



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION
COMMITTEE

Estimates

(Public)

WEDNESDAY, 8 OCTOBER 2025

CANBERRA

CONDITIONS OF DISTRIBUTION

This is an uncorrected proof of evidence taken before the committee.
It is made available under the condition that it is recognised as such.

BY AUTHORITY OF THE SENATE

[PROOF COPY]

ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

Wednesday, 8 October 2025

Members in attendance: Senators Ananda-Rajah, Antic, Darmanin, Faruqi, Ghosh, Green, Hanson-Young, Henderson, Hume, McGrath, Nampijinpa Price, Payman, David Pocock, Roberts, Shoebridge, Dean Smith, Walker and Whitten

INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT, COMMUNICATIONS, SPORT AND THE ARTS PORTFOLIO

In Attendance

Senator Green, Assistant Minister for Northern Australia, Assistant Minister for Pacific Island Affairs, Assistant Minister for Tourism

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts Executive

Mr Jim Betts, Secretary

Ms Maree Bridger, Chief Operating Officer

Mr James Chisholm, Deputy Secretary, Communications and Media Group

Mr Phil Smith, Acting Deputy Secretary, Creative Economy and the Arts Group

Mr David Mackay, Deputy Secretary, Sport, Territories and Regions Group

People, Chief People Officer

Ms Kylie Donovan, Chief People Officer

Data, Research, and Strategy Division

Ms Georgina O'Cianain, Acting First Assistant Secretary

Mr Andreas Bleich, Assistant Secretary, Data, Systems and Information Management Branch

First Nations Partnerships

Ms Lil Gordon, First Assistant Secretary

Ms Bek Hendriks, Assistant Secretary

Mr David Lindenbaur, Assistant Secretary

Finance, Budget and Governance

Ms Cha Jordanoski, Chief Financial Officer

Ms Jodi George, Assistant Secretary, Financial Management Branch

Mr Andrew Burke, Assistant Secretary, Assurance, Integrity, Risk and Governance Branch

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

Information Technology

Mr Jeff Goedecke, Chief Information Officer

Enabling Services

Ms Susan Charles, Acting First Assistant Secretary

Mr Chris Thompson, Acting Assistant Secretary, Communication Branch

Dr Kate Feros, Assistant Secretary, Government Services Branch

Ms Sonia Bradley, Assistant Secretary, Integrated Services Branch

Enterprise Resource Planning Program

Mr Anthony Howatson, Assistant Secretary, Enterprise Resource Planning Program

Outcome 5

Communications Infrastructure Division

Ms Lisa La Rance, First Assistant Secretary

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

Ms Nicolle Power, Assistant Secretary, Universal Services Branch

Mr Andrew Irwin, Assistant Secretary, Markets, Competition and Spectrum Branch

Ms Shanyn Sparreboom, Assistant Secretary, Broadband and Emerging Communications Branch

Communications Services and Consumer Division

Mr Samuel Grunhard, First Assistant Secretary

Ms Kathleen Sillieri, Assistant Secretary, Emergency Communications Resilience Branch

Ms Kate McMullan, Assistant Secretary, Consumer Safeguards Branch

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

Digital Platforms, Safety and Classification Division

Ms Sarah Vandebroek, First Assistant Secretary

Ms Anthea Fell, Assistant Secretary, Online Safety Branch

Mr Andrew Hyles, Assistant Secretary, Digital Platforms, International and Policy Branch

Mr Mitchell Cole, Assistant Secretary, Classification Branch

Media Policy Division

Ms Margaret Lopez, Acting First Assistant Secretary

Mr James Penprase, Assistant Secretary, Media Reform Branch

Outcome 6

Office for the Arts

Ms Alison Todd, Acting First Assistant Secretary

Mr Jake Budd, Assistant Secretary, First Nations Languages and Regional Arts Branch

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

Mr Jesse Fatnowna, Assistant Secretary, Creative Industries Branch

Mr Jason Potkins, Acting Assistant Secretary, Screen and Arts Workforce Development Branch

Ms Julia Balkwell, Acting Assistant Secretary, Arts Development and Investment Branch

Ms Emma Shadbolt, Acting Assistant Secretary, Collections and Cultural Heritage Branch

Outcome 7

Office for Sport

Mr Travis Haslam PSM, First Assistant Secretary

Ms Carolyn Peterson, Assistant Secretary, Major Events Branch

Portfolio Agencies

Australian Broadcasting Corporation

Mr Hugh Marks, Managing Director

Mrs Melanie Kleyn, Chief Financial Officer

Mr Gavin Fang, Editorial Director

Ms Kelly Williams, Director, First Nations Strategy

Australian Communications and Media Authority

Ms Nerida O'Loughlin, Chair

Ms Helen Owens, General Manager, Corporate and Research Division

Ms Autumn Field, General Manager, Content Division

Ms Cathy Rainsford, General Manager, Consumer Division

Mr Michael Brealey, General Manager, Communications Infrastructure Division

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

Ms Elizabeth Quinn, Executive Manager, Telecommunication Safeguards and Numbers Branch

Mr Jeremy Fenton, Executive Manager, Unsolicited Communications and Scams Branch

Ms Alana Fraser, Executive Manager, Content Safeguards Branch

Ms Sam MacCready, Executive Manager, Finance, Reporting and Operations Branch

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

Mr Robert Crofts, Executive Manager, Spectrum Allocations Branch

Australian Film, Television and Radio School

Dr Nell Greenwood, Chief Executive Officer

Ms Joanne Herron, Chief Financial Officer

Mr Mathieu Ravier, Director, Partnerships and Development

Australia Post

Mr Paul Graham, Group Chief Executive Officer and Managing Director

Ms Jane Anderson, Executive General Manager, Community, Sustainability and Stakeholder Engagement

Mr Nick Macdonald, General Manager, Corporate Secretary and Board

Australian Sports Commission

Mr Kieren Perkins OAM, Chief Executive Officer

Mrs Brooke De Landre, Chief of Staff

Dr David Hughes AM, Chief Medical Officer

Mrs Necia Fisher, General Manager, Projects

Classification Board

Mr Dominique Irlinger, Acting Director

Ms Lauren Monaghan, Acting Deputy Director

Creative Australia

Mr Adrian Collette, Chief Executive Officer

Mr Tim Blackwell, Executive Director, Corporate Resources

Museum of Australian Democracy

Ms Stephanie Bull, Director

Mr Andrew Harper, Deputy Director

Mr Peter Gilmore, Chief Finance Officer

National Gallery of Australia

Dr Nick Mitzevich, Director

NBN Co Limited

Ms Ellie Sweeney, Chief Executive Officer

Mr Simon Atkinson, Chief Financial Officer

Mr Gavin Williams, Chief Development Officer, Regional and Remote

Mr Dion Ljubanovic, Chief Network Officer

Ms Anna Perrin, Chief Customer Officer

Office of the eSafety Commissioner

Ms Julie Inman Grant, Commissioner

Ms Heidi Snell, Acting General Manager, Regulatory Operations Group

Ms Kathryn King, General Manager, Corporate and Strategy Group

Mr Bryan Downie, Executive Manager, Investigations Branch

Mr Richard Fleming, General Counsel

Ms Kelly Tallon, Executive Manager, Industry, Compliance and Enforcement Branch

Screen Australia

Ms Deirdre Brennan, Chief Executive Officer

Ms Grainne Brunson, Chief Operating Officer

Special Broadcasting Service

Ms Jane Palfreyman, Acting Managing Director

Ms Nitsa Niarchos, Chief Financial Officer

Ms Clare O'Neil, Director, Corporate Affairs

Ms Mandi Wicks, Director, News and Current Affairs

Sport Integrity Australia

Dr Sarah Benson, Chief Executive Officer

Dr Paul Oliver, Deputy Chief Executive Officer

Mr Luke McCann, Deputy Chief Executive Officer

Committee met at 09:02

CHAIR (Senator Ghosh): Good morning. I declare open this hearing of the Environment and Communications Legislation Committee into the 2025-26 supplementary budget estimates. I begin by acknowledging the traditional custodians of the land on which we meet and pay my respects to elders past and present. The committee has fixed Friday 28 November 2025 as the date for the return of answers to questions taken on notice. The committee's proceedings today will begin with corporate matters and general questions of the communications and arts portfolio, which under our agenda has been allocated 30 minutes.

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 broad 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 estimates are relevant questions for the purposes 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 superior officers 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: Senators are aware that one of the roles of the committee chair is to ensure that proceedings are conducted in an orderly way. That is not intended to prevent rigorous questioning of witnesses but to help ensure that senators exercise their rights and privileges in a careful, civil and responsible manner. I remind all that the behaviour standards for Commonwealth parliamentary workplaces include reference to a requirement to act respectfully, professionally and with integrity. I remind senators of their obligations to treat witnesses with dignity, courtesy, fairness and respect. As chair, I intend to uphold these standards, including the questioning and answering in an orderly way. That means that I will also intervene to prevent badgering or harassing.

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

[09:05]

CHAIR: I now welcome Senator the Hon. Nita Green, Assistant Minister for Northern Australia, Assistant Minister for Tourism and Assistant Minister for Pacific Island Affairs representing the Minister for Communications and the Minister for the Arts. I understand, Minister, that this is your first appearance at this committee as a minister, and so we welcome you.

Senator Green: Thanks, Chair.

CHAIR: Minister, do you wish to make an opening statement?

Senator Green: No. Thanks, Chair.

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

Mr Betts: Yes. We would like to make an opening statement before we get into corporate matters.

CHAIR: Mr Betts, I will ask you to keep it as short as you can and that if there's a lengthier statement, you table that document.

Mr Betts: Okay. With your agreement, I will consult the minister.

Senator Green: I think this is a statement that the department should make, thank you.

