what platform they use—email, social media, website, hard copy, fax—and journalists in particular allowed to issue a media release in their name without approval by a senior editor or their program?

**Mr Anderson:** Senator, I would say no. They would always seek approval of someone above them if they are doing it on an official ABC media release on an official ABC platform, yes. I certainly wouldn't expect them to issue a media release that is not on an ABC platform on their personal social media account, if that's what we're talking about.

**Senator HENDERSON:** So why are they allowed to post on their social media account issues about news and information, which is no different?

**Mr Anderson:** Senator, when it comes to people's personal use of social media, the civil liberties that we have in this country mean that I cannot prevent them from not using social media. I can't—

**Senator HENDERSON:** That wasn't my question. You have prohibition against them making a statement with the title 'media release' on their social media?

**Mr Anderson:** That is on ABC platforms.

**Senator HENDERSON:** You said that would not be permitted on someone's social media account.

**Mr Anderson:** I would not expect it to be there if it wasn't somewhere else.

**Senator HENDERSON:** Yet you give unfettered access to your journalists being allowed to basically put whatever they like on social media on their own personal accounts.

**Mr Anderson:** No, Senator. We're quite clear about that when it comes to the personal use of social media. We step out what it is that they need to be mindful of. Again, I can provide that to you on notice. It is specifically not to undermine their ability to do their job—that is, to be impartial—certainly not to bring the ABC into disrepute, and not to mix personal and work issues together. We have guides on how they should be and not be identifying themselves. I would say it is not unfettered carte blanche to do whatever they want on social media. I don't think that staff at the ABC would say that either.

**Senator HENDERSON:** I will come back to this. Thanks, Chair.

**Senator FARUQI:** Mr Anderson, before I move on to another line of questioning, I would ask you to table the advice that you have received on the basis of which you are refusing to answer my questions about Ms Lattouf's sacking.

**Mr Anderson:** Senator, I don't have the advice sitting with me here right now. I have been given that advice prior to coming to Senate estimates.

**Senator FARUQI:** Could you provide that advice to the committee?

**Mr Anderson:** I will take that on notice and provide that.

**Senator FARUQI:** You will provide that advice?

**Mr Anderson:** I will take that on notice. I will provide you the advice that I have. Again, any of that advice, anything that would otherwise be prejudicial towards what our case is on the 8th, I think would have to be redacted. Again, I will provide you what I can.

**Senator FARUQI:** Chair, I would ask you to ask Mr Anderson to provide his claim for the public interest immunity very swiftly. I would really appreciate that.

**CHAIR:** Mr Anderson, obviously questions on notice are not required back until 5 April. We would be grateful to receive your assessment of the public immunity claim as soon as possible.

**Mr Anderson:** Yes, Chair.

**Senator FARUQI:** Mr Anderson, in August last year, we found out, I think out through questioning in Senate estimates, that the ABC's racism review had been delayed. Has the racism review concluded now?

**Mr Anderson:** No, Senator. The review that we have into what systems we have to support people who experience racism has been conducted by Dr Terri Janke. The sequence of this and the time line we have is this. I first contacted Tom Calma. I asked him to lead the review. He thought about this for a while. I am grateful for that consideration. He then came back to me and said that he couldn't do it due to other obligations. He then gave me a couple of names. One of them was Dr Terri Janke. The Bonner committee internally also at that point recommended Dr Janke. I contacted Dr Janke. Dr Janke was busy right up until the Voice to Parliament referendum—she made that quite clear to me—and could start work afterwards. Work started on the review on 20 October last year. Dr Janke's company is obviously doing other things. They requested information from the ABC at the end of last year. Staff consultation has started. The original time line from Dr Janke—this is an independent review; this is Dr Janke's time line—is to deliver a report in the middle of the year. I accept the reasons for that timing. Of course you would like it to be faster. The reasons provided—Dr Janke met with the Bonner committee last week—is with regard to ensuring that we have what is a considered process, has all the right protocols and processes that protects the people who wish to participate, both present and past, and it does it in a considered manner with enough time to come up with the recommendations and then have them peer reviewed to produce an itemised report that will be delivered in the middle of the year.

**Senator FARUQI:** So the review just started three months ago?

**Mr Anderson:** The review started on 20 October, when information was being sought by Dr Janke's company and her associates.

**Senator FARUQI:** Has the ABC started provided anti-racism training to employees and board members?

**Mr Anderson:** We provide training that is otherwise called cultural awareness training.

**Senator FARUQI:** Which is not anti-racism training.

**Mr Anderson:** We do talk about racism and discrimination in that training. We have policies with regard to that as well as other mechanisms that we have to support our staff.

**Senator FARUQI:** I have a list of the training that you provide. Anti-racism training is not part of that list. Mr Anderson, you were asked on Radio National in January this year if institutional racism exists at the ABC. You said it didn't. I'm just curious how you can say that when we've had a number of journalists of colour and Aboriginal journalists—Stan Grant, Nour Haydar, former ABC presenter Sami Shah, all high-profile ABC talent—say that the ABC does have an issue with racism and the way it treats diverse staff. Why are you denying this? Why do you keep allowing this to happen under your leadership?

**Mr Anderson:** Senator, it concerns me, of course, what Stan Grant said and the circumstances in which that happened to Stan last year. It concerned me when Nour left. Of course, I think Nour was a talented journalist. I wish her well. She's obviously welcome to come back at any time. I think Nour made a few comments with regard to that. I don't see the evidence of institutional racism, which is the direct question that I was asked. Do I worry that we have people within our ranks who do not feel confident coming forward to discuss issues, which has been raised more recently—

**Senator FARUQI:** So you are blaming the people not having confidence—

**Mr Anderson:** I'm not victim blaming.

**Senator FARUQI:** to come forward?

**Mr Anderson:** No. I'm blaming—

**Senator FARUQI:** Do you think there is any racism at the ABC?

**Mr Anderson:** Senator, unfortunately, I think, and certainly from these and some of the ones where complaints have been made and found to be true, yes, I know that racism has occurred at the ABC. I'm not putting it on the people whether or not they feel comfortable to come forward; it is quite the opposite, actually. I have been talking to staff in different centres. If people don't feel comfortable coming forward, we haven't done enough and we're not doing enough and the managers aren't doing enough to make sure that they do feel comfortable. I

think one of the aspects being focused on by Dr Janke's review is what we are not doing and how it is that there are pockets where people do not feel comfortable. I hear feedback from other staff that they have great confidence, but I do hear that is not everywhere. It is not consistent across the board. I do think it is a problem, and it is something that we always need to try to fix.

**Senator FARUQI:** Mr Anderson, you keep talking about people being uncomfortable. It is not that is the problem. It is that racism is ongoing and that the ABC does not support culturally diverse staff when they are attacked from the outside or when they try to challenge the status quo. This is what journalist Nour Haydar said when she resigned:

Commitment to diversity in the media cannot be skin deep. Culturally diverse staff should be respected and supported even when they challenge the status quo.

This has been happening for years. There is a real pattern yet there is still another six months to go before even the racism review is completed. Mr Anderson, do you think that you will be remembered as the ABC MD who bowed to external pressure and let racism flourish at the ABC?

**Mr Anderson:** No, Senator, I don't. Quite the opposite, actually. What I've done is embrace a culture where the culture we have, the content we have and the people we have reflect the communities we serve. I think the ABC has made great inroads into that. I do accept that culturally we are not without our problems and we are not without the need to improve. I don't think that is how I will be remembered. I do think it is an important thing that we need to always be conscious of and always tackle. I am concerned about those people who have expressed these concerns. I will constantly say that we need to support our people, particularly people—

**Senator FARUQI:** But you're not. You're not. The ABC is not.

**Mr Anderson:** From culturally diverse backgrounds or a First Nations—

**Senator FARUQI:** It's people after people—Stan Grant, Sami Shah, Nour Haydar and now Antoinette Lattouf. Obviously, you are not tackling the problem.

**Mr Anderson:** Senator, I assure you that we are trying to tackle the problem. The effectiveness of that will obviously be born in time. We are certainly trying to tackle the problem.

**Senator FARUQI:** Thank you, Chair.

**Senator HUGHES:** I might start now with Israel-Gaza and the guide for staff on reporting it. How is that compiled? Who put it together? How is it disseminated to staff?

**Mr Fang:** The Israel-Gaza guidance notes that we put up internally for staff to access on our intranet system came out of questions from staff about this fast-moving story and the need for us to continue to update and support our staff to making the right decisions about how they are reporting. The Israel-Gaza guidance panel, of which I am the chair now, was put together at the end of last year, I believe. It is essentially representatives of our editorial policies team that advises staff on our editorial policies and guidance notes. It has a representative from our content division, the standards editor from that division, the news standards editor and another member of the news division who is involved in the day-to-day oversight of some of the stories that we are making. We seek to stay across whatever the issues are that are coming out about what is happening with the conflict. For example, a most recent update was about the International Court of Justice case. We are also open to hearing from all of our staff and content leaders in the way we would engage with them in a normal fashion, talking to them about these stories. We also have a group of staff. Essentially we've invited a whole bunch of staff who would like to speak to the guidance panel about some of the issues they need help in covering. It comes right across our staff base from all parts of our digital, news channel and other content teams.

**Senator HUGHES:** I have a quote here. You can tell me if it has been updated or wrong. I want a bit of clarification. Under the heading 'Gazan health authorities', it says:

Use Gazan health authorities or the Gazan health ministry. While not incorrect, it is not generally necessary to refer to them as Hamas controlled. The health ministry in Gaza is ultimately controlled by the governing body, Hamas. However, historically, it has had some degree of operational independence.

It goes on. It feels like we're splitting a few hairs there. Hamas is a recognised terrorist organisation by the Australian government. There is an acknowledgement that the health ministry is controlled by Hamas. Basically, by quoting the health ministry, you are quoting a terrorist organisation and the information that they are relaying. I am with you; I acknowledge that this is a very complex issue. There are very few people who really understand it. It perpetuates. When most people hear health ministry, they assume it is a legitimate government-led body that is supposed to be delivering health outcomes, not actually being run on behalf of a terror group that, as we now know, use a lot of their hospitals for part of their tunnel network and for storing munitions. How does that come

about? Why is that not looked at by the national broadcaster to say, 'Our job is to report to Australians so that they understand the situation and acknowledge this is an Australian government recognised terror group?'

**Mr Fang:** Senator, can you clarify the question that you want an answer to?

**Senator HUGHES:** Why is the guidance to use Gazan health authorities or the Gazan health ministry and omit Hamas controlled?

**Mr Fang:** Senator, our guidance does include that Hamas is a terrorist group, as you noted, by the Australian government. We do refer to that in all of our copy. In relation to the Gazan ministry of health, where it is relevant, we do refer to it being Hamas controlled or under Hamas, as is the reality of the situation in Gaza, which has been under Hamas control since, I believe, 2005. So where it is relevant, we have referred to that. However, it is the reality on the ground that the Gazan health ministry is the ministry that oversees hospitals and health. To date, the figures and the information that it has provided have been utilised by credible sources in the media and otherwise around the world. So we rely on that fact as well.

**Senator HUGHES:** Can I clarify? You do call Hamas a terrorist group. I thought the guide said Islamist militant group or a militant group.

**Mr Fang:** No. We refer to Hamas as a terrorist organisation.

**Senator HUGHES:** Okay. What about with regard to referring to 7 October? What are the terms used? There is incursion, invasion, pogrom. What are the terms and guidance for what occurred on 7 October?

**Mr Fang:** I'd have to go back and check our guidance note and provide you that detail, Senator. We refer to what happened on 7 October as a terrorist attack.

**Senator HUGHES:** What about the use of the term 'genocide'? Does the guide talk about genocide and how it should be correctly used and what it actually is?

**Mr Fang:** Yes. We recently updated, as I said, the guidance note as it relates to what has been the case at the International Court of Justice, where the issue of genocide has been canvassed. Genocide is obviously a contentious topic. Our guidance note currently indicates that where we use the term 'genocide', we should seek to include a denial if that's the case or an alternative view on that. In the course of all of the work we do around a complex story like this, we expect our journalists to consult with their editorial leaders and managers. The guide does indicate on the term 'genocide' that when in doubt, you should refer up to your manager.

**Senator HUGHES:** I want to finish on the use of the term 'occupied Palestinian territory'. Is there a view within the ABC or is it maintained that Palestine isn't an independent state, that there is no state of Palestine?

**Mr Fang:** Sorry, Senator?

**Senator HUGHES:** Well, there is no state of Palestine?

**Mr Fang:** What is the question, then?

**Senator HUGHES:** By using the term 'occupied Palestinian territory', it would be implying that there is a Palestinian state that has been subjugated by an external oppressor. But there is no Palestinian state.

**Mr Fang:** Senator, I think the term 'occupied Palestinian territories' is fairly widely used, including by the United Nations.

**Senator HUGHES:** They are a bastion of holding up human rights, aren't they, when you look at the UNHRC. They're doing well. Again, it feeds into the narrative that Palestine itself actually even exists.

**CHAIR:** Is this a line of questioning foreign affairs?

**Senator HUGHES:** No. I'm asking about the guidelines for the language that is used with regard to—

**CHAIR:** For the interpretation of the ABC in terms of how their guidelines work?

**Senator HUGHES:** Yes. How they refer to different entities.

**Mr Fang:** Senator, I'm happy to come back to you with all of our guidance notes on that, if you would like. They are available to all of our staff and freely available.

**Senator HUGHES:** I'm happy to pass the call on.

**Senator PAYMAN:** I would like to ask about emergency broadcasting. In response to the 2022 Albanese government budget, the ABC stated that the increase in funding would mean greater capacity to deliver emergency broadcasting services. How is this greater capacity being realised at the ABC? Can you point to work in the community?

**Ms Kleyn:** Effectively what we did with the additional funding was basically dealt with the capacity of the emergency broadcasting team more or less. For complete clarity, though, we do have this group called the

emergency broadcasting team that offer training and guidance. We have a whole range of resources that also do emergency coverage. So our news teams et cetera do the emergency coverage. We have this emergency broadcasting team that have a coordination role. We basically doubled the capacity of that team. The importance of that, of course, is that over time we have gone from having seasonal emergencies to those pretty much around the year. Basically, this team is now available around the year, 365 days of the year. We've been able to use those funds to sustain that team.

**Senator PAYMAN:** Thank you. In the recent summer period involving weather events and bushfires across Australia, how did the ABC respond with that emergency broadcasting service?

**Mr Anderson:** Since the start of July last year, that emergency broadcasting team has been activated for more than 475 events up until 3 February, which is up from the year prior. Of note, as I mentioned earlier briefly, our North Queensland teams have delivered more than 65 hours of emergency coverage around tropical cyclones Jasper and Kirrily, just by way of example, with fire threats as well that are further south and obviously to the west. That is the way the team has been deployed. As Ms Kleyn says, that additional funding means that it is more sustainable to be able to cover these events for local communities. Before, people were working 16 days straight and working very long hours. This allows us to move people around as well as have continuous coverage for the Australian public.

**Senator PAYMAN:** That is wonderful. Thank you.

**CHAIR:** I want to ask a quick follow-up question. I am just looking at your opening statement, where you reference that the ABC emergency team is activated for more than 475 events. Is it one core team? I go to Ms Kleyn's point about emergencies being constant. Is it one set team, or do you just pull from the relevant teams?

**Mr Anderson:** It is both, Chair. There is a central team that looks after it. It is not a very big team. Effectively, it's then coordinating other places, whether it is a regional bureau pulling people out of news rooms if required to go do the coverage. It is central coordination when we need rolling coverage, so when it appears on news channel and where it appears on local radio, and what other team members need to come from different places. So it has built up over time, as Ms Kleyn says, as our coverage has needed to continue. Gone are emergency seasons. It is just all year around with regard to being able to mobilise people as we need.

**CHAIR:** Thank you.

**Senator HUGHES:** What was the coverage of the ABC? What programming was done around Australia Day this year?

**Mr Anderson:** Around Australia Day, there is what we would normally do on local radio. There's what we do around Triple J. We have the Australian of the Year awards on the Friday night prior. On Australia Day, there is flag raising ceremony and the Governor-General address. Then we have a concert that we cover, which is from the Opera House, amongst some others. I am sure if I could lay my hands on it, I would be able to rattle them off. That is the majority of what we do around Australia Day.

**Senator HUGHES:** Does Triple J still do the Hottest 100?

**Mr Anderson:** Triple J does the Hottest Weekend, which includes the Hottest 100. We do the Hottest 200 now. It is a day of—

**Senator HUGHES:** Okay. I'm no longer in that demographic.

**Mr Anderson:** We do a countdown that is 200 down to 100 and then there is another countdown down to No. 1.

**Senator HUGHES:** I notice some posting was done encouraging coverage of attendance at Invasion Day rallies. Are you aware of those being put up on ABC social media?

**Mr Anderson:** Senator, it has happened before. We do an overview of events. That is not our terminology. If the event is termed Invasion Day, we leave it as that, as the name that has been given to that event. It is for what events that are happening near you. Some of them are called Invasion Day. Some of them are called Australia Day events.

**Senator HUGHES:** There was an ABC post—is it ABC Aboriginal or ABC—

**Mr Anderson:** Indigenous, perhaps.

**Senator HUGHES:** Indigenous. It put up a request for people to notify them of any Invasion Day rallies that were happening in their city or location. I don't have a copy of it with me at the moment.

**Mr Anderson:** Senator, I will have to take that on notice and get back to you. We do cover what is happening in your area.



**Senator HUGHES:** But that wasn't covered as an Invasion Day rally that is called an Invasion Day rally. That is requesting information for people who know of Invasion Day rallies at the time.

**Mr Anderson:** We will advise on what the events are and where they are and what they are called.

**Senator HUGHES:** I will track it down for you. Then we will be able to have a bit more of a discussion about it. I am happy to leave it there. I will find it and come back.

**Senator CADELL:** Mr Anderson, my time frame has gone because we've had a break. A couple of months ago, there was a vote of no confidence by journalists. You've met with the unions. You are here. The board fully endorsed you post that. You had a meeting with the union. How is that going? From our side here where we are asking questions, you are a strong defender of your journalistic staff, probably sometimes too strong for our liking. Has it gone better with the union and the journalists in your organisation? Is there a better way?

**Mr Anderson:** There are a number of things that they were looking for. First, they wanted access with me. They wanted assurances that the independence of the ABC was intact, which I provided. They wanted to discuss specifically and originally the matter with regard to Ms Lattouf. I met with them on the basis that I could not discuss that matter because it was before Fair Work, but I could address their other concerns. Some of their other concerns include complaints handling. They wanted to know precisely what happens with complaints and where they go and who I respond to, for instance.

They were also concerned about people and support that people were receiving. It was Senator Faruqi's line of questioning earlier with regard to making sure that we've got enough support around journalists, particularly journalists with a culturally and linguistically diverse background and our First Nations journalists and women. That was put to me directly. They are the targets of external parties, which is true and does happen. We are making sure that people feel supported in those moments. We do what we can. We have social media wellness advisers and trauma counsellors. There are things we put in place. To hear them say that, whatever we are doing, what I heard was that was not enough. We have launched some other initiatives in both content divisions with regard to that, certainly with regard to forums where we can hear people's concerns.

They also raised concerns around the personal use of social media guidelines. They want to be able to provide some constructive feedback with regard to that for the moment. I have undertaken that I will listen to them and go back and meet them again. We have written back to the journalists. That's where it's at. That's where we left it. We have given them a list responding to each of their concerns and an undertaking to meet them again in the future.

**Senator CADELL:** Were they aware of the number of times you stepped up to defend under PII claims Senator Henderson's disclosures on staffing and stuff like that? Are they aware of the steps you have taken in the past to protect them?

**Mr Anderson:** I can't say what knowledge they have about what happens at Senate estimates. The ABC is such an important institution. People have a right to bring to me, particularly if it's a union, what their concerns are. That's fine. I believe that I have always stood up for the independence and the institution that is the ABC. I believe that I have done so reasonably. I don't know that was brought into question as part of the union vote.

**Senator CADELL:** Obviously you have the journalists and staff unions coming up and saying this sort of stuff. You get attacked. How are you and your senior management team? Every time there is a lightning rod and fireworks. The guide team were put on five seconds before all these sort of fireworks. How are you guys coping? Who is looking after you?

**Mr Anderson:** Senator, I appreciate the welfare check. We're okay. I always have broad concern with regard to our people. It is particularly those who are trolled and abused externally by external parties.

**Senator CADELL:** We're politicians. We wouldn't know about that.

**Mr Anderson:** I have sympathy for all parliamentarians who suffer this as well in the public eye. It is increasingly difficult for people in those environments. They receive physical abuse and death threats. More recently, there have been a couple of instances of that. I am sure there is something going to happen that we are going to cover a bit later. How do you protect your people in those moments? That is probably more on our mind than anything else.

**Senator CADELL:** Other than the ones there, do you find in this increasingly hostile news and information space that it is generally harder to attract staff, or are they still coming to you when vacancies come through?

**Mr Anderson:** It's a good question, Senator. Look, I think in the market we're in, I don't see that being a reason why it is difficult to get staff. We have a reasonably low turnover of staff. Our turnover is around eight per cent at the ABC. I think we operate in a polarised media market. Our position is effectively not to take a position.

Our position, due to our impartiality and objectivity, means that we are quite clearly neutral in this. We will be criticised for that because we are not taking a position one way or the other. By not taking a position, that is seen as being alternative to those other positions that are well-known. So it is no doubt difficult for our employees to maintain those standards when they are coping criticism from both sides of any debate, and that is any debate.

**Senator CADELL:** Do you find a difference in staff turnover or accrual in remote, regional or rural areas? Do you do engagement surveys of staff? Is there a differential between the city based journalists where everything is a lot more active traditionally versus regional and rural staff? Is there a noticeable difference in the wellbeing?

**Mr Anderson:** I will take that question on notice, Senator. We do engagement surveys. We have another one due, I think, on 2 April that we are about to write to people about. I think there might be a difference between how people respond whether they are regional, rural or remote Australia versus cap city. Again, I will respond to you on notice about that.

**Senator CADELL:** Anecdotally, I feel that there's a very protective feel for regional and rural radio, especially by the communities. Because we are losing media diversity so much, we desperately want to hang on to those sorts of things. I would be interested to know.

**Mr Anderson:** You are absolutely right. I accept that it is not commercially viable for a lot of those other media organisations to be in regional Australia. They are vacating. The ABC is left. Our staff are part of the community and the community they serve, which is incredibly important in emergency broadcasting. It is also important that we get those stories out and out of regional Australia and that they are heard by everybody. That is one of the good things we do and, I think, universally championed. So it is important to protect that. We have protected, if you like, the number of staff we do have across all of our regional bureaus. Of course, we increased them with the money we got from Google and Meta to increase the number of journalists that we have in regional areas.

**Senator CADELL:** I was critical at previous estimates about potentially no formal risk assessment done for putting Stan Grant up. We now have these emergency teams going out, so it is significantly higher. What is your risk assessment for danger where we're putting them in potentially the path of cyclones, fires and all these sorts of things? What sort of risk assessment goes on there? The nature of reporting emergencies is that they are adjacent to emergencies.

**Mr Anderson:** Senator, we do take that very seriously. We do risk assessments. We pick very carefully how we're going to do our rolling coverage to ensure that people aren't in harm's way. Where they might be, sometimes home might be safer for them than an ABC bureau. Sometimes it is the other way around. We look at how we get the emergency information required from the nearest emergency centre to an ABC centre and then pick up how we network that across a larger expanse. So we do think about that very carefully. Bushfires, of course, are a different type of emergency. We were working very closely with emergency services to ensure that we didn't have people in harm's way. Our teams have done a great job covering floods where themselves they've been impacted by floods. Our people have remained safe through that coverage.

**Senator CADELL:** I will hand over on that, Chair.

**Senator HENDERSON:** Mr Anderson, I want to turn to evidence you gave to Senate estimates last May on 24 May. Senator McGrath asked:

Mr Anderson, I commented before about the ABC employees getting a pay rise. Did you get a pay rise also?

You responded:

My pay is set by the Rem Tribunal and so, such with parliamentarians, if agency heads get a rise, then, yes, I get one as well. I did last year in July. I haven't received advice about this July.

Mr Anderson, we learned a number of months later that, in fact, the month before you gave this evidence you had renewed your contract.

**Mr Anderson:** Well, my contract was renewed by the board, yes.

**Senator HENDERSON:** I put to you that the evidence you gave our committee in May was misleading. You were specifically asked whether you got a pay rise. You said, 'I haven't received advice about this July.' Why did you not tell the committee, frankly, truthfully about your five-year contract, which included a pay rise?

**Mr Anderson:** Senator, my five-year contract did not include a pay rise. My five-year contract was on the same terms and conditions as the one I was already on. Whether or not the Remuneration Tribunal increased it, which I believe they did, in July last year, I hadn't received advice around an impending pay rise.

**Senator HENDERSON:** No. We are talking about your pay. You said, 'I haven't received advice about this July.' At the very least, Mr Anderson, I put to you that you misled this committee because the month before you had finalised a five-year contract.

**CHAIR:** Senator Henderson, for the whole of the committee, maybe we could turn it into a question as opposed to an accusation. Mr Anderson, can you step out for us what happened in your contract renegotiation?

**Senator HENDERSON:** Chair, could you not interrupt me? I am in the middle of asking Mr Anderson.

**CHAIR:** Accusing, and not really allowing him to answer the question.

**Senator HENDERSON:** Yes, I am.

**CHAIR:** It really isn't how we like to run this committee.

**Senator HENDERSON:** Chair, I am entitled to ask these questions. Please don't—

**CHAIR:** You are.

**Senator HENDERSON:** stop me from asking them.

**CHAIR:** That wasn't the point. You can ask as many questions as you like.

**Senator HENDERSON:** Can I ask you to explain why you didn't give the committee more wholesome and complete advice in relation to the fact that the month before you had done a deal to renew your contract for another five years and that had not been disclosed?

**Mr Anderson:** Senator, the board asked me to stay on for another five years, truncating my then current term. I agreed. It was on the same terms and conditions as the deed of appointment I was already on. The question I answered was about a pay rise. It was about whether or not I had a pay rise—I had one the July prior—and whether or not I was getting a pay rise in July. That comes from the Remuneration Tribunal, new contract or not. I signed my new deed of a variation to terminate one term and then the beginning of the five-year term that started in July. That was signed somewhere in May. I have to get back to you about the precise date. It might have been before that date. In any case, my pay was the same on whatever the board had done. I was not asked specifically whether I had been extended for another five years.

**Senator HENDERSON:** I put to you that one year left on your contract is a very different thing to another five-year contract. By very definition, Mr Anderson, you've received, because of the fact that you renewed your contract, an enormous increase in your pay. You had done a deal the month before to be paid for another five years. I would suggest to you that your answer to our committee was misleading.

**CHAIR:** But that is not a pay rise. It is a contract term.

**Senator HENDERSON:** I would ask for a proper explanation as to why you did not disclose that you had reached an agreement to renew your contract for another five years.

**Mr Anderson:** Senator, I disagree with regard to the fact that you are suggesting I misled the committee. I don't believe I did. I wasn't asked that question. Frankly, it was the board's decision to do so and the board's announcement to make. Had I been asked a question about whether I had been renewed or whether that was being decided or had been put to me, of course I would have answered that truthfully. I was being asked about a pay rise in July with my pay, which I assume is a take home pay per ann for which there had been no change at that point.

**Senator HENDERSON:** Well, I put to you that when you move from one year left on your contract to another five years, that is a fairly substantial increase in your pay. To give the committee proper information, I would suggest to you, Mr Anderson, it was incumbent on you at that point, given your obligations in Senate estimates, to give a complete answer as to your employment contract. By very reason that was rolled over for another five years, which we didn't know about—that was kept secret until August last year—that involved a multimillion-dollar pay increase because you got another five-year deal. I think you are being pretty cute with the way you are trying to defend your failure to fully disclose what happened.

**Mr Anderson:** Senator, I was being asked a question about a pay rise. I hadn't been advised by the Remuneration Tribunal that my pay was going up regardless of whether there was an extension or not. So I was answering a question with regard to a pay rise.

**Senator HENDERSON:** In relation to your new contract, what date did you sign your five-year agreement?

**Mr Anderson:** I will get back to you on notice, Senator. I believe it was in May last year.

**Senator HENDERSON:** Before Senate estimates?

**Mr Anderson:** I can't remember. Possibly. If not, I definitely knew about it. I knew about it. I had possibly signed it.

**Senator HENDERSON:** Are you telling the committee that your new five-year contract doesn't involve any increase in pay whatsoever in any respect?

**Mr Anderson:** No. It was the same terms and conditions, where my pay is determined by the Remuneration Tribunal.

**Senator HENDERSON:** But in terms of your level of pay, your level of salary received?

**Mr Anderson:** No. It did not go up as a result of the contract. It went up as a result of the Remuneration Tribunal decision, like everybody else.

**Senator HENDERSON:** That Remuneration Tribunal decision was what you were waiting for that to happen in July?

**Mr Anderson:** Well, I guess. In previous years—

**Senator HENDERSON:** It is subject to a tribunal every year?

**Mr Anderson:** Yes.

**Senator HENDERSON:** I guess the broader question is: why was your reappointment kept secret?

**Mr Anderson:** That is a question for the board, Senator, as to when the board wanted to make an announcement with regard to that.

**Senator HENDERSON:** Why? The minister knew about it. The minister advised cabinet. Why was this kept secret for so many months? Why was a deal done more than a year before your contract expired?

**Mr Anderson:** Senator, it is a question for the board. I know what was put to me. That was for the stability of the organisation with the launch of a new five-year plan. They wanted me to be there for the five years, and I accepted. As to the timing of the announcement, can I put to you that is a question for the board. It is of no benefit to me for that to have not been announced for that length of time.

**Senator HENDERSON:** You understand your obligations in Senate estimates, don't you—

**Mr Anderson:** I do, Senator, yes.

**Senator HENDERSON:** to give full and complete and accurate answers?

**Mr Anderson:** Yes.

**Senator HENDERSON:** So what can you tell us about why this was kept secret for so long? Obviously there was a leak. That leaked story was published in the *Sydney Morning Herald* in August. Bang, two hours later, there was a statement by the ABC. So there obviously was a very strong motivation in maintaining secrecy in relation to your reappointment.

**Mr Anderson:** Senator, I can give you the sequence of events around that time. We were announcing the five-year plan in June. Along with that, we were announcing changes to the organisation that otherwise were resulting in redundancies at this point in time. Again, I don't want to speak on behalf of the board. I would suggest that one of the reasons would be to be after that period, not before.

**Senator HENDERSON:** What is the total value of your five-year contract based on the current Remuneration Tribunal review?

**Mr Anderson:** It is roughly \$1 million a year.

**Senator HENDERSON:** Last May, you knew in estimates that you were going to be getting another \$5 million by reason of your reappointment?

**Mr Anderson:** I knew I was going to be extended by another five years, yes, from 1 July.

**Senator HENDERSON:** And receive at least \$5 million more?

**Mr Anderson:** Well, \$4 million, if you remove the one that I was already contracted for. But that would be an extension for additional years, not a pay rise as such. I would contest whether it is a pay rise as an extension of my term.

**Senator HENDERSON:** I ask you to review the evidence you gave us and perhaps consider—

**Mr Anderson:** Certainly.

**Senator HENDERSON:** the concerns that I have raised.

**Mr Anderson:** I will take that on board.

**Senator HENDERSON:** I do think that when questions like this are asked of the ABC, like anyone appearing before estimates, rather than ask 100 different derivations of the one question, we do expect that there will be a full and complete answer.

**Mr Anderson:** Senator, I will come back to you on that.

**Senator HENDERSON:** Thank you very much, Mr Anderson. I have more questions, but I will share the call around, Chair.

**Senator HUGHES:** Mr Anderson, I did find that post. It is ABC Indigenous; I apologise. It is Invasion and Survival Day marches and events; what is happening around the country. You can scroll through. This is from 19 January. It is still up. If you scroll through, it has Invasion Day rally, Invasion Day rally, Survival Day in each state. It then asks:

One week out, time to turn up. Did we miss an event near you? Drop them below. Always was, always will be. January 26th, Invasion Day, Survival Day.

Is this appropriate for a national broadcaster to be promoting these kind of ideals and events?

**Mr Anderson:** Senator, I wouldn't say it is promoting. We are reflecting news and information about what is happening around the country. To that end, I would say that we represent the perspectives that are held by the Australian people, including those perspectives held by First Nations people. In my mind, by simply saying these are the events that are on, I see that being totally relevant to who we are and what we do.

**Senator HUGHES:** And for them to directly ask people to tag them in their events—tag ABC Indigenous—to let them know if they have missed any?

**Mr Anderson:** Senator, we represent all Australians. If there are those people who are interested in attending those things, sure, that is one way of knowing that is how you know it is on. That is all I would say to that.