Mr Betts: It concerns the recent Optus outage and its impact on emergency triple 0 services. I will ask the Deputy Secretary, Communications and Media, James Chisholm, to deliver that statement for us.

Mr Chisholm: At around midnight on Thursday 18 September, a firewall upgrade to the Optus network triggered a triple 0 outage which prevented over 600 triple 0 calls from connecting in South Australia, the Northern Territory, Western Australia and some parts of New South Wales. Tragically, this failure was linked to three deaths. An outage of this nature, one that impacts emergency triple 0 services, is completely unacceptable. The department was notified by Optus about an issue affecting triple 0 services at 2.45 pm on 18 September and, within seven minutes, at 2.52 pm, further advised that the matter had been resolved. The department was not made aware of the full impact of the outage until approximately 3.30 pm on Friday 19 September through notification from the Australian Communications and Media Authority and subsequently by Optus. The Optus CEO, Stephen Rue, has publicly stated that, upon preliminary investigation into the incident, they've ascertained that the triple 0 failure was triggered due to an internal failure to comply with standard processes for a systems firewall upgrade. This was compounded by a failure to escalate and take immediate action when they were notified by their customers as well as the Telecommunications Industry Ombudsman that triple 0 calls were not working.

ACMA is investigating Optus's compliance with the law. To be very clear, triple 0 should never be permitted to fail as part of a routine upgrade. Moreover, if there is a disruption, affected triple 0 calls are meant to connect or camp onto another network. These calls did not camp onto another network even though they are required to do so by law, including laws put in place by the government.

Network operators must carry triple 0 calls. It's the law. The emergency call service determination sets out rules for carriers and providers to ensure the reliable provision and handling of emergency calls, particularly protocols to

allow emergency calls to connect to a service during mobile network outages. This includes making sure that triple 0 calls are carried by another network if an operator's own network is unavailable.

As a result of a nationwide outage in 2023, Optus was found in breach of its regulatory obligations as a carrier to ensure that emergency calls must be carried to emergency call services at all times. This resulted in a \$12 million fine. Since that outage, the government accepted all 18 recommendations of the Bean review and fully implemented 13. The remaining five are well underway. All recommendations allocated to government to implement are done with the exception of one recommendation focused on reviewing any outstanding issues not addressed in the implemented Bean reforms. Of the five Bean review recommendations not yet completed, four of them were charged to industry to complete. Two have now been submitted as a code to ACMA. We expect registration of this code soon. Two others remain with industry—recommendations 14 and 15.

I want to be very clear about three things here. The government has put in place tough triple 0 laws imposing obligations on industry. These are the strongest reforms to triple 0 for many years. No such regulatory reforms were put in place after previous major outages, including in 2018 after a similar serious outage affecting triple 0. Optus is now being investigated by ACMA, including for not complying with fully implemented laws stemming from the Bean review.

The custodian and ACMA powers bill introduced to parliament this week will further strengthen the framework by giving a statutory basis for the custodian and even stronger powers for ACMA. We've already made amendments to the emergency calls service regulations, strengthening obligations for outage reporting, information sharing and tower wilting. They were implemented in April 2025 and come into effect on 1 November.

We also developed—and the government has reintroduced—the telecommunications consumer safeguards bill, which will strengthen ACMA's compliance powers and increases penalties for infringements. ACMA is expected to register a mandatory testing code in coming weeks, which will require the three mobile operators to undertake compulsory device and end-to-end network testing relevant to the triple 0 ecosystem. The department has partnered with the University of Technology Sydney and industry to develop the National Telecom Resilience Centre in direct response to the 2023 outage. That work will securely replicate network scenarios and device behaviour, including during outages. As a supplement to the testing code, industry will be required to disclose to customers if their device has limited triple 0 access.

Following the decision by the communications minister in March to this year to establish the custodian, the department has been operating administratively as the custodian, albeit without legislative powers. We have issued requests for information to industry. We have undertaken inquiries of the emergency call person, but we have done that work in anticipation of legislation. The bill introduced this week enables information to be obtained and directions made not just during outages but well before any outages occur all year round, as well as compliance to be assessed regularly. It also confirms that both the custodian and ACMA will be able to share information with emergency services organisations, state and territory authorities and regulators.

In summary, ensuring the continuous and reliable provision of emergency call services directly underpins public safety and security. The government is taking strong action to develop and enforce its substantial reforms, with community safety at the heart of that work. Thank you, Chair.

CHAIR: Thank you. With that, I will go to Senator Henderson.

Senator HENDERSON: Good morning to you all. I want to start in this corporate section. We have many questions on the substantive issues concerning Optus in outcome 5. On corporate matters, I want to firstly ask about the travel of the Minister for Communications to the United States to participate in the UN conference. I understand the trip was changed due to the Optus triple 0 network outage. When was the Minister for Communications originally due to travel? When did she travel?

Mr Chisholm: The minister was scheduled to travel the weekend of the outage but delayed her travel to focus on the immediate response to the outage. She was then able to still attend the event in New York in support of the online safety work and those present, including families affected by online safety harms. Yes; she adjusted those arrangements based on the events related to the outage.

Senator HENDERSON: Could you provide the dates she was originally meant to travel and when she subsequently did travel?

Mr Chisholm: She was originally meant to leave on the Saturday. She delayed from the Saturday.

Senator HENDERSON: Meaning the 20th? Could you give me the date, please? Was it 20 September?

Mr Chisholm: We'll check that. I don't have a calendar in front of me, so I would need to check that.

Senator HENDERSON: How long did she delay her trip by?

Mr Chisholm: Two days.

Ms Vandenbroek: Two days. She was to fly out Saturday the 20th. She flew out on Monday the 22nd.

Senator HENDERSON: Could you table any correspondence about the change in travel schedules?

Mr Chisholm: We'll take that on notice.

Senator HENDERSON: That would be fine, thank you. Was that a cancellation of the full trip or just a delay of the departure date? What was the reason? Were there any specific duties that the minister had to attend to? What do you know of the reason for the delay?

Mr Chisholm: The minister was committed to ensuring that she focused on the triple 0 outage all weekend.

Senator HENDERSON: Was all weekend enough given what was going on?

Mr Chisholm: Yes, Senator—

Senator HENDERSON: I will finish my question. Was all weekend, a two-day delay, a sufficient delay given that there was an unfolding corporate crisis in this country, a scandal involving a number of deaths? Was that enough time for the minister, in your view, to deal with the scandal?

Mr Chisholm: Yes, Senator. The minister focused on the triple 0 outage 24/7. Immediately after we were informed of the outage, both she and the regulator gave direct briefings to both media and impacted people. The minister worked on the outage while also attending the event in New York by frequently being in contact with not only Canberra but industry. She spoke to a wide range of people about it. We think that's appropriate. We're also responsible for online safety. The harms of being impacted by online safety are serious. Her support for that work in New York is critical to getting international cooperation for age-limits laws.

Senator HENDERSON: You said the minister was working on the crisis 24/7.

Mr Chisholm: Yes. That's right.

Senator HENDERSON: So she didn't sleep?

Mr Chisholm: Well, it's a turn of phrase, Senator. She worked extremely hard.

Senator HENDERSON: It's important to be clear. I'm happy if you could provide this on notice. Could you provide the correspondence between the minister and your department and ACMA and Optus from the time that she first delayed her travel, please?

Mr Chisholm: Could I clarify? How do communications with Optus relate to the trip? That's about the outage.

Senator HENDERSON: You've just given evidence that the minister was working 24/7. I appreciate you using that in a loose sense of the term. She was working full time on the Optus crisis.

Mr Chisholm: That's right.

Senator HENDERSON: I would like you to provide us with the evidence of that—the correspondence, the meetings, the dates of the meetings and with whom she met and with whom she was speaking.

Mr Chisholm: We can do that.

Senator HENDERSON: We will be seeking more information in outcome 5 on the substantive issues. This is in relation to the travel.

Senator Green: I will make the point that obviously we will canvass all of these issues when we get to the substantive issue.

Senator HENDERSON: I realise that.

Senator Green: I think we're seeking to answer your question with regard to the corporate relationship. I want to make two points. First of all, of course, if the minister wasn't satisfied, it was open to her to reconsider the travel again throughout that time. She was satisfied with the progress of the investigation on the Monday. We can go through the steps of that investigation when we get to the substantive matter. Again, I make the point that the minister did talk in question time yesterday about the importance of this work. There is an insinuation in your questions that the work in New York was not important. It is and it was. It is incredibly important that the minister was there with those families.

Senator HENDERSON: I'm not insinuating anything, Minister. I will be very clear with my concerns. My concerns are that at the time of this crisis, the minister should not have travelled. We know how important the online safety issues are, because it was actually our policy. We understand this better than anyone. I'm not insinuating anything. I'm saying very clearly that the minister should not have travelled at all, particularly under circumstances where there were other ministers in New York. There was a terrible crisis unfolding. A number of people died. I put it to you that she should not have travelled.

Senator Green: The minister covered this extensively in question time yesterday. She addressed the language that the coalition has used to describe this work—as a jaunt and swanning around. That is inappropriate language to use about incredibly important, world-leading work and supporting families who have lost their loved ones. That is what she was doing on this important trip. It was delayed to ensure that the investigation was progressed. We think—and the minister made that decision—that this was incredibly important work. She is, of course, capable of doing two things at once, and she did.

Senator HENDERSON: I put to you, Minister, that a two-day delay is insufficient and that, at a time of this unfolding triple 0 crisis, she should have been working full time on this. This continues to be an absolute scandal. We still don't know a lot. We will learn more. I put to you that two days was not a sufficient amount of time to delay her trip.

Senator Green: That is a reflection on the way the coalition views the online safety work that we're delivering.

Senator HENDERSON: No, it's not.

Senator Green: Yes, it is.