**Senator HUGHES:** Do you acknowledge that the ABC seems to attract a certain ilk of person—that there is a certain ideology that the ABC audience either attracts or is now directly appealing to?

**Mr Anderson:** No. Senator, what I see are people who come to the ABC who know that they are serving the Australian people. They know that they have to abide by what our editorial policies are, which is to reflect the country back to itself, to reflect all of our culture. I think those people are proud to work for the ABC. I don't think people arrive with a certain ideology other than to serve the Australian people.

**Senator HUGHES:** Give me an example. Who is a conservative who reflects conservatives in Australia? You have diversity, equality, inclusiveness and all these lovely policies, but it seems to exclude conservatives. Can you show me a proud Australia Day post encouraging people to go to their local citizenship ceremonies, if they are still occurring in their areas, or an Australia Day picnic or event that is celebrating Australia Day? Was there a list like that put out by the ABC?

**Mr Anderson:** Senator, I can't tell you. There are other things we do that do celebrate Australia Day that are a broad celebration of the nation, from Triple J through to our Australia Day concert and what we do with regard to what is on Australia Day and the volume of content we have around it. It is important that we recognise that Australia Day means different things for different people. When you ask about—

**Senator HUGHES:** And the majority support it.

**Mr Anderson:** You ask about people putting forward a conservative perspective. We don't employ people based on political ideology.

**Senator HUGHES:** Mr Anderson, please. We're not going to play that game. Do we want to start with the ABC? Should we start with PK and go from there? Let's be honest.

**Mr Anderson:** It is important that our people reflect the perspectives of the nation.

**Senator HUGHES:** So who reflects me? Who reflects a conservative woman? Just give me one.

**Mr Anderson:** I'm not going to give you an individual that is—

**Senator HUGHES:** I can give you plenty who reflect those sitting at that end of the table. I honestly cannot find and think of one. I am open. Put it on Instagram. Tell me a conservative woman who is on the ABC. If you are going to reflect the whole nation—

**Mr Anderson:** Senator, I don't disagree with you that we need to reflect—

**Senator HUGHES:** Tom Switzer left. I don't think there's anyone left who has a right of centre view or a centre right view in the ABC.

**Mr Anderson:** Again, even regardless of the background, when they are on the ABC, we want to know not someone's world view; we want to know other people's world view. They should be reflecting the perspectives of other people.

**Senator HUGHES:** There is Bridget Brennan on Australia Day. A vast majority of Australians support Australia Day. The vast majority of Australians support leaving it at 26 January. In a news report, Ms Brennan on ABC News Breakfast, in an interview with Michael Rowland, proudly stated—I've got a longer quote—'always was, always will be' as part of her news report. Is that news? Is that a news report? Is that an appropriate reflection of a broad Australian society during a news report?

**Mr Anderson:** It's a reflection of other perspectives that are held on Australia Day.

**Senator HUGHES:** But we've got ABC Indigenous for that. We don't need it on mainstream news all the time.

**Mr Anderson:** Senator, I would say that, with that, Bridget Brennan was in the field. The presenter, Michael Rowland, framed the question with the comment:

This simply underscores that January 26 means vastly different things to different people.

Bridget was responding to that.

**Senator HUGHES:** Is she a journalist or a commentator?

**Mr Anderson:** Bridget is a journalist. Her—

**Senator HUGHES:** It's not impartial, then, is it? She's sharing her view.

**Mr Anderson:** I would argue that it was framed as, yes, this is another perspective that is held. And 'always was, always will be' is a common term that has been used by companies. It has been used by many people to reflect the fact that we have the oldest living continuous culture in this country. It is not a statement of intent rather than it is a statement that is commonly used. I think that when that cross happened to Bridget, Bridget was reflecting the perspective that she was encountering when she was there.

**Senator HUGHES:** Well, she was talking about it being important for 'my people', so that is personalising it.

**Mr Fang:** Senator, can I help with some context, if that might assist?

**Senator HUGHES:** And then at another cross:

It's been a pretty rough year for our mob, hasn't it?

Is this news? I'm trying to understand. Is this the idea of the ABC of impartial journalistic reporting, or is it editorialising, commentating and sharing her own opinion? Is she a commentator now?

**Senator HENDERSON:** It's a reasonable question.

**Mr Anderson:** It is.

**Senator HENDERSON:** There is a difference between commentary and journalism.

**Mr Anderson:** When we have somebody who is a First Nations person who will identify as a First Nations person openly in these crosses as well as reflecting the perspectives of others but quite clearly doing that, we want to satisfy ourselves that you know that it is calling out a personal perspective as opposed to a broader one. You need the qualification for it. Mr Fang, you were going to add something?

**Mr Fang:** Senator, you asked about how we cover other things. I will give some context, a quick snapshot, if I can. We covered the Australian of the Year on News Breakfast. We interviewed the winners and those on the Australia Day honours list. We did the National citizenship and flag raising ceremony. This is just on our news channel. We did the Australia Day harbour swim in Newcastle; the Australia Day sheep shearing competition in Bombala; the Bellingen Shire Council's inclusive weekend and community breakfast; a ute run in Darwin; the Henley ferret race in La Trobe, Tasmania; and arts events in Wagga.

**Senator HUGHES:** When you say you did these, you showed the events in entirety or you covered them?

**Mr Fang:** We covered them as news stories. We probably did crosses to them. We did a variety of things. I would have to go back and check exactly. There was a lot of coverage across Australia Day. You asked about Bridget Brennan's cross. The specific question that the News Breakfast presenter asked was:

The event at Barngaroo simply underscores that January 26th means vastly different things to all Australians.

So the question was framed for Bridget to provide the perspective of Indigenous people that were there, and that is the perspective that she provided. Bridget is a fantastic reporter. She has lots of experience in reporting. She has done great reporting on Indigenous affairs but also as a foreign correspondent. She was asked to provide the perspective from Indigenous Australians that were there not to—

**Senator HUGHES:** But that doesn't reflect all Indigenous Australians.

**Mr Fang:** It was a perspective that she was asked to—

**Senator HUGHES:** I can go and grab a couple, if you like, who would have a different view. So Indigenous Australians, as was learned by a lot of people through the Voice campaign, are not a homogenous group. They do not all think the same. So she might be an Indigenous woman. She might be an Indigenous woman with a particular view. I know a few other Indigenous women who have very different views. So it is reflecting her personal view, not a homogenous group. I am trying to understand at what point the editorial standard of journalistic behaviour kicks in as opposed to these. If they want to be commentators, great. Let's just say they are commentators. They are not journalists. They are not reporting the news. They are not reflecting the broad society. They are reflecting their own opinions.

**Mr Fang:** Senator, I disagree. Our editorial policies expect us to be relevant to all Australians, so we need to cover these events. The editorial policies state that we need to provide opportunities over time for principal relevant perspectives on matters of contention to be expressed. That is what we are doing—providing a diversity of perspectives.

**Senator HUGHES:** Journalists provide that as opposed to commentators?

**Mr Fang:** As a part of our news and current affairs, we are showcasing the perspectives of Australians.

**Senator HUGHES:** Don't your journalists report on things, not provide the perspective?

**Mr Fang:** It's not our perspective, Senator. It is the perspectives of the people they are interviewing.

**Senator HUGHES:** It's her perspective.

**Senator HENDERSON:** That's not journalism.

**Senator HUGHES:** That is her perspective.

**Senator HENDERSON:** Yes. That is not journalism.

**Senator HUGHES:** That is not. It is her perspective. If you want to have Noel Pearson commentating, that's going to be a viewpoint. If you want to have Kerryn Liddle on and ask her view, that is a viewpoint commentator, not a journalist. She is a journalist.

**Senator HENDERSON:** She's a journalist.

**Senator HUGHES:** She needs to report facts. The reason we are here for so long every time Mr Anderson has to front up here is that there is a breach of this standard time and time and time again. There is a breach of social media policy time and time and time again. Mr Anderson, you and I have now discussed anti-Semitism far more than I ever thought I would be discussing anti-Semitism in the current day and age, and this is long before the pogrom on 7 October. We have been discussing the viewpoints of people allocated to the Middle East bureau or hired by the Middle East bureau. This is systematic issues through the editorial. Mr Anderson, you have been subjected to a no confidence motion. Do you run the organisation or do these activist journalists or whatever they are—not in the old school journalism—run the ABC? Clearly, what they say, think and feel is what they just put out there, be it on your ABC Indigenous platform or ABC News Breakfast. We know PK has had goes on her radio program. When does this stop? I would love to say to come to estimates for half an hour.

**CHAIR:** Senator Hughes, is there a question in there, or is it a statement?

**Senator HUGHES:** There is a question. When does it stop? Do we need to put the editorial standard in *Das Kapital* and hand it out because they might actually read that?

**Mr Anderson:** Senator, you of course have your perspective with regard to what you see as standards. First of all, I am the managing director. Yes, I lead the organisation. People can express concern either in group or in part. I have met with the MEAA. I have met with people in other groups as well away from the union, as I would normally do from time to time. What I would say is that when it comes to those standards, those standards are important to us. They are tested. Occasionally, not systematically, when we do breach, we put our hand up for it. We do have an ombudsman that is looking at complaints, of course. That is against the standards. You mentioned Bridget Brennan before. Yes, we got a number of complaints with regard to that. That will be with the ombudsman. The ombudsman will look at it and provide a determination. My perspective on that—I have heard what you said—is that in that cross, that reporter, yes, a First Nations reporter, was giving a perspective that was held. It doesn't mean that it is a perspective of all First Nations Australians, but it was a perspective that was held. It will be tested through what is the complaints process as to whether or not it breached our standards.

I think there is always ongoing training with our standards, as I mentioned earlier. They are important. I will not dismiss that because they are important. They are fundamental to who we are. This is the point I think you are making. It needs to be devoid of who you are, where you're from, where you live, what your socioeconomic background is and what your political background is. Those standards must always be maintained. I would say by and large they are maintained.

The ombudsman's report comes out. It is a 12-month report. That is due to come out in four weeks. I haven't seen it. It will go to the board next week and then it will be released. The results in there will show where there have been complaints, complaints upheld and complaints resolved, which suggests that there is something that needed to be fixed with that, and then divided up into categories, whether it was impartiality, accuracy et cetera. I'm confident that those results will not see a systemic bias that is within the ABC. It always tells us something about how well we're meeting those standards.

**CHAIR:** I will give you back the call in a minute. I want to cover some—

**Senator HUGHES:** This is a final comment. I don't care in the news if you're white, you're black, you're a woman, you're a man, you're gay, you're straight, you're wealthy, you're Catholic, you're Jewish or you're Muslim. I could not care. Just report what's going on. That's all you need to do. I don't care about anything else. That's what a journalist does.

**CHAIR:** Thank you, Senator Hughes. I want to check in on a couple of structural things here for the rest of the day. We're going to release the SBS. Their questions will all be taken on notice. I believe many people have exhausted their questioning for the ABC. This is out of respect. How long?

**Senator HUGHES:** I'm done.

**Senator HENDERSON:** I have about another three hours.

**CHAIR:** Another three hours?

**Senator HENDERSON:** I just wanted to see Mr Anderson's face. No, I would say probably 10 or 15 minutes.

**CHAIR:** Over to you, Senator Henderson.

**Senator HENDERSON:** I saw Mr Anderson in the ABC in Melbourne not so long ago. He was running away—

**Mr Anderson:** I did not see you.

**Senator HENDERSON:** in the Willy Wonka lift. To be fair, you were trying to open the door to say hello.

**Mr Anderson:** I was. I'm sorry.

**Senator HENDERSON:** And as you shot up into the ceiling in your Willy Wonka glass lift, I said, 'I'll see you in estimates.' I will come back to business. I want to support Senator Faruqi in the concerns she has raised about the PII claim that you've taken in relation to the matter before the Fair Work Commission concerning Antoinette Lattouf. Precisely over what matters are you seeking to make a PII claim?

**Mr Anderson:** Anything to do with the dispute that has been brought to the ABC by Ms Antoinette Lattouf, which goes from engagement through finishing with the ABC, and the surrounding matters that relate to it. Today there was a hearing with regard to discovery. That will play out. The next hearing for that matter to be heard is 8 March.

**Senator HENDERSON:** The proper process is to bring the PII claim before Senate estimates. I want to raise concerns, putting aside the substance, which I won't raise today. There were two PII claims made in relation to questions I asked last October. It took the ABC four months to actually submit those PII claims. That's more than dragging your heels, Mr Anderson. I don't think that is appropriate or acceptable. Why is it taking so long to submit these claims if you believe that you are entitled in the public interest not to answer questions before Senate estimates? Why is it taking so long? What is your time line as to when this PII claim will be lodged? I suggest to you that you should have come ready and had it to be tabled today. It is not that difficult to draft. You knew it would be asked today. I'm sure you were fairly certain that this matter would be raised. Why wasn't this ready? You've got 60 lawyers and more in your organisation.

**Mr Anderson:** It's less than that, Senator. What I came armed with was some pretty specific advice from external counsel as well as internal general counsel with regard to this. I have been before Senate estimates previously with other matters that have been before the court. I have been through legal proceedings where it has been accepted that I cannot—

**Senator HENDERSON:** Listen to my question carefully. I'm not debating the substance of your PII claim in this case. Why wasn't it ready? Why weren't you able to table it today so that we were able to proceed with certainty?

**Mr Anderson:** I did think it would be accepted, because it is in public discourse that these proceedings are happening.

**Senator HENDERSON:** A claim hasn't been submitted. The committee can't accept your claim until it is submitted.



**Mr Anderson:** In process terms, I'm not sure I can have a claim until I have the question with regard to it. I will get that PII claim back to you soon.

**Senator HENDERSON:** You don't need a question to make a PII claim.

**Mr Anderson:** You don't? I thought that was the process. I will take it on notice and give you a PII claim by a date that you see fit that you have to provide a PII claim.

**Senator HENDERSON:** As soon as possible. Just out of respect—

**CHAIR:** There is a history at this committee with the number of PIIs. On that basis, he would have had to come armed with half a dozen of them just in case.

**Senator HENDERSON:** No. I'm not debating the others, Chair, to be fair. It's really this one, where there may well be an arguable case for a PII claim. I accept that you have got an arguable case. I'm just asking when you are intending to submit it. The timeliness of your PII claims is an issue.

**Mr Anderson:** I take the criticism on that timing. I will do it as soon as possible. But it works better with a due date. How about if I submit it back by this Friday?

**CHAIR:** That would be great.

**Senator HENDERSON:** The chair is probably the best person to answer.

**CHAIR:** Yes.

**Senator HENDERSON:** Mr Anderson, I want to ask you about your coverage of the Alice Springs community safety meeting last February. That was discussed extensively at the following Senate estimates. It may have been two Senate estimates. There were a number of questions you declined to answer on the basis of public interest immunity because of a pending threat of legal proceedings. Were proceedings ever initiated in relation to that matter?

**Mr Anderson:** I did ask in advance of my appearance today about whether or not that would still be considered current. No proceedings have gone beyond what was the initial concerns notice that was given to us. I did ask for legal advice as to whether or not I am yet able to speak about it. The advice was there was a 12-month window for which I could not, which is not this estimates appearance. Assuming nothing happens, it would be May or taking questions on notice beyond what I believe to be 12 months after.

**Senator HENDERSON:** Well, if it's a defamation matter—and I didn't know that it was; now that I know that you received a concerns notice, I now understand this to be a defamation matter—you are covered by—

**Mr Anderson:** It was a concerns notice.

**Senator HENDERSON:** Well, you're covered by parliamentary privilege here, for a start.

**Mr Anderson:** Well, I believe it to be a concerns notice. Anyway, the advice was that I couldn't talk about it at this estimates appearance.

**Senator HENDERSON:** On what basis, because you are covered by parliamentary privilege here?

**Mr Anderson:** Senator, my understanding was that for the same reason I put in the PII claim at the beginning, that matter is still technically open and there is a 12-month window by which it could be pursued. That window closes after this estimates appearance.

**Senator HENDERSON:** Could you provide a copy of the concerns notice to the committee?

**Mr Anderson:** I will take this on notice, Senator, and then provide a response back.

**Senator HENDERSON:** I would ask you to review whether you could return to that issue and consider providing those questions. There are no proceedings afoot. Concerns notices get thrown around left, right and centre. I appreciate what that means. There are no proceedings afoot.

**Mr Anderson:** Whatever that threat of legal action was, I'm told that it's still open. Nothing has happened since. It might very well not happen. Once we get to the other side of it, I'm obviously happy to talk about the incident itself.

**Senator HENDERSON:** I will ask you to review that and come back to us on notice.

**Mr Anderson:** I will.

**Senator HENDERSON:** Thank you very much. Could we possibly have a copy of your organisational chart?

**Mr Anderson:** Sure.

**Senator HENDERSON:** If you don't have it, could we have it on notice?

**Mr Anderson:** I don't have it. On notice.

**Senator HENDERSON:** Mr Fang, what is your role? Could you explain the nature of your role?

**Mr Fang:** I'm the editorial director. I have managed the editorial policies team, which is the editorial advisers for the content team. Essentially, they work in pre-publication to support our content makers, meeting our editorial policies and guidelines. That is in pre-pub.

**Senator HENDERSON:** So who reports to you? Do you have heads of news and other program units?

**Mr Fang:** No. It is a small team that has editorial policy advisers.

**Senator HENDERSON:** So you're just looking after editorial policies?

**Mr Fang:** Correct, yes. I support the leadership team and content makers in their work. We also look at our editorial guidance and editorial policies and work to update them, if required.

**Senator HENDERSON:** Could you provide an organisational chart.

**Mr Anderson:** Senator, Mr Fang's role is the same as Mr McMurtrie when he used to come here. It also includes the training of staff in advance right across the organisation. The editorial managers who report into Mr Fang also provide pre-publication advice in the content divisions.

**Senator HENDERSON:** Mr Anderson, I want to ask you about the departure of Andrew Probyn. Was there any particular incident that prompted the decision to not continue his employment?

**Mr Anderson:** No, Senator. I don't believe so. The proposal came out of news. The proposal was around two roles, one of them being Mr Probyn's in our parliamentary gallery. There was no incident that is, to my knowledge, which is—

**Senator HENDERSON:** My information is that he raised a legitimate concern about the lack of balance in a news story and a complaint was made against him. Do you know anything about that?

**Mr Anderson:** No. I don't know that, Senator. I can look at that for you and provide that on notice.

**Senator HENDERSON:** Could you take that on notice?

**Mr Anderson:** Yes.

**Senator HENDERSON:** In other words, Mr Probyn acted appropriately in relation to raising concerns about the lack of balance in a particular story. A complaint was made about the complaint he made and the issues he raised. I put to you that perhaps there was some retribution involved in the decision to not continue his employment.

**Mr Anderson:** Senator, I don't know about that, but I will respond to you on notice and look into it and get back to you.

**Senator HENDERSON:** If you could, including in relation to that legitimate complaint. Mr Anderson, I refer to a story written by Sophie Elsworth in the *Australian* on 18 August 2023. The ABC's spending on advertising has surged to \$8.29 million. Could you please explain why you are spending so much on advertising? There is another \$7.09 million on audience research and \$687,000 on promotions.

**Mr Anderson:** Senator, I'll start that it is important that we spend money on awareness, which is with regard to the Australian population, given how crowded and fragmented the media market is. We take the money that is net revenue from ABC commercial and we apply it at scale with regard to what we would spend for offplatform marketing that sits outside the ABC's platforms. It depends how much money we have ex commercial to be able to do it. That is important for us to do. We noticed some years back that awareness of the ABC was dropping across the Australian population. It was a board decision to actually put more money into the offplatform marketing of the ABC where possible. With regard to audience research, of course, knowing your audience is important—knowing how they are moving and how they behave. I note that those costs, just to stand still, have actually gone up by quite a bit. You constantly need to change how you are measuring particularly your digital audience. As for the dollars, and a breakdown, I might have to defer to Ms Kleyn.

**Senator HENDERSON:** Could you provide a breakdown of that expenditure for this financial year and last financial year, perhaps in \$100,000 increments? I am just trying to understand where all that money is going, because that is an extraordinary amount of money on advertising and promotion.

**Mr Anderson:** Senator, I will provide you a breakdown of what that is made of.

**Senator HENDERSON:** Could you break it down into \$100,000 increments so we can understand the nature of the spend and where it's going? That doesn't include all your internal on-air promotions, does it? That's not costed?

**Mr Anderson:** It will cover the cost of promotions that we will have for our own on-air work. I will split all of that up. I believe so anyway. I will confirm that on notice. To be clear, to set the expectations, I wouldn't want to break commercial confidence about the relationships we have where we go to for some of these things. What I can do is simply break this down by category so you can then see the detail that sits with it. Some of it will sit within, say, less than \$100,000. Some will be more than \$100,000. You will get an idea of how that breaks down.

**Senator HENDERSON:** I'm not asking for commercial deals and to understand how much you're spending with a particular advertiser. Could you give us a sufficient amount of detail which is reasonable and appropriate—

**Mr Anderson:** Yes.

**Senator HENDERSON:** so we can really understand that. Is it because your audiences are declining? Can you explain why there was a sudden surge in expenditure?

**Mr Anderson:** Senator, again—I will confirm this on notice—I think we had a higher rate of expenditure a couple of years back. As I said, there was decline in awareness when we did surveys in the ABC itself. It had been 100 per cent for many years and then it dropped off.

**Senator HENDERSON:** To what figure?

**Mr Anderson:** I think it dropped down to about 95 per cent when we were looking at it with the board. There was a conscious decision to look at where we could take, as I said, net commercial revenue from the activities of ABC commercial to then supply that into our audiences area with regard to awareness more generally. There were campaigns around local radio, campaigns around other things that, yes, either had poor performance or we had something to talk about, such as our content on ABC iView and awareness of ABC iView and ABC Listen. It is a constant challenge for us to get in front of the Australian people so they know we're there. When we do spend that money, we see a surge again.

**Senator HENDERSON:** Could you provide any advice or brief that you received? Do you need to sign off on this expenditure?

**Mr Anderson:** I sign off on the amount, the elements within it that are subject to delegations. The director of audience has up to \$1 million. We sign off what is the broad strategy that we're doing. Within that there are delegations that need to be met.

**Senator HENDERSON:** Could you provide the committee with the advice and the brief that you receive to substantiate this expenditure, the basis for this expenditure?

**Mr Anderson:** Yes, Senator.

**Senator HENDERSON:** So any of the key advice and briefs that you have received or requests for approval of this expenditure so we can understand the basis for it? You can do so on notice. Could you also provide a copy of your audience research? I understand that you get a lot of data. Perhaps you could do that in summary. I also want the bang for your buck on your advertising spend.

**Mr Anderson:** Yes.

**Senator HENDERSON:** What campaigns were run? Was there any measurable difference in your audiences before and after so we can understand whether this expenditure was effective?

**Mr Anderson:** Yes, Senator. I will just say that is a lot of data. I will give you what is most relevant to your question, which are the bigger numbers of where the audiences are and what we're trying to achieve with the spend of that amount of money—what it's directed at and then the return on investment.

**Senator HENDERSON:** Maybe you can provide us your audience research on a monthly basis, even if you do so in some sort of summary form. That is so we can look at the extent of your problem and then understand how effective this expenditure has been.

**Mr Anderson:** I'll take it on notice, Senator.

**Senator HENDERSON:** Thank you very much. I am getting close, Chair. I want to raise the concerns about the ABC's statement on the Drag Queen Story Time event, which would be filmed as part of your Mardi Gras coverage. I want to raise concerns about any sort of sexualised event involving children, as I have done before in relation to these sorts of events in children's libraries, including reading stories to children. Many Australians are concerned about this sort of stuff. Could you explain the ABC's position on this, please?

**Mr Anderson:** Senator, we're the host broadcaster for the Sydney Gay and Lesbian Mardi Gras. The reason we're the host broadcaster—and we bid for that; previously it was Channel 10 and previously SBS—is to, again, reflect our LGBTIQI community back to the country. We do so not just in a celebratory fashion. We do tell stories of people who do find it difficult and how they found help. The intended story time, my understanding, is

something that does happen. Drag Queen Story Time happens in the community. We do our own versions of story time. In this committee room, we have debated, I think, Courtney Act at the time reading a story about dressing up. With regard to our entire Mardi Gras coverage, this is not intended to be sexualised as reported or looking to convey—

**Senator HENDERSON:** Sorry, just so there is no misunderstanding, I wasn't asking about your Mardi Gras coverage or your coverage of the Mardi Gras at all. I was simply asking about your decision in relation to the Drag Queen Story Time event involving families, which you then decided not to proceed with.

**Mr Anderson:** My understanding is that, as part of the suite of what we do around Mardi Gras, the content team decided that they were going to do a Drag Queen Story Time event. They put a call out to what was the LGBTQI community that they were holding it and to be part of it. That was met with a lot of abuse. Abuse was suffered by our staff member as a result of that. Clearly, in hindsight, we needed to advise that we did not put calls out like that with personal individual details because the threats that came were death threats. We have supported the people involved with that. When it comes to the event itself, the intention was that it was simply reading a story in a safe environment to kids who otherwise come from LGBTQI families. It was meant to be fun as part of the Mardi Gras coverage. At the moment, that event has been cancelled. To be honest, I'm not sure if they're still planning on doing Drag Queen Story Time. If they do it, we obviously can't do it at an external venue.

**Senator HENDERSON:** Thanks very much, Mr Anderson. Chair, thank you very much.

**CHAIR:** Thank you. Thank you, Mr Anderson, and your team for coming along and spending some time with us today. We always enjoy our sessions. We will now release you.

**Mr Anderson:** Thank you.

#### Australian Communications and Media Authority

[15:02]

**CHAIR:** Welcome. Thank you very much for coming along. Do you have an opening statement, Ms O'Loughlin?

**Ms O'Loughlin:** No opening statement. We are happy to take questions from the committee.

**Senator HENDERSON:** Ms O'Loughlin and all, thank you very much for your time today. Could you give us an update on the misinformation bill, please?

**Ms O'Loughlin:** As you know, the government put out a draft bill for consultation. I understand that there has been a range of submissions received by the department in response to that exposure bill. That's a matter for government considering those submissions at the moment.

**Senator HENDERSON:** What work are you doing on the further draft?

**Ms O'Loughlin:** That's a matter for the department, Senator.

**Senator HENDERSON:** So you're not giving any input?

**Ms O'Loughlin:** Not on the revised draft, no.

**Senator HENDERSON:** Have you raised any concerns about the bill in its current form?

**Ms O'Loughlin:** No. We're aware of the concerns that have been raised publicly. They are more matters for the government to consider in thinking about the final shape of the bill.

**Senator HENDERSON:** Given your pivotal role in the administration of these proposed new provisions, you haven't been asked to provide any feedback at all?

**Ms O'Loughlin:** No. I think we were very clear with the role that is described in the bill. Certainly our role was to lift up from the current voluntary code on advice that we had given the government. We would like some information gathering power rules so that we could gather information from digital platforms to inform our thinking. We would also be looking at the systems and processes, as we do now, and what the digital platforms have put in place. That would be our role under the bill.

**Senator HENDERSON:** When did you provide that further advice to government about the information gathering powers?

**Ms O'Loughlin:** That has always been on the table. It was part of our reports back in 2021.

**Senator HENDERSON:** Since 2021, have you provided any further advice at all?

**Ms O'Loughlin:** We have been involved along the way in the drafting of the exposure draft in terms of what the shape of that was. That is really a matter for the department and the government.

**Senator HENDERSON:** So you have in fact provided feedback on the bill?

**Ms O'Loughlin:** As per normal practice, yes.

**Senator HENDERSON:** Ms O'Loughlin, you did say this was a matter for the department.

**Ms O'Loughlin:** It is a matter for the department. As with most regulatory drafting, we are asked as the regulator to provide implementation advice.

**Senator HENDERSON:** That is what I was asking before. What feedback have you provided in relation to the exposure draft?

**Ms O'Loughlin:** Not specific feedback, Senator. We gave some—

**Senator HENDERSON:** Implementation advice.

**Ms O'Loughlin:** implementation advice on the exposure draft. That is a matter for consultation now between the government and with the department based on the submissions they have received.

**Senator HENDERSON:** Ms O'Loughlin, on notice could you provide the committee with a copy of that implementation advice?

**Ms O'Loughlin:** It would have been iterative advice, Senator. I can certainly take it on notice.

**Senator HENDERSON:** I didn't hear the first part?

**Ms O'Loughlin:** Iterative advice. It's usually an interplay. It's not necessarily us writing a whole bunch of stuff and handing it over. It may be pieces of drafting that is presented to us to see if we have any issues with it. I'm happy to take that on notice.

**Senator HENDERSON:** If you could—

**Ms O'Loughlin:** Of course.

**Senator HENDERSON:** I would imagine that something might be presented to you. You might say, 'Well, look, there are a number of issues and we are raising those issues. We'll send them back to you for consideration.'

**Ms O'Loughlin:** Most of that, just to be clear, would have been around the exposure draft rather than the current drafts.

**Senator HENDERSON:** I understand. If you could provide—

**Ms O'Loughlin:** We'll take that on notice, Senator, of course.

**Senator HENDERSON:** the advice, we would be most grateful. This morning, I raised freedom of information documents obtained by the shadow minister for communications Mr Coleman, which shows that the Minister for Communications is seeking to use her power to direct ACMA to conduct investigations. Can you provide your response to that?

**Ms O'Loughlin:** Senator, we did hear that questioning this morning. The Broadcasting Services Act already contains a power for the minister to direct the ACMA. There are general powers of direction in the Australian Communication and Media Authority Act. In relation to the Broadcasting Services Act, that is an existing power, which means the minister can direct us around the scope of our roles and responsibilities. The way that works, with the addition to the Broadcasting Services Act that this bill represents, is that power exists but it would only exist in terms of the scope of our roles and responsibilities. It only exists in the scope of the intent of our roles and responsibilities. It will be systems and processes that digital platforms have in place to deal with mis- and disinformation.

**Senator HENDERSON:** Well, that's not what was envisaged by the minister in her letter to the Prime Minister.

**Ms O'Loughlin:** I can't speak on what was envisaged by the minister. That's our understanding of how the bill works with that provision in there.

**Senator HENDERSON:** I will finish my question.

**Ms O'Loughlin:** Of course.

**Senator HENDERSON:** The minister, in her letter to the Prime Minister, obtained under FOI, flagged that she would be able to use those powers in the context of the misinformation bill with respect to public complaints or material seen on the media in relation to potential misinformation or disinformation. Does that—

**Ms O'Loughlin:** The way I would, from our perspective, see that provision would be, for example, if there were public commentary that Meta's systems and processes for dealing with dis- and misinformation were failing completely. If we, as the ACMA, didn't decide to exercise our own powers to investigate that matter, the minister may direct us. The way we have looked at that has been that it would be only within the scope of our powers,

which would be looking at systems and processes to deal with the broad range of mis- and disinformation rather than individual pieces of content. We're not envisaged to have any powers on individual content in the bill.

**Senator HENDERSON:** I am trying to figure out the polite way to say this. It is a bit misleading to suggest that you are not concerned about individual pieces of content.

**Ms O'Loughlin:** I don't think it's misleading, Senator. It's absolutely clear.

**Senator HENDERSON:** Let me finish. I will put this to you. The ACMA is concerned with misinformation published by the digital platforms. Therefore, it is open to either the ACMA or the minister to launch an investigation into a platform because of content published on that platform.

**Ms O'Loughlin:** No, Senator. We have provided advice over a number of years about the concerns of the Australian community about misinformation and disinformation on platforms. We did extensive research to understand the scope of those concerns. That didn't mean we looked at individual pieces of content. We provided advice to both the previous and the current government that we thought the current voluntary code could be improved. That voluntary code is directed towards systems, processes, transparency and complaints handling. We thought that could be improved. We asked for specific powers around information gathering and the capacity where, if those codes were failing, we could develop a code around, again, systems, processes, transparency and complaints handling, and particularly on complaints handling given the concerns we have had expressed to us that people who are complaining to digital platforms don't know why they have taken the actions they have. None of that has envisaged, nor does the bill envisage, us looking at particular pieces of content. In terms of the way we would go about judging whether—

**Senator HENDERSON:** I will go back to my question. What the bill enables you to do is go after—I am using colloquial language here—the digital platforms.

**Ms O'Loughlin:** For the systems and processes that they have in place to deal with disinformation and misinformation.

**Senator HENDERSON:** That's right. By reason of what the digital platforms have published. In going after and threatening and fining the digital platforms because you've identified certain misinformation on their platforms—

**Ms O'Loughlin:** No. We don't identify the misinformation on the platforms, Senator. What we would be saying to platforms—

**Senator HENDERSON:** That is not believable, Ms O'Loughlin.

**Ms O'Loughlin:** That's the way the bill works.

**Senator HENDERSON:** That is not believable. This is a misinformation bill. So you are targeting digital platforms by reason of misinformation and disinformation.