Senator HENDERSON: Please don't impute anything.

CHAIR: We're not going to have this starting early today.

Senator HENDERSON: Okay, Chair. What I'm—

CHAIR: When you have a question, the minister is entitled to answer it. She is entitled to give that answer, and then you are entitled to put another question, Senator Henderson.

Senator HENDERSON: Thank you, Chair. Minister, please do not impute any intention in relation to our support for the social media ban, which is coalition policy. My concern is about the limited delay. I will move on because we have limited time. The Prime Minister said in a press conference from the United States that Minister Wells had stayed behind because of the debacle that Optus had been involved with in Australia. She stayed back in Australia to lead the response to that. I am quoting from the Prime Minister. Did you provide any assurances or did the minister seek any assurances from you that the debacle, as the Prime Minister called it, had been dealt with before she departed?

Mr Chisholm: The minister, the department and the regulator are dealing with the Optus outage consequences. That work continues. It didn't begin and end at a particular point.

Senator HENDERSON: Who was the acting communications minister during Minister Wells's trip to the United States?

Mr Chisholm: I would have to double-check. My understanding is that it was Minister Burke, potentially. I have to check. Sorry, I'm not sure.

CHAIR: Senator Henderson, just one more question.

Senator HENDERSON: Thank you. What arrangements did the minister put in place to keep herself informed of this debacle, as the Prime Minister called it, that was still unfolding in Australia?

Mr Chisholm: She had a department official in attendance with her who was giving her regular support. She also had a member of her office in support. There was frequent, multiple-times daily contact with her office about the follow-on consequences of actions that she had asked to be addressed over the weekend.

Senator HENDERSON: Isn't it the case that while she was overseas she didn't have responsibility for communications because—

Mr Chisholm: She took full responsibility for all of it, Senator—both the outage and the online safety work.

Senator HENDERSON: In terms of the ministerial arrangements. There was an acting minister?

Mr Chisholm: I will have to double-check because I don't want to mislead you about who the acting minister was or whether there was in fact an acting arrangement in place. I would need to take that on notice.

Mr Betts: An acting arrangement may be put in place for administrative purposes if formal instruments need to be signed and so on. I think the key point here, which the Public Service can confirm for you, Senator, is that there was not one moment when our response or the regulator's response to the outage was impaired or delayed by the fact that Minister Wells was overseas, because she was in constant contact with the department and the regulator.

CHAIR: I need to rotate the call.

Senator HENDERSON: I'll have to come back to that.

Senator HANSON-YOUNG: Thanks for your opening statement. I want to clarify with the chair how you want to run this. Obviously, the department has given an opening statement that goes solely to the topic of Optus. It's hard to keep all of the Optus questions out of corporate, if that's the case.

CHAIR: Thank you for asking, Senator Hanson-Young. My preference would be to get to outcome 5 substantively, and, that way, the relevant officials may also be able to assist. I appreciate that the nature of the opening statement was substantive rather than corporate or procedural. If we could try to maintain the corporate and get to outcome 5 as quickly as possible, I think that would most assist senators in terms of who is available to give answers and getting fulsome answers.

Senator HANSON-YOUNG: Let's try. Obviously we're going to be covering this topic for some time today. I have questions about what you have put in your opening statement about where the recommendations are up to and who is responsible for them. Generally, I'd like to understand whether the government has reviewed these recommendations in light of this latest deadly disaster. Does the government need to do more to hurry along things such as recommendation 14, which deals with the substantial issue of roaming?

Mr Chisholm: The focus for the last 12 to 18 months has been the implementation of the Bean review reforms, particularly the prioritisation of those reforms relating to the operation of the triple 0 system and obligations on carriers to ensure that it is functioning and that the camp-on arrangements work. Those laws were implemented and came into effect by April this year. There are recommendations relating to device compliance that were industry's work. Industry has worked on a code with the regulator. That has now been provided to the regulator. Roaming is also a recommendation for industry. The recommendation that we are also very focused on right now for industry is in relation to mutual assistance. We think mutual assistance would very much help, particularly when you have outages in large-scale natural-disaster type scenarios and that sort of thing. The key thing, though is that the laws that would require compliance with a functioning triple 0 and making sure triple 0 works are already in place. The question here is whether Optus complied with those laws. That's a matter for the ACMA investigation. The department's view is that those laws are in place and ACMA's compliance with those laws is in issue. This goes to your question about additional work. We have learned over time that what is critical here is that the regulation of triple 0 needs to include real-time constant intervention to obtain information or direct outcomes of carriers before any incidents occur or there is a concern about them occurring. As you know, traditionally in regulation there's a focus on responding to a contravention, so the reform—

Senator HANSON-YOUNG: Sorry—

Mr Chisholm: I'm actually answering your question about what we've learned. What we have learned over time—and it has taken a long time for people to get here, but we have focused on that issue—is that we need regulations that enable direct intervention whenever we feel we need the information, even if that's just to check the industry. Typically, what you need to do in those situations is point to a possible contravention of laws. The reforms now enable us to ask for that information or direct outcomes before we even get to that point.

Senator HANSON-YOUNG: Thank you. Perhaps this is a question for the minister. A number of these outstanding recommendations haven't been done in the Bean review. You said in your opening statement from the department—and I've heard the minister repeat this as well—that these are recommendations for the industry. I guess my concern is that the industry is not doing it or hasn't done it fast enough and is dragging the chain, particularly when it comes to roaming. Do we need to not leave this to the industry for self-regulation? Do we need government intervention? Clearly, these companies are not up to it. They either don't prioritise it, it's not a matter of importance to them, or they're not up to it.

Mr Chisholm: I'm happy to start off with that. I would say that the reforms introduced into parliament yesterday will enable the department and ACMA to secure any outcomes related to triple 0 and the protection of public safety if we take the view that it's not happening fast enough. That is harder to do under the current framework, because you would need either a new direction or a new standard. The standard process has to follow another process. Other reforms introduced by the government are designed to tackle it so that ACMA can act faster. We have inherited a system that has been in place for a long time that does not prioritise speed. The reforms introduced over the last 18 months and, in particular, the bill yesterday prioritise speed.

Senator HANSON-YOUNG: Why are you avoiding my question about recommendation 14?

Mr Chisholm: I'm not avoiding it. The answer was—

Senator HANSON-YOUNG: What has been introduced—

Mr Chisholm: At the moment, we are not able, as the department—and nor is ACMA—to just change laws. We have to—

Senator HANSON-YOUNG: Well, we are the parliament and we can change laws. That's what we do.

Mr Chisholm: We have done the work.

Senator HANSON-YOUNG: That's what we do.

Mr Chisholm: That's why I've said we have done the work. The government has introduced a reform which I think is quite historic in this space. It enables proactive intervention much like you might see in prudential regulation, where there is intervention well before—

Senator HANSON-YOUNG: Can we speak plainly, Mr Chisholm?

Mr Chisholm: Sorry, I'm answering the question. It is well before—

Senator HANSON-YOUNG: Faster, please.

Mr Chisholm: an incident happens. Well, I'm trying to explain to you in answer to your question.

Senator HANSON-YOUNG: I know. I'm up against the clock. I'm asking about recommendation 14, which specifically calls for the ability for roaming. The industry is resisting it. You and I both know that. They don't want it and they're going to resist it at every step. Is the government going to move to force roaming?

Mr Chisholm: Senator, we have the ability under those reforms to act faster in relation to any triple 0 issue. We will do so when necessary.

Senator Green: I think your question goes to what could have been done. We need to be very clear about this. There are laws in place that prevent this failure from happening. The only thing that could have stopped Optus from having these outages was Optus themselves. This was a very serious failure. The minister has been clear that there will be serious consequences. Those laws have been put in place by our government, as the official has been speaking to you about. We have strengthened those laws. Of course, as a result of this catastrophic failure by Optus, the minister has spoken directly to the industry CEOs and has told them to hurry up when it comes to this reform. The legislation we have introduced will go to that. I want to be really clear about this. The law is in place already, which Optus has not adhered to.

Senator HANSON-YOUNG: No. Clearly, a \$12 million fine last time wasn't high enough. Why don't we have higher penalties? Why don't we have criminal penalties for executives in these situations, if you really want to put a fire under them and get them going? We do for other areas. Why not for these big telecommunications companies? They have put profit ahead of people's safety and it has caused people to die. I know that you are moving on this. My point is that leaving a bunch of recommendations to the industry was a mistake. Leaving a bunch of recommendations to the industry going forward I think is a big mistake. We need direct intervention here, and the government has a choice. You can write the laws. You've got a parliament that's willing to move. Let's get it done.

Senator Green: We have intervened. We have changed the laws. There will be serious consequences for Optus's failure.

Senator HANSON-YOUNG: Let's put criminal penalties in place and see how serious you really are.

CHAIR: Thank you, Senator Hanson-Young. The secretariat has rightly reminded me that we've had a request for media in the room. Unless there are objections, I intend to permit the taking of photos—obviously within the bounds of what's permitted under the rules. I want to let senators know. If there are any objections, let me know. Senator Henderson

Senator HENDERSON: Mr Chisholm, I'm going back to my questions about the arrangements while the minister was overseas. What arrangements did the minister put in place to keep herself informed of this debacle, as the Prime Minister called it, that was still unfolding here in Australia?

Mr Chisholm: She regularly spoke with officials and with her office, received updates and was communicating with people involved in the response to the outage and the consequences of that. She focused very heavily on it in her communications with media as part of the trip. This was in addition to the work she was doing on online safety.

Senator HENDERSON: I did ask on notice for the correspondence and all of those communications. You have said that she was frequently in contact with all key players, including the department and ACMA. Could we also have a phone log of her communications as well, which you can provide on notice as well?

Mr Chisholm: I'll take it on notice.

Senator HENDERSON: What briefings did you have, as the head of this part of the department, with Minister Wells about triple 0 while she was overseas?

Mr Chisholm: We briefed her on a number of occasions on the Friday and over that weekend and her office. We also provided advice to her while she was in New York. A big part of that was via officials in attendance with her because there is a significant time difference, as you will appreciate, Senator.

Senator HENDERSON: Do you have the times and dates of those?

Mr Chisholm: I will take it on notice.

Senator HENDERSON: Do you have any further detail on how many briefings there were between yourself and the minister?

Mr Chisholm: With the officials in attendance, it was all day. They were talking about both Optus and the online safety related matters while in New York consistently. But I wasn't there. We would need to take on notice the actual timing and the call logs and all that stuff. We just don't have that in front of us.

Senator HENDERSON: I was asking about the briefings with yourself and other key members of your team. What briefings did you have or provide to the acting communications minister?

Mr Chisholm: We were working directly with the minister, Minister Wells.

Senator HENDERSON: So the person who had ministerial responsibility for the portfolio? You did not have any communications with that person and you're still trying to ascertain who that was?

Mr Chisholm: It was because Minister Wells was focused on the triple 0 work in addition to her responsibilities in New York. We worked with our minister.

Senator HENDERSON: Did the Minister for Communications, whilst overseas, liaise with the acting minister to share information about this evolving crisis?

Mr Chisholm: I would have to take that on notice.

Senator HENDERSON: You have given evidence that the minister was working 24/7, figuratively speaking—I grant you that—in relation to Optus. I want to table an article published on the Sky News website entitled 'Jet-setting Communications Minister Anika Wells bristles at jibe over 'swanning around' NYC amid triple 0 disaster'. Was the minister working on the triple 0 crisis when she was at the New York pub Old Mates with wine in her hand? Is that not swanning around?

Mr Chisholm: I wouldn't use any of that language to describe the minister's work in New York. As we have given evidence about this morning, her attendance in New York was critical to provide support to not only the international effort on online safety to tackle harms, including child exploitation and extreme content but also to support the families who were in New York to tell their stories about the impacts of online harms. That was her focus in New York.

Senator HENDERSON: Sure. It's clear she wasn't working around the clock on these matters and the triple 0 crisis because she was attending a pub having a pretty good time and having a few glasses of wine.

Senator Green: Senator Henderson, I think you are referring to an event that was organised by 36 Months. They are the advocates for online safety. The event was about them.

Senator HENDERSON: Thanks.

Senator Green: Are you suggesting she shouldn't have attended?

Senator HENDERSON: I'm referring to Mr Chisholm's evidence that she was working full time on the Optus outage.

Senator Green: It was an event at 10.30 at night. It was organised by 36 Months. I'm sure you are not insinuating that she should not have been in attendance.

Senator HENDERSON: It just didn't look great, I have to tell you, under circumstances where there was a real crisis unfolding in this country. If I were in the minister's shoes, I wouldn't have been there.

Senator Green: Oh, you wouldn't have gone?

CHAIR: Senator Henderson, may I move the call to your colleague?

Senator HENDERSON: I have just a couple more questions, Chair, on this matter. Who travelled with the minister for this trip? People from her office? Anyone from the department?

Mr Chisholm: She had one adviser from her office and one official from the department. There were also officials from the Department of Foreign Affairs and Trade. They were there as part of a broader support effort in relation to the UN meetings. From our department, there was one official.

Senator HENDERSON: On notice, can you provide a schedule of the minister's meetings and events? Do you have that information with you?

Mr Chisholm: We can provide that on notice, yes.

Senator HENDERSON: As well as the agenda items and resulting commitments from each of those meetings, please?

Mr Chisholm: Yes.

Senator HENDERSON: Do you have details of the total cost of the minister's travel, including for the one official and the one person from her office?

Mr Chisholm: Yes. We do have that. I will have to check. We have to disaggregate the DFAT costs from the department costs. I think it's important to have the distinction given that obviously our costs were related to our officials and there were costs for the UN event that was held in relation to the online safety work. I will come back to you later today with those numbers.

Senator HENDERSON: If you could, because that is important. Those costs would have been approved to the extent that an official from your department would have been approved by your department. Could you please come back with the costs?

Mr Chisholm: Absolutely.

Senator HENDERSON: I want to ask about the minister attending meetings with Singaporean officials while in New York. She said that Optus did not come up. Why was this unique opportunity for high-level diplomatic engagement on Optus's repeated service failures not raised? Can you please provide details about that meeting?

Mr Chisholm: Yes. Again, even though I wasn't in that meeting, I would need to check.

Senator HENDERSON: Why did the department fail to advise the minister to use this high-level forum to address the governance and regulatory failures of a subsidiary of a major Singaporean company?

Mr Chisholm: The minister has met with the head of Singtel, as you know, in Australia and spoken directly on a number of occasions with the Australian management of Optus. That's the appropriate channel to deal with this issue. It is to actually deal with the Australian company.

Senator HENDERSON: Can you quickly detail that meeting? Who did she meet with from Singapore?

Mr Chisholm: My understanding is that it was a Singaporean minister. I would again need to check the details of that. She had many meetings. I would need to check the details. Again, Senator, I wasn't in the meeting.

Senator HENDERSON: And which minister?

Mr Chisholm: It was a Singaporean minister. I don't have the name in front of me.

Senator HENDERSON: Could you ask one of your team to provide that and come back to us as soon as possible?

Mr Chisholm: Yes.

Senator HENDERSON: Did you give any advice that she should raise these matters with the Singaporean minister given that Optus is owned by Singtel, which is a Singaporean company?

Mr Chisholm: Again, I'm not sure we would have advised that is the appropriate forum when she was dealing directly with Optus, the company in Australia, and, in fact, had meetings planned with the Singaporean head of Singtel already, the company responsible. The Singaporean government is not responsible. It's the company in Australia that is responsible for complying with Australian laws.

Senator HENDERSON: Mr Chisholm, you are the relevant deputy secretary.

Mr Chisholm: Yes.

Senator HENDERSON: We have an unmitigated disaster unfolding in Australia. You've given evidence that the minister was working around the clock on this. She is meeting with a Singaporean minister. Optus is owned by a Singaporean company.

Mr Chisholm: Yes.

Senator HENDERSON: Why would it not be appropriate for her to raise this very serious matter, which resulted in a number of deaths in this country, with the Singaporean officials?

CHAIR: You have a one-minute warning, Senator Henderson.

Mr Chisholm: We have given the minister, and the minister has received, extensive advice and support in relation to the Optus matter. We have ensured that the right people who would be accountable for their compliance with Australian law are being spoken to and dealt with. Whether or not the Singaporean minister is able to assist in that matter, I think, is not really relevant to compliance with Australian laws.

Senator HENDERSON: Wow! That's amazing. I would have thought that it is given that Optus is owned by a Singaporean company and there are key issues, Mr Chisholm. The overseas call centre was not functioning.

Mr Chisholm: I don't think that's a Singaporean issue. Senator—

Senator DEAN SMITH: There were requirements to meet.

CHAIR: We're not going to have people talking over each other. Senator Smith, please. I am keen to finish the call.

Senator HENDERSON: Can I finish my questions?

CHAIR: You can, but you have a matter of seconds left before I go to Senator McGrath.

Senator HENDERSON: Mr Chisholm, I'm very concerned that you do not believe it's a relevant matter. You have an unfolding crisis in this country involving Optus, which is owned by a Singaporean company. That matter would not be raised? You would not even say we are concerned?

Mr Chisholm: Again, we do not routinely go to other countries to raise issues about companies operating in Australia that are foreign owned. We deal with the Australian business, which itself is responsible for complying with Australian laws. That's of immediate significance and importance to ensuring that we protect public safety. It might vary in some circumstances, but ministers from other countries are not going to be able to assist the regulator or the government in ensuring that an investigation into compliance with Australian laws proceeds and that the right outcomes are achieved.

Senator HENDERSON: Mr Chisholm, I put it to you that—

CHAIR: Senator Henderson, I am moving—

Senator HENDERSON: This is my final question. I put it to you that you ask the question of the Singaporean minister. They might have a whole lot of information, including, perhaps, his or her concerns about Singtel. Maybe Singtel weren't complying with their obligations. I suggest to you that it's a dereliction of duty by Minister Wells to not to raise those matters with the Singaporean minister.

Mr Chisholm: I won't comment on Singtel and its compliance with laws. I think that's a matter for regulators and is not an issue here. What is an issue here is Optus, the Australian company. I know that the minister and the Singaporean minister would have focused very much on the significant efforts that Australia and other South-East Asian countries are deploying to tackle the very serious harms that are occurring online.

Senator HENDERSON: Thanks, Mr Chisholm.

CHAIR: Senator McGrath.

Senator McGRATH: Good morning, everybody. Can the department confirm that the minister's incoming minister's brief informed her of her responsibilities as it related to triple 0?

Mr Chisholm: The incoming government brief that the department prepared went into, from memory—of course, I don't have it in front of me—a range of issues related to the resilience of the network, including triple 0. In fact, one of the first actions of the minister in the job—from recollection, one of the first pieces of advice that the minister actioned—was to ensure that the triple 0 bill was dealt with expeditiously.

Senator McGRATH: So the brief would have dealt with her responsibilities?

Mr Chisholm: Yes.

Senator McGRATH: As it related to triple 0?

Mr Chisholm: Yes.

Senator McGRATH: Did the incoming minister's brief inform the minister about Optus's history of emergency call service failures—specifically the incident in 2023 for which ACMA hit Optus with over \$12 million in penalties?