**Ms O'Loughlin:** I will step back a bit and explain the current voluntary code.

**Senator HENDERSON:** I understand how the bill works.

**Ms O'Loughlin:** It is exactly the same. We do not have any role in looking at content around the voluntary code. The voluntary code, which was developed by the sector, goes to systems and processes. What do they have in place? Are they taking the actions they promised to take? Are they transparent about the actions they are going to take? The bill lifts that potentially into direct regulation by us. It doesn't change the scope of that bill.

**Senator HENDERSON:** Well, I think you are using weasel words, Ms O'Loughlin because—

**Ms O'Loughlin:** Practical—

**CHAIR:** I ask you to—

**Ms O'Loughlin:** I reject that characterisation. I am actually just trying to provide you with factual information about the bill.

**Senator HENDERSON:** Okay. The practical impact of this bill is that you, the regulator, can go after the digital platforms by reason of what they publish.

**Ms O'Loughlin:** No, Senator. As I've said to you before, the practical implication of the bill is that we can, in your term, go after. I would say it is to have regulatory powers to make sure that the digital platforms are transparent about how they're dealing with misinformation and disinformation on their platforms. It is that they have systems and processes in place to deal with it, and that they are dealing with complaints handling appropriately and providing information to people where they may take action to give greater clarity about their actions. That's what the bill is intended to do.

**Senator HENDERSON:** The minister envisages times where she may direct ACMA in relation to a public complaints—

**Ms O'Loughlin:** I expressed how I read that.

**Senator HENDERSON:** There is a direct causal relationship between the public complaint and the minister's power to commence an investigation.

**Ms O'Loughlin:** The department were very clear this morning how that works and we have been very clear this afternoon. I expect that the minister may take in public complaints about Meta. I'm not picking on Meta; it could be X, for example, who have removed themselves from the voluntary code or been removed. It may be that the minister would like to direct us to investigate why they're not complying with the regulatory obligations. We may similarly launch our own investigation.

**Senator HENDERSON:** I am not reflecting on this minister. If a minister directs the ACMA to conduct an investigation into a matter that may be underpinned by improper motive, do you have the power to decline to conduct that investigation?

**Ms O'Loughlin:** No. The way the powers are determined, as I said to you, are really specifically around our role and responsibility in that particular section of an act. In this section of the act as envisaged by the bill, that would be directed towards systems and processes, transparency and complaints handling. In other areas of our remit, there have been previous examples where we have been directed by former ministers to investigate, for example, a program. That is not what is envisaged in this part of the bill.

**Senator HENDERSON:** For instance, there have been a lot of claims of misinformation and disinformation in relation to last year's referendum on the Voice and various campaigns run. I am conscious that I don't want to ask you a hypothetical question. Looking at the exposure draft, does ACMA have the ability to override a minister who may seek for ACMA to conduct an investigation on a particular matter after raising concerns or—

**Ms O'Loughlin:** That is a hypothetical and you're going into us investigating content. As I have explained before, that's not our role as envisaged under the bill.

**Senator HENDERSON:** Okay. I am asking about a complaint made by a member of the public about a campaign published on, say, the Meta platform. The complaint wasn't taken seriously because Meta didn't remove it. Really, at the heart of the matter, this is about the publication of misinformation.

**Ms O'Loughlin:** We don't have a complaint handling role—

**Senator HENDERSON:** I didn't say that.

**Ms O'Loughlin:** envisaged by the bill, so we wouldn't be looking at it.

**Senator HENDERSON:** I'm just saying: is it where your powers are invoked? If there were—again, I stress that I am not reflecting on this minister—do you have any ability to override a ministerial request for an investigation?

**Ms O'Loughlin:** Well, it depends on which act. For example, the minister has directed us over the last 12 months in terms of the development of the financial hardship standard in the telecommunications space. The minister is compelled to consult on that before she directs us. That would be public.

**Senator HENDERSON:** What about section 171 of the act?

**Ms O'Loughlin:** Well, in section 171, I think, from my memory—I will take it on notice if I get it wrong—that direction has only been used extremely infrequently. As far as I can remember, there would have been consultation on the direction. Senator, just to be clear, those direction powers would have been quite different because they are around our role in broadcasting rather than our role in digital platforms and mis- and disinformation. They are quite different powers.

**Senator HENDERSON:** Thank you very much, Ms O'Loughlin.

**Senator CADELL:** ANAO reported that they are doing an audit of ACMA. What is the scope of that audit?

**Ms O'Loughlin:** I think the audit that you are referring to is an audit that the ANAO is doing across a number of agencies. I'm not aware of the other agencies. It is looking at how we're handling transparency of hospitality, gifts and conflicts of interest. My understanding from the ANAO is it wasn't prompted by any particular issue; it was part of their audit plan that they wanted to look at these things. We were chosen as part of that, possibly because we're a regulator or we're just lucky.

**Senator CADELL:** What is the process? Do you know a completion date or anything like that?

**Ms O'Loughlin:** I will ask my head of corporate to come to the table to say whether we have a completion date. We're in the process of cooperating with the ANAO at the moment. There's lots of data we've provided to

them. There are questions coming back to us. I will check with my head of corporate whether we have a finalised date.

**Ms Owens:** We anticipate that we'll see an early report in April with a final report due around June.

**Senator CADELL:** Without going into any specifics, has any of the data that you've been accruing to hand to them raised any concerns internally at this stage?

**Ms Owens:** I don't think I can go into that at this point. We've been providing ANAO with all of the relevant documents that they've asked us for. They are in their fieldwork at the moment.

**Senator CADELL:** I would have preferred to know that one.

**Ms O'Loughlin:** Obviously, if the ANAO thinks there are improvements that we can make to our processes, we will be open to them.

**Senator CADELL:** That is all I have on that. Earlier this morning we were talking about the Triple Zero outage with the department. There is a number of FOI documents. It is FOI 24-166 and documents 8, 12 and 13. One of your employees is Craig Riviere?

**Ms O'Loughlin:** Craig Riviere, yes.

**Senator CADELL:** He is very communicative. I think he covered himself in glory with a lot of these emails. There is no direct reporting from ACMA to the minister's office, is there? Everything was through the department?

**Ms O'Loughlin:** That piece of advice was to the department. I think there might have been some very early advice in the morning from us direct to the office around the application of the emergency services determination as it applied to fixed line services and mobile services and some clarification that Optus's fixed line services had also gone offline.

**Senator CADELL:** So in all these things where Mr Riviere is passing the information through the department, you're obviously getting information that potentially—I think it came through—a couple of your staff on Optus tried to call Triple Zero. Is that correct?

**Ms O'Loughlin:** Two.

**Senator CADELL:** One was successful and one got put on a loop record.

**Ms O'Loughlin:** Yes, Senator. Really all that said was it was unclear to the staff involved at that time as to why that call might have failed. It could have been any number of reasons.

**Senator CADELL:** I understand that. So we're putting it through. We went through there. It seems like Mr Riviere just put everything up fairly consistently. At 10.15 am, just while a representative of the department was on the phone with Telstra, he wrote to Kathleen Silleri:

Thanks Kath. To be clear, we assume some Optus customers cannot call triple zero right now?

That was confirmed. Did you form an opinion in your organisation when potentially mobile phones weren't all getting through to Triple Zero?

**Ms O'Loughlin:** No, Senator, we didn't. I would have to say that will be forming part of the investigation we currently have underway. I would have to say that it was quite dynamic; that is an understatement. It was very unclear for a considerable amount of time during that morning as to what was going on. Optus itself had put out communications just before 10 o'clock, which was really focused on saying that fixed line services didn't work and you'll need to use your mobile. A little while later, they clarified that and said that fixed line services don't work. Your mobile will roam to another operator if that is available. It really wasn't until, on my records, one to 2 o'clock in the afternoon where Optus came out definitively and said that some mobile calls were not getting through to Triple Zero. So we had a lack of information during that morning.

**Senator CADELL:** I have nothing more on that matter.

**CHAIR:** I think Senator Payman has some questions on that same matter. We will then go to Senator Roberts.

**Senator PAYMAN:** Thank you. With regard to the Optus outage, what will the Optus post incident review be examining? Can you walk the committee through that, please?

**Ms O'Loughlin:** Thank you, Senator. There are two different processes underway at the moment. The post implementation review is being undertaken by the department. The terms of reference for that review will look at things such as how Triple Zero functioned during the outage, the role of government in managing and responding to national service outages, the adequacy of requirements for customer communication in national service outages, and how customer complaints processes were handled, including compensation. That is being undertaken



by Mr Richard Bean. Our understanding is that is to be delivered by the end of the month. In terms of the ACMA, we have formally opened an investigation into the matter. That focuses on the regulatory compliance of Optus with the responsibilities it has under the emergency call services determination. I might just ask my colleague Jeremy Fenton to give you a sense of what that will look at.

**Mr Fenton:** There's a range of provisions that are effectively enlivened under the determination and will be looked at in the investigation. I think it's most helpful to say that we'll be looking at the provision of the networks to enable the camp-on arrangements, which would enable emergency calls to be carried by another network. The second broad category is maintaining access to emergency calls, effectively enabling consumers to make emergency calls and to ensure those calls are carried. The third category concerns welfare checks in the advent of a significant outage.

**Senator PAYMAN:** Thank you. I am curious to understand whether Optus provided timely and accurate updates on the performance of their network. What efforts were being taken to bring back connectivity throughout that morning?

**Ms O'Loughlin:** Senator, I think there has been public debate about the effectiveness of Optus's communication during that morning. As I mentioned to Senator Cadell earlier, I think there was not a lot of definitive advice throughout that morning from Optus to certainly the ACMA around actually what was happening. We knew that fixed line was down and mobile was down. We knew that some mobiles were getting through even off the Optus network, so it was very confusing. We really didn't get much definitive advice until quite late in the day, when the network was going up. The recent advice that came to the ACMA as part of our investigation that Optus also made public was that they found a lot more calls which had not gone through to Triple Zero than they reported to us. That means there were still some issues with Optus actually identifying what was going on in their network and to what extent it was affecting Triple Zero. They are the types of things we will be looking at in our investigation.

**Senator PAYMAN:** Thank you. Were there existing protocols that Optus could have followed or activated to enable more effective information sharing during that morning of the outage?

**Ms O'Loughlin:** We're aware of a number of protocols. Some of these are actually in guidance to the industry rather than codes of practice, so they're not regulatory instruments that we have a role in. There are protocols in place. There is an industry guideline put out by the industry association Communications Alliance, which supplements the code that we'll also be looking at, and sets out communications principles and provides media messaging for severe disruptions to the emergency call service. They give the example of a cyber incident. There is industry guidance on welfare check contacts. There's an emergency communications protocol between MNOs, their customers and the emergency call provider, which is Telstra. So we think that there were some guidelines and protocols that could have been used by Optus. It's not clear to us that they were used by Optus. I think that's something that we had flagged to the department in their review that might be worth looking at.

**Senator PAYMAN:** Absolutely. Thank you very much. Thank you, Chair.

**Senator ROBERTS:** Thank you for appearing again today. On 26 April 2023, you issued a press release about the Sky News program *Outsiders* for breaches of industry codes. On 20 March 2023, in relation to the ABC, in response to Senator Henderson, you agreed that the ABC breached the codes during their coverage of a community meeting in Alice Springs. You endorsed the ABC Ombudsman's finding that there were breaches of the code yet published no press release about that, from what we can see. Why does a conservative news service cop a full press release when you conclude they've breached the code but when the ABC breaches a code there's barely a peep from you publicly?

**Ms O'Loughlin:** I might need to refer to my colleagues for the details of that circumstance.

**Senator ROBERTS:** Sure.

**Ms O'Loughlin:** I would have to say that we put out media releases for pretty much every breach that we look at under the Broadcasting Services Act, be it a national or a commercial broadcaster. I can take it on notice. There are certainly circumstances in the last year where we have put out media releases on the ABC. So it is not our practice to discriminate between types of broadcasters. We like to make transparent our decisions about breaches across the board. I might just see whether or not my colleagues have anything to add.

**Ms Chapman:** In the instance of the ABC Alice Springs issue, we didn't undertake a full formal investigation. We fully considered the matter. We looked at the content. We considered the report by the ombudsman at the time. We didn't find a formal breach in that instance. That was on the basis that the ABC themselves had found a breach. The ABC themselves conceded that there were issues with the broadcast and that there was considerable

media attention at the time which highlighted the findings that the ABC made. So we didn't put out a press release because we didn't make a formal finding.

**Senator ROBERTS:** Thank you.

**Ms O'Loughlin:** I will add to that. I just found something in my notes. For example, from the investigation we did on the ABC's *Four Corners* program called *The Big Lie*, we did a media release for that on 21 December 2022 because we had found breach findings in that program.

**Senator ROBERTS:** Thank you. I accept your answer from before. I refer to your letter, Ms O'Loughlin, to Senator Henderson on 20 March that is file reference BM11801. You mentioned in the second last paragraph the matter conducted by the ABC about the circumstances attaching to this matter, including any changes to its editorial processes. Did the ABC advise of any changes to its editorial processes?

**Ms O'Loughlin:** I don't have the letter in front of me.

**Senator ROBERTS:** I'll read it.

**Ms Chapman:** We did seek a response from the ABC, but I think we need to take on notice whether we received a response.

**Senator ROBERTS:** I will read the second last paragraph.

However, the ACMA has requested that the ABC keep it informed about the outcome of any further internal investigation conducted by the ABC about the circumstances attaching to this matter (including any changes to its editorial processes) and any additional steps that may be taken by the ABC as a result.

**Ms O'Loughlin:** Senator, we will take that on notice for you. I don't have that in my pack.

**Senator ROBERTS:** Thank you. What does it do to the trust of a media company when it has obvious bias?

**Ms O'Loughlin:** Senator, I don't think that's something on which I can express an opinion. I do think in our experiences broadcasters take very seriously their obligations under the various regulatory codes that they are subjected to, which do come to, in most cases, provisions around bias, impartiality and factual accuracy.

**Senator ROBERTS:** It would erode trust if it is done often?

**Ms O'Loughlin:** That would probably be a matter for the broadcasters to comment on, Senator.

**Senator ROBERTS:** Thank you. I will ask some questions here briefly. If they've been covered, just tell me so. I've checked with Senator Cadell. He hasn't covered this one. Could you briefly explain the obligation for carriers to allow network switching for Triple Zero calls and why this didn't happen during the Optus outage? The second part you've already discussed at length, so I'm not interested in that. Could you please explain the obligation?

**Ms O'Loughlin:** Certainly, Senator. The obligation is usually referred to as the mobile camp-on provisions. That is a globally standardised arrangement. Where emergency call services can't be delivered by a particular carrier for a particular reason, those networks allow those calls to camp on to their network for them to be delivered to the emergency call service. That's what—

**Senator ROBERTS:** Free automatic switching?

**Ms O'Loughlin:** So it's an automatic transfer of those particular calls going to emergency call services to camp on to another network. If I have that incorrect, my colleague will let me know.

**Senator ROBERTS:** She's got it. Thank you. Are there any fines applicable for carriers failing to allow switching or failing to make switching work for Triple Zero calls? Would Optus be facing that?

**Ms O'Loughlin:** I think part of what we'll be looking at in our investigation is what was the reason, if in fact that was the reason, some emergency calls didn't get through. As I mentioned earlier, it's still not very clear. We're still in information gathering mode about why that didn't work. I will ask Mr Fenton to go over some of the potential regulatory responses we may have, if we do, in fact, find any breaches. But it is early days.

**Senator ROBERTS:** Thank you.

**Mr Fenton:** I will clarify again that these are enforcement options available to the ACMA if it does find breaches of the determination in question—the emergency call determination. The ACMA can issue a formal warning. It can issue a remedial direction to take action to comply. It can accept a court enforceable undertaking. There are infringement penalties available currently set at \$18,780 per contravention. It is open to the ACMA to apply to the Federal Court for penalties as well.

**Senator ROBERTS:** This is an interesting quirk. Does per contravention mean each phone call?

**Mr Fenton:** It would depend on the construct of the particular obligation in question. But it can apply to a specific contravention. Once again, it comes back to the actual structure.

**Senator ROBERTS:** Yes. I understand. Thank you. Finally, it strikes me that there is the Starlink service, which covers almost everywhere in Australia. It can access the sky, and that's pretty much everywhere. Would it be a good back-up for text messages and limited voice conversations and emergency calls to fit into that network?

**Ms O'Loughlin:** That's a really interesting question. I think there's a lot of interest in Starlink and, indeed, other satellite services, such as low earth orbit satellite services, that may be able to provide direct to handset text or, indeed, calls which are now starting to emerge. There is the potential for that to really benefit particularly people in regional or remote areas or areas of Australia that have trouble getting signals. I think the department is commencing to look at that in more depth to see what that potential is. There has been quite a lot of strong interest internationally as well, as you can imagine, from particularly countries who have the same sort of issues we have in trying to get signals into various areas. The United States recently, from my reading, had come to the conclusion that technology was just not quite mature enough at the moment to be a backstop for emergency calls but could be in the future. I think the department is going to be looking at whether that is a potential in the future. We think that's a really exciting development in the satellite space.

**Senator ROBERTS:** Thank you. I must say that I appreciate the direct answers.

**Senator PAYMAN:** I have a few questions on BetStop and scams. Could you please run the committee through the numbers of sign-ups to the Labor delivered BetStop initiative and perhaps give us a breakdown by age and the length of exclusion?

**Ms O'Loughlin:** Thank you very much for the question. I might start and then I will pass to my colleagues. We launched BetStop, the national self-exclusion register, on 21 August 2023. The system is performing as it is designed. As at 31 January, 17,423 people had registered for self-exclusion, which we think represents a really important new tool for people when they are trying to manage their own gambling habits. The industry itself has made more than eight billion queries against the register during that time, so it is operating extremely effectively and quickly and is turning around requests in milliseconds. So we're very pleased with the way that it is progressing. I will pass over to my colleague Autumn Field to take you through some of the data.

**Ms Field:** I understand that you are after the age of registrants and the period of exclusion. In relation to registrants 30 years and younger, 48 per cent of them are on the register. Thirty-two per cent are between the ages of 31 and 40 years. Twelve per cent are between the ages of 41 and 50 years. Six per cent are between the ages of 51 and 60 years. Three per cent are over the age of 60 years. In relation to the selective exclusion periods, 38 per cent of all registrants have opted to exclude for their lifetime. Seventeen per cent have opted to exclude for three months. Thirty-nine per cent have opted to exclude for a period between three months and two years. Four per cent have opted to exclude for between two and five years. One per cent have opted to exclude for five years.

**Senator PAYMAN:** That's wonderful. Less than six months old and it's looking good. What sort of feedback has the program been receiving from harm reduction advocates?

**Ms Field:** We have been meeting with a number of harm reduction advocates. Feedback from them has been overwhelmingly positive in terms of the ease that people are finding to make their registrations. We've also had good engagement from industry. I would say to this stage, we've seen high levels of compliance with the new regulations. At this stage, it is very positive.

**Senator PAYMAN:** Excellent. Just on scams quickly, last year, the government announced the commencement of a pilot SMS Sender Id Registry to help combat SMS scams. Can you inform the committee on how the pilot is progressing and what options ACMA is looking at to expand the participants?

**Ms O'Loughlin:** The first phase of that process is, as you said, the establishment of a pilot registry, which commenced on 15 December last year. That initially pretty much involves consolidating and centralising some of the existing arrangements which were already in place between telcos and brands. I'll ask my colleague to say a bit more on the registry.

**Mr Fenton:** The pilot does consolidate and uplift previously existing provider level initiatives. Some of the benefits of that have been about ensuring there's consistency of information in the registry and that it's a secure central database for the information to be provided to industry. Our understanding is that it's been well received by the brands who are participating in the pilot. I do have data that indicates that 443 million SMS scams have been blocked to 31 December 2023. That includes some of the scams that have been blocked under the Sender ID Registry pilot. The current status of the pilot is that we are looking to expand the pilot to cover brands that are targeted by scammers because of their profile in the community and the way they communicate with their customers to extend the protections.

**Ms O'Loughlin:** The current telcos participating are Telstra, Optus, TPG, Telecom and Pivotal. The brands are the Australian Tax Office, Services Australia, National Australia Bank and the Commonwealth Bank of Australia. The second stage would be to expand that pilot to blanket coverage across the telco industry. We may need some powers to be able to make sure that occurs. It would be to work with those different brands to show them the benefits of participating in the registry as well. The pilot has been, as Jeremy mentioned, very useful in looking at consistency, but we really need to take this some step further to make sure we have coverage of all the well-known brands and all the telcos.

**Senator PAYMAN:** Wonderful. Thank you very much.

**Senator CADELL:** Is Linkt on the list to be done soon? I think I owe them 14 grand from the number of texts I get.

**Ms O'Loughlin:** Not quite yet.

**Senator CADELL:** Fair enough.

**Ms O'Loughlin:** We're certainly in conversations with organisations such as Linkt and Australia Post. They are very well aware that their brands are being undermined by these processes. Some of the brands we deal with are looking at alternative ways of communicating with their customers through things such as apps rather than sending SMS at all. We are seeing the industry also adjust its behaviour given that they are trying to protect their brands.

**Senator CADELL:** I apologise. I have been given this by my colleague Perin Davey, who is not here. There are some good questions about Tamworth community radio station 2YOU, 88.9FM, and a transfer of licence. In the last October estimates, ACMA said it would be meeting with 2YOU in November to resolve the outstanding issues. Did that meeting happen?

**Ms O'Loughlin:** Yes.

**Senator CADELL:** What date did that happen?

**Ms O'Loughlin:** I might need to take that on notice. If it would be helpful, I will ask Creina and potentially Rachel to give a bit of an overall update on where we are with 2YOU, because there are any number of processes going on.

**Ms Chapman:** There are a number of processes in place. I may need to check with Ms Blackwood whether there was a meeting. My understanding is, whether there was or there wasn't, there is certainly a second meeting, which is happening in the next few weeks.

**Senator CADELL:** So we're not sure when that happened?

**Ms Chapman:** The important thing to note here, I think, is that 2YOU is on air and the meeting that you are referring to, I think, is in relation to the concerns we have about the breach of their licence conditions by the fact that they have moved locations for towers. Their tower is actually at a different height than was required by their licence.

**Ms O'Loughlin:** I might just add from my notes that, on 13 December 2023, the ACMA wrote to 2YOU providing our preliminary investigation report finding a breach of subsection 113(1) of the Radiocommunications Act. That is a contravention of the condition of its apparatus licence. We invited 2YOU to make submissions in response and propose terms for a potential remedial direction. We received advice from 2YOU—

**Ms Chapman:** Quite recently.

**Ms O'Loughlin:** on 29 January. We will be meeting with them in the coming weeks.

**Senator CADELL:** Did the meeting happen? Now there seems to be some doubt that the meeting in November happened.

**Ms Chapman:** I will need to take on notice whether the first meeting happened. There may well have been a meeting. There were certainly discussions prior to the preliminary breach finding that was provided to them.

**Senator CADELL:** I'm just going off notes. The last time there was a meeting, there was a meeting in November that we are now doubting. Now there is a meeting just after this estimates.

**Ms Chapman:** As I say, there may well have been a meeting prior to that preliminary finding. We're now moving to a situation where we will make a final finding in our investigation. I will note that they have pointed out to us that these are issues that are largely dependent upon the local council. I know that the previous site deteriorated to the extent that the local council in effect moved them. There are a number of other ancillary issues around this. We have given them an additional in-field transmitter to extend their coverage. That is an extra site. There are some other issues in relation to power. There are a number of issues that we still need to discuss with

them. There are also ongoing investigations in relation to some content and advertising and sponsorship issues. We actually have had recent new complaints come to us. We did make findings in relation to them previously. They are entered an enforceable undertaking to deal with them. We now have new complaints that we are dealing with as well. We have opened an investigation. It is extremely complex. The important issue is that they are on the tower and they are transmitting.

**Senator CADELL:** Okay. So we have tower height and power. Is that transmission power?

**Ms O'Loughlin:** Yes. Their power is around their licence limits.

**Senator CADELL:** Understood.

**Ms O'Loughlin:** They have to comply with that power.

**Senator CADELL:** We had an enforceable undertaking around sponsorship and ads that they took after a complete complaint. We think they may have breached that again?

**Ms O'Loughlin:** We've got additional complaints that we need to look into.

**Senator CADELL:** If they were moved by council, are council part of any of this? Are they meeting with you or talking with you? Have you had any correspondence with council?

**Ms Chapman:** Not directly with council. We are dealing with the licensee.

**Ms O'Loughlin:** With the licensee.

**Senator CADELL:** I don't know and so I may be walking into a trap asking someone else's questions. It is 2½ years since the application has gone in. Is that right?

**Ms O'Loughlin:** I don't have it to mind. The complication here, Senator, is that before we transfer a licence, we have to resolve all these other issues. All the obligations are on the current licensee. The enforceable undertakings are given by the current licensee. We think it would be not open to us as a regulator to just dismiss those enforceable undertakings and complaints around transmitter tower heights and power and then transfer a licence to another licensee who has none of the legal obligations to deliver on the enforceable undertaking or take action on the other breaches of the Radiocommunications Act that we've found. So our position is that we need all these factors resolved before we consider a transfer of a license.

**Senator CADELL:** Two years ago, if that was the time they put this in, how old are these issues about transmission height? Did they pre-date the application? Did they come subsequent to the application?

**Ms O'Loughlin:** We'll take it on notice. I actually think they predate the application.

**Senator CADELL:** Take it on notice. I'm happy with that. Thanks, Chair.

**Ms Chapman:** Can I just add that the issue with the tower height was that we weren't aware of the move and the increase. It moved at a certain time. I think we only became aware of it in July 2023, when they actually made an application to us to increase their tower height and advised us at the time that they had actually already done that.

**Senator CADELL:** Okay. Thank you.

**CHAIR:** Thank you so much for your time. We will now release you. We will take the afternoon tea break now. We will return at 4.10 pm with the Australian Postal Corporation.

#### **Proceedings suspended from 15:54 to 16:09**

#### **Australian Postal Corporation**

**CHAIR:** Welcome, Mr Graham. It's lovely to see you. Do you have an opening statement?

**Mr Graham:** I do, Chair. Thank you very much. I would like to start by acknowledging traditional custodians of the Canberra region, the Ngannawal and Ngambri peoples, and pay my respects to their elders past and present. I thank the committee for the opportunity to provide this opening statement.

In December last year, after an extensive community consultation process, the government announced a series of reforms to address the deteriorating outlook of our letters business and continue the modernisation of Australia Post. The reform roadmap announced by shareholder ministers was a critical first step in modernising Australia Post and establishing a platform for a more sustainable business that will continue to provide secure employment for tens of thousands of posties and other team members. The changes announced last year will also enable us to focus on what matters most to Australians these days—fast and reliable parcel delivery with better tracking technology and quicker turnaround times through ecommerce.

I'm pleased to advise the committee that we are already seeing green shoots from the modernisation reforms and our Post26 Strategy, which is designed to simplify the business and deliver savings across the organisation

whilst also continuing to invest in key services and improve customer outcomes. Without doubt, both Post26 and the government's modernisation reforms will put us on a more sustainable financial pathway. However, we still face a challenge in outlook as digital services drive down customer visits across the post office network and rising costs tip many licenced and corporate post offices into financial losses.

Late last year, we commenced a buyback program for licensed post offices in metropolitan areas where we have saturation coverage, such as Brunswick in Melbourne, which has 76 post offices in a 7.5 kilometre radius. The buyback offers selected LPOs the opportunity to exit the industry before they are faced with unsustainable losses. These discussions are progressing well. We expect that this will go some way to address the broader sustainability of our post office network, especially in metropolitan areas. But more still needs to be done.

There are more post offices and supermarkets in Australia. We are required by regulation to maintain a national network of 4,000 outlets. This is not sustainable. More outlets will close as their financial losses grow, specifically in metropolitan areas, where we have a significant oversupply of post offices. The minimum size of our post office network was set in 1989 before online shopping and the Internet boom. It makes no sense for Australia Post to continue operating such a vast network, where there can be up to 83 post offices within a single suburban area. We will always ensure Australians have appropriate access to postal services and other important community services. No retail business can sustain loss making stores over the long term.

We're progressively rolling out our trials for our new delivery model, a key element of the reforms announced in December. Trials are now being run across all states, including Camden Park in South Australia, Nepean and Hornsby in New South Wales, Butler in Western Australia, Brendale in Queensland, Alice Springs in the Northern Territory and Launceston in Tasmania. With the average household receiving about two letters a week, the new delivery model will free up more posties to deliver parcels and support the booming ecommerce sector.

I thank our union partners for working with us to bed down the new delivery model trials and for their support for the modernisation of Australia Post. Over the past two months, Australia Post and representatives from the Communication Workers Union have been working together to meet the frontline team members across Australia to outline how the new delivery model will operate and the importance of our Post26 Strategy.

As I've said many times, our team members are the unsung heroes of Australia Post. They proved that once again during the Christmas peak period, our busiest peak period ever, with over one hundred million parcels delivered and 15 million kilos of air freight moved. The Australia Post team worked around the clock in the lead-up to Christmas to ensure that millions of Australians got their gifts and online sales bargains on time. On behalf of the board and executive team, I'd like to thank our frontline delivery and post office teams for all their efforts.

In closing, I am pleased to report that Australia Post remains as relevant as ever to the lives of every Australian. With our modernisation journey well underway, we're in a stronger position to continue supporting the nation than we were 12 months ago. Thank you, Senator. I am happy to take questions.

**Senator WATERS:** Hello, folks. Thanks for the services you continue to provide to people. I have some questions about an article in the papers today. I'm not sure whether you've seen it or not. I have copies if you want to have a look. It would be helpful if the secretariat staff pass it around. It's a piece in the *Australian* newspaper entitled 'Sexodus: female executives flee Australia Post'. It outlines the departure of quite a number of senior women from the executive in what seems a fairly short period of time. I want to understand from you why five senior women have left the executive, leaving just, I believe, one. What is your understanding of the reason for that exodus?

**Mr Graham:** Thank you, Senator, for your question. There are a number of reasons why people leave Australia Post. We're a very large, complex organisation. We have been undertaking quite a strong modernisation agenda which has resulted in us restructuring our support centre. We have simplified our business and changed our management structure. We have people come and go from Australia Post from time to time. Some people feel that is not a career path they wish to pursue. Other people leave for different personal reasons. The current make-up of my executive team is 46 per cent female. The balance is male. Our board is 56 per cent female and the balance is male. But there is no causal effect. One of the people mentioned that some left 14 months ago. As I say, we are going through a restructuring process. We continue to look at simplifying our business and continue to focus on hiring the best people for the job.

**Senator WATERS:** If you have restructured, simplified and changed your management structure, why is it that it's only women who have left?

**Mr Graham:** Well, it's not. We've had many men leave as well.

**Senator WATERS:** How many?

**Mr Graham:** I can get you the exact number. We have taken up to 600 people from our organisation in the last 14 months. It's a significant restructuring.

**Senator WATERS:** On the executive team?

**Mr Graham:** Not in the executive team, no. We've had a couple of people leave the executive team. In recent times it has been women, but they are for different reasons. It is nothing to do with Australia Post. It is for personal reasons that they have made a decision on. We as a business continue to have changes made both in our executive team as well as our management team. We are in, as I say, a significant modernisation process. We continue to focus on making sure we have the best people for the job. We have a very good history of ensuring that we promote and support women particularly and people with a disability. We're one of the largest employers in the country. So 5.7 per cent of our workforce is people with a disability. Over 3.2 per cent of people are from a First Nations background. We have a number of specific programs in relation to supporting women in their career path. Our parcel business and our postie business is a traditional male dominated business. Despite that, 57 per cent of our management coterie is female in the operational side of our business. We continue to look for the best people for the jobs we have.

**Senator WATERS:** I will take you to some of those figures. The article today, which may be wrong so I seek your advice here, says that there's only one woman left on the executive team. You have just told me that you have 46 per cent women on your executive team.

**Mr Graham:** Correct, yes.

**Senator WATERS:** Can you give me a bit more on that?

**Mr Graham:** In the current executive team I have, we have four women reporting directly to me. We have a head of communications, our head of community, my chief of staff and the head of people and culture. And there are five men, making nine.

**Senator WATERS:** Four women and five men?

**Mr Graham:** Correct.

**Senator WATERS:** That sounds a bit better than the picture painted by the article. It also mentions that one of the women who has left was in charge of leading the gender action plan. What has happened to that? Who is in charge of that now? What is its current status?

**Mr Graham:** We've had a longstanding gender action framework within Australia Post. We have each executive general manager take responsibility for one of our main activities. For example, Rod Barnes, our head of network operations, sponsors our reconciliation action plan. I sponsor our refugee program. The current program that you talked about was picked up previously by the EGM. It's now picked up by Sue Davis, who is our head of people and culture.

**Senator WATERS:** What is the status of that document now, the gender action plan?

**Mr Graham:** We have an action plan that is in place. We refresh it on an annual basis. We have a gender committee that meets on a quarterly basis that is formed from disparate elements of our business. There is a broad-based contribution from operations, our support centre and our post office network. It is a similar framework that we have to our Mob@Post, our disability team as well as the team we have for our refugee action plan.

**Senator WATERS:** Ms Valentine was previously leading the gender action plan. Was one of the reasons for her departure dissatisfaction with the gender action plan or the way the organisation handles gender issues?

**Mr Graham:** I won't go into individual reasons why people leave Australia Post. That's not something that we wish to talk about. There was no specific issue with that plan. It is a plan that has been in place for quite some time. It is a very mature process within Australia Post. As I say, we look to have our EGMs, our senior executives, sponsor each of these initiatives that are part of our community action plan. Australia Post has a long and proud history of being involved in community groups and actually setting a very good example within the business community, particularly in relation to gender affirmation, people with disability as well as our community grants program.

**Senator WATERS:** Do you have any concern that there might be a cultural reason for the departure of these five-odd women from the executive team?

**Mr Graham:** None whatsoever, Senator, no.

**Senator WATERS:** Out of interest, I know that you mentioned that your parcel component of the business is male dominated. What proportion of overall employees at Australia Post identify as women?

**Mr Graham:** About 37 per cent.

**Senator WATERS:** Lastly from me, have you taken any action since those five senior women have resigned or left to employ more female executives?

**Mr Graham:** We continue to have a process of recruitment that looks for the best people. We've recently just appointed, for example, a woman to be head of our property portfolio. We continue to look for the best people. As I say, we have in place a number of programs that facilitate the talent development and experience of women specifically, particularly in our operational areas, where we know traditionally it has been a male dominated area. So we have women in operations, which is a committee and a forum that reaches out to women in our operations who are existing in that workforce but also have aspiration for leadership careers. We provide investment to put them on specific training and education programs to help accelerate their experience so they can be in a position to take those leadership and management roles.

**Senator WATERS:** Would you mind providing a copy to us of your gender action plan if that's not otherwise available?

**Mr Graham:** Certainly. We will take that on notice and provide that to you.

**Senator WATERS:** Thank you very much.

**Senator HENDERSON:** Mr Graham, good afternoon and thank you very much for your time. I am looking at your executive team on your website. You say that 46 per cent of the people on your executive team are women yet when I look at the executive team on your website, there are six men and one woman.

**Mr Graham:** Correct, Senator. The current structure in terms of direct reports to me with the departure of one of the female executives—

**Senator HENDERSON:** Hang on a minute. You've just told our committee—

**Senator WATERS:** I asked you twice that.

**Senator HENDERSON:** Yes. You were asked twice. You said 46 per cent. On my calculation, one woman and six men is only 16 per cent. There is just the one woman on your executive team. Why did you not—

**CHAIR:** Maybe you could finish.

**Mr Graham:** Let me clarify, Senator. So the website needs to be updated. Obviously, when we have situations where we have split responsibilities, those people are direct reports. I take the question that the senator asked. Maybe I should have clarified whether she meant direct reports or executive team. If you meant the executive team that appears on our website, you are correct. In terms of the executive team that currently reports to me, 46 per cent of that team is women.

**Senator HENDERSON:** So in defence of Senator Waters, her question was very clear.

**Senator WATERS:** Yes.

**Senator HENDERSON:** She asked how many women on your executive team. I have to say, Mr Graham, that you need to do better than that. You gave us a very inaccurate answer. That is very disappointing.

**Senator WATERS:** I am still confused as to what the answer actually is.

**CHAIR:** Maybe you could step out the executive team so that we're all a bit clearer.

**Mr Graham:** I'm happy to correct it and step back on that one. Currently, in the executive, as we call it, which is people who are reporting directly to me, 46 per cent of them are women. However, that team is made up of a situation where we split responsibilities before what we call the leadership team. We call the leadership team, Senator Henderson, what we see in our website. You are correct; in the leadership team as reported on our website, which is the team that is considered part of our leadership group, there is only one woman. In terms of the executive team that currently reports to me, because of a change we made when we had a senior woman depart and we split two roles, there are two additional people who report to me and my chief of staff. In terms of the leadership team, as you classify it, Senator, apologies. I should have clarified specifically what you were asking for.

**Senator HENDERSON:** Mr Graham, the question was very clear.

**Mr Graham:** Well, it's a terminology question, Senator.

**Senator HENDERSON:** Senator Waters asked you about your executive team, not leadership team.

**CHAIR:** I am just going to help us out here. We all want the answer. If you could please step us through as clearly as you possibly can what those roles are. You are right; it is a terminology thing. It is executive team and



leadership team. There are differences. Just so we're really clear, can you step out exactly who sits where so that we can be clear about the response here.

**Senator HENDERSON:** Chair, can I finish my questions on this first? I am happy, obviously, if you want to ask questions.

**CHAIR:** All of the questions are going to this point.

**Senator HENDERSON:** That is a matter for me to make a judgement on.

**CHAIR:** You are going back to Senator Waters. I think we should clear that up first.

**Senator HENDERSON:** Chair, I did have the call. I want to complete this. I am happy then to get to you.

**CHAIR:** You don't want us to understand the situation because it offends your performance.

**Senator HENDERSON:** No. I just get offended when I don't have accurate answers in Senate estimates. On your website, it says your executive team of six men and one woman. Is that your executive team?

**Mr Graham:** That is what we call our leadership team. The website calls it an executive team. That is where partly the confusion came up, Senator. Apologies to Senator Waters if I didn't specifically ask to clarify what she meant by that. That is our executive-leadership team. In terms of what we see as the executive team that currently has direct reports, which would normally be classified as the leadership team, we split responsibilities for that with the departure of one of our senior female leaders. Currently, people directly reporting to me, which would normally be classified as a leadership team, include two additional women. In terms of the leadership team—

**Senator WATERS:** Job sharing? You said you split it.

**Mr Graham:** No. Not job sharing. We had one person overseeing community sustainability, media and government relations. With the departure of that individual, we have split that responsibility of one person overseeing government relations, sustainability and community and one person overseeing media. They report directly to me at this point in time.

**Senator HENDERSON:** Mr Graham, this is very confusing. Could you provide an organisational chart—

**Mr Graham:** Certainly, Senator.

**Senator HENDERSON:** which clearly disseminates the executive team from the leadership team. I want to be very clear here. 'Our executive team'—is that correct on your website? You said before that the website is wrong.

**Mr Graham:** What I said, Senator, is that when you have someone leave, you make interim measures to split responsibilities. These are very large roles. We have split that responsibility. So rather than having one individual report to me with that combined responsibility, we have split that responsibility into two executives who now report to me. As an interim organisational structure, we could, for example, update that website to say this is the interim structure, which has two additional reports to the CEO, but we didn't feel it is necessary because it is an interim measure. On the strict letter of classification, perhaps we should have done that, Senator.

**Senator HENDERSON:** Let's go back to basics. Is the website correct or not correct?

**Mr Graham:** It depends how you classify it, Senator. If you clarify—

**Senator HENDERSON:** You are running the organisation, Mr Graham. Oh, my goodness. Seriously.

**Mr Graham:** Seriously, Senator. The fact is that the executive teams change. You have interim structures that allow for when someone leaves an organisation. You split responsibilities. At the moment, that responsibility is split, which has seen two people step up to report directly to me. Theoretically you could say that we should have updated the website to say that these two people are now reporting directly to the CEO. They are not considered part of the leadership team because they are not executive general managers, as per the classification that would normally be associated with that level. That is why we did not update the website. The website generally shows people who are executive general managers. To your point, Senator, we only have one female in that current coterie of executive general managers. In terms of the executive team that runs the business day to day, including general managers who report directly to me, we have three additional women. That is basically it, Senator.

**Senator HENDERSON:** You referred in your answer to the fact that some of the women were interim. Could you explain what that means? Do they not have an ongoing job?

**Mr Graham:** We are talking pedantics here, unfortunately. We want to be really clear.

**CHAIR:** We've had it all day, Mr Graham.

**Mr Graham:** We had a role that covered sustainability.

**Senator HENDERSON:** There is only one person talking in circles at the moment, Mr Graham, and it's not me.

**Mr Graham:** No. I don't think so, Senator. I have been very clear and it's very easy to understand, Senator. When you have a structure where you have someone who has a role that combines four responsibilities within the organisation, that individual leaves, you need someone still to run those responsibilities who is reporting in to the chief executive so that they understand what is going on in that part of the business. When that person left, we split that person's role into two separate roles. One was for sustainability and community and government relations and one was for communications. That is a very normal, very natural thing to do when you don't have a successor for that role. We are out in the marketplace looking for that successor. When we find that successor, we will put that person back into that role. Those two people will then step down into their normal general manager roles. At the current point in time, they have stepped up to be direct reports to me because we don't have an individual at an EGM level, which is normally what we would report on our website. But we didn't update the website because they are not EGMs. That is a technical term where they get classified. They appear on the website as an officer of the company.

**Mr Macdonald:** I can perhaps clarify one point.

**Senator HENDERSON:** Can you clean up, in other words, Mr Macdonald?

**Mr Macdonald:** I want to add to something that Mr Graham said around the distinction between the reporting of direct reports to him and what is published on our website. Our annual report and our website reflect those individuals who are key management personnel for the purposes of reporting. That's why EGMs are reported on that basis but general managers that are acting on an interim basis while an EGM is being recruited aren't reported on the website. If we were publishing the annual report, they wouldn't be reported as key management personnel either.

**Senator HENDERSON:** Thank you, Mr Macdonald.

**CHAIR:** We're going to rotate the call now. Senator Waters has a clarifying question.

**Senator WATERS:** Mr Graham, thank you for breaking down the different categories. Five women were reported in the *Sexodus: female executives flee Australia Post* article today. Of those five women who have left, were they on the leadership team or were they on what you now have outlined as the executive team? At what level were those women?

**CHAIR:** Are they general managers or executive general managers?

**Mr Graham:** Two of them were executive general managers. Three of them were general managers.

**Senator WATERS:** Three of them were from that lower down—

**Mr Graham:** Correct.

**Senator WATERS:** Out of how many of the total?

**Mr Graham:** Two of the five people mentioned were executive general managers. One left 14 months ago. The other one left recently.

**Senator WATERS:** Leaving one EGM who is a woman out of seven?

**Mr Graham:** Sorry?

**Senator WATERS:** How many EGMs are there at the moment?

**Mr Graham:** Currently one EGM.

**Senator WATERS:** In total? How many people are EGMs?

**Mr Graham:** Sorry, nine in total.

**Senator WATERS:** And one is a woman. There used to be three and now there's one. Is that right?

**Mr Graham:** Correct.

**Senator WATERS:** You are still not concerned that there is a cultural reason for the departure of these women. When I asked you what processes are being undertaken, you consistently said that you'll hire the best people for the job. When it comes from a white man, that generally means unconscious bias, so another white man. Have you taken any proactive steps to recruit women for those EGM positions, be they interim or permanent?

**Mr Graham:** Yes. I don't take your comment around unconscious bias, Senator.

**Senator WATERS:** That's not just you. Everybody has unconscious bias.

**Mr Graham:** I agree with that. But we particularly—and I personally in my career—have always wanted to make sure we provide a right environment for employing women. We do particularly ensure in our selection panels and in our shortlist panels that we have female candidates put forward for these roles. We do obviously look to pick the best person for the role. We do make sure that, when it comes down to the shortlisted panels, we ask the companies involved in recruiting to ensure that a female is, if possible, on that shortlist of candidates.

**Senator WATERS:** Do you have women on the board selecting the successful people?

**Mr Graham:** Yes, we do.

**Senator WATERS:** What proportion?

**Mr Graham:** So 56 per cent of our board is female. Part of—

**Senator WATERS:** On the recruitment panel?

**Mr Graham:** As part of the process with the board, in all senior executive roles we have at least two board members interviewing the shortlisted candidates. We work with the board to validate the preferred candidate and obviously take that role forward.

**Senator WATERS:** That doesn't answer my question about how many women are on the recruitment panel for these EGM roles.

**Mr Graham:** The panels differ depending on the role that we have. Certainly if it's with the board, there's at least one female and one female board member involved in the recruitment process.

**Senator WATERS:** When is that version of the process used? Who hires the EGMs? Who is on the recruitment panel when you are choosing an EGM?

**Mr Graham:** The recruitment panel is a result of either our own market research or working through a recruitment agency. It involves me and our head of people and culture, Sue Davies. It will involve two members or more of the board, depending on the expertise of the board and the relevance we think they have to that role, with at least a minimum of one female member of the board involved in that recruitment process.

**Senator WATERS:** Do you all have equal say in the hiring, or does the buck stop with you?

**Mr Graham:** The buck ultimately will stop with me because I am the CEO and I will be accountable for it and happy to take that accountability. But, like all good decisions, you will make sure that you consult well. If there is a major disagreement, which there hasn't been to date, we will talk through the rationale behind that. Ultimately, you cannot force a person on to a CEO because that makes it very difficult in the start of that relationship. To date, we haven't had that issue. I think it's good practice to have board input and, as you say, gender input into these roles.

**Senator WATERS:** Have you done a staff satisfaction survey, given the departure of some very senior women in fairly significant numbers in a short period of time?

**Mr Graham:** Well, also a significant number of men, Senator.

**Senator WATERS:** All the more reason to do a staff survey—

**Mr Graham:** Which we do.

**Senator WATERS:** If people are unhappy with the culture. Why are so many people leaving?

**Mr Graham:** Because we've gone through a major restructuring, Senator.

**Senator WATERS:** So you are sacking them?

**Mr Graham:** We are making people redundant.

**Senator WATERS:** Of the ones that you are not sacking, that are leaving voluntarily—

**Mr Graham:** It is a combination of both. We have gone through a major restructuring. We have unfortunately had to make a large number of people redundant as part of that. As a result of those changes, there are also people who voted of their own volition to say they don't want to be part of Australia Post going forward. That's quite normal when you go through a large restructuring. We do run a team feedback survey. Last year, our score went up one point, which I think, given the tumultuous situation we were in, was actually not too bad. We also have run a very large cultural program called the AP Way. We put 27,000 of our frontline team members through it. That focuses on our Post26 Strategy. It focuses on looking after each other. It focuses on delighting in our customers and communities and contributing to making us a sustainable enterprise both for the planet and financially. The feedback we've received in that program has been terrific.

**Senator WATERS:** Of the five women who have left, how many resigned and how many were sacked?

**Mr Graham:** Again, that's confidential information relating to those individuals, which I don't want disclosed. As I say, we are a large organisation of 68,000 people. People come and go from Australia Post. When we do have someone leave who wants to resign or depart Australia Post, we do run a detailed exit interview to validate the root cause as to the reason. Sometimes it's very straightforward; they've been offered another job or want to take a different career path. We saw a lot of that during COVID, with people deciding to do very different things. We take any voluntary exit from our business seriously and want to understand if there are any root causes we need to address.

**Senator WATERS:** But you won't tell me if any of those five voluntarily left or not?

**Mr Graham:** I think that is confidential information relating to those individuals.

**Senator WATERS:** This is the last question from me. Of the significant folk who are no longer working for Australia Post after this restructure, what proportion of them are women?

**Mr Graham:** I will give you the breakdown. About 37 per cent of our overall workforce is female. That gives you—

**Senator WATERS:** Post restructure. I'm talking about the people who have either resigned or were sacked.

**Mr Graham:** Post the restructure, that's the current number.

**Senator WATERS:** I'm not asking you that. Of the people who have either resigned or been sacked as a result of the restructure, what proportion of them are women?

**Mr Graham:** I will get to the actual number and take it on notice. I would say anecdotally the greater proportion would be men. I will come back to you with the specific detail.

**Senator WATERS:** Lastly, in those exit interviews that you conduct, have people raised a culture problem, particularly on the basis of gender, with your organisation?

**Mr Graham:** Not from the data and the information I've seen, Senator, no.

**Senator PAYMAN:** Good afternoon. What impact will the changes to Australia Post performance standards announced by the government last year have in terms of the modernisation aspect? What lessons essentially are we learning from the trials of the new delivery rosters, for instance?

**Mr Graham:** Thank you, Senator, for your question. As you say, the government last year announced changes to mail delivery to allow us to deliver one day less a week. The average household receives less than two letters a week, and 98.4 or 98.5 per cent of all mail is corporate mail. Our customers have been telling us that they are not really interested in getting the letters as frequently because they do not get that many. They are interested in their parcels. In the trials we have run to date, we are seeing a really good acceptance by our frontline posties in the change of the delivery model. We're also seeing very strong acceptance by the community, which has not seen any degradation of their mail service and, indeed, has seen what they perceive as an improvement to the parcel service, even though we haven't specifically put any additional services in. But I think that is to do with the fact that they see that postie in their street five days a week still but carrying more parcels than they did previously. This has allowed us to drive efficiency in our mail business, which, as we know, is a loss making business and over time will allow us to enhance the service delivery for our parcel business.

We've got a trial in every state. I have been around the country with the CWU addressing union members and our frontline team members. The feedback has been overwhelmingly positive. They understand this is an important element of our modernisation journey. Indeed, it's not something that is unique to Australia Post. We've seen mail decline and changes of mail service in many other markets.

**Senator PAYMAN:** Can you remind the committee when the trials began?

**Mr Graham:** The trials began in September last year in Hornsby in New South Wales. We've now, as I say, rolled out to every state and will continue to roll that out. As we roll it out, we test and learn. We get more information and more data. We then work closely with the union to tweak and refine the model as we roll it out. Every site is unique because of the nature of the volume and the terrain and whether it is a walking site or a motorbike site or a van site. It's not as if we can overlay a standard model, which is why we need to work closely with the local community and the local posties to make sure it reflects both what the community needs as well as not be overly burdensome on the individual postie.

**Senator PAYMAN:** Is there a time line for the trial before you review it, or is it just an ongoing thing?

**Mr Graham:** The government has put forward the regulatory drafting. Should it be successful and pass through parliament, that will allow us to make that a permanent part of our network, which is why we're currently conducting the trial so that we would be ready to go. This will take us between 12 and 18 months to roll out

across the whole network, given the scale of our network. As I say, so far, so good, particularly with the feedback we've got from those communities that have seen that trial in place.

**Senator PAYMAN:** Excellent. Thank you, Mr Graham.

**Mr Graham:** Thank you, Senator.

**Senator DAVEY:** I followed the previous questioning. It is very interesting. You covered off some of the areas I was interested in. I am also very interested in your structure. How many post offices did you say you have?

**Mr Graham:** It is 4,267 currently, Senator.

**Senator DAVEY:** Across the nation?

**Mr Graham:** Correct.

**Senator DAVEY:** On your website, it says 2,500 are in rural and remote areas?

**Mr Graham:** That's correct.

**Senator DAVEY:** Can you explain to me the difference between a post office, a postal franchise, a licensed post office and a community postal agent?

**Mr Graham:** Yes. A community postal agent is, I guess, the simplest form of Australia Post services that we provide. That allows someone to go and buy stamps to mail a letter, to receive a letter and has a very limited range of services. Usually you'll find that in conjunction with a newsagent or the back of an IGA in a rural area. We then have a licensed post office, which is where we allocate a licence to an individual or a small business to run as a licensee of Australia Post. Again, that licence could be in conjunction with another business that they run—a chemist, a newsagent or an IGA. Then we have our corporate post office, which is owned by Australia Post and operates as a formal part of the Australia Post network. They are the three categories we have in Australia Post.

**Senator DAVEY:** When people talk about postal franchises, they are probably talking about LPOs, or licensed post offices?

**Mr Graham:** Correct. I would think so, Senator, yes.

**Senator DAVEY:** Are the majority of LPOs and CPAs in rural and regional areas?

**Mr Graham:** Yes, they are. Almost two-thirds of our network are licensees. The majority of those licensees and the majority of our regional and rural network would be licensees.

**Senator DAVEY:** I am happy for you to take it on notice. Can you provide a breakdown of the numbers of urban, rural and remote by both post office, LPO and CPA?

**Mr Graham:** Yes. I think it is in our annual report, but we're happy to take that on notice and provide that to you.

**Senator DAVEY:** That would be great. You mentioned in your opening statement that you are looking at devising a process of buyback of select LPOs to allow them an exit option. Predominantly what areas are these LPOs that you are looking at? Are they only in suburban areas, or are there certain rural and remote sites that Australia Post might buy and turn into a corporate post office?

**Mr Graham:** No. We are only focused in metropolitan areas and in a metropolitan area where another postal service is within 1.7 kilometres. We have been very specific in targeting those licensees where we think there is significant overlap in that geographic area and where we note from the commissions we pay them and looking at the viability that they may be facing some economic uncertainty. The buyout is to allow them to exit and leave that business and hand that licence back. We find that the revenue that they give up with that closure then moves into other licensees or corporate post offices in the area, hence making them more sustainable. It's a very targeted, very specific program. We have not opened that up, nor do we anticipate opening it up to regional and rural areas.

**Senator DAVEY:** When you have a regional area that has a licensed post office potentially owned by a couple that are entering their twilight years and they are seeking to retire and they can't find a buyer for the licence, what happens in those communities? Are they just left without a licensed post office? I note that in the last year alone there have been certain towns—two in Dalgety and Woodstock in New South Wales, and Loch and Sebastopol in Victoria—where, instead of licensed post offices, they've converted to the community postal agent. My reading is that community postal agents have to be manned by volunteers. The small subsidy that Australia Post provides does not cover wages or any additional services. There's no option in those centres? Deniliquin is a town of 7,000. I love my licensed post office. Allan and Shirley, hello. I'm not hoping you're

retiring. I'm just using you as an example. If they wanted to retire and there was a lack of interest, what happens then?

**Mr Graham:** Well, it's a very good question, Senator. That's one of the challenges we face. Indeed, you're absolutely spot-on. We are seeing a demographic shift of a lot of our licensees. I have been out visiting a lot of them in regional and rural areas. They are in their twilight years looking to retire after decades of fantastic service to that local community. Unfortunately, the community and people who are business people know that is a sunset business and it's not financially viable. Therefore, it makes it very difficult to attract people to take over that licence. We then work with the community to understand the range of services they require. We then work with other businesses. It may then be put in conjunction with the local pharmacy or the local IGA. It is a difficult situation. We are very mindful, particularly where we have a Bank@Post operation and we are the only Bank@Post in town. We will find a solution to ensure that community gets access to the provision of cash. I think it is part of the broader change we're seeing in regional towns. Unfortunately, through digitisation and other avenues, the traditional foot traffic that we would see in our post office is dying out. I was in one of our regional post offices recently. They wanted to get a temporary person in just to help them out on Friday and Saturday morning. They can't even get the labour, never mind someone interested in taking over the business. So it's a real challenge. We are very committed to try to find solutions with the community in relation to that. But it is difficult.

**Senator DAVEY:** I note Yulara post office near Ayers Rock has been on the market for some time. I am very concerned for those really remote communities that rely on that post office for services if there is no other option. We know, through my questioning through this committee, that a significant number of Bank@Post services are operated by licensed post offices where there is no other bank in town. What happens if that licensed post office leaves that town? They've got no cash, no post, no stamps. There is a very significant impact on the social fabric of that town.

**Mr Graham:** Absolutely. Particularly those in remote communities. We have a community service obligation where we spend upwards of \$430 million a year fulfilling our community service obligation. We take that incredibly seriously. We will work with that rural and remote community to ensure that essential services are provided. Likewise in those towns where we are the only banking service in town, we would work with that community to ensure that the basic services are provided. But it will become increasingly difficult in terms of finding people to actually work in those places. We've got a significant shortage across our network, particularly in regional towns and places like Alice Springs and Katherine. At the moment, for example, in Katherine, we are billeting people down on a three-month secondment basis from Darwin. That is the only way we can get people to man our post office there. The provision of cash as cash continues to be a topic for discussion. The provision of flying cash into these communities becomes a cost that only Australia Post incurs. We have to get support for those costs. In a number of regional towns at the moment, we are flying cash in on our ticket, so to speak, our dime, but that's not sustainable. In the town of Coober Pedy, for example, it is about \$4,000 a week that we're spending flying cash in to make sure that town has a provision of cash. That's not what we were set up to do. The banks need to be cognisant of their community responsibility and work with us to ensure that communities that do have a need for cash—and it will be some time before that need extinguishes—have those services available.

I think the key, Senator, is working closely with the community. The challenge we have in most cases is that we get short notice. Sometimes it is ill health as well, but the individual basically just shuts up shop. Therefore, we have to scupper to find an alternative solution. Ideally, if we are given sufficient notice, we will work with the local chamber of commerce. We'll work with the local council. We will find a solution to ensure that community gets the services that it needs.

**Senator DAVEY:** In the example you gave of Katherine where you are flying someone in and billeting them for a period of time, that would be a post office as opposed to a licensed post office?

**Mr Graham:** Correct. I think it just heightens it. In our corporate post offices, where we have full-time team members we can deploy, there is a difficulty in actually hiring someone in some of these regional towns. Katherine is a pretty decent sized town. I've been there. We've got a very large post office. It is difficult for us, so I can imagine just how more difficult it is for a small licensee who is running with a mum and pop operation trying to attract people in to come and help them out. To be clear, this is a six-day a week, 6 am in the morning to five or six o'clock at night business. The community knows that. Therefore, it is difficult to find people who will take these businesses over. In saying that, there are areas, of course, where that's a great business because of foot traffic and demographics. Particularly in regional towns where the banks have left and the provision of traditional postal services has gone digital, it presents a real challenge.

**Senator DAVEY:** Thank you.

**Senator ANTIC:** I want to touch on some of the things we talked about earlier here, perhaps from a slightly different angle. You have a diversity and inclusion policy, I think?

**Mr Graham:** We do, Senator, yes.

**Senator ANTIC:** Why?

**Mr Graham:** Well, we represent the Australian community in terms of the breadth and depth of our organisation of 68,000 people and 134 different nationalities. It's an important factor for team members when they look at the culture of a company that they wish to work for. They want that culture to be inclusive. They want to ensure that if they have a disability, if they come from a certain ethnic group or if they have a certain sexual inclination they're not going to be discriminated against and they're going to be welcomed to work at that enterprise. So we take that responsibility of ensuring we have the right culture to encourage people who want to work at Australia Post. We're in the war for talent, like everybody else. Therefore, we have a policy and a process that ensures that we adhere to our principles and we adhere to our code of conduct as to how we treat people who may for various reasons feel that they could be discriminated against.

**Senator ANTIC:** You are talking about how you treat your employees. I'm talking about what diversity and inclusion actually does for your main objective, which is delivering letters. How does it help you to have a broad and diverse range of people when the goal is to put letters in letterboxes? I don't understand.

**Mr Graham:** Our key goal is to provide a broad range of services, Senator, not just letters—parcels, banking services and insurance services. We deal with every community in Australia. We are quite unique in that regard. We are the most geographically dispersed community. We want to ensure that people in those communities feel comfortable coming in to our post offices and feel comfortable engaging with our team, knowing that our team will respect them for who they are as an individual and not have any other view other than to provide the best service possible to them.

**Senator ANTIC:** So do you think if I walk into a post office and I'm perhaps an Indian person, I would only feel comfortable delivering my letter over the counter if there's an Indian person behind the counter?

**Mr Graham:** No. Absolutely not, Senator. What I would expect is that our Australia Post team member behind that counter or our licensee treats you the same way they would treat everybody in the community.

**Senator ANTIC:** That's not really about diversity. That's about people behaving like human beings, as we would expect them to.

**Mr Graham:** Well, it is also about diversity. We are present in every community. Take the area of Cabramatta, which has a large Vietnamese community. A lot of our postal team members in that community are Vietnamese.

**Senator ANTIC:** Which is great. How does that help the business?

**Mr Graham:** Because the people coming into those outlets feel comfortable dealing with—

**Senator ANTIC:** So you are saying that Vietnamese people would prefer to deliver their mail through Vietnamese people?

**Mr Graham:** No. I think it reflects the diversity of the community in which we operate.

**Senator ANTIC:** Do you have diversity and inclusion officers who are employees of Australia Post?

**Mr Graham:** No. We don't.

**Senator ANTIC:** Do you have any polling, research or hard data that shows that diversity and inclusion somehow allows the organisation to do its job better?

**Mr Graham:** Yes. We do, Senator. I employ an opinion survey.

**Senator ANTIC:** No. Research, not polling.

**Mr Graham:** Well, we don't have any specific research. There may have been research done in the past before I joined Australia Post. I will take that on notice. I think research, again, would show that a diverse workforce, a culturally engaged workforce, presents, particularly for a service industry, a better service quality than when it's not.

**Senator ANTIC:** That's a broad motherhood statement that we get from many departments as they tell me how important this strategy is. There doesn't seem to be any evidence that it actually does anything to help, yet we're spending billions of dollars on it, it would seem, across the country. Senator Waters earlier asked a question about whether you have taken proactive steps to have women. I think you said that you like to ensure that you have female candidates in job applications. That must surely mean, therefore, that you are pushing aside and discriminating against male candidates.

**Mr Graham:** No, Senator. It means that we look at the individual and the type of role. Fortunately, in the vast majority of our roles, they are able to be managed by both males and females. What we do is ensure that we have an unbiased selection process looking at the skill sets and the experience of the individual. As a traditionally male dominated business, we are encouraging and trying to attract more females into that industry. We have a real issue with trying to get people into our business, as a number of employers have. We think there are great roles in our business for women, particularly in our operational side. Therefore, we are trying to provide an environment and a balanced recruitment process that gives them the best chance of success when applying for that role.

**Senator ANTIC:** I don't understand any of that. I don't understand. No-one seems to be able to tell us how diversity and inclusion policies are anything other than providing an unequal playing field for people based on their race, gender or sexual identity. I don't think we're going to get anywhere with this. Is it the job of Australia Post to create societal change or deliver parcels?

**Mr Graham:** I think our job is both. I think any corporation has a responsibility to ensure it reflects the community in which it operates, that it reflects those community values and that it reflects those community expectations. Our core job is delivering mail and parcel services and financial services. Our communities tell us that they expect us to behave in a way that reflects the values that society has. Society currently says that the value of diversity and inclusiveness is important. I have been fortunate to have worked and lived all over the world. I have been able to validate that when you have an inclusive society and when you respect people for who they are, that invariably leads to a better outcome for everyone.

**Senator ANTIC:** Well, that's just a statement. I don't understand that. I will ask this final question. What is the paramount consideration for Australia Post? Is it diversity or a quality product?

**Mr Graham:** Senator, I think our expectation is that we want to deliver the best service to our customers. That is obviously what all businesses are there for. We believe that one of the ways we can help achieve that is ensuring that we are an attractive employer.

**Senator HENDERSON:** Mr Graham, during the last estimates hearing, I raised a number of concerns about your cost allocation process. There was a particular concern that it appeared that you were shifting losses on to your mail business to make it look as if your regular mail was losing more than it actually was. I went through a lot of those accounts. Anyone who is interested can go back and look at that transcript. I think it was 24 October 2023. You pushed back. We went through this in quite some detail. I raised a range of concerns. You said all of this was in order, yet I now see that the ACCC has raised the same concerns. The ACCC, in its review of the proposed stamp price increase, said in its report:

... stakeholders identified potential inconsistencies in the way costs and revenue are allocated by Australia Post. We recognise these concerns have the potential to give rise to broader competition impacts and recommend that Australia Post review its revenue allocation processes.

The ACCC also said:

The ACCC is recommending that Australia Post make improvements to the way it models, allocates and recovers costs

I will continue to quote from the ACCC report:

We consider that a transparent and consultative process based on accurate and fulsome information is essential for delivering good outcomes for consumers.

I put to you in the last estimates, Mr Graham, that you were moving these numbers around, fudging your numbers, to elevate your so-called costs on your letters business. The ACCC has raised a number of concerns in relation to your cost allocation model. They state:

These include issues with Australia Post's transfer price arrangements with StarTrack, the basis on which subsidies paid to local post offices are allocated within the model, and the absence of short-run and long-run incremental costs within the model, the latter of which are critical for effective regulatory decision-making.

I will ask you to respond. Do you now accept the concerns I raised at the last estimates and, I believe, at the estimates before in relation to your cost allocations? Will you take the action that the ACCC is now urging?

**Mr Graham:** We work closely with the ACCC and we respect the ACCC's view on the report. I think as we've said on numerous occasions, Senator—we've offered to come to your office and explain in detail what is a very complicated financial structure—the allocation of costs and the details that appear in our annual report are signed off by the national office of audit. They are signed off by our external auditors. They are signed off by our internal audit team and have, until the recent report by the ACCC, been accepted and signed off by the ACCC in their previous BPR stamp price increase. It's a model that will continue to be reviewed and evolve. We will take all the recommendations from the ACCC into consideration and adapt, where we can. We want to ensure that everybody feels totally comfortable with our numbers. These are complicated. I am comfortable that the numbers,



as stated and audited by multiple sources, are validatable. Like all models, models continue to morph and change and reflect new ideas and different cost inputs and different allocation inputs that come with the change of our business.