Mr Chisholm: Again, I would need to go back and check the brief. We talked about the triple 0 bill and the need to action that. We talked about the broader issues to do with the resilience of the network, including how the telecommunications network interacts with energy systems and the risks in relation to that and the extensive work program in place. We also had a number of follow-up briefings with the minister both in writing and in person about both triple 0, the impacts of the 2023 outage and what we had done. She also asked, coming out of that work, to not only ensure that we have the bill ready for introduction as soon as possible but also that we prepare a simulation in relation to a potential outage. We did action that; the minister and her office spent quite a bit of time in preparation for it. As it happened, we had an outage, so that meant that we had already been prepared in many ways. But she was so focused on the issue of outages that she asked for a simulation to be ready.

Senator McGRATH: So the brief would have warned the minister of the potential for similar or foreseeable triple 0 failures?

Mr Chisholm: We have briefed her on what would happen if there were an outage given the risk that there could be an outage. Outages happen, as you know. You have minor outages happening on a regular basis. They are usually resolved very quickly. Our focus was on the impact of a major outage akin to what happened in 2023. So we have briefed her on what would happen, what the response would be and what potentially the consequences for a carrier would be if they failed to ensure that triple 0 worked as part of that outage and the camp-on arrangements. So we spent quite a bit of time on that.

Senator McGRATH: You mentioned a number of briefs in relation to this issue. Outside of the minister's incoming brief, the minister will have been informed about the previous triple 0 issues prior to the triple 0 outage on 8 September?

Mr Chisholm: Yes. We provided a number of pieces of advice and discussions with the minister about the issue of not just triple 0 but risks in relation to the network generally and what we needed to do to ensure that we stayed on top of that.

Senator McGRATH: On what dates were those briefings provided?

Mr Chisholm: I can definitely get you that information. I can't remember off the top of my head. There was a series of meetings with the minister and written material that we provided.

Senator McGRATH: Are you able to provide—if you have to take it on notice, you have to take it on notice—the dates of any briefings? Are you able to table those briefings?

Mr Chisholm: I will also take that on notice.

Senator McGRATH: Can the incoming minister's brief be tabled for the committee today?

Mr Chisholm: Again, I will take that on notice.

Senator McGRATH: That's all I have.

CHAIR: Senator Smith.

Senator DEAN SMITH: Thank you very much for your participation this morning. Mr Betts, can I confirm that administrative arrangements were put in place in advance of and in preparation for Minister Wells's travel overseas?

Mr Betts: I was on leave at the time and Mr Chisholm was acting secretary. I think he has indicated, and maybe taken on notice, the precise arrangements that were put in place in terms of an acting minister. But the acting minister is often there as a fallback for the purposes of the execution, as I mentioned earlier, of formal documents which require a signature. Often the understanding between ministers is that while you may appoint an acting minister, the lead minister who may be overseas will continue to direct the traffic and take all the key executive decisions, which is what happened in this case.

Mr Chisholm: We have confirmed that Minister Burke was acting minister. As Mr Betts said, I was acting secretary at the time. It is a very common practice under a number of governments, in our experience, that particularly if the minister is on work business overseas, they are still engaged directly in their responsibilities. But because documents need to be signed at times, it's really vital that we have an acting minister in place.

Senator DEAN SMITH: So the administrative arrangements were put in place according to the law, Mr Chisholm?

Mr Chisholm: According to the law?

Senator DEAN SMITH: Yes. It's an administrative arrangement. There is a requirement. Were they put in place prior to Minister Wells's travel overseas?

Mr Chisholm: Again, I would have to check that.

Senator DEAN SMITH: It is quite a significant matter of governance.

Mr Chisholm: As to advice, I would have to check.

Senator DEAN SMITH: It's quite a significant matter of governance, Mr Chisholm, and you're the acting secretary.

Senator Green: There's a normal process, Senator. We can take it on notice.

Senator DEAN SMITH: And I want to know whether the normal process was followed.

Mr Betts: We'll confirm that for you.

Senator Green: Whatever that is, we'll take it on notice to show you what we were doing.

Senator DEAN SMITH: Perhaps for the sake of reassurance, you might be able to provide us that answer during the course of this morning. It was revealed that Minister Wells's travel plans were adjusted. That's correct. I heard that correctly?

Mr Chisholm: Yes.

Senator DEAN SMITH: Were the administrative orders adjusted to reflect that adjustment in travel?

Mr Chisholm: We would have to check, Senator.

Senator DEAN SMITH: Could you come back during this morning, because it's quite a substantive issue with regard to governance? Ms Bridger, do you have anything to add with regard to it?

Ms Bridger: No. I think we'll come back to you on that.

Senator DEAN SMITH: Mr Chisholm, thank you very much for the time line that you provided to us. It's quite helpful. Reading the document, I see that it's not complete. Could you just clarify, though, when the department notified the minister or the minister's office with regard to the matters affecting the triple 0 services at 2.45 pm on 18 September?

Mr Chisholm: Yes. As I start to answer the question, I will ask Mr Grunhard to come to the table. At the time, he was the acting deputy secretary for communications and media while I was the acting secretary. There were a number of conversations that both I and he had with Optus and the office on the afternoon of the 19th, which is when we were alerted to the outage.

Senator DEAN SMITH: Don't get ahead of me, Mr Chisholm.

Mr Chisholm: Actually, I am answering the question—

Senator DEAN SMITH: Where I'm going to, Mr Chisholm—excuse me—is to say that it has been a very helpful document. Following my line of questions, could you update your opening statement to include any additional points of contact as we go through this? That would be most helpful.

Mr Chisholm: Yes. What Mr Grunhard can confirm is that I'm pretty confident that, as soon as he was alerted by ACMA, there was a conversation with the office immediately after that.

Mr Grunhard: I was contacted by the chair of ACMA at 3.30 pm on Friday the 19th advising me of the incident. Immediately following that call, I contacted the minister's office to advise them of that.

Senator DEAN SMITH: Thank you for that. You got ahead of me. My question goes to when the department notified the minister or the minister's office about issues affecting the triple 0 services at 2.45 pm on 18 September.

Mr Grunhard: The notification that is referred to in Mr Chisholm's opening statement was an email notification provided by Optus on Thursday, the 18th. That email notification critically did not mention anything about the scale of the outage. It did not mention—

Senator HANSON-YOUNG: That's not what the opening statement says.

Senator DEAN SMITH: Sorry, Senator Hanson-Young.

Mr Grunhard: It did not mention the 600 missed calls. It did not mention any impacts on the lives of—

Senator DEAN SMITH: It says issues affecting triple 0 services.

Mr Chisholm: Which had been resolved.

Senator DEAN SMITH: Critical services. Sorry to interrupt, Mr Grunhard. An email was received on the afternoon of 18 September. I assume that the email was 2.45 pm on 18 September?

Mr Chisholm: I will confirm, as Mr Grunhard said, that the email went to an incorrect email address. We found that email when we were made aware of the major outage. We receive a number of notifications about outages that are resolved very quickly. I think Mr Grunhard can confirm that if we were talking to the office about every outage, it would probably be all day. In this case, we were notified that there had been an outage. As I said in the statement, within seven minutes that had been resolved. We heard nothing more until 3.30 pm the next day from the regulator that there had been a very significant outage.

Senator DEAN SMITH: You did no due diligence on the email that was received at 2.45 pm on 18 September that identified issues affecting triple 0 services. You're right; it said within seven minutes at 2.52 pm you were further advised that the matter had been resolved. But the department did no due diligence?

Mr Chisholm: Our due diligence is that the matter had been resolved. We were not told—

Senator DEAN SMITH: No. You were told. That's not due diligence, Mr Chisholm.

CHAIR: I will intervene at this point. Senator Smith, you've asked your question. The official is answering the question. He just started that answer. Just give him an opportunity to provide that answer, thank you.

Mr Chisholm: I reject any suggestion about due diligence. We were told—

Senator DEAN SMITH: No, my question is—

Mr Chisholm: I'm answering the question, sorry.

Senator DEAN SMITH: I'm not making an assertion. I'm asking a question.

Mr Chisholm: You made an assertion about due diligence.

Senator DEAN SMITH: Mr Chisholm, did you do due diligence on the email that was received at 2.45 pm on 18 September that, clearly by your own statement, identified issues affecting triple 0's services? Yes, within seven minutes, at 2.52 pm, the department was further advised that the matters had been resolved and up to 10 calls—your statement—to triple 0 may have been affected.

Mr Chisholm: May have been affected.

Senator DEAN SMITH: But you didn't do any due diligence.

Mr Chisholm: But it had been resolved. Most outage notifications indicate that—

Senator DEAN SMITH: Most.

Mr Chisholm: they are resolved.

CHAIR: Senator Smith, please allow the official to answer.

Mr Chisholm: The requirement in relation to the new laws relates to major outages. When we were notified of the major outage, as we were the next day by the regulator, mind you, not by Optus, although Optus did contact us very soon afterwards, we swung into action. We are required to do that in relation to major outages. That is what we did. I reject any suggestion about due diligence because we did that due diligence in relation to a major outage.

Senator DEAN SMITH: To be clear, the department did notify the minister or the minister's office with regard to Optus's advice to the department at 2.45 pm on 18 September about issues affecting triple 0 services?

Mr Grunhard: We receive outage notifications very regularly across the major networks. I am answering your question, Senator. They come in at a manner of tens per day. We certainly don't notify the minister's office of every one of those. The critical failure here by Optus was to grasp the significance of the outage that they had and to inform us. Had they done so, we would have acted immediately. As Mr Chisholm has said, on the Friday, when they did notify, we did indeed act immediately. What this looked like was one of many notifications we receive all the time. There was no indication of the gravity of the outage.

Senator DEAN SMITH: Does 10 per day mean 10 matters affecting triple 0 services?

Mr Grunhard: Not necessarily.

Senator DEAN SMITH: What is the frequency of matters being notified affecting triple 0 services?

Mr Grunhard: I will have to take on notice how frequently we are notified of such matters. I can certainly confirm that the gravity of this outage—obviously, as everyone would understand—is extremely rare. Optus gave us no indication that there was an outage of any such gravity until late on the Friday.

CHAIR: Senator Smith, may I clarify whether we're still asking questions in the corporate section or whether they are substantive—

Senator DEAN SMITH: This goes to the deputy secretary's opening statement, yes.

CHAIR: No, sorry. I've worded—

Senator DEAN SMITH: We're still in the corporate section.

CHAIR: You've now had about 10 minutes of the call. I'm keen to move to the substance of this. I appreciate that you may have further questions. I am putting you on notice in terms of timing. I will move the call on in a moment.

Mr Chisholm: One of the issues to be aware of here—I was conferring with Mr Grunhard, and it's a point that he made—is that we have systems in place for notification. That requires information being sent to the right place. That email was not even sent to the right place.

Senator HANSON-YOUNG: Which email?

Mr Chisholm: The notification about the seven-minute resolved outage wasn't even provided to the right address, which we have notified industry is not the correct way to contact us. It is really important that when we are notified of these things, the right people are told.

Senator DEAN SMITH: Are your systems not up to date? Industry is not even aware of how it should be—

Mr Chisholm: I can address that.

Senator DEAN SMITH: I would call that due diligence.

Mr Grunhard: Senator, I can address your question. The ACMA publishes on its website the email addresses that the telcos are required by law to send notifications to. The email address is published on their website for all to see so that industry can follow that instruction. It was not sent to that address.

CHAIR: Senator Smith, I will move the call on.

Senator HANSON-YOUNG: Can we have a copy of these two emails, please, this morning?

Mr Grunhard: We'll do that. I don't have the emails with me, but we can do that.

Senator DEAN SMITH: You could get them emailed to you.

CHAIR: Senator Smith, I appreciate the levity of that remark, but let's stay with Senator Hanson-Young.

Senator HANSON-YOUNG: This is important, though, because in your opening statement you talk about when the department was first notified. If the email went to the wrong address, when did you get the email?

Mr Chisholm: This is the key issue. I want to be really clear about this.

Senator HANSON-YOUNG: Can I just clarify—

Mr Chisholm: I'm answering the question.

Senator HANSON-YOUNG: Excuse me. This is not going to work—

Mr Chisholm: Senator, can I just answer the question?

Senator HANSON-YOUNG: I'm clarifying my question.

CHAIR: Please both desist for a moment. I appreciate the point you're making, Senator Hanson-Young. I was not following the answer precisely. I will do so immediately following you asking that question again. If the official would respond to that question, please do so. I just missed that, so I cannot intervene on that basis.

Senator HANSON-YOUNG: Mr Chisholm, this is not going to work if you continue to talk over the top of me when I am trying to clarify a question so that you can be sharper. I will start again. Firstly, I want to clarify. The first email was sent to the wrong address?

Mr Chisholm: The email referred to in the statement was sent to the wrong address.

Senator HANSON-YOUNG: And the second notification, seven minutes later, was sent to the wrong address?

Mr Chisholm: Yes.

Senator HANSON-YOUNG: So there were two emails—

Mr Chisholm: Yes.

Senator HANSON-YOUNG: sent to the wrong address. When was the email received into someone's inbox? Whose inbox did it go into?

Mr Chisholm: There's an email address that's incorrect. I should make this very clear. I would not consider notification complete if it's sent to the wrong place. Notification occurs when it is given to the right recipient. In this case, it was not.

Senator HANSON-YOUNG: So is the notification at 2.45 pm, referred to in your statement, under your definition a notification or not?

Mr Chisholm: I think the benefit of this line of questioning is that it's probably not what you would consider a correct notification when ACMA has notified people publicly and we have reinforced the message about where the notification is to go. You would probably qualify that statement by saying that we weren't really notified.

Senator HANSON-YOUNG: So you weren't officially notified? It wasn't the official process? It wasn't the official path?

Mr Chisholm: We were able to identify that email later when we scoured all content as part of an exercise to check whether anything had happened over that time. We found in the old email address that someone had sent something through stating that it had been resolved.

Senator HANSON-YOUNG: I want to clarify. When did the department first become aware?

Mr Chisholm: On the Friday. On the Friday afternoon at 3.30 pm we were made aware of a major outage.

Senator HANSON-YOUNG: This opening statement is incredibly misleading.

Mr Chisholm: What I'm trying to do is—

Senator HANSON-YOUNG: Incredibly misleading.

Mr Chisholm: give all the information—

Senator DEAN SMITH: No, you're not.

Mr Chisholm: Excuse me. You make an accusation and I am responding. I have provided in that statement all the information that we found about communications with the department. That communication referred to in the statement was sent to the wrong address, which we have told industry a number of times is not to be used as a source for notification. We were notified of the outage properly—and in this case, it was by the regulator—until the Friday afternoon.

Senator HANSON-YOUNG: So no-one in the department or the minister's office knew anything about this outage until 3.30 pm on Friday?

Mr Chisholm: We were made aware of the major outage at 3.30 pm on the Friday. That is the outage properly; it was on the Friday. But even then it was not a—

Senator HANSON-YOUNG: Listen to what I am saying. Listen to the question. Is it correct that no-one in the department knew of this outage until 3.30 pm on Friday?

Mr Chisholm: Because we had not been told through the appropriate channels.

Senator HENDERSON: Did you receive that email at all?

CHAIR: Senator Henderson, I'm not going to permit this today. We ran into all sorts of trouble yesterday timing wise. When the call is with Senator Hanson-Young, it needs to stay there.

Mr Chisholm: If it would assist the committee, please, can I answer that a lot of that—

Senator HANSON-YOUNG: Did anybody see that email prior to 3.30 pm on Friday?

Mr Chisholm: No, because it was not sent to the right address. It is not an email that we are checking because we have told people it's no longer in use.

Senator HANSON-YOUNG: So an email sat there for over 24 hours—24 hours and 45 minutes—before the department knew anything about this outage?

Mr Chisholm: That email that you are referring to that we have provided you, because we want to be very clear about everything we've found, does not refer to what became clear—

Senator HANSON-YOUNG: I understand that. But that's not my question.

Mr Chisholm: On top of that, we were not aware of that email because it had not been communicated to us.

Mr Betts: What is your question?

Mr Chisholm: We had not been told properly that there had been an outage. We were not made aware of that until the next day.

Senator HANSON-YOUNG: I understand the point you're making about properly and improperly. I get that. I'm trying to work out whether any individual in the department had seen either of these emails at any point.

Mr Chisholm: No. We hadn't seen that.

Senator HANSON-YOUNG: Was there any other discussion with anybody or any other notification to anyone else in the department? Perhaps you, Mr Grunhard?

Mr Chisholm: There had been no notification.

Senator HANSON-YOUNG: It's a question to Mr Grunhard.

Mr Grunhard: The first I was aware of this outage, as I said earlier, was at 3.30 pm on Friday, 19th, when I received a call from ACMA alerting me to it. I was subsequently given a call shortly thereafter by Optus themselves at about four o'clock on Friday, the 19th. But the first I became aware of it was 3.30 pm on the 19th.

Senator HANSON-YOUNG: At 3.30 pm on Friday, when you received a call from ACMA, at that point, did ACMA tell you how large the outage was?

Mr Grunhard: I can confirm what I was told at that time. I recall that ACMA was passing on to me what they had been told by Optus. At that time, they were aware there had been an outage in several states that lasted around 12 hours. While the initial view was that a small number of calls had been missed, the estimate was now around 600 calls had been missed. Welfare checks were being conducted. Optus believed that there were three deaths related to the incident. That's what ACMA had been told at that time. That's what they passed on to me at that time.

Senator HANSON-YOUNG: I will go back to your earlier evidence, where you mentioned that the notification of a smaller outage or notifications of an outage wouldn't have caused any questions. I'm confused now. We've

heard that no-one knew these emails existed. But somewhere along the line in evidence that you've been giving to us this morning, that type of notification wouldn't have raised any alarm bells. Why give us that evidence if no-one had seen it?

Mr Grunhard: I certainly didn't mean to suggest that an email notifying of problems with triple 0 would not have raised alarm. We act on every notification that mentions problems with triple 0. Again, the failure on Optus's part here was not to send the notification to the regulatory requirement mailbox published on ACMA's website. We certainly would have acted had we been aware that it reported problems with triple 0. We note that certainly on the Thursday they were not telling us about 600 calls. They were not telling anyone about that on the Thursday. We were not advised about that until late on the Friday.

Senator Green: I will assist you in letting you know that email has been released publicly. You will get a copy of that today. It will be tabled.

Senator HANSON-YOUNG: I want both emails.

Senator Green: Excuse me, Senator. I'm actually trying to assist you, because it is confusing. The email you will see that was provided to the wrong address does not indicate the catastrophic outage that we are talking about. ACMA has put publicly that parts of the email are incorrect. That is why when we say we were notified of the outage, it was not until Friday. You will get a copy—

Senator HANSON-YOUNG: But that's not what the department's opening statement says.

Senator Green: Senator—

Senator HANSON-YOUNG: The only reason I'm confused is your statement says—

Senator Green: Senator, let me be clear. The department is being fulsome in their information to you and the committee. If we had not included that information, there would have been accusations of not including that information.

Senator HANSON-YOUNG: I'll read you the words.

Senator Green: We are being fulsome in our information. We have released the email already. It shows Optus's complete failure to notify of this outage properly. That is one of the reasons why we say that it is such a serious failure. It is not the outage alone but the fact that they've failed to notify.

Senator HANSON-YOUNG: They are clearly in the wrong here. They deserve a whole lot more than a \$12 million slap on the wrist.

Senator Green: Senator, you don't have to yell at me.