**Senator HENDERSON:** Mr Graham, it's not that complicated. I raised a number of pretty basic concerns looking at your accounts. I also want to specifically put to you the ACCC's statement here, and I quote:

We also recognise the critical importance of cost allocation as Australia Post's business changes from focusing primarily on letters to parcel delivery. This is relevant because the proposed price increase for the reserved letter services should be commensurate with the costs associated with those services only, and should not be used to cross-subsidise other services that are provided by Australia Post in competitive markets.

So implicit in the ACCC's concerns is concerns that you are creating, in effect, an unequal playing field with your competitors in the parcel business. How do you respond to that?

**Mr Graham:** Senator, they don't say we are. They raise the issue that we need to make sure that we are allocating costs appropriately to ensure that doesn't happen. We are very cognisant of that. We understand the importance of making sure that those cost allocations are transparent and that we can provide satisfaction and transparent—

**Senator HENDERSON:** Not just transparent. Accurate.

**Mr Graham:** Correct.

**Senator HENDERSON:** As I did, the ACCC has brought into serious question the accuracy of your accounts, including your cost allocation.

**Mr Graham:** I would challenge that, Senator. I would significantly challenge it. Otherwise they wouldn't have given us a draft to review.

**Senator HENDERSON:** No. That's not true, Mr Graham. I will tell you why it's not true. Despite the concerns they've raised, the ACCC said, 'Look, for the purposes of this assessment, we will, in fact, accept your cost allocations.' They are saying essentially, to cut to the chase, 'Get your house in order.'

**Mr Graham:** I would disagree with that strongly, Senator. They have been involved in modelling our cost allocations for a number of years. The Australian National Audit Office has been involved in signing off that model. Our external auditors have signed off that model. Our internal auditors have signed off that model. This is a model. As you rightly point out, Senator—

**Senator HENDERSON:** This is the ACCC. This is the competition regulator.

**Mr Graham:** Correct. Who has been involved in the modelling process and has signed off that modelling process for a number of years, Senator. As you correctly point out, our business is changing. We are becoming far more a parcel carrier than a mail carrier. That is where our growth is. Therefore, we are very cognisant of the fact that the cost allocations, as we look to integrate parts of our business due to the decline in mail, absolutely stand alone and get allocated to the correct area of our business. That's essential.

**Senator HENDERSON:** Mr Graham, what I find offensive is that I raised a whole range of concerns about your cost allocation model in the last estimates.

**Mr Graham:** Yes.

**Senator HENDERSON:** I also raised concerns in the estimates before that. You completely disregarded my concerns. We now see those concerns validated by the ACCC.

**Mr Graham:** I disagree, Senator.

**Senator HENDERSON:** No. This is a statement of fact.

**Mr Graham:** It's not a statement of fact, Senator.

**Senator HENDERSON:** Concerns have been validated. They have raised quite serious concerns. When questions like this are raised in Senate estimates, it's very important that you take them seriously. If you can't answer something, take it on notice. As I say, the ACCC has now come in and raised these serious concerns, which go to your big issues of competition in the market as well.

**Mr Graham:** Senator, as I said, we recognise that this is a complicated process, which is why we did offer to come to your office and explain in detail how the numbers are made up. The ACCC is doing its job. Its role is to validate—

**Senator HENDERSON:** Mr Graham, I don't need you to come to my office and explain. I am quite capable of reading your accounts. I actually read them. As a result of me reading your accounts, I raised these concerns. I

will go to the point. You've talked around this a bit. Will you give this committee a commitment that you are going to review your cost allocation processes and models?

**Mr Graham:** It's a constant review process. We do it every year in our budgeting process. We do it in conjunction with the National Audit Office, our external auditors and the ACCC.

**Senator HENDERSON:** Can you report back to the committee on notice as to what exactly you're going to do, when the review will be taking place following the ACCC's concerns and the changes that you will be making as a result?

**Mr Graham:** I'm happy to do that, Senator. As you say, the ACCC, in its role, correctly called out some areas that they believe could be improved and some watchout areas, I guess, going forward as our business continues to morph and change. If that necessitates us changing our model and making changes, we will report on those changes, absolutely.

**Senator HENDERSON:** Thank you very much, Mr Graham. I do have another block of questions, Chair. I'm happy to share the call and come back.

**CHAIR:** Everyone else is done. It's just you.

**Senator HENDERSON:** Thanks, Chair. Mr Graham, I want to return to the issue of the termination or resignation of your senior executives. We are talking particularly about women. I note that just because something is confidential, it doesn't exempt you from providing that information. I appreciate that there could be some privacy issues on individual employment arrangements. Are you intending to take a public interest immunity claim in relation to the question that was asked?

**Mr Macdonald:** Perhaps I can respond. Mr Graham responded to Senator Waters's inquiries. We understood that had been resolved. If there are further questions pursuing that information, we would need to take them on notice and consider the public interest considerations.

**Senator HENDERSON:** I am noting the fact that you are required to answer questions, even if something is confidential. If you are making a claim of public interest immunity on privacy grounds, which could be quite legitimate, I'm seeking clarification.

**Mr Macdonald:** Thank you, Senator.

**CHAIR:** You can take that on notice that there is not a requirement to declare it here and now if you have to take it into consideration.

**Mr Macdonald:** Understood. Chair, I think what I was seeking to clarify was whether there was an unresolved question that prompts the inquiry about whether or not we're taking a public interest point or whether or not the question has been answered satisfactorily.

**Senator HENDERSON:** I'll let you take it on notice. Mr Graham, I have received a copy of an email that you sent to perhaps all staff or some staff about a senior staff member who left your organisation. I won't name this person because I don't think that is appropriate.

**Mr Graham:** Thank you, Senator.

**Senator HENDERSON:** You wrote:

I wanted to share the news that ... has left Australia Post. I have been speaking to ... for some time and we have mutually agreed that—

I won't say which sex—

will leave the business with immediate effect. I want to acknowledge the contributions ... has made to Australia Post and wish ... well in ... future endeavours. We will begin recruiting for the role immediately and I will keep you updated regarding this. Be safe, be kind, Paul.

If you've sent an email like that saying that this person is leaving with immediate effect, it's pretty clear that she or he hasn't left of her own accord.

**Mr Graham:** I would disagree.

**CHAIR:** I would dispute that characterisation completely.

**Senator HENDERSON:** Well, I'm not asking you, Chair. I'm asking Mr Graham.

**Mr Graham:** I would strongly disagree, Senator. I would strongly disagree.

**Senator HENDERSON:** So that's not the case?

**Mr Graham:** I won't go into individual cases. I would disagree that view you have is correct. People leave for all sorts of reasons—personal reasons, health reasons, mental health reasons, change of careers or moving overseas. There is a whole bunch of different reasons.

**Senator HENDERSON:** Okay. So leaving with immediate effect isn't a bit of a code that someone has left not of their own accord?

**Mr Macdonald:** Senator, I might assist. My concern is that with this line of inquiry we raise concerns about an individual's privacy. I respect that you haven't named the individual.

**Senator HENDERSON:** No.

**Mr Macdonald:** But you are referring to an email that was received within the organisation. Both the individual concerned and the people within the organisation will be able to put two and two together. That takes us into that territory of talking about an individual and their privacy.

**Senator HENDERSON:** Well, they've got the email. They've already received the email.

**Mr Macdonald:** Yes. You are asking questions that follow on from that email and draw implications from it.

**Senator HENDERSON:** Sure. Why don't you take that on notice?

**Mr Macdonald:** I think we will take that on notice to consider those remarks.

**Senator HENDERSON:** To the extent that if you want to add anything further to your answer, you can take that on notice. I accept the point you are raising.

**Mr Macdonald:** Thanks, Senator.

**Senator HENDERSON:** I want to go to the issue of LPO licensees putting in claims for back pay owed to them. Could you give us information about how much back pay is owed and on what basis?

**Mr Graham:** I'm not aware of any specific claim that is afoot at the moment, Senator. We have a payment regime that is well documented and formalised with our licensees. There are a broad range of services for which we pay fees, commissions and retaining fees. Would you like to provide any specifics, such as whether it is an individual licensee or a bunch of licensees? I'm not aware of any particular formal report in relation to back pay.

**Senator HENDERSON:** I'm not asking about a formal report. I'm just asking about the issue of back pay. Are you aware that licensed post offices were underpaid in terms of the work they did that was not remunerated?

**Mr Graham:** I'm not aware of any specific claims afoot at the moment, but I will take it on notice. We have a broad range of services and commissions. From time to time, there may be a misinterpretation of a fee to be paid or that is paid. We want to make sure that our licensees are paid everything they should be paid. I'm not aware of any particular case afoot, but I'm happy to take that on notice with a clear commitment that if licensees are owed money for any service they performed, they should be paid that money.

**Senator HENDERSON:** I'm very surprised that you are not aware of this issue. I have received information that there are a number of LPOs that are negotiating with Australia Post in relation to back pay.

**Mr Graham:** I'm not aware of any specific negotiations. As I say, we have 2,700 licensees. They all have from time to time raised issues, or we raise issues with them. Those get resolved in the normal course of business. I don't believe there is an ongoing issue in relation to back pay or payments. Again, I'm happy to take that on notice with, as I say, the clear commitment that if there's any systemic issue, which I'm not aware of, then it needs to be resolved. It's unacceptable if licensees are chasing valid payments which they are due.

**Senator HENDERSON:** Well, it's been reported—I am looking now—in the *Guardian* that Australia Post workers were underpaid. There were payroll errors. What is the quantum of the underpayment? You are not aware of this? This is obviously—

**Mr Graham:** Sorry, Senator. The *Guardian* reference relates to Australia Post team members, not licensees. We have an ongoing process of review in our payroll, as every other enterprise does. We have internal and external audits of that payroll. We have a complicated enterprise bargaining framework. It means that we have many different allowances and meal allowances and overtime et cetera. It's no excuse; people should be paid what they are owed. We have through that regular process of audit discovered some underpayments or misinterpretations that were made some years ago, in some cases 10 years ago, around the allocation of long service leave through to holiday allowance. Now under review, it has shown that interpretation was incorrect. Therefore, we have provided payment for those individuals with interest around that short payment. It's not acceptable that anybody has a shortage in what they are rightfully owed. It's no excuse, despite the fact that the enterprise agreements are complicated and difficult to systematise. People should expect that what they are owed they get paid.

**Senator HENDERSON:** This report cites an amount of \$5.6 million over 10 years due to payroll errors. You are right; there is the internal staff. There is the issue of the LPOs. I will go first of all to your own employees. Is that the correct amount that has been underpaid?

**Mr Graham:** The latest update I have on that is it is about \$6.1 million. I think that number is incorrect in the *Guardian* publication. As you correct point out, Senator, unfortunately, some of these issues go back 10 years when an interpretation was made as to the provision of long service leave or a loading allowance to a particular area. On review of that decision, it was proven to be an incorrect decision. Therefore, it should have been paid. What we have done is correct that and notified those people and made sure that they got those funds, including any interest that they would have earned in that period.

**Senator HENDERSON:** That has all been repaid. Is it \$6.1 million, including interest?

**Mr Graham:** I believe it is, Senator. I'll take that on notice. I know the \$5.6 million is not right. I know it has a 'six' in front of it. I will take it on notice.

**Senator HENDERSON:** Assistant Minister, you would be disappointed to hear this news, would you not?

**Senator Carol Brown:** I think Mr Graham has given an explanation on how it came about. We all have to be very careful that we have the proper processes and procedures in place to ensure it doesn't happen.

**Senator HENDERSON:** Have these errors been rectified in your payroll systems?

**Mr Graham:** They have, Senator. As I say, we have an ongoing review of our systems and processes. One thing we are actively working with our union colleagues on as we enter into a new enterprise agreement is to try to simplify the range of payments and different allowances that go with those payments to try to make it simpler to systematise our payroll. I have apologised to all those people impacted. It's unacceptable that people don't get what they deserve. We will continue to invest and ensure that we have the best processes in place.

**Senator HENDERSON:** Okay. Let's go back to the licensees. Mr Graham, you are under oath.

**Mr Graham:** Yes.

**Senator HENDERSON:** You're in Senate estimates.

**Mr Graham:** Yes.

**Senator HENDERSON:** We are asking for full, complete and accurate answers.

**Mr Graham:** I'm aware of that, Senator.

**Senator HENDERSON:** You've told me you are not aware of any matters concerning underpayments made to licensed post offices. Is that correct?

**Mr Graham:** We have 2,700 licensees. There are day-to-day business operations where there may, in the view of the licensee, be a short payment made. There may be a mistake of that licensee where, indeed, money is owed to Australia Post. We've got a large, complicated business. I'm not aware of any systemic issue within Australia Post. I'm not aware of any specific report or major incidents that have been brought to my attention. Day to day we have issues where a licensee will say, 'I did not get paid that particular allowance. I did not get paid that particular fee.' We will investigate it. If it's proven correct, we will rectify it.

**Senator HENDERSON:** So my understanding is that licensees are currently putting in claims for back pay. Australia Post is, in fact, refusing to pay them beyond a so-called six-year statute of limitations period.

**CHAIR:** Senator Henderson, could you provide some evidence of that so that Mr Graham can properly explore your question, whatever it is that you are going off?

**Senator HENDERSON:** I'm just asking the question, Chair.

**CHAIR:** And he has told you he is not aware. Some evidence would be great or something for him to go on so he can go and look.

**Senator HENDERSON:** I am now directing the question to Mr Macdonald with more information.

**CHAIR:** Same, same.

**Senator HENDERSON:** Mr Macdonald, are you aware of any licensed post office that is currently negotiating or in dispute with Australia Post about underpayments, including that Australia Post is refusing to pay beyond the so-called six-year statute of limitations? Of course, as you well know, being general counsel, it only becomes a live issue in proceedings. Are you aware of this? We're talking about hundreds of thousands of dollars here.

**Mr Macdonald:** Senator, I will respond. To answer your question, I'm not aware of any particular licensee claims of underpayment. We do, of course, have claims from licensees from time to time. We deal with them

judiciously and take them very seriously and gather the necessary information. I think we do need to take that question on notice. I am now in the role of corporate secretary. I am not in the role of general counsel, so therefore don't have awareness of those sorts of claims necessarily. I think it's appropriate for us to take it on notice with any information that you can provide us. We can then investigate accordingly.

**Mr Graham:** I will add two things to that point. Obviously because a claim is made doesn't necessarily mean it's correct. We do have historical claims that continue to be raised from time to time around some common issues. There are two common issues. One is the interpretation of an allowance for a mail service fee, which is about putting mail in a postal box. It goes back 20-odd years, I believe. We've gone back on that on numerous occasions and made it clear to, I think, two individual licensees who are no longer licensees as to the fact that was not due to be paid. We've provided documentation to support that. We get this on a quite regular basis. It's a very large, complicated system. There's a lot of history in Australia Post.

**Senator HENDERSON:** Sure.

**Mr Graham:** People have interpretations. Despite us telling them on numerous occasions that we disagree with their interpretation and provide factual evidence to support that, they still will write to us and say, 'Well, we disagree and we're putting a claim in.' We'll deal with them on a case-by-case basis.

**Senator HENDERSON:** Mr Graham, I might need to revert to asking you on notice. I note that the chair has asked for further information.

**Mr Graham:** Yes.

**Senator HENDERSON:** There are privacy issues concerned with the information that I have received. I will need to seek advice on what I can provide further.

**Mr Graham:** And we will investigate on our side, Senator, as well.

**Senator HENDERSON:** Mr Graham, let me assure you that Australia Post is issuing deeds of settlement in relation to underpayments. Mr Macdonald, are you aware of that?

**CHAIR:** If you can provide information, Senator Henderson, it would really help everyone to understand.

**Senator HENDERSON:** This is a separate question. Are you aware that you are issuing deeds of settlement?

**Mr Macdonald:** I'm not aware of us issuing deeds of settlement in respect of recent issues on LPO underpayments. I am aware that from time to time we resolve disputes and issue deeds of settlement. That's part of the ordinary course of dealing with disputes. I don't have awareness of current claims without any further information. But—

**Senator HENDERSON:** Could you take on notice—

**Mr Macdonald:** We can take it on notice.

**Senator HENDERSON:** the number of outstanding claims for back pay with licensed post offices; how much is in dispute in relation to each licensed post office; the status of that dispute; and how many of these claims have been settled and for what quantum? I also raise concerns about the attempts by Australia Post, it seems, to limit its liability to six years for back pay whereas in the case of underpayments of staff, Australia Post hasn't done that. I would appreciate an explanation as to the basis on which Australia Post appears to be doing that, Mr Macdonald.

**Mr Macdonald:** We're happy to, Senator.

**Senator HENDERSON:** Thank you.

**CHAIR:** Out of respect for the other people, can you—

**Senator HENDERSON:** I am very respectful. I have a couple—

**CHAIR:** Can I just finish what I'm saying, Senator Henderson? You have been cutting me off all afternoon. It's very frustrating.

**Senator HENDERSON:** I haven't, Chair.

**CHAIR:** I want to ask you a question. How long do you think you are going to need so we can scale it? That is just so we can make sure that people coming behind are aware of the shortfall.

**Senator HENDERSON:** I would say probably about another five minutes.

**CHAIR:** Thank you.

**Senator HENDERSON:** Thanks, Chair. Thank you for bearing with me. I realise we are running a bit over time. I want to quickly go to the role of Australia Post and the minister's office in relation to the processing and lodging arrangements for the Voice referendum. Mr Graham, what role or involvement did the minister's office

have regarding the time out, if any, she had in the role, the timing or any other arrangements regarding the lodgements for mailouts ahead of the referendum?

**Mr Graham:** To my knowledge, Senator, there was no involvement from the minister. We take our role as an independent arbiter in relation to any referendum or election incredibly seriously. We executed the distribution of both political material on behalf of MPs and political parties as well as on behalf of the Australian Electoral Commission. We did a good job in doing that. That was our key focus.

**Senator HENDERSON:** This is a letter obtained under FOI. I apologise that I don't have the reference, but I can provide it to you on notice. It is an email from Australia Post to a person in the minister's office. It's entitled 'Deliveries trial phase 2'. Are you aware of that email?

**Mr Graham:** Yes. That deliveries trial relates to the new delivery model in relation to the rollout of what we spoke about previously in terms of the reform agenda that we are embarking upon.

**Senator HENDERSON:** I will quote from it:

With three sites kicking off next week under phase 2 of the deliveries trial, the tax letter will go to all federal, state and council representatives this afternoon. Sending for your awareness.

**Mr Graham:** Correct.

**Senator HENDERSON:** It continues:

The representatives to be informed today are as follows.

The list includes the minister's own electorate. Would you ordinarily advise the minister about those sorts of mailouts?

**Mr Graham:** This is a mailout that we are doing as part of the new delivery model. We are advising all state, local councillors and federal MPs when we are rolling out this model in their electorate that we are embarking on this model in case they get any questions from their constituents. It's a normal course of what we do. Likewise, if we open a post office, we will put up a mailout. Obviously given that this was part of the reform agenda, the minister wanted to understand where we were with the rollout trials. We communicated that to the minister's office.

**Senator HENDERSON:** These were the rollout trials that were used as part of the mailout of the Voice referendum materials?

**Mr Graham:** Obviously during that period when the trial started in September, there may have been one facility involved in it. Again, we have a very clear commitment on the service levels in relation to that and met all those service levels that were signed off by the AEC. The two issues are completely separate. One is to do with the reform agenda and the trialling of a new delivery model. The other is obviously our clear commitment and focus on delivering election material or referendum material as per the rules and the service standards that are laid out before us by the AEC.

**Senator HENDERSON:** Could you provide on notice a copy of all letters and emails between Australia Post and the minister's office in relation to mail processing arrangements and lodgements concerning the Voice referendum between 1 May and 31 October 2023?

**Mr Graham:** I'm happy to take that on notice, Senator.

**Senator HENDERSON:** If you could include perhaps messages, emails, communications and advices during that time period, I would be grateful.

**Mr Graham:** I'm happy to do so, Senator.

**Senator HENDERSON:** Thank you very much. I appreciate your forbearance. Thank you very much, Chair.

**Mr Graham:** Thank you. Thank you, Senators.

**CHAIR:** Thank you very much, Mr Graham and Mr Macdonald. We appreciate your time. We now release you and call officers from the Office of the eSafety Commissioner to the table.

#### **Office of the eSafety Commissioner**

[17:30]

**CHAIR:** Welcome, Commissioner. Would you care to make an opening statement?

**Ms Inman Grant:** I have provided an opening statement for tabling for the *Hansard*. I will let the good senators get on with the questioning.

**CHAIR:** Excellent. Thank you so much.

**Senator LIDDLE:** As shadow minister for child protection and the prevention of family violence, I raised the issue of some appalling violence appearing on a social media account in South Australia. Sadly, though, there were 27 graphic videos involving young women fighting in very public places in the streets, on public transport and in front of houses. It was appalling to watch that content. I applaud your efforts. I think within a couple of hours that material was actually removed by Meta. Thank you very much. I've had some calls to my office to say that they appreciate the action that happened very quickly, so thank you. You also obviously were influential in removing other accounts similar that I advised you of. I have since found that there are even more. We talk about violence in communities, particularly with young people. This is a situation where there is a significant level of violence. In this cases, it is women in Aboriginal communities. It's no surprise to me that when you have people on such public display and behaving in this way—it seems that one of those accounts had 800 followers—rather than reporting this to the authorities, they decided just to follow this. Is this a growing problem, an emerging problem? Why did those people who had the ability to report this not do so?

**Ms Inman Grant:** Thank you very much, Senator. I was very disappointed to see this. I can say that fight videos of *Fight Club*-style brawling can cause the subjects and the victims of this extreme emotional distress, particularly when it goes viral. We have responded to your letter this afternoon. We have succeeded in our discussions with Meta in getting Ceduna fights, that larger account, taken down. I have to say that was all informal. We do not have powers under the Online Safety Act to take down full accounts but really post by post, which kind of shows you the limitations of some of these powers, because you're going to be playing a game of Whac-A-Mole. We have also advised of a range of the other accounts because we do believe that this violates Meta's terms of service. That's the most expeditious way to get this down. We do need to put the burden back on the platforms themselves regarding a hashtag or account such as Ceduna fights. We've known that fight videos have been a challenge for a long time. We're asking them to use signals and use things like AI and natural language processing to be able to pick up content that violates their own terms of service. We expect them to enforce them. We will raise them up when we hear it.

I think this also requires us to appeal to the public to not pile on and to further make this harmful content go viral, to report it in the first instance to the platform when they see it and to report it to eSafety. Our youth based cyber bullying powers are enlivened when the subject or one of the victims reports or if they disclose and specifically authorise an adult to report on their behalf. I know, as we talked about last week, that dobbing can be a concern. I think we all have to be better upstanders. We need to understand that, with these fight style videos—we're seeing it all over the country—we all need to play a role in trying to get ahead of them and tackle it. I want to add that we are engaging with the South Australian police, as we have with police around the country, to let them know what services we can provide in terms of taking down harmful cyber bullying content. A lot of the work that Mr Dagg and the investigations team have been doing over the course of the year is providing training to law enforcement and working with them. The plan is to have a national roundtable so that we can talk about how we can more effectively tackle these issues and work together.

**Senator LIDDLE:** Obviously in this country we have a domestic and family violence epidemic. We have a national plan that has a target of ending violence within a generation. All the statistics are going in the wrong direction. If you are going to get a change in a generation, you need to approach the young people. You have talked about perhaps a roundtable. It sounds like a lot more is going to need to be done to, in reality, address the level of, I guess, normalisation of violence in some of these places.

**Ms Inman Grant:** Yes. Of course we have a small role in terms of trying to make sure that this online violence is not normalised. We do have a youth advisory council so that we can be speaking to and listening to young people around the country. We've got a youth and family child organisation. Of course, we're doing lots of work around understanding the experiences, particularly of young Indigenous youth, in their engagement with technology. In fact, in some of our most recent research, we found that Indigenous youth are much more engaged than the general population. Their parents are more engaged in their safety. They are looking at current affairs. They are doing this all despite the fact that they are three times more likely to be targeted with online hate. Yes, a range of conversations need to be happening. We need to also engage with parents, carers and educators, which is what we're trying to do through the National Online Safety Education Council as well, so that we're reaching all states and territories and the public schools, private schools and Catholics together. It's going to take a whole community effort to make these cultural changes.

**Senator LIDDLE:** Can you give me an understanding in this case? These were Aboriginal children in this case, but it could be any Australian child. This is appalling behaviour not just by the children but also the people who didn't respond to it. Meta was able to respond pretty quickly. What about those incidents that enabled them to respond so quickly?

**Ms Inman Grant:** We escalated to them. We pointed out that we believed that the accounts and the videos contravene their terms of service. This is the informal powers we use to engage in the quickest forms of harm remediation. Of course, if we need to, if the platform is resistant and we think it meets the threshold, we can issue formal removal notices. In the cases of youth cyber bullying, we use with discretion what we call end-user notices. I think we have used about 13 or 14 for some of the most extreme cases we've seen of young people targeting other young people. This can require them to do things such as remove all the content, write apology letters to the person that they've bullied and to really put them on notice that they cannot abuse others with total impunity and that there is a government agency that can and will take action if that kind of behaviour continues.

**Senator LIDDLE:** Given we are talking about the Internet and we are talking about so many different platforms—in this case, it happens to the one platform—what resources or what kind of support is required not necessarily from you but from other agencies to actually make a difference? You described it as a bit like Whac-A-Mole. That's probably a good description. The proliferation of these is a significant issue for addressing any targets in any national plan.

**Ms Inman Grant:** Well, you have the perfect storm of technology that has been built without safety by design in mind, without proper digital guardrails, and without most governments around the globe putting any handbrakes on the growth and innovation of technology. We do require that with pharmaceuticals, food or automobiles. Toys don't blow up in children's faces. We require that food is handled in appropriate ways so that people don't get sick or die. We now require seatbelts, airbags and antilock brakes. In this area of technological exceptionalism, governments haven't put the same brakes on the tech companies, particularly where they are domiciled in places such as the United States. We are using some really important levers with our basic online safety transparency expectations. Part of creating more accountability in these companies is finding out what they are and are not doing and then holding them to account for that and getting them to raise their safety standards. Sometimes it is through regulation. Often it is through reputation or impacts on revenue. Again, when advertisers start to pull out of platforms because of safety issues, these companies can change their algorithms really quickly. So there are a range of things that need to happen here.

**CHAIR:** We need to rotate the call. We can come back to you. We have a long list.

**Senator ROBERTS:** Thank you for being here today. Did you attend the World Economic Forum planning session in Davos last month? If so, was that in your personal capacity or as the eSafety Commissioner?

**Ms Inman Grant:** I attended the world economic global summit as the eSafety Commissioner. I achieved more in four days than I could in four years because I was meeting with senior technology executives. I was talking directly to the people who are building AI and immersive technologies and asked directly the decision-makers what they are doing to make their platforms safer. I was sharing really our leadership and our model in terms of how we're tackling online safety.

**Senator ROBERTS:** Well, I think we're the ones who should be assessing whether or not you're justified. How many staff accompanied you? What was the cost to taxpayers?

**Ms Inman Grant:** I will take that on notice. I had one staff member accompany me. I supplemented that with trips to Brussels, where I met with European Commission officials, and to Dublin to meet with my fellow regulators in Ireland and the UK. So it was a very productive trip.

**Senator ROBERTS:** Now can I have the justification, please? What did taxpayers get for their money? How did attending help in the discharge of your duties?

**Ms Inman Grant:** Well, I had access to the presidents of most of the major technology companies, including the CEO of OpenAI. I was able to ask him what they were planning to do to build safety into this. Any time that we can influence the decision-makers at this level to make technology safer is better.

**Senator ROBERTS:** You run an online agency, right?

**Ms Inman Grant:** I run—

**Senator ROBERTS:** Couldn't you have done this online?

**Ms Inman Grant:** I run a real agency that has real people and capital equipment. I couldn't engage in this forum online and not have those kinds of meetings to make a real difference for Australians in terms of getting real change happening.

**Senator ROBERTS:** You are referencing your panel session at Davos. Your office has just sent Twitter a notice regarding them allowing hate on the Twitter platform, including allowing previously suspended users back on the platform.

**Ms Inman Grant:** Yes.



**Senator ROBERTS:** Can you give me examples of Australian accounts that X has allowed back on that your office objects to?

**Ms Inman Grant:** Well, the online hate notice looked at the range of trust and safety governance steps that they had taken, including firing 80 per cent of their safety engineers, more than half of their content moderators and 80 per cent of their public policy personnel—so the people who actually look after the safety. We did ask them. It was reported that there were 62,000 previously banned users. To be permanently banned on Twitter, you have to have violated the policies pretty egregiously a number of times. We asked them the question. They responded. We asked about the 62,000. They responded with 6,100. We assumed that meant they reinstated 6,100 previously banned Australian accounts, which wasn't in the manner and form of the notice and the question that we asked them. They didn't name what those specific ones were, but they did tell us that there are no additional safety provisions even though they have been permanently banned for online hate in some cases.

**Senator ROBERTS:** It seems to me, Ms Grant, that you're assuming the previous bans were in order. Had you explored those previous bans before coming to that judgement?

**Ms Inman Grant:** Twitter, as the company, had a whole range of policies, including a hateful conduct policy. They remove or—

**Senator ROBERTS:** So you haven't? What you've done is you've gone off their interpretation of their policy, even though we know they were biased.

**Ms Inman Grant:** That's the only thing we can do, Senator.

**Senator ROBERTS:** Could you come back to my question—

**CHAIR:** Senator Roberts, please allow Ms Inman Grant to answer.

**Senator ROBERTS:** and give me examples of Australian accounts?

**CHAIR:** Senator Roberts, I appreciate that you are somewhat agitated. Could you please respect the witnesses and allow them to answer the questions.

**Senator ROBERTS:** I would like the witness to give me examples of Australian accounts that X has allowed back that her office objects to. That's my question and you haven't answered it.

**Ms Inman Grant:** I didn't ask them specific questions about which accounts they were. I asked for the quant the numbers.

**Senator ROBERTS:** Thank you. Are you setting yourself up as an arbiter of what should and should not be seen online?

**Ms Inman Grant:** No. I am not. I have been designated by the government to serve as the eSafety Commissioner and to remediate harms of online individuals who have experienced online abuse and, in most cases, have reported that abuse to the platform. The platform hasn't enforced their terms of policy, so we are there as a safety net or a backstop to help remediate that harm.

**Senator ROBERTS:** Thank you. Your remarks included this comment, and I quote:  
There are lots of different tools in the toolbox we'll be using.

What are those tools? Under what explicit power do you possess them? Who supervises how you use them?

**Ms Inman Grant:** All our powers are designated under the Online Safety Act. We have a range of complaints schemes that deal with youth based cyber bullying, image based abuse, adult cyber abuse and the online content scheme. We have systems and process powers under the basic online safety expectations. We have now six codes registered and two standards that we're working on. They are the primary tools.

**Senator ROBERTS:** Thank you. Who supervises how you use them? Who assesses whether or not you're being effective or overextending?

**Ms Inman Grant:** Well, we are held to account. We have lots of reporting and transparency and accountability measures ourselves. If there's ever a question about any decision that is made, it can be challenged through internal review, the ombudsman, the AAT or the Federal Court. So we are accountable to the people and the government.

**Senator ROBERTS:** Thank you. At the World Economic Forum planning session in Davos, you said, and I quote:

We have started something called the Global Online Safety Regulator.

Who is 'we'? Did you receive ministerial permission to involve Australia in another globalist power sink hole? You may laugh, but we are facing a big threat.

**Ms Inman Grant:** I am an independent statutory authority. The Internet is global. Most of our regulatory targets are based overseas. For more than seven years, we were the only online safety regulator in the world. Now, we use the tools we have and we can be effective, but we know we're going to go much further when we work together with other like-minded independent statutory authorities around the globe. So with the UK, with Ireland and with Fiji in November 2022, we launched the global online safety regulators network. That has now grown to seven independent regulators, including France, South Korea and South Africa. A number of countries are serving as observers. That is so we can achieve a degree of regulatory coherence for the technology industry and make sure that we're working together to achieve better safety outcomes for all of our citizens.

**Senator ROBERTS:** Did you get ministerial approval for that?

**Ms Inman Grant:** I don't think it was required. Certainly the minister was aware.

**Senator ROBERTS:** Thank you. This is a further remark you made—this is how it was reported:

We have reached a tipping point where technology is neither good nor bad. We need to be pushing towards the forces of good.

That comment seems steeped in hubris. Who decides what the forces of good are? You?

**Ms Inman Grant:** Well, the Online Safety Act does define thresholds for harm. Certainly our research looks at the benefits and the drawbacks in terms of how people experience technology and whether it helps them to create, to connect, to work and to communicate versus the harms that they experience, whether it's—

**Senator ROBERTS:** How do you listen to people?

**Ms Inman Grant:** How do I listen to people?

**Senator ROBERTS:** You just said it's the people who decide.

**Ms Inman Grant:** I listen to people in many different ways. We have citizen facing complaints schemes. We're out in forums all the time. We correspond. We also have about two million people who visit our website every year so they can access resources or report forms of online abuse.