Senator HANSON-YOUNG: I would like the department to correct the opening statement that says the department was notified by Optus about the issue affecting triple 0 services at 2.45 pm on 18 September. Because of questioning, we now find out that the department does not believe they were notified. It sat there for more than 24 hours without anyone knowing about it. Why is it in your opening statement that you were notified?

CHAIR: Senator Hanson-Young. They have heard that proposition. We are going to make this your last question before I share the call once more. I will give the officials and the minister a chance to respond to those statements before we move the call on.

Mr Chisholm: If it would assist the committee, I'm very happy to amend that by saying that we were incorrectly notified to an incorrect address that time. We were very keen to ensure that you had all the information—

Senator HANSON-YOUNG: But you didn't. It was only because we asked the question. What else aren't you telling us because we haven't asked the question?

CHAIR: Senator Hanson-Young, as I indicated, please allow the official and the minister to respond to your questions.

Senator HANSON-YOUNG: It doesn't make any sense.

CHAIR: I understand that you have a view on this.

Senator HANSON-YOUNG: It's just rubbish.

CHAIR: Let's maintain order here. Thank you, Senator Hanson-Young.

Senator HANSON-YOUNG: This is going to be a long day.

Mr Betts: Chair, I will remind you of the words you used—dignity, fairness and respect. I don't think officials are receiving that from Senator Hanson-Young.

CHAIR: Sorry, Secretary, let me respond to that. It has been addressed to me. I think this is a matter about which many people are agitated. I will stay conscious of the temperature in the room. I think there is also a need to

ensure robust questioning. My approach is going to be to permit senators to ask questions unless they cross a certain limit and then to endeavour to give you a chance to respond. That's the approach I'm going to take. I appreciate that. It is a timely reminder of that dignity, respect and professionalism invocation that we started with.

Mr Chisholm: For the record, I would be very happy to table the same statement with the additional sentence that notification was sent to the wrong email address.

CHAIR: I will move the call to Senator Smith for five minutes.

Senator DEAN SMITH: Thank you very much for that generous offer, Mr Chisholm. I think at the end of this line of questioning in the event we find other errors or matters of incompleteness or lack of consistency, if you could provide an updated statement, we would be grateful. We are only at the fifth dot point of what is a 22-dot point opening statement. Just to be clear, what was the incorrect email address that was used for the email received at 2.45 pm on 18 September? What was that email address?

Mr Grunhard: I don't have that in front of me. I dare say that if the emails have been released, it will be apparent. We can check that for you.

Senator DEAN SMITH: Released in the next 30 seconds so I have it in front of me or released at the end of November?

Mr Chisholm: I will check.

Mr Grunhard: We will be able to get an answer for you during session, Senator.

Senator DEAN SMITH: Is it a generic email address?

Mr Grunhard: An email inbox. It's not an individual's email address; that's right.

Senator DEAN SMITH: How frequent is that email box checked and cleared?

Mr Grunhard: I don't know the answer to your question. Again, I note that it is a redundant mailbox that we have told industry not to use.

Senator DEAN SMITH: How and when did the incorrect email address used at 2.45 pm on 18 September become known to you? How did that become known to you?

Mr Grunhard: As Mr Chisholm was saying earlier, when we were ultimately and belatedly notified by ACMA and then by Optus themselves of the gravity of the outage, we, in our surprise that we had not been notified, went back to look wherever we could to see if there was any indication. That's when we became aware of those emails that had been sent to the incorrect mailbox.

Senator DEAN SMITH: So you became aware of the 2.45 pm, 18 September incorrectly addressed email after 3.30 pm on Friday, 19 September?

Mr Grunhard: That's right.

Senator DEAN SMITH: Could you just let us know exactly when after 3.30 pm on Friday, 19 September? Was it in your conversation with ACMA and/or Optus?

Mr Grunhard: No. It would have been an internal departmental matter.

Senator DEAN SMITH: So there's no out-of-office message? There's no notification that goes from the redundant email address to stakeholders?

Mr Grunhard: I'll have to check that too.

Senator HANSON-YOUNG: An automatic forward would help, maybe.

Senator DEAN SMITH: Despite the fact that Mr Chisholm's evidence is that you had been doing simulation planning for a catastrophic outage event?

Mr Chisholm: Yes.

Mr Grunhard: Again, I will emphasise the dual failure in this email notification. It was sent to the wrong box and it didn't mention anything about 600 missed calls. They are the facts of the matter.

Senator DEAN SMITH: Poor communication to the department of communication is a bit ironic.

Mr Grunhard: On the part of Optus, perhaps it is, yes.

Senator DEAN SMITH: No. The lack of due diligence over your own internal processes, Mr Grunhard.

Mr Grunhard: Again, the correct email address is published on ACMA's website. It's a regulatory requirement.

Mr Chisholm: There's a regulatory requirement in relation to notification rules here that was not complied with. That's the issue.

Senator DEAN SMITH: When was Minister Wells's office advised of the advice you had received about the full impact of the outage that is recorded here as 3.30 pm on Friday, 19 September?

Mr Grunhard: Following the call that I received from ACMA, as I said earlier, I called the minister's office within approximately 10 minutes to advise them of the information that I had been given by ACMA.

Senator DEAN SMITH: That was to the chief of staff?

Mr Grunhard: Yes, it was.

Senator DEAN SMITH: And then you subsequently heard from Optus?

Mr Grunhard: That's right. I received a call from Optus at 4 pm.

Senator DEAN SMITH: Did you call the minister's office again and speak to the chief of staff to advise them that you had now had a conversation with Optus in addition to ACMA?

Mr Grunhard: I don't recall. I would have to check my records.

Senator Green: Optus also notified the minister's office around the same time and then the minister was informed.

Senator DEAN SMITH: And who did Optus speak to in the minister's office?

Senator Green: It would be someone in the office. The chief of staff, I assume.

Senator DEAN SMITH: I don't think we can make assumptions on this matter.

Mr Grunhard: We do know that Optus was in direct contact with the chief of staff and the department.

Senator HANSON-YOUNG: Can we confirm that time?

Senator DEAN SMITH: I ask the question because when I've had to call ministers' offices in this government, I often get an answering service. I often get asked to send an email to the minister's office. It's perhaps not in your case for departmental officials, but it is for external stakeholders. I'm very keen to ensure that Optus did speak to someone and who that someone was. I would be greatly reassured if it was the chief of staff. It would be good to know who from Optus called whom in the minister's office.

Mr Chisholm: I can confirm that Optus did speak directly to the chief of staff. I know that because we had many phone calls throughout that evening about the matter. Both Optus and the office had confirmed that they had been in contact with the chief of staff and with us. There were obviously many other calls.

CHAIR: I will give you a minute warning. I appreciate the conversation leads from the opening statement. I am keen to move into outcome 5, when we can get to the substance of it.

Senator DEAN SMITH: It's not my job to give officials advice. I think the error that Mr Chisholm made was making his opening statement at the beginning of this hearing. It might have been more appropriately made when we came to the substantive elements. Given that the statement was made at the opening, I'm happy to discuss with Senator Hanson-Young and others at the morning tea break how we might like to proceed going further. Given that this statement was made at the beginning of today's hearing, I think it's only fair and proper that we interrogate it. There are a number of amendments, improvements and enhancements to this opening statement that the committee will expect to be made.

CHAIR: Let me address that briefly. I appreciate that point. It is not my intention when we move to outcome 5 to prevent you from continuing to interrogate the email.

Senator DEAN SMITH: I understand.

CHAIR: So you have one more minute now.

Senator DEAN SMITH: Mr Grunhard, was it ACMA or Optus that advised you that their initial review had identified about 600 matters and three deaths? Was it ACMA that advised you of that or Optus?

Mr Grunhard: Both. ACMA advised me that Optus had told them that. In the call I received at four o'clock from Optus, I received substantially the same information.

Senator DEAN SMITH: In your conversation to the minister's office, you advised the chief of staff that there were three deaths?

Mr Grunhard: I would have advised that is the information Optus had given ACMA.

Senator DEAN SMITH: Right. So the minister's office was aware at approximately 4 pm on 19 September of three deaths?

Mr Grunhard: Again, we are aware that Optus also spoke directly to the minister's office. I wasn't party to the conversation, but I think it would be surprising if Optus did not mention that at that point. They certainly mentioned it to me.

Senator DEAN SMITH: Minister, was Minister Wells made aware at approximately 4 pm on Friday, 19 September of the three deaths?

Senator Green: I understand you were in these hearings all day yesterday. The minister addressed this question in question time. She said it's a matter of public record.

Senator HANSON-YOUNG: At 4 pm?

Senator Green: That's a matter of public record. She has stated it many times.

Senator HANSON-YOUNG: Just to reiterate, we really need those two emails tabled. When are we going to get them?

Mr Chisholm: I will ask if we have physical copies of them.

Senator DEAN SMITH: Are they able to be tabled and distributed to the committee within three or four minutes of getting them?

CHAIR: Senator Smith, this will hopefully go easier if we stay with the call.

Mr Chisholm: We'll make sure in the morning tea break that we've got physical copies to table. We will have to print them out.

Senator HANSON-YOUNG: Often things can be emailed to the secretariat and they can print them out.

Mr Chisholm: They can do that too, yes.

Senator HANSON-YOUNG: I want to clarify this. When was ACMA informed? When do you believe ACMA was informed?

Mr Grunhard: I know they called me at 3.30 pm telling me that they had just been informed. If your question is whether anyone else in ACMA was aware or what time they were specifically told, I think you would have to ask ACMA later in the day.

Senator HANSON-YOUNG: We will. Maybe ACMA should come later today prepared to answer all the time frame questions. I don't think we need to be taking anything on notice. Is the email address that these wrong emails were sent to an email address that was previously managed by ACMA or the department?