**Senator ROBERTS:** This is my last question, Chair. Thank you for that. You state:

Deepfakes are covered under our world leading image based abuse scheme, which has close to a 90 per cent success rate. How do you measure 90 per cent objectively? This is your statement.

**Ms Inman Grant:** We look at the number of complaints that we receive. The 90 per cent success rate is because in the vast majority of cases people just want the intimate imagery and videos taken down, mostly through informal means. We measure the 90 per cent based on how many complaints we receive and how many we get down.

**Senator ROBERTS:** So the images reported and the images removed? Ninety per cent of them would be removed?

**Mr Dagg:** When we investigate a complaint about image based abuse, for example, or any of the other harms set out in our complaint schemes, we measure the response to our requests for removal or our formal interventions. We find, as the commissioner said, requests to be far more efficient and produce a faster turnaround, so they constitute the bulk of our interventions. Ninety per cent of those in the case of image based abuse succeed. That measure of success is whether or not the images are taken down.

**Senator ROBERTS:** Thank you.

**Senator PAYMAN:** Good evening. You mentioned earlier the six codes registered. Commissioner, can you provide us an update on the status of the first phase of industry codes and standards.

**Ms Inman Grant:** Sure. I will give you the abbreviated version because there has been about 2½ years of negotiation involved in dealing with what we call class 1 content. There were eight sectors of the technology industry covered. Initially, when industry delivered the codes to me, I didn't think any of them met appropriate community safeguards, so I sent them back. The industry responded and I registered five of those codes, which are now in force. We've put out regulatory guidance to talk about the graduated way we will go about compliance and enforcement. We sent a sixth code back around search engine codes because it didn't have anything about generative AI. To the industry's credit, they went back and took that and they provided me with an updated code. I registered that. It will come into force in March. We're working on two standards now. There are two in the areas of designated Internet services and relevant electronic services that I just didn't think met appropriate community safeguards. We are in the middle of a consultation process. We put out a draft standard for consultation in November. There was a month of consultation, as dictated by the Online Safety Act. We were asked for extensions. We granted all of them an additional month. We are now going through about 50 submissions. There's

a lot of technical issues in there but a lot of good feedback, so we will incorporate what we can and what we think makes sense and provide greater clarity. We hope by the April-May time frame we'll have a final standard that can be considered by parliament.

**Senator PAYMAN:** For the next phase of codes, as you were mentioning, am I correct to understand that it will address children's access to adult content as well?

**Ms Inman Grant:** That's correct. I think it is 1C, 2A and 2C, so, yes. It is primarily focused on children's access to pornography. We agreed with the industry upfront in mid-2021 that we would finish phase 1, which is mostly dealing with illegal content, before we moved to phase 2. We've had a number of discussions with the industry thus far. We obviously want to learn the lessons that we can from the last phase so that we can move quickly. I plan to approach this in a similar way in terms of every sector of the technology industry. Whether you are an app store, an end user, hosting provider or a device manufacturer, you will have some role to play in protecting children from online harm up and down the stack.

**Senator PAYMAN:** Wonderful. Thank you, Commissioner.

**Senator ANTIC:** I want to touch on something that is connected to that. The government response to the roadmap for age verification last year said that Australia doesn't currently have the technology to support mandatory age verification and that industry delivers on its responsibility to take steps by using their services. What are the reasons we can't apply the same age verification technology to pornographic content that we do to gambling sites?

**Ms Inman Grant:** That is a question for government and the department. We did not find that in our age verification roadmap. There are a range of technologies out there that are being used for the purposes of gambling and alcohol and can be used to protect children from pornography as well in a way that is privacy protective and enhancing. Even since we delivered the roadmap in March last year, we've seen even more maturation of the age assurance industry. The technologies are getting better all the time.

**Senator ANTIC:** That similar technology is used for gambling at the moment, is it?

**Ms Inman Grant:** Yes. There are some vendors that are using this to either age verify or age estimate users for gambling purposes.

**Senator ANTIC:** I notice that your website promotes a number of LGBTIQ+ youth organisations as suitable places for young people to go for support. I think in 2016, the Turnbull government responded to concerns about third party links by creating the Safe Schools program at the time. Documents tabled by former MP George Christensen pointed to troubling content on some of them, including links to sex shops and links to things such as sadomasochism and other types of sexual content. How do you decide which third party organisations to advertise on your website?

**Ms Inman Grant:** We don't advertise on our website.

**Senator ANTIC:** Or link to.

**Ms Inman Grant:** We work with a range of NGOs to help provide support. Of course we make sure that they have appropriate bona fides. One of the primary ones we work with is Kids Helpline, for instance. It's worth noting, Senator, that we also take an evidence based approach to how we develop and codesign these materials. You don't develop materials totally for children without children being involved. You don't develop First Nations materials without involving First Nations people. By the same token, our learning lounge materials were developed with the LGBTIQ+ community.

**Senator ANTIC:** Do you have any services on your website that link to inappropriate conduct through their own websites that you are aware of?

**Ms Inman Grant:** Not that I am aware of.

**Senator ANTIC:** Do you monitor those sites to ensure that they are not linking kids to—

**Ms Inman Grant:** We're constantly looking to update our sites. Ms King, do you want to comment on how we go about verifying these links?

**Ms King:** We do have a team that is continually looking at our website. We do scan for our external facing links. We do look to update our content continually.

**Senator ANTIC:** Thank you. Your Trusted eSafety Provider program endorses a lot of work containing organisations that deliver online safety content to schools. Once again, some of these providers have social media pages that provide adult content on occasions. How do you ensure that links that are coming through on them are

not actually linking to inappropriate adult content as well? Are you aware of any issues? They are online safety education type providers.

**Ms Inman Grant:** We do have policies around the Trusted eSafety Provider. When the project was originally conceived with the Online Safety Act in 2015, it was called a certification program. We're not resourced to certify per se—I think they reached 1.4 million students this last year—and to spot check every single presentation done, but we do respond to reports of concern or abuse. We have had a number of investigations. We've had TEPs leave and—

**Senator ANTIC:** Have you found any instances, though, where sites that are hosted, referred to or linked to on your site have linked to any inappropriate content—sexual content or adult content?

**Mr Dagg:** No, Senator. It might be helpful if I provide you with a bit of information about how we manage that program in terms of scrutinising the material that is presented by our trusted e-safety providers, as the commissioner said. There is a process that is a review of the way that the materials are presented and produced. We have a brand to protect, of course. We want to ensure that the materials being delivered in schools are consistent with that brand. We've recently started a program that involves us observing the presentation of materials in the setting in which they are intended to be delivered to ensure that what providers are telling us they are doing is in fact being done in the schools setting.

**Senator ANTIC:** How can you be sure of that, though?

**Mr Dagg:** Well, we can make best efforts to ensure that the providers are complying with our code of conduct, which is a very extensive code of conduct. We've had a number of complaints that we've dealt with through that code of conduct. I invite you or your office, if you are concerned about any material that you've seen, to raise them with us so that we can review it. I will mention, too, that there was a review done by the Queensland University of Technology in 2021 to determine whether or not the trusted e-safety program was meeting its objectives. It was found to be broadly the case.

**Ms Inman Grant:** I would also say that we have created a community of practice as well as an online safety education framework to make sure that they are using the right kinds of pedagogies. In the early days, we saw a lot of people going in and using fear based tactics and things that weren't really effective to enabling the behavioural change we want to see. For young people, it is about help seeking and reporting abuse when they see it. We try to keep them up to date on the latest tactics. We've had the AFP come in and talk to them about sexual extortion. We, of course, talk to them about the trends we're seeing with cyber bullying. We do get some really useful input from our TEPs, who are really at the coalface. They are talking to teachers, parents and students on a regular basis. This all feeds into that cycle.

**Senator ANTIC:** Thank you.

**Senator CADELL:** That was an interesting answer to the first of Senator Antic's questions. Under the freedom of information log 49 document set was your estimates pack for last October. It has been given out. I note the first question under the heading, 'Why has the government declined the recommendation to trial age assurance'. Obviously the pack hasn't changed that much because the answer is the same: the department is best placed to speak to the government's response to that roadmap.

**Ms Inman Grant:** We made six recommendations, the best recommendations we did based on almost two years of looking closely at the issues. I can't comment on what the government decided to do. As the department said this morning, there wasn't a straight projection of the age verification trial. The department is currently scoping that at the moment.

**Senator CADELL:** You have obviously given it. You haven't been gagged on speaking out that it's still valid or still going? You haven't been told to tone it down at all?

**Ms Inman Grant:** No. I have not been told to turn it down. The guidance given to me by the minister was to focus on phase 2 of the codes. There's no reason that a technology trial and the second phase of codes cannot work in parallel tracks together.

**Senator CADELL:** There's no technical barrier whatsoever to roll it out?

**Ms Inman Grant:** No. None whatsoever.

**Senator CADELL:** A speech was made by the minister on age verification delivered on 28 November last year. The quote is:

We will seek further options on a pilot, and my department will be involved in scoping this work given the need for cross-portfolio engagements.

That sounds like it is progressing. Is there any action? Are you talking about that pilot and when it will be after these things? Has there been any real progress towards a pilot?

**Ms Inman Grant:** We have started some discussions with the government. Of course we were following the EU consent trials very closely. That was the basis for which we made the recommendation about a trial. We've also been, as I said, engaging with regulators around the globe and some that have run age verification trials, I would say probably not as effectively as we would like to see. For instance, they are really using site based requirements. Porn companies that were trying to do the right thing by enabling age verification created a form of friction, which meant that people went to other places. If you look at our research, the average age a child comes across pornography is about 13 years. That is usually unintentional. By the time they're 16 years old, a vast majority have come across it. Seventy per cent see this on porn sites, but 60 per cent see this on social media. There are platforms such as Twitter X and Reddit that allow porn. This is why the codes are important and looking up and down the stack. The search engines have a role. The app stores have a role. The social media sites have a role. It's not going to be point by point. What we have suggested based on what we have seen and the scoping that we have done is the double blind tokenised approach to make sure that privacy is being protected and you're not preventing adults from accessing legal content themselves.

**Senator CADELL:** A takeaway from an early part of that answer is that some adult porn companies tried to do something good or right and they were punished by the market and so they've stopped doing it, have they?

**Ms Inman Grant:** Yes. That is what we are told by some of them. Some of these are massive conglomerates who, I guess you would say, take a pragmatic approach. They want to sell premium content. Most people under the age of 18 don't have credit cards and cannot buy that premium content. So in some ways it behoves them to make sure that they have adults visiting their sites to pay for that premium content.

**Senator CADELL:** Is it only willpower stopping a trial in Australia at the moment?

**Ms Inman Grant:** Willpower?

**Senator CADELL:** A decision? Is that the only thing of the minister?

**Ms Inman Grant:** I think we're feeling some momentum behind this work, and that's great to see.

**Senator CADELL:** You said that some of the age verification trials aren't to a standard you would like. Do you think you are at a very good standard to advise? Have you advised the minister on the way you would like to see that trial rolled out?

**Ms Inman Grant:** Just last week, I spoke to both the minister and the department about some thoughts we have around trial design and where to look for scoping.

**Senator CADELL:** So very crudely and rudely, I'm going on my government device now. If I type in 'porn' on my phone, this will bite me on the bum somewhere.

**Ms Inman Grant:** You will find it all over.

**Senator CADELL:** Straight away, I click on to the first one.

**Senator HUGHES:** Do you have to?

**Senator CADELL:** No.

**Ms Inman Grant:** Senator, you should have your parental controls on.

**Senator CADELL:** All I've got is, 'I'm 18 or older' and I can enter the site. If I click that, is there any follow-up from that? I can pretend I'm 13. What will happen if I click? There's no barrier.

**Ms Inman Grant:** You're making a really important point here. Age assurance is the difference—

**Senator CADELL:** There is no barrier.

**Ms Inman Grant:** I've totally lost my train of thought. Currently, we see that a lot of sites, including social media sites that enable pornography, are doing what we call age gating, which is basically asking a child or a person what their age is. You can put anything in. We were all young once. We all prevaricate. They are not really taking any meaningful steps to validate or estimate that age. There are varying levels of assurance from age gating to age estimation to the highest level, which is age verification. We are not entirely sure—again, through the codes process, this is the industry's codes—that we can reach the full standard of age verification, but we will try to push them to go as high as we possibly can to make sure that they are achieving appropriate community safeguards. But this is exactly the challenge. Again, I talked about this technological exceptionalism, where governments haven't moved on this. I started working on age verification in 2008. We're finally seeing some momentum over the past couple of years. The ecosystem is now mature enough that we could architect an age

verification trial that could work. The technologies are evolving. The age assurance industry is maturing. I think the time is right now that we all move forward.

**Senator CADELL:** There must be some frustration if it's all there. My phone is back to the messaging app. It's not doing anything else. In your report, you were talking about deepfakes and all these sorts of things. Have you had any liaison or consent or partnership, through the Joint Standing Committee on Electoral Matters, with the Australian Electoral Commission? One of the matters that came up—I think we were there; I think Senator Grogan was on that as well—was about the three-day blackout that applies to traditional media on TV but not online. Looking at deepfake now, my concern is that it's probably more to black out on digital media and stuff like this. I could do a video of Senator Grogan saying, 'Don't vote for Labor. I was a Labor member all the time and they are bad people' the day before and it's impossible to take down in time, isn't it?

**Ms Inman Grant:** There are a whole range of issues there. Deepfakes and specifically deepfake porn is covered under our image based abuse scheme. We are starting to see reports. We've taken action against a particular Australian individual that has been creating deepfake porn against prominent and everyday Australian women and girls. We are using those powers. We are seeing synthetic child sexual abuse material as well. It's only a matter of time. I expect that we will start to see sophisticated deepfakes that could be used to cause serious harm and be captured under our adult cyber abuse scheme. In fact, at Davos, the whole focus was that collision of AI and particularly generative AI, deepfakes, geopolitics and the fact that there are four billion people who are going to be impacted by elections. I started to do some presentations around social media self-defence and what I call sustained gender trolling. As many of the women here can speak to, online abuse towards women manifests differently than it does towards men. We're seeing much more sustained, consistent, diffuse and attenuated forms of abuse targeting women. Sometimes it's coordinated. It's not always dis- or misinformation but it is designed to question a woman's competence, undermine her confidence and ultimately cause her to self-censor. So we need to give more women the tools to be able to protect themselves online. It's not a fair fight because there are algorithms, recommender engines and powerful generative AI tools that don't have adequate additional safeguards. Deepfake detection tools are seriously lagging behind the power of these technologies. They are being weaponised. No, you can't always tell by looking at a deepfake if it's real or not. By the time it goes viral and the time you can validate that, it can be seen as potentially true where rolling that back is very difficult. It is a big concern. We have engaged with the Australian Electoral Commission.

**Mr Dagg:** That's right. Senator, we were engaged with the AEC last year in relation to matters involving the Voice campaign. It was a very productive discussion. We've actually developed a very strong relationship with them. I imagine these kinds of issues will continue to come up in our forums. In fact, the commissioner will be meeting the Australian and New Zealand electoral commissioners next month to discuss our role and our powers. I hope that is a good forum for us to start to explore some of these issues.

**Ms Inman Grant:** We're starting to see so much of this spill into real-world harm, with electoral officials and the like. I want to give Commissioner Rogers great credit. He has done a really great job around the online elements of elections. He is seen as a true global leader in this space.

**Senator CADELL:** You use some interesting words there in the break between deepfake and synthetic. Where is society and industry drawing the line between synthetic and deepfake? If I attack a female by putting her likeness on a deepfake pornography thing versus if I draw an anatomically incorrect stick figure, there is a line that goes along there. Where does it become—

**Ms Inman Grant:** Well, a deepfake is just that. It's using advanced technologies to create the visual and sometimes auditory perception that somebody is doing something that they're not really doing or saying. What we mean by synthetic child sexual abuse material is where a paedophile can say, 'My predilection is I like'—

**Senator CADELL:** Something.

**Ms Inman Grant:** 'something', and they're creating this. Of course, we're talking to our law enforcement counterparts. What we're really concerned about is that it's becoming so photo realistic. We're already crippled by the tsunami of child sexual abuse that we're seeing. If we're diverting resources, particularly law enforcement, that are trying to identify victims to save them, if they are spending time—

**Senator CADELL:** Chasing fakes.

**Ms Inman Grant:** chasing shadows or chasing a synthetic child that doesn't exist, that is really concerning over time.

**Senator CADELL:** Wow. Thank you for the work you're doing. Thank you for your answers.

**Senator LIDDLE:** I want to go back to the questioning I was originally asking in relation to this. Meta obviously took down those sites I was talking about. They directly disrupted that activity. You mentioned an

education campaign. It takes time to develop those things, particularly. One would assume, that whatever is happening now isn't reaching that cohort. What else can be done in terms of a disruption activity that is more immediate? Is there potential for an audit to at least disrupt what is out there right now and then build in those? I am trying to find a more efficient, timely response to what we know is a problem right now.

**Ms Inman Grant:** We have been thinking about this issue and working closely with law enforcement for some time now. I will turn over to Mr Dagg to talk about some of the disruption activities we have been talking about as a regulator. Of course, the Online Safety Act review hopefully will give us the opportunity to talk about the kinds of tools that we need to deal with these issues at scale more effectively.

**Mr Dagg:** We've got very extensive relationships with law enforcement across the country. We have a memorandum of understanding in place with every police force, including our colleagues in the Australian Federal Police. We're updating them progressively to take account of the new powers under the Online Safety Act. One of the things that we have been talking to our law enforcement colleagues about for some time is this intersection between local community based criminal activity and the Internet and the online platforms that are provided by services such as Instagram, TikTok and others. Your question is whether there is an immediate step we can take to achieve that larger degree of change. The Online Safety Act doesn't provide us with a power to achieve that by pulling a regulatory lever, for example. In coming months, we will be working to bring together key stakeholders in this area to start to think about how we might take a more national approach, a more joined up approach, to managing the harms. We have some ideas that we'll progress in that forum in due course. But we're acutely aware of the concerns in existing communities, such as the communities you represent, and are taking steps wherever we can to provide assistance. As I said, the Online Safety Act doesn't provide us with what I think we all would like, which is a big red button sometimes to press so that we can cut off the harm at its source. We do work very productively with industry. I think it is actually a key factor of our success that we have established those relationships over time. They are very productive relationships.

**Senator LIDDLE:** Thank you.

**Senator SHOEBRIDGE:** I note that you had, I think, a \$610,000 penalty issued against Twitter. Have they paid?

**Ms Inman Grant:** They have not paid the infringement notice, no. They have issued a judicial review. In response to their non-compliance with the non-payment of the infringement notice, we have filed civil proceedings against them in court. We're hoping those two cases can be joined so that we can look at this comprehensively. We thought it was a very important thing to do to show that we are serious about enforcement and that non-compliance with our laws and with these infringements is not going to be tolerated.

**Senator SHOEBRIDGE:** The judicial review doesn't operate as a stay.

**Ms Inman Grant:** They are separate.

**Mr Dagg:** We're currently going through a case management processes with the court at the moment. There are two applications before the court. One is the judicial review of our decision to issue an infringement notice. The other is an application for civil penalties.

**Senator SHOEBRIDGE:** I understand. There's no stay attached to the judicial review application. So the infringement notice is still in effect?

**Mr Dagg:** Yes.

**Senator SHOEBRIDGE:** When should it have been paid?

**Ms Inman Grant:** It was 20 days after it was issued. Was it October?

**Mr Dagg:** Yes, that's right. That's about the time frame.

**Senator SHOEBRIDGE:** So it should have been paid in mid-November?

**Mr Dagg:** Towards the end of last year, yes.

**Senator SHOEBRIDGE:** What enforcement proceedings have you taken against Twitter in order to get them to pay their fines? Have you cancelled their driving licence?

**Mr Dagg:** No. Unfortunately, the infringement notice process doesn't allow us to exercise any particular enforcement options such as the ones you suggest. The step for us to go to, then, if there's non-payment of the infringement notice, is to go to a civil penalty application in the Federal Court, which we've done. Of course, it's up to the court, then, to determine the quantum of any penalty that comes about.

**Senator SHOEBRIDGE:** So, effectively—I'm not blaming you for the laws, Commissioner; I'm genuine about it—having issued the infringement notice, simply by reason of not paying it they can effectively force it all to start again as a fresh contravention application in the Federal Court. Is that right?

**Ms Inman Grant:** Well, I think the one to challenge the initial notice is based on a couple of technicalities around jurisdiction and the change in name from Twitter to X. They lodged that before we issued the notice.

**Senator SHOEBRIDGE:** But that is the judicial review?

**Ms Inman Grant:** That's the judicial review.

**Senator SHOEBRIDGE:** Park that. We'll come back to that.

**Ms Inman Grant:** Again, when the court does decide to hear the case, and if they find with the eSafety Commissioner, they can then determine the quantum of the fines, which would be much more significant.

**Senator SHOEBRIDGE:** Just to be clear, let's put the Twitter or X judicial review application to one side.

**Ms Inman Grant:** Okay.

**Senator SHOEBRIDGE:** In October, you issued them with a \$610,000 infringement notice. They had 28 days to pay and they didn't. You then looked at your enforcement issues. You found that, in fact, you couldn't just enforce the figure in the infringement notice. By reason of Twitter not paying, you had to commence entirely fresh proceedings. Is that right?

**Ms Inman Grant:** Yes.

**Senator SHOEBRIDGE:** You have to establish the breaches again, this time in front of the Federal Court. Is that right?

**Mr Dagg:** We were having to establish certain matters of fact, yes.

**Senator SHOEBRIDGE:** That effectively means—again, I'm not blaming you for this—that infringement process can just be ignored by a corporate entity because they know you can't enforce it.

**Ms Inman Grant:** Well, it's interesting. Of course, you know that in June we issued a second basic online safety expectation notice around online hate. With the first notice, where we found them non-compliant and issued the fine and the service provider notification, they left entire questions blank and they used misleading information. Once they saw that we were serious and we were willing to issue the infringement notice, they did make an effort to comply and answer all the questions in the second online hate notice.

**Senator SHOEBRIDGE:** And now they've gone to their lawyers.

**Ms Inman Grant:** Well after the deadline. But I think they did see that we were serious. For whatever reason, they decided to at least answer the questions in the manner and form which we provided. It was not in a timely fashion, so we still found non-compliance.

**Senator SHOEBRIDGE:** Yes.

**Ms Inman Grant:** Yes, enforcement is going to be an issue that every online safety regulator deals with. I was just in Ireland, and Reddit and—

**Senator SHOEBRIDGE:** No. We'll come to that.

**Ms Inman Grant:** Okay.

**Senator SHOEBRIDGE:** I criticised this process last time as like Twitter being hit with a wet piece of lettuce.

**Ms Inman Grant:** Yes.

**Senator SHOEBRIDGE:** It's actually worse than that, isn't it? Again, I'm not blaming you. You are dealing with the laws you are given. In effect, you've issued an infringement notice and Twitter have just thumbed their nose at you, at the laws of Australia and just said, 'We're not paying. We're not paying your infringement notice of \$610,000.' You are below, as far as they are concerned. There is nothing we can do other than start a whole fresh set of proceedings—

**Ms Inman Grant:** Which we're absolutely willing to do.

**Senator SHOEBRIDGE:** They're making a mockery of our legal structure, aren't they? It's not your fault.

**Ms Inman Grant:** I would say this was not an entirely unexpected outcome when you look at the behaviour of the new entity and, I guess you would say, the predilection towards litigating.



**Senator SHOEBRIDGE:** If ever there was a crying need for some urgent law reform to ensure that when you issue an infringement notice and if Twitter doesn't pay they have serious, unavoidable consequences, this has highlighted it, hasn't it?

**Ms Inman Grant:** This is precisely why we welcome the Online Safety Act review and the terms of reference that have just come here. We have learned a lot in that we want to make sure that our fines and our enforcement powers are in line not only with domestic regulators but also internationally.

**Senator SHOEBRIDGE:** This is like dealing with a dodgy construction company or a phoenixing company. You get an order against them and then they just, through their corporate structure, basically avoid it. This is like classic corporate bottom feeder behaviour from X, isn't it?

**Mr Dagg:** I will just clarify. This is a point I wanted to make earlier. This is to make sure that we are clear about the sequence of events. The observations you make about infringement notices and enforcing them and then the pathway to civil penalties is right. I think it's right also to say that the basis for Twitter's dispute with us in relation to the infringement notice led to the judicial review application. The dispute is around whether or not the correct entity was identified in the infringement notice. That is to provide the full explanation, as we've done in our short statement online about the grounds of the judicial review process and the civil penalties process.

**Senator SHOEBRIDGE:** But that didn't operate as a stay. That didn't prevent their legal obligation to pay the infringement notice. They still have a legal obligation to pay the infringement notice. It's just that there's no way of enforcing it.

**Mr Dagg:** We can't get into the matters, of course, because they are before the court. But some of those matters will be the matters that Twitter will be arguing, of course, through its application as X Corp.

**Senator SHOEBRIDGE:** If it does get to the point where you perfect it, have they got any assets in the jurisdiction that we could enforce it against? Are we then going to be chasing them to try to work out if there is a lease on their computer? Is that the next stage, where we end up chasing Elon Musk to try to get his sneakers off him?

**Ms Inman Grant:** It depends on what powers are bestowed to us through the Online Safety Act. Again, he got rid of the domicile here. There is no more Twitter office. There are a few Twitter employees. We are engaged with X Corp, not what was formerly known as Twitter.au.

**Senator SHOEBRIDGE:** X Corp is the US entity currently. Is that right?

**Ms Inman Grant:** Yes.

**Senator SHOEBRIDGE:** They may move to the UAE or Dubai, but it's currently domiciled in the United States. Is that right?

**Ms Inman Grant:** That's right.

**Senator SHOEBRIDGE:** The long and the short of it is right now there's no identifiable, legally effective way to make them comply with community and legal expectations, is there? It's like trying to pin the tail on the jellyfish.

**Ms Inman Grant:** Well, any jurisdiction outside the United States will have the same challenge.

**Senator SHOEBRIDGE:** Unless, of course, you or some other entity are given the capacity to affect their business model. That probably is the only way they are going to be held to account in reality, isn't it? Some powers to affect their business model? Commissioner nodding doesn't turn out very well in *Hansard*.

**Ms Inman Grant:** No. It does not. Again, they seem to be concerned about reputation and revenue. None of this helps their reputation or the advertisers' willingness to want to continue advertising on platforms that aren't tackling child sexual abuse material and that don't have proper governance and safety policies, practices and people.

**Senator SHOEBRIDGE:** This may have been covered before. Have you dealt with the deepfakes issue that circulated rapidly on Twitter recently?

**Ms Inman Grant:** We didn't deal with it specifically. Had there been an Australian connection and something reported to us, we could action it under our complaints scheme.

**Senator SHOEBRIDGE:** There were those appalling explicit deepfakes, in this case, of Taylor Swift, which trended on X. They trended on X globally, which included Australia. Were any complaints made to eSafety about that?

**Ms Inman Grant:** No.

**Mr Dagg:** No.

**Ms Inman Grant:** Not that I'm aware of.

**Senator SHOEBRIDGE:** Can you consider this your first complaint? I'm currently making a complaint. Is this your first complaint?

**Ms Inman Grant:** You can make a formal complaint. This is exactly what we tried to unearth in the online hate notice. I think we saw a 75 per cent reduction in response time to serious online abuse, particularly online hate, because they had eviscerated their trust and safety team, their content moderators and the public policy people. You need people to be able to respond to those kinds of reports and stem that virality.

**Senator SHOEBRIDGE:** And they've got two people employed here and a couple of people in Singapore. They haven't got the staffing, have they, needed to address this?

**Ms Inman Grant:** No. More importantly, they cut 80 per cent of their safety engineers, which is a precious commodity in the valley anyway. That's how they would have stemmed the virality quickly. Of course, there was more than 50 per cent of their trust and safety personnel. Again, had they been at full strength, they could have probably acted much more quickly.

**Senator SHOEBRIDGE:** In this case, it was a high-profile woman who suffered the harm. But the capacity for other women who don't have the profile to be harmed in this way, with the absence of controls on Twitter, is very real, isn't it?

**Ms Inman Grant:** Absolutely. There's a danger for everyday Australian women and girls. We are already seeing that happening to them; that's why we've taken action in eSafety Commissioner v Rotondo.

**Senator SHOEBRIDGE:** Where are those proceedings up to?

**Ms Inman Grant:** Well, we filed an infringement notice. We were able to file an injunction when we found out the Australian individual who was living in Manila had come into the state of Queensland. He violated that injunction. There was a suppression order attached to it by sending the infringement notice to 49 members of the media.

**Mr Dagg:** The current status is that we are seeking a stay application in respect of that particular matter. He has been charged by Queensland police on a variety of criminal matters as well. In terms of the civil proceedings, for a variety of reasons, the stay has been granted by the court.

**Senator SHOEBRIDGE:** Whose stay is that?

**CHAIR:** Just as the person standing between everybody's dinner, can I get a sense of how much time you need? I'm not going to shut you down.

**Senator SHOEBRIDGE:** Another four or five minutes, I'm hoping.

**CHAIR:** Perfect.

**Senator SHOEBRIDGE:** It depends on the cooperation, of course.

**CHAIR:** It seems to be going quite well.

**Senator SHOEBRIDGE:** Who sought the stay?

**Mr Dagg:** There was information received by the Australian government, which sought the stay.

**Senator SHOEBRIDGE:** It was in relation to the impact it may have on criminal proceedings?

**Mr Dagg:** No.

**Senator SHOEBRIDGE:** Who sought the stay?

**Mr Dagg:** The Australian government.

**Senator SHOEBRIDGE:** Which agency?

**Mr Dagg:** Instructed by eSafety.

**Senator SHOEBRIDGE:** You sought the stay in which proceedings?

**Mr Dagg:** In the Federal Court proceedings relevant to the civil matters that we had initiated against the individual.

**Senator SHOEBRIDGE:** You sought a stay of your own proceedings?

**Mr Dagg:** Yes.

**Senator SHOEBRIDGE:** Are you in a position to articulate why that was?

**Mr Dagg:** No. We aren't, I'm afraid.

**Senator SHOEBRIDGE:** Is that because it's the subject of court orders?

**Mr Dagg:** And there's certain information relevant to that stay that can't be disclosed in Senate estimates.

**Senator SHOEBRIDGE:** It may impact the effectiveness of your proceedings and matters related to the proceedings?

**Mr Dagg:** In part, as well as individual issues. But they're not the sorts of issues that we canvass here.

**Senator SHOEBRIDGE:** I accept the position. I want to ask quickly about the online safety industry standards. Can you give me a very short summary of where they are up to?

**Ms Inman Grant:** We are going through 50 very detailed proceedings.

**Senator SHOEBRIDGE:** When you say proceedings, what do you mean?

**Ms Inman Grant:** We're still in consultation. We developed the draft standard. We had an initial 30 days consultation, as indicated by the Online Safety Act. A number of industry players asked for an extension. We granted all of those extensions. We have about 50 that we are assessing now. We've got some very useful feedback that can help us clarify certain issues.

**Senator SHOEBRIDGE:** Do you have a KPI we can hold you to on it?

**Ms Inman Grant:** What we're hoping to do is by next week or the following release all of the submissions once we have analysed them. We are hoping to use the consultation and some of the suggestions that were put forward to finalise the standard. We hope to get it as a disallowable instrument before the parliament in late April, early May. We would like to see that move forward because we want to see these enforced. We think they're very reasonable. We think they'll have a good impact.

**Senator SHOEBRIDGE:** Late April, early May. That's what you're thinking at this point?

**Ms Inman Grant:** That is our goal.

**Senator SHOEBRIDGE:** Good. I want to ask you quickly about funding. Your office has had an expanded workload for enforcement, particularly for these online and most serious breaches of online safety. You've got a bunch of proceedings against, amongst other entities, X Corp. Have you received the resourcing you need to undertake your statutory functions?

**Ms King:** We will be working with the department on any future resourcing requirements as they come along.

**Senator SHOEBRIDGE:** Yes. I'm sure you will. Have you got the funding you need to do your work?

**Ms Inman Grant:** We've cut the cloth to fit. We did set litigation funding aside for these kinds of enforcement actions. Again, as Ms King said, we will continue to be in discussions with both the department and the government about our needs as they become more clear.

**Senator SHOEBRIDGE:** This is my final question. The government put out a discussion paper about AI and regulating AI. Have you been one of the stakeholders that has been engaged in that?

**Ms Inman Grant:** We have been very engaged. In fact, we joined with our fellow digital regulators to put a joint submission and to really articulate where we thought, again, we have powers in our domain expertise. We're engaging, I think actually later this week, to start discussions around the AI safety standard and are in consistent conversations with DISR.

**Senator SHOEBRIDGE:** All of these matters are fast becoming urgent—deepfakes, AI, aspects of online safety—yet I am seeing minimal statutory reform working its way through parliament. Do you think these issues can be dealt without statutory reform, just by regulatory enforcement?

**Ms Inman Grant:** I think we did a fairly good job of anticipating that deepfakes were going to be an issue. Deepfakes are covered through our complaint schemes. We put out a tech trends brief on generative AI. I strongly believe that safety by design has to be something that is inculcated throughout the model and systems development processes from when the data is selected and trained et cetera. I expect that there will be some consideration of more ex ante powers rather than de facto powers. If we're not really testing the digital guardrails for their efficacy down the track, perhaps even auditing, then we're extricating this out to the wild and we won't be able to put that genie back in the bottle.

**Senator SHOEBRIDGE:** Right now, many of the powers you have are being proven to be relatively ineffectual because of the nature of the entities you are trying to regulate—these global entities with a minimal asset footprint or personnel footprint in the country. That is the challenge that I think parliament needs to solve for you to make your job effective.

**Ms Inman Grant:** I would totally disagree. Our goal through our complaints scheme is harms remediation. We have a 90 per cent success rate in terms of getting youth based cyber bullying and image based abuse down, services that no other government provides its citizens. At the systemic level, we've just got the codes in place.

**Senator SHOEBRIDGE:** Yes.

**Ms Inman Grant:** We've turned up tremendous transparency, very searchable transparency findings, through our basic online safety expectations. What we need to look at in terms of the Online Safety Act review is making sure that is actionable. We're learning as we're going along. I think we're doing pretty well with the tools we have.

**Senator SHOEBRIDGE:** You are one of the few agencies in this space that I think is in real time grappling with the issues, so I commend you for that and your team. I am sure it's a hardworking team. I will ask you to take this on notice. There is the experience of enforcement in the Twitter case—the \$610,000 fine. When you look across the suite of the other enforcement measures in your portfolio, the other statutory enforcement measures, will there be an impact? Is there a potential impact? Are the same issues common to your other penalty provisions and enforcement provisions in your portfolio? If so, which ones?

**Ms Inman Grant:** Yes. We'll take that on notice.

**CHAIR:** Thank you. That brings us to a close.

**Senator HENDERSON:** I have some questions.

**CHAIR:** We are not staying any longer than a quarter to. It's not fair on Hansard and the staffing in this place. You declined the option for the call earlier.

**Senator HENDERSON:** No. I didn't decline it. I just hadn't put it down.

**CHAIR:** Okay. Can you get it done in four minutes?

**Senator HENDERSON:** I will do my very best.

**CHAIR:** We will pull up then and go to the break.

**Senator HENDERSON:** I understand that we want to go to dinner. Commissioner, good evening. I want you to update the committee on the work you are doing in Australian schools. Online safety for school children is a massive issue. Could you give us a quick update?

**Ms Inman Grant:** I'll go over the four-minute deadline. What I would say is that we were really pleased to see last week with the Safer Internet Day that we delivered webinars to 30,000 children. We're delivering webinars all this week. As I mentioned earlier, the National Online Safety Education Council has been something that has really helped us scale. We do not have roots in the ground in every state and territory. Rather than working with 27 different entities, this gives us a forum in which to engage directly, hear from schools about what they need, and provide them with toolkits and guidance. That has been successful. For instance, we were able to send a letter to all of the school principals across the country to make sure that they were aware of us. The department is running an online safety campaign about the laws. We just did on the Safer Internet Day a campaign of our own around your e-safety toolkit, which was also very successful. Lots of earned media or strategic communications is doing an excellent job reaching a lot more people. That's a huge goal of ours. It's the expectation of government that we improve the overall knowledge that we're here.

**Senator HENDERSON:** So where is the big challenge for you as the eSafety Commissioner in school?

**Ms Inman Grant:** In schools, it's actually reaching parents. Parents are probably the hardest cohort to reach. Obviously, they are raising children. They are providing them with devices. Parents are finding this a very challenging parenting issue. We want to get as much information to them as possible. Young people themselves—we've seen even just through our online gaming research last week—are becoming much more au fait with technology and much more proactive with their own online safety. We've also seen huge increases in their willingness to engage in help seeking, including reporting platforms, reporting to us and talking to Kids Helpline, Beyond Blue, Lifeline and others.

**CHAIR:** We are going to pull up there. Senator Henderson, do you require—

**Senator HENDERSON:** I will put my other questions on notice.

**CHAIR:** Can I just finish what I am saying? Honestly, I am wearing thin on the behaviour here. We are going to pull up now because that's what is fair to the staff and the people in this room.

**Senator HENDERSON:** I am happy to put my questions on notice.

**CHAIR:** If I could just finish my question. Do you require these people to come back after the dinner break?

**Senator HENDERSON:** No. I was just saying that I am very happy to put my other questions on notice. Thanks, Chair.

**Ms Inman Grant:** We're happy to answer those on notice.

**CHAIR:** Thank you very much.

**Ms Inman Grant:** Thank you so much. Enjoy your dinner.

**CHAIR:** Just to be clear, we are releasing program 6.1, so we will return after the break with NBN Co followed by the Classification Bureau and Creative Australia. They are the only three organisations that we will be seeing after the break. Thank you. We will now suspend until 7.30 pm.

### Proceedings suspended from 18:45 to 19:31

#### NBN Co Limited

**CHAIR:** Welcome, everybody. We now have officers from NBN Co. I welcome Mr Stephen Rue, the chief executive officer. Would you care to make an opening statement?

**Mr Rue:** Yes, please. I will be short, though, I promise you, Chair.

**CHAIR:** Excellent. Thank you.

**Mr Rue:** Again, it's great to be back in Canberra with you this evening. I've got with me Gavin Williams, our chief development officer regional and remote. Our chief customer officer, Anna Perrin was originally due to join the committee tonight. Unfortunately, she has COVID and is quite seriously unwell so is not able to appear.

**CHAIR:** Well, we wish her well.

**Mr Rue:** Thank you. She will come to the committee at a future hearing. I will be brief, as I said. I will open with our key financial highlights for the first half of fiscal 2024 for the six months to 31 December 2023. I'm very pleased to report that NBN is on track to meet all our key financial targets the company set for the fiscal year, as outlined in our corporate plan 2024. During the half, we achieved total revenue of \$2.75 billion, up five per cent on the prior corresponding period. Our earnings before interest, tax, depreciation and amortisation, otherwise known as EBITDA, was \$1.99 billion, up 10 per cent on last year. Our national broadband network now has 8.58 million premises connected and accessing a service, which equates to over 20 million people. We continue to push fibre deeper into communities and to improve our fixed-wireless and satellite networks. This saw capital expenses in this half year of \$1.87 billion, up 32 per cent on last year. But the feature of this spend was the delivery by 31 December of two million premises in the fibre to the node footprint, with people having the ability to obtain a fibre to the premise connection. As promised, this means that, as of 31 December, three in four premises in our fixed-line network can achieve wholesale speeds of between 500 megabits per second and one gigabit per second. Offsetting this spend was the receipt of more than half a billion dollars during the first half of the financial year as an equity injection from the Commonwealth as part of the government's \$2.4 billion commitment towards fibre upgrades across the nation.

It's core to our strategy that we make these investments now. It's part of a shared vision with government to ensure that all Australians can reap the economic and social benefits of a faster, deeper capacity NBN network today and in the years to come. We operate in a competitive market. Enhancing competition was one of the reasons NBN was established. We create competition and we face competition. This is a good thing. Competition delivers the best possible outcome for customers.

First of all, I would like to reiterate that the net additions to the NBN network in calendar 2023 was 50,000 connections. That is obviously a lot of new greenfield or residential development in this number helped by the demand for new housing. This growth in our customer base comes in the context of expanding competition from other industry players. Competition can be seen in winning new development buildings, in certain multidwelling buildings, in mobile operators using surplus spectrum to sell 4G, 5G and fixed-wireless access services and, of course, in low orbit satellites. Competition has never been stronger. This is healthy for the industry, for NBN and for consumers. Consumers on our network tell us that the main reason they choose an NBN alternative is to seek a faster Internet connection or the perception of an unreliable service. This is one of the many reasons why we are expanding our fibre to the premise footprint and building greater speed and capacity in our fixed-wireless network, more rapidly making NBN future proof.

Data demand has grown tenfold in the last decade. The average Australian home has 22 internet connected devices today. We forecast it will have 33 by 2026 and 40 by the end of the decade. We're investing in the NBN network to ensure our network is the best equipped and provisioned network in Australia to accommodate the huge demand that is coming. Of course, accommodating the ability to carry large volumes of data is our competitive advantage.

As I said earlier, 75 per cent of the fixed-line footprint, or some 8.4 million premises, are now close to gigabit capable. More than 3½ million premises are now able to order upgrades from legacy copper technology to full fibre. We continue to see positive momentum in the demand for these full fibre orders, which saw an average of

7,000 orders a week across November and December 2023. The total number of premises upgraded to FTTP, or fibre to the premise, is now over 200,000.

Since my last appearance, the company announced its intention to consult industry on further improved speed tiers on our fixed-wireless network, including proposing to increase the wholesale speed of our most popular existing wireless plan to up to 100 megabits per second, and an increase of download speeds on our fastest new high-speed tier to be up to 400 megabits per second, all at no additional wholesale cost. This means that those consumers remaining on our Sky Muster satellite network benefit from reduced congestion and are therefore able to achieve better speeds too. As this committee knows, on 1 July last year, we launched our first ever uncapped data usage satellite plan, Sky Muster Plus Premi with anticipated typical busy period download speeds of 48 megabits per second and burst upload peak speeds of 100 megabits per second available on the NBN satellite for the very first time, subject to fair use and shaping. On 1 December 2023, we also introduced two additional uncapped data plans that were designed to ensure that we can meet the needs and budgets of remote homes and communities. These new Sky Muster Plus Premium plans have been well received by end users and have grown to almost 31,000 customers in just seven months.

The business case for an ultrafast, deep capacity NBN network has never been stronger. Last week, we released new economic research from Accenture which features the first use of a new longitudinal data set to model the relationship between increases in Australian broadband speeds over time and key national economic indicators. The report estimates that a faster, high capacity NBN network will increase gross domestic product by around \$400 billion over the next eight years to the end of the decade. This increase in GDP is forecast to be felt all across the nation, with increases in average broadband speeds having 16 times the impact in remote areas and twice the impact in regional areas than in capital cities. In a decade from 2012 to 2022, the digital uplift created by the NBN network is estimated to have created 169,000 jobs and 87,000 new businesses. In 2022, Accenture found that the GDP uplift created by the network was estimated to be \$31 billion. This rises annually to a forecast \$68 billion per annum by 2030. So the future is bright and undoubtedly digital. The NBN has proven to be the great equaliser and the great enabler.

In my last appearance before the committee, I talked about the acceptance of NBN's special access undertaking with the ACCC. Since that time, as of 1 December, our new pricing under the new wholesale broadband agreement has come into effect. This represents an important milestone for the company and a watershed agreement for the industry. It delivers greater commercial and regulatory certainty for the entire industry, which means price certainty and collaborative efforts, with clear lines of accountability for delivering customer service improvements.

Lastly, I want to take the opportunity to acknowledge the work that government has commenced in relation to considering the future of the universal service obligation and the provision of telecommunications services to the bush through its Regional Telecommunications Independent Review Committee. Core to NBN's purpose is connecting Australians no matter where they live or work. We stand ready to contribute to this process and the future of the sector. Chair, Gavin and I are now very happy to take your questions. Thank you for letting me read that.

**Senator Carol Brown:** I thought we were recommencing at quarter to, so my apologies.

**CHAIR:** That's quite alright. We figured we would just get through the opening statement and some questions that didn't require you. That's totally understandable and totally fine.

**Senator HUGHES:** Mr Rue, could you explain how many connections the NBN lost in the category of existing homes or brownfield sites in 2021?

**Mr Rue:** I don't have that figure with me, Senator. That's a year when we were migrating customers from legacy networks on to NBN. I would have thought it was a very substantial increase. I would have to go back and have a look.

**Senator HUGHES:** Do you know in 2022 if it went up or down in brownfield sites?

**Mr Rue:** I don't. But that's easy to find. We do a weekly report, so that will be easy to see.

**Senator HUGHES:** What about 2023? Do you have any idea how many connections?

**Mr Rue:** Are you talking about calendar year 2023?

**Senator HUGHES:** Calendar year, brownfield sites.

**Mr Rue:** There is approximately 30,000 less premises in brownfield, but that is well and truly offset by increases elsewhere. That is why the number of homes—I think I said it in my statements—has grown by 50,000 in the last calendar year.

**Senator HUGHES:** That's greenfield sites?

**Mr Rue:** Greenfields, yes. But there's greenfields and fixed wireless and so on. All of our network, from satellite, fixed wireless, greenfields and brownfields added together, grew by 50,000 in the last calendar year. I think it's 24,000 since June.

**Senator HUGHES:** So brownfield sites are existing homes as opposed to greenfields, which are new developments?

**Mr Rue:** Sort of. That's broadly right, Senator. The way that our reporting goes, though, is that it was set up originally—which we still do on a weekly basis—to show the progress of the NBN as it was building its initial network and migrating legacy customers across. So any greenfield premises built since I think 2014—I might stand corrected on that, but around that date—are still treated as greenfield. Of course, after a while a greenfield premise becomes—

**Senator HUGHES:** A brownfield.

**Mr Rue:** Yes, exactly. So it is brownfield premises as they existed in, say, 2014; that is what they are.

**Senator HUGHES:** So why are brownfields falling?

**Mr Rue:** As I said in my opening statement, NBN spent, if you like, its growth phase where it was building an initial network and then people were migrating off legacy networks on to NBN. There was a substantial movement of obviously people moving on to NBN. There was an 18-month period when they could choose to move on after an area was declared ready to connect. But if you wind forward post, if you like, the build and the initial migration, the competition against NBN has significantly grown. As I said in my statement, there's competition for obviously greenfields. There's competition in some multi-dwelling units. There is competition from mobile operators with 4G and 5G. There's competition with not just Starlink but low orbit satellites. There's small wireless players and so on. So the competition is significant. There is heavy marketing, as you can imagine, from some of those players into areas where the NBN has services. What consumers tell us, though, is that the primary reason they choose another service provider is either their perception that they want to get a higher speed or their perception of the quality of service that they have on an NBN service.

**Senator HUGHES:** They are not moving to 5G because it's cheaper? The perception is reality.

**Mr Rue:** For example, there are lines, particularly on our copper based fibre to the node premises, which are at the end of the line, if you like. This is the physics and how it works. If you are let's say a kilometre or more than a kilometre from the node, the length of the copper line means that the speeds you get may be 25, 30 or 35. You may want a faster speed. That, of course, is one of the many reasons why we're building out fibre. If they want to get a higher speed than the copper line can provide, they may—to be clear, it's 30,000 out of a base of 8.6 million customers on our network, so a small number, but I understand why you're asking—choose, therefore, to get a higher speed from, for example, a 5G mobile or a 5G fixed-wireless access. Not only that, clearly those homes are marketed heavily because they are the ones that are, if you like, a way that the mobile operator can see a customer who may want a higher speed. They know that the physics means they can't get that from fibre to the node. Copper degrades over time. Therefore, the number of faults on a copper line may increase. Again, that is a reason why customers have a perception of the quality of the service and they may choose to go to another player.

What I would say to you is that over time our network is built to carry large volumes of data. Obviously a fibre link in particular or a HFC service can provide gigabit services. So over time data is going to grow significantly. That is another way of saying that people are going to use the Internet for more things or for applications that use a lot of bandwidth. Our network is built to carry large volumes of data. The mobile operators and the fixed wireless operators have what is called a shared network. They are not built to carry large volumes of data. If you look at the data carriage on our network, in fixed-line networks, it's high 80 per cent of all data carried in Australia. A lot of people think they are using a mobile phone at home. They are probably on wi-fi and actually using the NBN network. So over time I think you can be confident, Senator, that because our network is built for high speeds and is built for large amounts of data, we will be very competitive. We'll continue to be. We're competitive today, but we will be increasingly competitive going forward.

**Senator HUGHES:** That's the connections to brownfields and greenfields sites. With regard to satellite connections—I know we talked about this previously—I have looked around. At 30 June 2021, satellite connections were 111,630. On 1 February 2024, so not very long ago, it is 88,134. My concern is that we've seen people on brownfield sites moving off and moving away.

**Mr Rue:** Senator, it's very few.

**Senator HUGHES:** Just bear with me for a minute. They are going backwards for the first time. We've got satellite numbers declining. Have we kind of passed the peak of the NBN?

**Mr Rue:** No. I will let Mr Williams respond. He is the expert in all things satellite, so he can talk to you about that 111,630. It is quite the opposite, Senator. Firstly, I point out that the number of Australians using NBN today compared to the time when I was here last, Senator, is more. The number of customers on our network continues to grow. In terms of whether we have passed the peak, we are far from it. I have a favourite phrase, actually, that I talk to all our staff about—people who work at NBN. I say it because I mean it. The best years of NBN continue to be ahead of us in the future. The reason is that the applications being built, the businesses that are increasingly going to use new applications and digitise their business and so on, all the investment that has been made in AI or augmented reality, virtual reality, large screen televisions and so on, is going to mean that there is more and more data being used. That is why people are investing in data centres, subsea cables, in intercity fibre all around the world. That is why there's a lot of investment into new applications. We are going to see large volumes of traffic. NBN is built for fast speeds on fibre and HFC. It is also built for large volumes of data to be carried. Have we reached the peak? Far from it, Senator. We continue to be a growth business. As I said, we've grown this year as well.

**Senator HUGHES:** When you say you have grown this year, is that grown in market share as well? Obviously, as the market does expand and the requirements expand, there will be more competitors.

**Mr Rue:** I would have to do the math. We win about three in four, or slightly more than that, of new developments that are competitive. We are also the provider of last resort. I would have to do the math. We are winning a good percentage of new developments. As I said, there's a small churn, but it's largely from those perceptions of either not enough speed or not enough stability of lines. In terms of satellite, Gavin, do you want to answer?

**Mr Williams:** I have responded to satellite numbers in previous testimony in this place. I will reinforce the point that the satellite footprint has always been subject to competition. Now there is competition, new waves of technology and new waves of competition. So the fact is that customers are choosing different technologies. Frankly, I think it's a positive thing, as Mr Rue said, the outcome of competition in the bush. Before Sky Muster was launched in the first place, there was talk about the data drought in the bush. People aren't talking about the data drought in the bush any more. The strategy that we employ is to utilise the fact that we're building upwards and outwards our fixed-wireless product. This enables us to plan not for a 400,000 footprint for satellite but less than that. We are reimagining the capacity management on that product to enable us to fulfil the biggest customer blocker that we've had plenty of feedback on over the years, which is around data anxiety and caps. As Mr Rue said in his opening statement, since the last appearance here, we have launched, in our words, low-end, uncapped plans. They are extraordinarily cost effective plans, meaning zero dollar installs, professionally maintained, and competitive monthly charges for uncapped data. If you look at your numbers, you would see that in the last calendar year we declined just over 12,000 or so. Just over 10,000 of that was in the first half since we launched Sky Muster Plus Premi which is north of 2,000. As Mr Rue said—

**Senator HUGHES:** So 2,000 new customers?

**Mr Williams:** No. The decline has reduced from 10,000 in the first half to about 2,000 in the second.

**Senator HUGHES:** Okay. So slowing decline?

**Mr Williams:** Slowing decline as customers choose. And 31,000 around seven months that customers choose not to take advantage of these new plans. I think it is a wholly positive thing for the bush that these kind of new options are available. For NBN's part, we're pushing the technology not just in relation to our plans for individual homes but looking to deploy that technology in new and innovative ways, such as pilots in First Nations communities and supporting community based wi-fi to support digital inclusion. I note the announcement today that we are pleased to see the opportunity to expand that program based on Sky Muster as well.

**Mr Rue:** I will also add that the reason we're making investment in fibre is that Australians will need more stable lines, if you like, going forward and they will also need higher speeds, which augers well for the company. That's what Australians are going to need and that's what we're going to be providing. We're far from the peak of NBN.

**Senator HUGHES:** Maybe take on notice for me just the end of 2022 and end of 2023 market share both in the satellite market and fixed wireless.

**Mr Rue:** In the satellite market?

**Senator HUGHES:** Since Starlink came in, maybe what your market share is there, and fixed wireless.



**Mr Rue:** Our fixed-wireless customers are growing.

**Mr Williams:** Yes. Fixed wireless grew.

**Senator HUGHES:** I have to admit that I'm not the most technical of people. I am bumbling my way here through acronyms.

**Mr Rue:** I think I know what you are asking for.

**CHAIR:** Your share of the market.

**Senator HUGHES:** Yes. All the market share. If you can give us a bit of a comparison—

**Mr Rue:** No problem.

**Senator HUGHES:** that would be lovely. Thank you. I am happy with that block.

**Senator CADELL:** You said in the opening that you have \$1.99 billion EBIDTA. What was the net result?

**Mr Rue:** When you say net result, do you mean the net profit after tax?

**Senator CADELL:** Net profit after depreciation and tax.

**Mr Rue:** This is our half year result presentation. It's on the website, by the way. Net loss after tax. You're asking for the half year?

**Senator CADELL:** Yes. For the year.

**Mr Rue:** It is a \$696 million loss.

**Senator CADELL:** For the half year?

**Mr Rue:** Yes.

**Senator CADELL:** That is a big loss. What is the cash flow like?

**Mr Rue:** If you bear with me one second, I will answer that by explaining the statutory P&L result. When you look at our statutory result, it goes down, that net loss after tax. You see that our revenue grew five per cent, our EBIDTA grew 10 per cent and our earnings before interest also grew 10 per cent. That is despite the fact there was a \$150 million increase in depreciation. Depreciation is just an accountant's way of taking to the profit and loss a capital expenditure that was spent many years ago. The reason that increased is that the finance team re-estimated the useful lives of some fixed-wireless assets. It's noncash. It's just accounting. The second reason is that our interest costs rose; there's no surprise in that for two things. We've got a larger debt, as you can imagine, as we continue to invest, and interest rates have clearly raised. The bond market has higher rates. The third reason—I promise you that I won't spend too long on this—is that it is an income tax expense of \$147 million. We're not going to pay tax for a decade plus. This is just because of movement on hedges. It's what is called hedge accounting.

**Senator CADELL:** I get that. You have accrued losses.

**Mr Rue:** It's nothing to do with cash. So when you actually look at that loss, although it looks on face value to be so when you ask what is going on, you see a lot of accounting in there that is non-related.

**Senator CADELL:** That's why I asked about the cash flow.

**Mr Rue:** So that's why you asked about cash flow. I'm sorry. I didn't want to leave that out there. So our operating cash flow grew from \$1.6 billion to \$1.8 billion. Senator, I may help you. It's on page 14 of our presentation of our half-year results. That should be on the website. I'm happy to table it, if it helps you.

**Senator CADELL:** So that is in the last six months?

**Mr Rue:** Yes.

**Senator CADELL:** What was the previous six months?

**Mr Rue:** The previous six months was \$1.6 billion. It was \$1.608 billion, to be precise.

**Senator CADELL:** That is the difference. What was the previous six months before the \$1.6 billion. We've gone from \$1.6 billion to \$1.8 billion. What was the difference?

**Mr Rue:** I would have to find that for you, if you bear with me. It was less, but I'll have to find that.

**Senator CADELL:** It was less. So cash is always growing?

**Mr Rue:** That is operating cash. Out of operating cash, though, we pay capital expenditure. The capital expenditure grew—this is cash—from \$1.4 billion to \$1.9 billion. But that's offset by a \$546 million equity payment from the Commonwealth. Our lease payments grew a bit because of inflation and uncertain infrastructure arrangements with primarily Telstra. Our interest grew, as I talked earlier, from \$300 million to

\$400 million. So the operating cash flow grew from \$1.6 billion to \$1.8 billion. The free cash flow went from a loss of \$623 million. When you take the equity injection from the government, it improved to \$514 million. So it's an improving result. We have a high level of capital expenditure at the moment, which you would expect. We're building out the fixed-wireless upgrade. We're building out more fibre in the copper based areas. So our capital expenditure will continue. Our operating cash flow should continue to grow, but our capital expenditure for the next few years will be higher.

**Senator CADELL:** So your total cash flow will decrease?

**Mr Rue:** It decreased, yes, to \$514 million. That is really because of the capex we have today.

**Senator CADELL:** I want to talk about capex. A lot of the increase in that is linked to the FTTP rollout. That is my understanding. Is that correct?

**Mr Rue:** Yes, it is. Again, Senator, it is page 12 of the presentation.

**Senator CADELL:** On average, can you confirm the cost per household of the installation of the FTTP rollout, the fibre to the premises, on brownfield, not greenfield?

**Mr Rue:** The lead-in is about \$1,400, but we hope to improve that. I am trying to remember the cost. I am generally trying to remember the cost. I think it is \$1,250 per premise for the build of the fibre in the street. If you add them together, it is \$2,600. Use that as a rough figure.

**Senator CADELL:** If we're rolling this out, that's a lot of months of broadband to increase. Is there a lock-in for that? If someone signs up, are they tied into a contract?

**Mr Rue:** So the benefits from that over time are a few things, Senator. It gives the opportunity for customers who currently on the fibre to the curb can get 100 megabits per second to get higher speeds. It gives the ability for customers of fibre to the node who have between 25 and 100 megs to have the opportunity for higher speeds. Clearly, for the company there is an opportunity for revenue growth.

**Senator CADELL:** What is the difference in price between 100 and 50 megabits per second?

**Mr Rue:** Again, you have to go by industry averages, but it's about \$5 a month. The second reason for that, though, is the ability—Senator Hughes was asking me this earlier—for us to ensure that we retain customers on our network and grow customers on our network by having a fibre based network. The number of homes that take up an NBN service in an area that is served by fibre to the premise is higher than the percentage of homes that take up a service in the fibre to the node area, for example. There are reasons for that. Some of that is demographics. A lot of that is the reliability of services and the speed you can get. The second reason is to help us retain and grow customers. The third reason is that our operating costs reduce for a whole pile of reasons. IT systems are easier. It also takes costs out of the industry, by the way. It also means that our operating expenditure will reduce because there are fewer faults on the network and there is a less complex business to operate. So the combination of increasing average revenue per user, reduced operating costs, reduced capital costs and increased penetration of the number of people on our network are the reasons why it makes financial sense for us to do that. On top of that, it's better. Of course there is the policy, which is to ensure that Australia builds its economy, as I was talking about in the Accenture research. It provides more opportunity for people to have health and education, reach government services and ensure Australia is competitive internationally. So it's good for policy. For NBN itself, it's also a good investment.

**Senator CADELL:** How long do we lock someone in if they do the conversion from copper to fibre to the premises?

**Mr Rue:** It's a relationship with the retailer.

**Senator CADELL:** You don't make the retailer sign up for a certain length of time?

**Mr Rue:** What we say is that the customer should sign up. If they want a fibre-to-the-premises service and they are on an FTTN service, we require them to order a 100-megabit-per-second service if they are on fibre to the curb or above. For fibre to the curb we require them to purchase the 250-megabits-per-second or above service—that is, a faster speed.

**Senator CADELL:** Going to the \$5 a month upsell on a \$2,650 installation, not saying lower costs, they have to remain customers for 530 months, or 44.1 years, on cash recovery, not this sort of stuff. If you double that for the savings, that is still 22 years.

**Mr Rue:** That is the wrong way to look at it. You are taking the 50 to 100. Of course a lot will go from 50 to higher speeds or from 12 and 25 to 200.

**Senator CADELL:** What is the difference in that?

**Mr Rue:** Again, it depends.

**Senator CADELL:** Industry average? What is the price?

**Mr Rue:** It could be a \$20 to \$25 uplift.

**Senator CADELL:** So we're down to 10 years.

**Mr Rue:** Senator, this is the sort of question that Senator Hughes was asking me. Roll forward five years when there's a lot of data and people need speed and we have people on 25 megabits per second. We will lose competition in the market. You need to factor in the fact that we will have more customers on our network on a fibre based faster service. You have to factor both capital—

**Senator CADELL:** But you have to keep them for 12 years.

**Mr Rue:** No, you don't. You are just doing it on revenue. You have the revenue, the operating costs, capital cost and there is the up-spend.

**Senator CADELL:** You are spending the capital cost of \$2,000 to put it on.

**Mr Rue:** We reduce capital costs going forward.

**Senator CADELL:** What capital costs?

**Mr Rue:** Copper remediation and the need to replace equipment such as distribution point units, or DPUs, in fibre to the curb. When you put fibre underground, basically it's a 50- to 60-year investment. So the expenditure we will have going forward reduces in capital and operating costs. We will increase the number of customers on our network. We will have higher average revenue per user. The investment we're making makes sense financially for NBN. It obviously makes sense from a policy point of view. Senator, infrastructure companies build for a decade on and beyond. They don't build for tomorrow.

**Senator CADELL:** You have to build for four decades at this rate of return.

**Mr Rue:** No, Senator. You have to trust me. I've done the maths. My team have done the maths on this. Those four factors absolutely give us the financial return on this investment.

**Senator CADELL:** How many FTTP connections from copper do you plan on rolling out in a calendar year?

**Mr Rue:** Rather than give you projections for the future, we are taking at the moment 7,000 orders a week on average. I said that in my opening statement. There was a week in December when the orders were just shy of 9,000. We have released in the last few months a lot of footprint. The retailers are on the market. I would expect that 7,000 to grow. That gives you an indication of the sort of run rate that we're going to have. We will be building lead-ins to the end of the decade.

**Senator CADELL:** This year we will expect probably just under another billion cash flow in building the infrastructure to put these 7,000 per week?

**Mr Rue:** That billion is before equity from the government.

**Senator CADELL:** Right. So you are expecting more equity from the government?

**Mr Rue:** The government has committed to up to \$2.4 billion equity funding for the cap to build out 1.5 million additional homes in the fibre-to-the-node footprint. I can pleasingly tell you that we've been asked to do that by December 2025. We're well on track to do that. Between now and December 2025 we will be incurring more capital expenditure. The fibre build in the street is covered by government equity funding. Lead-ins is an NBN expense, if you like. It is all an NBN expense, I should say. There's no equity funding for the lead-in.

**Senator CADELL:** What is the current balance sheet position of the NBN? What are your net assets?

**Mr Rue:** I don't know at December. This will give you a feel for it. Total assets at the end of June are \$38 billion. Net assets are negative \$3 billion. Again, Senator, before you think that's terrible—because that was your next question—for an infrastructure builder that's very normal, because you build out assets and you depreciate them. The depreciation is affecting that. As you build, you have operating expenditure, and that flows through the losses as well.

**Senator CADELL:** In your projections going forward on your business case—I'm sure the answer will be yes—but to justify the rollout of this, are you looking at potential increased technology? Are we talking about 5G now? Are you looking at new technologies and systems that may over the payback cashback period of this actually diminish the viability of these things? Are you discounting the growth?

**Mr Rue:** I think, Senator, we will continue to see the build-out of new technologies. There's no doubt. If you take low orbit satellites, that will continue to evolve. Take what we've done with fixed wireless with the combination of 5G and 4G. We'll continue to expand that, but I'm sure there will be competition there as well.

And 5G will become 6G, and 6G will become 7G. However, I can't say enough that our network is built to carry large volumes of traffic at the same time, or concurrent use. There's some sharing of networks. It broadly enables people to have whatever data they need. We are on the verge of seeing explosions of data. AI, generative AI, VR, AR and all that sort of stuff is going to, in my view, change the way that we live, work, entertain and connect with each other. That is going to lead to increasing volumes of data. At the end of the day, fibre is built for a long time. All you have to do is put electronics at the end of fibre and you can go from one gig to five gig to 10 gig to 25 gig. Fibre is reliable. Fibre is also green, by the way. Senator, there will always be competition. We will never have 100 per cent market share.

**Senator CADELL:** I'm not asking that. Did you discount the value of this on the business case as—

**Mr Rue:** Yes, Senator. We have not assumed that we will get to ridiculous levels of penetration.

**Senator PAYMAN:** I will keep it brief. Good evening. In October 2023, the ACCC accepted a new special access undertaking from NBN Co. What impact did this have on the wholesale price and prices across the six key NBN residential plans?

**Mr Rue:** The special access undertaking was enshrined, if you like, on 1 December—again, it was in my opening statement—in what we call our wholesale broadband agreement. Since 1 December, we have reduced the price effectively of five of our six major plans. The one that did go up is the 50/20 plan. It went up, on average, about two per cent. When you look at what came down and you when you look at that small increase, what we call our average revenue per user will not change this year. In fact, it hasn't changed for almost two years. That's another way of saying that the average cost to the industry has not changed. Over the last two years—I don't need to tell senators—of a high inflation environment, our access cost to the industry has not changed on average. That is an average, to be fair. On average, our cost has not changed to the industry. So the impact of the SAU has been that, as I said, our average revenue per user is flat this year and the costs have not gone up. Five came down and one went up by about two per cent.

**Senator PAYMAN:** With regard to the original SAU submission in March 2022 under the former government, on how many residential NBN plans were wholesale prices going down?

**Mr Rue:** I don't recall. I'd have to take that on notice, I'm sorry. I have been focused on this arrangement. I'm sorry, but I'll have to take that on notice.

**Senator PAYMAN:** That's okay, Mr Rue. Thank you very much.

**Senator HENDERSON:** Mr Rue, good evening. What is the total number of customers who previously had an NBN plan who no longer have an NBN plan? What is the abandonment rate?

**Mr Rue:** That's impossible to answer for me. The reason for that is that we only know premises; we don't know customers. The customer relationship is with the retailer. To try to explain, Senator Henderson, if you moved into Senator Hughes's house, you've moved, but I don't know. All I know is that house has a connection. I don't know the answer to your question.

**Senator HENDERSON:** So you're not able to determine or track the number of Australians who previously had an NBN plan who no longer have one?

**Mr Rue:** I don't know the individual customers, no. That information is held by retailers. But even retailers' customers move between retailers. So customers move between retailers. Customers move between houses. All I see is houses connected. I don't see customers connected.

**Senator HENDERSON:** What about premises?

**Mr Rue:** I would have to take that on notice, Senator. I don't know.

**Senator HENDERSON:** So the total number of premises?

**Mr Rue:** Again, that would be up and down depending on people moving. People have rental accommodation. I can see if we can get that for you, Senator, but it won't give you an indication. People move all the time. A lot of renters move from one premise to another. International students come in and so on. I can see if I can get you the information, but it doesn't actually tell you whether people have moved on or off the NBN. All I can tell you is the number of premises on the network today is, as I was saying to Senator Hughes I think before you came in, Senator Henderson, that there are more people on the NBN network today than there were the last time I was at the hearing and the last time before that I was at the hearing. They continue to grow.

**Senator HENDERSON:** What are your long-term forecasts for the number of premises?

**Mr Rue:** Senator, I don't like to answer about long-term forecasts—I am sorry, I know we have discussed this before—because the substantial amount of borrowings that we have on international markets prohibits me from

giving any future forecasts. I don't want to mislead or be seen to mislead any lender in terms of future forecasts. I would say that I expect the number of premises on our network will continue to grow.

**Senator HENDERSON:** When you say it's your expectation that the number of premises will grow, what is the basis for holding that expectation?

**Mr Rue:** A whole pile of things. It's kind of—

**Senator HENDERSON:** Asking you to breach your loan covenants is one thing.

**Mr Rue:** I understand. I will be a bit repetitive, I'm sorry, but there are a whole pile of reasons. The amount of investment that has been made all around the world in advance of big consumer breakthroughs on the back of AI, generative AI, augmented reality, virtual reality and so on and other things such as large screen TVs, connected homes and business applications means that the amount of data—the data on our network is already growing at 10 per cent per annum—will continue to grow. I think it will explode. The expectation is that it will grow significantly. That is why data centres are being built. That is why subsea cables are being built. Fibre is being built all around the world and intercity fibre is being built. The amount of data that will be consumed by people means that they will need NBN more and more. That's the first point. The second point is as we build out more fibre, that will give more Australians reliable services with fewer reasons to call up their retailer to get NBN to fix a fault. It will also give access to those higher speeds. Penetration in a fibre to the premises footprint is higher than the penetration in a fibre-to-the-node footprint, for example. We expect there will be more customers on the network from that alone. New developments also keep getting built. The population of Australia continues to expand. As it does, new developments are built. Again, as I was saying earlier, I think before you came, three in four of those in competitive areas tend to choose NBN to provide their service for a whole pile of reasons. So it is all those reasons—population growth, the fact that data will grow and the fact that more people will need our network and will want faster and reliable services. That is the reason for that.

**Senator HENDERSON:** Mr Rue, will you be asking the government for any more funding support?

**Mr Rue:** Let me answer a different way. If the government chooses to continue to invest more in NBN in other areas of our business, clearly that will be something that they would look to fund. That's a matter for them. Honestly, maybe you can ask Senator Brown, but it's not a question for me. Do I need funding for the ongoing operations of our current business? No. But there are areas such as today, where we have been asked to provide what is called community wi-fi services for Indigenous communities. That will be funding from the government. That's a policy-driven thing. In terms of ongoing day-to-day operations of the business, no. We have borrowings alongside the equity the government has given us. That is our capital base. That is what we run our business off.

**Senator HENDERSON:** So you have no plans or nothing in the works to seek more funding from the government?

**Mr Rue:** Other than for, again, as I said, if the government asked me to say, 'Can you do more remote communities?', which is what we did get asked and we said, 'We can, but this is what it will cost,' that clearly would be funded by government. Other than those sorts of examples, Senator, no.

**Senator HENDERSON:** Has that proposal been made—the community wi-fi in Indigenous communities?

**Mr Rue:** Yes.

**Mr Williams:** There was an announcement today around an expansion of a pilot and proof of concept that we deployed in four communities over the last 18 months or so. The announcement today is to expand that to about 20 additional communities. The precise communities still need to be worked through.

**Senator HENDERSON:** Has additional money been provided for that program?

**Mr Williams:** Well, no grant agreement has been signed yet. It was the subject of an announcement today. Additional funding will be made available for us to make those investments and deliver that capability in those communities.

**Senator HENDERSON:** Mr Rue, is the board comfortable with the board taking on more debt?

**Mr Rue:** Beyond the current debt load?

**Senator HENDERSON:** What you are carrying at the moment.

**Mr Rue:** No. As a board, we have set ourselves, if you like, the \$27½ billion that we talked about in September 2020, I think it was. We want to run our business based upon that \$27½ billion borrowings and based upon, obviously, the equity that the government has provided to us. As I said before, if the government wants to do further policy, clearly that is something that management and the board will be looking for government to

provide funding for. But for our existing business as we're running it today, we want to manage our business based upon our current borrowings.

**Senator HENDERSON:** You are saying you could continue operating with no more government investment?

**Mr Rue:** That's correct, Senator. That's our obligation. That's our job to run the business that way.

**Senator HENDERSON:** And meeting all of your population and growth targets and the like?

**Mr Rue:** Yes. The reason for that, Senator, is that our revenue will continue to grow. It will continue to grow because we continue to grow customers. The capital expenditure on our business will reduce. It will reduce as we get through this period of completing the fixed wireless build, which Mr Williams is leading, and completing the fibre build outside people's homes. We still will have capital expenditure on lead-ins, which will be our biggest spend over the next decade, but the level of capital expenditure will reduce and enable us to have a basis to run our business. Based on the revenues we have, we will be able to manage our operating expenditure, our financing costs and the capital we need to spend in the business.

**Senator HENDERSON:** I know that a number of questions have been raised about the fall in your satellite business.

**Mr Rue:** Yes. We have been through that.

**Senator HENDERSON:** I think I started asking you about it very soon after the government was elected. It was clear pretty early on that your competitor was putting into the market a very compelling offer. What do you have by way of plans to improve your satellite offering? How are you going to combat Starlink as well as low-orbit satellites more generally?

**Mr Rue:** Sorry, Senator, I think you weren't here. I dealt with some of the new products in the opening statement that we have on satellite. I want to put one thing to bed, though. Low-orbit satellites are a good service for people in a certain part of Australia. It's not something that is going to be pervasive through the whole of the country, just to be very clear. We're talking about specific competition against a small cohort of customers, just to be clear. Do you want to talk about the products with satellite?

**Mr Williams:** Senator, I think you might not have been here when we covered some of them.

**Senator HENDERSON:** I don't want you to repeat.

**Mr Rue:** It's in the opening statement.

**Mr Williams:** It's in the opening statement.

**Mr Rue:** Basically, Senator, we've introduced faster speeds on satellite because we're able to do fixed wireless. There are faster speeds without any data caps,

**Senator HENDERSON:** Which is a very important coalition initiative, I have to say.

**Mr Rue:** There are various policies. That enables people in regional Australia for the first time to have a Sky Muster satellite service and not worry about running out of data after a few days. It's a simple choice.

**Senator HENDERSON:** You lost two per cent of your satellite customers in January alone. Why did that happen? That's a big bleed.

**Mr Williams:** You are looking at base movements within a short period such as a month. You need to look at them over a slightly longer term. We covered these numbers just before you came in. Over the last calendar year, we lost just north of 12½ thousand, around 10,000 of that in the first half prior to us launching the uncapped plan for Sky Muster Plus Premium and prior to us launching the groundbreaking, much lower cost plans in December.

**Senator HENDERSON:** Were those 12½ thousand accounts or customers?

**Mr Williams:** Similar to Mr Rue's testimony before, what we are seeing are premises that are connected or not connected. It is active customers. You can see those numbers in our weekly disclosure.

**Mr Rue:** You see the premises, not the customers.

**Senator HENDERSON:** What happened in January? That was a very significant loss of customers just in four weeks.

**Mr Williams:** One thing that happens is that retailers have periodic cleanouts of their customer base. So it's not the case, for example, that typically if a customer were to leave a retailer that a cancellation order would land in NBN's lap concurrently. Oftentimes, some of these cancellations are batched. There would be some of that activity going on in the January numbers. Again, Senator, to look at a period of only four weeks in the context of base moves is really too short a period.

**Senator HENDERSON:** I know. I appreciate that, except it was such a large number of customers you lost.

**Mr Williams:** The unusual thing that occurred, as we are aware, is around clean-up activity in retailers.

**Senator HENDERSON:** Could you provide the committee with more information in that respect? That might partly explain a loss of customers. It has nothing to do with your competitors?

**Mr Williams:** I have provided testimony, I think, directly to questions that you have raised in this committee before around where customers are going.

**Senator HENDERSON:** Yes. The Starlink offering just looks so much superior. The price has dropped dramatically. Every single farmer or anyone on any piece of land across this country is basically saying, 'Why would you have NBN when you can have Starlink?'

**Mr Williams:** Well, Senator, our Sky Muster Plus Premium plans have grown in seven months to about 31,000. We have been offering retail plans now since December for uncapped data in a world where you don't have to pay \$399 for equipment—you pay zero—and in a world where you have local support through retailers. We have retailers offering those plans at \$45 a month, not \$139 a month.

**Senator HENDERSON:** But connections. So many people are pulling their hair out with the connection. You might have a slightly better product on offer, but it is chalk and cheese. If I look at the loss of customers over 13 months, it's a loss of some 15 per cent. That is very significant. Your satellite business is bleeding. Mr Rue, with respect, these are the very concerns I raised more than 18 months ago.

**Mr Rue:** Senator, there's no doubt we face competition. There's no doubt about that. I don't think it actually should concern you, because competition is good for everybody. I said this again in my opening statement. We continue to build out our fixed wireless network. We are going to move. There's a cohort of 120,000 customers who can get satellite today who at the conclusion of our program, which is only 10½ months away, will be able to get a fixed wireless service, which will provide now 400 megabits per second. Most of them will be able to get up to 400 megabits per second. So we continue to invest in our business. We continue to provide better and better services for regional Australia. We're also building fibre in regional Australia. So we will continue to advance the services we do. I'm sure competitors will also continue to do that as well.

**Senator HENDERSON:** Mr Rue, I will have to finish up. I want to understand. You weren't able to give me the number of premises connected to the NBN previously and what they are now in terms of just the movement of customers.

**Mr Rue:** I can tell you the number of premises connected to the NBN. In fact, I can do that. We publish that weekly. On a weekly basis, Senator, you can see how many premises are connecting to the NBN. What I can't tell you is whether Senator Henderson is on NBN or not.

**Senator HENDERSON:** I understand that. It is on the premises.

**Mr Rue:** I can tell you that the premises we publish on a weekly basis. They are all there.

**Senator HENDERSON:** I will ask you to take on notice the issue about your forward projections for growth. I appreciate the point you've raised.

**Mr Rue:** I've answered the question, though, Senator. I can't tell you any more than that. I can't tell you the number. I can't get into future forecasts of where we see our business going for the reason I described. But I do see growth for all the reasons I outlined.

**Senator HENDERSON:** I would like you to take that on notice and come back to the committee with more information about that.

**Mr Rue:** It will be the same answer, though.

**Senator HENDERSON:** We might need to take that up with you separately. Thank you very much, Mr Rue.

**Mr Rue:** Thank you.

**CHAIR:** Thank you very much. We really appreciate your time this evening.

**Mr Rue:** Thank you.

**CHAIR:** We will now let you go, and we will call officers from the Classification Board to the table.

#### **Classification Board**

[20:33]

**CHAIR:** Good evening, Mr Sharp, Acting Director of the Classification Board. Would you care to make an opening statement?

**Mr Sharp:** No, not at this time, thank you.

**Senator ROBERTS:** Thank you for appearing, Mr Sharp.

**Mr Sharp:** Pleasure, Senator.

**Senator ROBERTS:** In response to a question at October Senate estimates relating to the inquiry into the adequacy of the rating system, Senator Brown made this statement. I will quote:

Informal consultation with government stakeholders has commenced. Public consultation will occur early in 2024.

I subsequently received a response to my question on notice which provided the same information. It's early in 2024 and the Classification Board website does not mention an inquiry. Has public consultation started? If not, when will it?

**Mr Sharp:** Senator, I refer you to the department on that. We have been participating in the stage 1 reforms that have been passed. That legislation has been passed. The board has been consulted as part of that. Effectively, the preparation for the implementation of that is occurring. As for the stage 2, the board has no further information on when that will occur. I refer you to the department for further information.

**Senator ROBERTS:** When is the review into the classification scheme going to start? Senator Brown said that it would be starting in early 2024.

**Mr Sharp:** I don't have that information, Senator. We are a key stakeholder, but that's a decision for the minister and the department.

**Senator ROBERTS:** So I have to ask the department?

**Mr Sharp:** Yes, Senator.

**Senator ROBERTS:** Senator Brown, you said it would start in early 2024.

**Senator Carol Brown:** And it's very early 2024. Are we talking about the second stage of the reform?

**Senator ROBERTS:** The review into the classification system.

**Senator Carol Brown:** The second stage of the reform will clarify the scheme's purpose and scope and establish fit-for-purpose regulatory and governance arrangements and improve the responsiveness of the scheme to evolving community standards and expectations. I will have to take on notice any particular date. The departmental representative can answer.

**Mr Windeyer:** I caught your question. Just to assist, yes, the intention is still that public consultation will kick off early this year. A precise date I don't have, but that remains the intention.

**Senator ROBERTS:** Are we talking a month or so?

**Mr Windeyer:** I don't want to put a time on it. Yes, the intention is still early this year to commence public consultation on the stage 2 reforms.

**Senator ROBERTS:** In response to my question regarding the graphic novel *Welcome to sex*, which I described as targeted to 10-year-olds and up—the author in fact says it's suitable for eight-year-olds and up—Ms Jolly, who I guess is your predecessor—

**Mr Sharp:** Correct, Senator.

**Senator ROBERTS:** responded, and I quote:

Our understanding is that the book clearly states that it is targeted to teenagers from 13 up.

Here is the book, which on the flyleaf identifies the reader as an 'apprehensive 11-year-old'. Amazon still has the listing at 10 plus. I do note that Hardie Grant, the publishers, have removed reference to an age entirely, so we're heading in the right direction. It is unhelpful, though, to potential purchasers and where other booksellers have it listed at 14 plus. Can you clarify, on notice please, Mr Sharp, what age is the Classification Board happy with—10 plus or 14 plus—and why?

**Mr Sharp:** Senator, it's actually not the place of the board to predict what age something should be available other than through the classification process. We've had no applications for that book at this time and the board has not reviewed it.

**Senator ROBERTS:** It's now self-classification, I take it, since the legislation was passed. Is that correct?

**Mr Sharp:** No, Senator. That's not correct. The stage 1 reforms did not address anything to do with publications. Publications can either be submitted for classification by the publisher or they can be called in by the director if there's a belief that it could possibly be a submittable publication.

**Senator ROBERTS:** In other words, self-publication is one of the choices or submitted to the board?

**Mr Sharp:** Well, it's not self-classification, Senator. It is the publisher choosing to have the board classify it by making an application for that. Self-classification generally is referred to as them making a choice about what that classification is and publishing it in that way.



**Senator ROBERTS:** I thought the publisher could classify it or ask the board to classify it. I thought that's what you said.

**Mr Sharp:** No. The publisher can put it forward as an application to be classified by the board, or the board can call it in separately.

**Senator ROBERTS:** Thank you for clarifying. There seems to be some backside covering going on with the publishers because they've started to shift the age upwards slightly. In the last estimates, in response to my question about the options available to the Classification Board for graphic novels, Ms Jolly, your predecessor said, and I quote:

I think the board's submission to the Stevens review back in 2020 was that we felt there would be benefit in having some greater graduations in classifications.

The Stevens report did not make that recommendation at all. In fact, quoting from page 66 of his report, Mr Stevens said:

On balance, I do not consider that a compelling case has been made for an additional classification category in isolation of a more fundamental look at all the categories.

Mr Sharp and Senator Brown, will you assure the committee that your work in this imminent review will provide that in-depth look at available options that supports a legally binding intermediate classification such as MA14+ or MA15+?

**Mr Sharp:** Well, Senator, it's a good question. The board does not have any input into the scope of that review. However, I can say that on the public record the board in 2020 for the Stevens review made a submission and made recommendations around publications with the idea of harmonising and aligning all the guidelines—the film, computer game and the publication—so that they are more clear in their administering and for the public to understand. Within that, the board did note that it would make sense to abolish the existing unrestricted category 1 and category 2, which really is unclear to the public, and institute possibly an M, an R18+ or an X18+, which would align to those three categories and are well understood by the public within the film classification and computer games classification. That was part of the board's submission in 2020. The board still has a position.

**Senator ROBERTS:** We think the MA14+ or MA15+ are necessary because it's not suitable for under 14s and it is suitable for 14s and up and 15s and up. That would fit in with your M. Is that correct?

**Mr Sharp:** Well, not exactly, Senator. M is not recommended for persons under 15. MA is a legally restricted classification.

**Senator ROBERTS:** What does that mean?

**Mr Sharp:** It means that people under 15 years cannot purchase the publication and, similarly with a film, cannot view a film unless they have an adult doing that for them. It's not that they cannot hold it, but they cannot purchase it or buy a ticket to it themselves. So the board's previous submission was for an M, which is an equivalent to unrestricted. Currently, you may well be aware that unrestricted can also have an additional consumer advice of not recommended for persons under 15 years. R18 would be the equivalent of a category 1 currently, and there is X18. So the intention of the board in that submission, and our position today still, is to use classification designations that the public understands, recognises and trusts very well within the film classification area and the computer game classification area.

**Senator ROBERTS:** So would that mean it would not be possible for a 14-year-old or under 14 to buy this?

**Mr Sharp:** It would be strongly recommended that it's not for that age group. But it would not be legally prohibited to do so. It would be advised that a parent make a decision around that. Parental guidance is part of that process.

**Senator ROBERTS:** So you are heading in what would be the right direction for me.

**Mr Sharp:** I'm pleased to hear that, Senator.

**Senator ROBERTS:** But that's what it sounds like. I'm just checking.

**Mr Sharp:** I believe we're on the same page.

**Senator ROBERTS:** I don't think under 14s should be able to get this, but let's see what happens with your review, which is imminent.

**Mr Windeyer:** Correct.

**Senator ROBERTS:** We'll ask in May.

**Senator Carol Brown:** There will be more to say in due course, Senator Roberts.

**Senator ROBERTS:** Thank you, Senator Brown.

**CHAIR:** Thank you so much. I'm afraid that's all we have for you. Thank you so much for coming along this evening. We do really appreciate it.

**Mr Sharp:** Thank you very much, senators.

**CHAIR:** I now call officers from Creative Australia, who are on videoconference.

### Creative Australia

[20:44]

**CHAIR:** Welcome, Mr Blackwell and Mr Collette. Would you care to make an opening statement?

**Mr Collette:** I will make a short one, if I may. Thank you. I acknowledge the traditional owners of the land where the committee is assembled, the Ngunnawal and Ngambri peoples. I acknowledge the Gadigal people of the Eora nation where we are gathered and pay respects to elders past, present and emerging. Our thanks to the committee for permitting us to join you online today. It's very much appreciated. We last appeared before this committee in May 2023 on behalf of the Australia Council for the Arts. I am delighted to address you today as the inaugural chief executive of Creative Australia.

Since we last appeared before the committee, the Australia Council board of Creative Australia has been established and the Music Australia and Creative Workplaces Council all have met. We have appointed highly credentialed directors for both entities. We have completed a creative partnership to Australia's transition into Creative Australia, which will support our co-investment ambitions, bringing together public and private investment into Australian creativity for greater impact. We are currently consulting on the establishment of the First Nations board and priorities for investment. We are also engaging with the literature sector on priorities for Writers Australia.

Aside from our national cultural policy work, in December we announced the results of our four-year investment for organisations, which is always a critical time for the sector. From 2025, Creative Australia will invest \$42.4 million per annum in 159 organisations, which is an increase of 45 organisations compared to the previous 2021-24 cycle. These investments reflect our approach to build baseline capacity back into the small to medium sector for 2025-58, recognising that it is the engine room for much of the sector. Among these outcomes is an increase in investment for First Nations, for youth and disability-led groups and those based in regional Australia.

I would also like to highlight the results of our national audience participation survey, one of our flagship research projects published in the last quarter of 2023. This is conducted every three years. The last was pre-COVID in 2019. Consistent with the 2019 findings, 97 per cent of people said they engage with the arts and 68 per cent said they attended arts at festivals in person in 2022. Encouragingly, 84 per cent acknowledged the positive impacts of arts and creativity. There has been strong growth in people attending arts and cultural events to improve wellbeing, with many Australians feeling that creative activities and experiences help their mental health and general wellbeing. Our research and our work as a whole continues to underscore the importance of our creative industries and demonstrates the many and diverse ways in which art and creativity benefits us all. Thank you for listening.

**CHAIR:** Thank you kindly.

**Senator HUGHES:** Thank you, Mr Collette. I want to find out about grants that have been awarded. The last time I checked, the Creative Australia website only showed the awarded grant list up to June 2023. I must say that I haven't checked it in the last day or two. Is there any reason? Have there not been any grants issued in the last seven months? Is there no update to that information?

**Mr Collette:** Are these project grants and individual grants? I'm just getting advice. It has been updated to December 2023, which will reflect the last grants round, as we understand it.

**Senator HUGHES:** That's alright. Lucky you. When we put these together, I hadn't checked it since we wrote them. The website did say that \$15 million was delivered in the first half of 2023. Is that right?

**Mr Collette:** It depends which grants we're talking about. That sounds like a combination of projects and individual grants outside the multiyear grants that we fund. If you wish, I can get you a detailed accounting of all the individual and project grants we have made through the course of 2023-24 as updated as possible.

**Senator HUGHES:** I am assuming that you work on a financial year rather than a calendar year?

**Mr Collette:** Yes, we do. That's right. That's correct.

**Senator HUGHES:** Is it possible to get the financial year 2022-23 and then the first half of financial year 2023-24?

**Mr Blackwell:** If you look at our annual report for 2022-23, on page 21, you can see that the total investments across all the main categories of grants or investments, as we call them, was \$196.6 million.

**Senator HUGHES:** That was 2022-23?

**Mr Blackwell:** That was 2022-23, yes.

**Senator HUGHES:** I want to get a sense of the administration behind the awarding of the grants. How many staff work on who gets it, where it goes and how it's allocated?

**Mr Blackwell:** Well, we have many different activities. We can give you that total, Senator.

**Senator HUGHES:** So there's not a specific grants team?

**Mr Blackwell:** I can probably take that on notice.

**Mr Collette:** Can we take it on notice? It's a good question. We have an arts investment team. A number of them administer multiyear funding and our partnership framework, which is a government directed framework. Other parts of the team administer individual grants and individual project grants or project and small company grants. We can break that down for you and give you an exact number.

**Senator HUGHES:** That would be really helpful. I want to get an understanding. There's the money that is awarded as grant money. What is the cost of awarding that grant money? Does that make sense? What are the administrative costs and staff costs? If you are delivering \$150 million worth of grants, what is the cost in putting in the applications, the determinations and the delivery of that grant money?

**Mr Collette:** What overhead are we carrying to do that?

**Senator HUGHES:** Yes. I will ask you a final question because I think you might have to take this on notice or let me know if there has been any analysis done. It concerns the volume of the grant, where it has been allocated and the economic benefit that it generates. I know that in the arts there's a lot of focus on the societal impacts from the creativity and everything that is wonderful behind the arts and why we love them. I want to get a sense of what the bang for the buck is—how many jobs are created and any contribution that it might make in the economic sense.

**Mr Collette:** We'll provide as much analysis as we can. I would like to respond to that point by saying that Creative Australia—and indeed one of the reasons we have transitioned to Creative Australia and are talking really for the first time about co-investment with public funds and private funds, be they philanthropic or commercial—really respects the economic impact of what we invest in. Artists and art organisations will always be central to our investment and grant making. They are the reason we're here. I think we as a society are becoming increasingly aware of the massive certainly social and certainly health and educational but also economic benefits that derive from it. In the creative sector, we accept that the guard has turned. There is about \$22 billion worth of revenue generated in the broader creative sector. My point is that creative skills are fundamental to that sector as they transfer. We generate about 500,000 jobs not directly from our investments but indirectly through the investments we make. That is in writing, music and all the other art forms that we invest in. So we'll try to break that down for you in as cogent a way as we can, if we can take that on notice.

**Senator HUGHES:** That's wonderful. I could be cheeky and say that half of that is generated by Taylor Swift.

**Mr Collette:** Sorry, I missed the last half of that cheeky remark.

**Senator HUGHES:** I just said that half of it is generated by Taylor Swift. Thank you for that, Mr Collette.

**Senator HENDERSON:** Mr Collette, do you have any extra spare tickets for Taylor Swift?

**CHAIR:** Senator Henderson, let's not abuse our position.

**Senator DAVEY:** I will put it on the record that I have tickets to restricted viewing Taylor Swift. Hello, Mr Collette. It's lovely to see you again.

**Mr Collette:** You too, Senator Davey.

**Senator DAVEY:** As you know, I always like to hear about your work, particularly in the regions. I know that you've just taken on notice with Senator Hughes that you will give a breakdown of your expenditure. Was that breakdown also to be regionally focused about where the money is going in the regions?

**Mr Collette:** I think last time we spoke, investment in the regions was just over \$23 million for 2022-23. As you know, this is a priority for us, the investment of organisations and artists based in the regions, not touring but based in the regions. That's the principle. I think the very good news is, of that significant increase of small to

medium companies that we'll be funding in the next four-year period, the number of organisations in the regions will grow from 34 to 44. That is 10 additional companies based in regional Australia will have security of four-year funding so they can build their art and build the sustainability of their organisations. As you know, I think I am right in saying that we now have five regionally based organisations in the government directed partnership framework as well. So we can get for you a total investment number for this financial year, which we are in the middle of. I think the direction of travel in terms of investment in regional artists and regional Australia is an absolute priority for us. I think it's starting to look very encouraging.

**Senator DAVEY:** I'm super happy to hear it. I think it's a great thing. I know it started under our government. I'm very happy that it is continuing under this government. You were just talking about the costs and benefits with Senator Hughes. I talk to regionally based arts organisations. They literally run off the smell of an oily rag. They are filling in all of these grant applications and 'please fund us' applications while they are trying to deliver the programs that they are committed to deliver. They are still competing against the larger organisations. Are they still competing against the Sydney Opera House and the Sydney Ballet for that funding, or have we managed to finally segregate them? We understand that the corporates or those that are the targets of philanthropic donations are separate from those in the boondocks operating with one full-time employee and trying to deliver programs with volunteers and in-kind donations. They still have to fill in the same forms to get the same money. How are we trying to deal with that? That's my next target.

**Mr Collette:** That's your next cause. I think we have made some headway there. We've had a very significant review of the way we invest, particularly in multiyear funded organisations, through our arts investment. I would say two things as a run-up to this. We are deeply respectful of the smell of an oily rag infrastructure that many small companies run on. We are deeply knowledgeable about it and very respectful of it. The reason we have quite exacting grant applications is, of course, this is about the investment of public money. We have to understand to a very high degree the intention behind its use and the sustainability of the organisations we're working with.

To your larger point about Opera Australia, the Australian Ballet and the orchestras: we now have 37 partnership organisations that are the beneficiary of government directed national partnership funding. That has grown from 28 to 37. I am hopeful that it will grow by a number of other organisations in the next period because we are currently evaluating this—

**Senator DAVEY:** This is my point. Those organisations get fairly consistent funding without really having to—no offence to those organisations—try hard because they are major performing arts organisations. That's what the old terminology was. They can still apply for rounds of Creative Australia and other rounds that all the oily rag associations are applying for. Is that not right? We don't have a system of segregating them out. They actually have the benefit of employing full-time grant writers whereas my Renmark theatre trust and my outback theatre association have one person who is madly trying to write grant applications and deliver a theatre program in an area with a very low socioeconomic demographic. How do we balance that playing field?

**Mr Collette:** I will try to answer that. To get back to the principle of your question, the four-year funded organisations now very much—in fact, absolutely—compete, if I can use that word, for funding with like for like organisations. They do not compete against the framework organisations, these national organisations that get cofunding from states and federal government as a condition of the investment we make in them. So the 150 or so small to medium organisations that we will be funding in the 2025-28 period are genuinely small to medium companies. So as far as possible, we are investing or considering like with like across art forms.

Another important decision we made, and the reason why we will now have 10 more organisations in regional Australia, is we moved to what we call an industry advice model. These are experts in the field. We consider only organisations that these experts consider fundable because of the excellence and impact of their work. We at Creative Australia then make the judgements according to our strategic priorities, which are well-stated and very clear. One of our priorities is organisations in the regions. What is important to note is it's only within those companies that the experts have said to us they are absolutely worthy of funding because of the excellence of their work. To answer your question, I am increasingly confident that we are comparing small to medium companies with small to medium companies, not with people who have bigger overheads due to the history of their funding or the size of their operations.

**Senator DAVEY:** So the MPAs are still getting their funding, which is good, because they deserve it. Let me take nothing away. This is Australian culture. The four-year funding has expanded. We're seeing more success in regional areas in the four-year funding model, which I am very pleased to hear. Outside the four-year model and outside the MPA model, are we still seeing program funding where we've got small to mediums competing against what I call professional arts organisations, or have we segregated it out? So the MPAs have their funding.

We say, 'Go and do your arts. We love you.' We then have small to mediums and others. We accept that others might have four-year funding and that helps with their core business model. So all of the rest of you can fight against each other. But they are no longer fighting against the MPAs?

**Mr Collette:** I think that's absolutely right.

**Senator DAVEY:** Good.

**Mr Collette:** I would also add that when we changed the funding policy, the framework, we got agreement from federal and state ministers four years ago. That allowed us to evaluate every four years, and very stringently evaluate, the artistic ambition and business plans of all these organisations. So this is far from a set and forget framework. Every four years it is rigorously evaluated by us and by the states. We use that opportunity within the budgets we have collectively to see whether there are other organisations—some of those small to medium organisations—that are doing work of such scale and national significance that they should be invited into the framework. I think both those things are true. There's a better delineation of how we are evaluating according to the kind of company. Importantly, there's an opportunity to move into the national framework if the states and federal government agree that it's appropriate for those companies to do so. As we have seen recently, it's also possible that you're not going to continue in the partnership framework if there are serious doubts about your impact, be it artistic or whether there are real issues around your financial sustainability. So it's a much more dynamic place we're at. It's not perfect, but I think we're on the way.

**Senator DAVEY:** I do too. Thank you for your evidence tonight. I thank you because I have sat in this place now for nearly five years. I have seen a dramatic change. Once the arts would come in and it would be 'This is what we saying'. You come prepared. You know exactly the questions I'm going to ask about the regions. The regions are now a topic of conversation. I really appreciate the focus. I appreciate the expanded interest. I appreciate the change in focus. I think we're very much now addressing a lot of the concerns I had when I first entered this parliament. Thank you.

**Senator PAYMAN:** You guys have been incredible. I think Senator Davey asked all the questions I was going to ask. Thank you.

**Senator DAVEY:** I note that some are on notice.

**CHAIR:** And we all look forward to reading the responses. Good luck with your endeavours. We're all holding a lot of faith and hope in what you're going to achieve here. We're very excited to have you come and speak with us. We look forward to seeing you again in a couple of months. We will now release you. Thank you so much for your time.

That concludes today's hearing. We would like to thank all the witnesses who have appeared. A big thanks to Hansard and to Broadcasting and the secretariat, who make all of this possible. I remind senators that the committee has agreed that any written questions on notice should be lodged with the secretariat by 23 February.

**Committee adjourned at 21:09**