Mr Grunhard: It's a departmental email address.

Senator HANSON-YOUNG: It's a departmental email address. Was it an email address that had previously been used for notifications of this manner?

Mr Grunhard: I would have to check that for you. I don't want to mislead you. We'll get you an answer on notice.

Senator HANSON-YOUNG: What was the email address?

Mr Grunhard: Again, I think we're checking that when we're in the process of locating the emails and printing them.

Senator HANSON-YOUNG: The email address is meant to be on the ACMA website. I haven't been able to find it on the ACMA site. Maybe the department could give us a screenshot of where that is on the ACMA website. That would be helpful.

Mr Chisholm: Yes.

Senator HANSON-YOUNG: Even just for the sake of public awareness. Maybe this won't happen next time.

Mr Chisholm: Well, the obligation sits with Optus.

Senator HANSON-YOUNG: Why is it on a website? Why don't they just have that?

Mr Chisholm: Again, ACMA is responsible for enforcing the law, including in relation to notifications. We expect that companies, as part of complying with the law, are following those requirements.

Senator HANSON-YOUNG: Is the notification meant to go to ACMA?

Mr Chisholm: Absolutely. It's meant to go to a number of people—emergency service organisations, the department and ACMA. The minister is one. By regulatory requirement, it is the department, emergency service organisations and ACMA.

Senator HANSON-YOUNG: So all these email addresses are listed on the website?

Mr Grunhard: That's right, Senator.

Senator HANSON-YOUNG: It says that, in the case of an outage, telcos should inform all of these different email addresses?

Mr Grunhard: That's right, Senator. To be clear, just going back to your previous comment, it wasn't simply pasted on a website one day, and it was expected they would see it. Of course they would have been notified of the regulatory requirement by the regulator.

Senator HANSON-YOUNG: How many different email addresses should a notification go to?

Mr Chisholm: The issue here is that—

Senator HANSON-YOUNG: No. I asked a question—

Mr Chisholm: The issue is that ACMA has advised the companies how they are to notify those organisations, as required by law. The exact number we will check. ACMA can confirm that later today. The fact is that an email to an old email address in the department that incorrectly characterises the nature of an outage does not satisfy those requirements even remotely.

Senator HANSON-YOUNG: I understand that. I'm now hearing that it's not just one email address that this notification needs to go to; it's a series of email addresses.

Mr Chisholm: Well, there's a number of organisations.

Senator Green: Notifications are made—

Senator HANSON-YOUNG: Sorry, but you both spoke over the top of each other so it was impossible to hear the answer to that question.

Senator Green: That's how badly Optus has failed here.

Senator HANSON-YOUNG: Did it go to any of the correct email addresses?

Mr Chisholm: That will be part of the investigation. But if ACMA is saying that they weren't notified about the outage when they should have been, that will be a relevant issue to the investigation.

Senator HANSON-YOUNG: Surely you know the answer to that already. Surely you would have asked ACMA.

Mr Chisholm: I just answered the question about compliance with the expectations. In my view, it certainly doesn't look like there was compliance with those requirements. But that will itself be a matter for ACMA's investigation, which I don't want to comment further on given the legal nature of that.

Senator HENDERSON: So leading on from that question—

CHAIR: No, sorry, Senator Henderson, he has expressed the position. The call is with Senator Hanson-Young. Senator Hanson-Young, you have one more minute, and then I will move the call on.

Senator HANSON-YOUNG: Do you know who else was given the initial notification on the Thursday at 2.45 pm or around that time? Who else was notified?

Mr Chisholm: We're not aware of whether anyone else was notified about that.

Senator HANSON-YOUNG: Have you asked whether the state governments or state agencies received anything around that time?

Mr Chisholm: Again, Senator, the compliance with the notification requirements is a legal requirement that ACMA investigates.

Senator HANSON-YOUNG: Yes, I know.

Mr Chisholm: There are consequences.

Senator HANSON-YOUNG: This is such an important matter, and you have been briefing the minister for two weeks on this now. Surely you have some sense of whether anybody else was sent any form, informal or not, about the outage.

Mr Chisholm: As far as we can tell, others were not. Again, I don't have all the information because I don't have the power to compel it that ACMA does.

Mr Grunhard: Senator, I can confirm that the jurisdictions I think are on the public record. We've heard statements from state government officials that they were not aware that they were notified that Optus had failed to tell them about the gravity and the number of missed calls. I think that's on the public record from the jurisdictions.

Senator HANSON-YOUNG: Why wasn't this wrong—

CHAIR: Last question, Senator Hanson-Young.

Senator HANSON-YOUNG: Why didn't this out-of-date email address have a forward on it to an appropriate and working email address? That is something you normally do when you transition from one email address to another.

Mr Chisholm: Again, Senator, the issue here is that Optus failed to comply with the law. It's not about the email address.

Senator HANSON-YOUNG: You don't get to determine what my questions are, sir. Was there a forwarding address from this outdated email address?

Mr Chisholm: The forwarding address would not—

Senator HANSON-YOUNG: Was there or not?

Mr Chisholm: resolve the Optus failure to comply.

Senator HANSON-YOUNG: That's not the question I'm asking, Mr Chisholm. Please answer the question I have asked you.

Mr Chisholm: We have notified people not to use that email.

Senator HANSON-YOUNG: Is that email being forwarded to a correct address or not?

Mr Chisholm: The correct address wouldn't even be the requirement under the law.

Senator HANSON-YOUNG: That's not the question I'm asking. Your refusal to answer my question says—

CHAIR: Senator Hanson-Young—

Senator HANSON-YOUNG: It's a pretty basic question, Chair.

CHAIR: I understand that. It is simply my intention to lower the temperature. I think it's also accurate to say that there hasn't been an answer to Senator Hanson-Young's question. If you would like to answer that briefly, I will move the call on.

Mr Chisholm: Senator, I don't know the answer to your question. I understand the question you are asking. I don't know the answer to your question. We will check that for you.

CHAIR: Thank you. I'm moving the call now to Senator Henderson.

Senator HENDERSON: We will go back to corporate questions so that we can move formally to outcome 5. I want to clarify this. In relation to the defunct email address, how long had the email address not been in use? When was it changed?

Mr Grunhard: Senator, again, I don't know the answer to your question. We will check that.

Mr Chisholm: Again, I am conscious it would be; that is not going to be a complete answer because we need to double-check. The requirements in relation to notification were some time ago. I'm pretty confident that it was many months ago that we would have notified people not to use that email address.

Senator HENDERSON: I understand that it was a very limited period of time. This is a very important question, Mr Chisholm. When was the email address changed? How long had it been defunct? You should have had redundancy arrangements in place for anyone who was using the old email address, so it's a critical question.

Mr Chisholm: The redundancy arrangements here are Optus complying with its obligations.

Senator HENDERSON: No. Mr Chisholm, with respect, please address my question. How long had the new email address been in place? When was the old email address discontinued? Could you please ask one of your team to urgently come back to the table with that answer?

Mr Chisholm: We will check when we notified and we will give you that information, including the communications with industry.

Senator HENDERSON: I am astounded that you don't know that. There has been an apparently wrong email address used.

Mr Chisholm: Yes.

Senator HENDERSON: I'm astounded that you don't know how long that new email address had been in existence.

Mr Chisholm: What I do know is that we have made it very clear to industry what the correct address is. I will just ask another official, because we're here to help. I will ask Ms Silleri to come to the table. She looks after a number of these issues. She will be able to assist you.

Senator HENDERSON: This is looking like a debacle, Mr Chisholm.

Mr Chisholm: I don't agree with that characterisation at all. Ms Silleri will be able to help you with some of those questions.

Senator HENDERSON: Ms Silleri, when did you change that email address?

Ms Silleri: I don't have the exact date, but I will get it for you. I will correct one thing. The previous email address is not defunct. It was being used for a couple of different purposes. As of 1 July, new notification requirements came in on telcos. We were receiving a lot more notifications of a particular type so we needed to establish a separate email address. That was notified to all the telcos, including Optus, who have been using the correct email address for every other outage except the one on 18 September.

Senator HENDERSON: If the incorrect email address was not defunct, did anyone receive the notification from Optus at that old email address?

Ms Silleri: I think as my colleagues have said, emails were received at that email address on Thursday, but it wasn't looked at.

Senator HENDERSON: It wasn't looked at. So it was received. We were just told before that it wasn't received.

Mr Grunhard: That's not correct, Senator. The emails obviously came into a mailbox. What we said before was that people weren't assiduously checking that mailbox because it was not the mailbox that was to be used for outage notifications.

Senator HENDERSON: Did anyone see that email?

Mr Grunhard: I think we've answered that question, Senator. We were not checking that mailbox because the outage—

Mr Chisholm: I will answer.

Senator HENDERSON: No. Excuse me.

Mr Chisholm: I'm able to answer the question.

Senator HENDERSON: Please don't interrupt me when I'm in the middle of a question.

Mr Chisholm: Sorry, Senator.

Senator HENDERSON: Did anyone on the Thursday see that email that came to the department?

Mr Grunhard: I'm not aware that anyone did.

Mr Chisholm: No—because it was not sent to the right address.

Senator HENDERSON: I understand that. I would like to know the actual email address, please. Given that it was a functioning email address, as we now know, did anyone in the department see that email?

Mr Chisholm: Because we have said that we don't check that address—

Senator HANSON-YOUNG: That's not the evidence—

Mr Chisholm: I can't—

Senator HENDERSON: Mr Chisholm, I would appreciate it if you would not cut me off from the question I'm asking. Did anyone in the department see that email come into the inbox?

Mr Grunhard: Senator, I think I answered your question just a moment ago. I said that I'm not aware that anyone saw that email.

Senator HENDERSON: Could you please check for me, Mr Grunhard? Could you please ascertain, given it was a functioning email address? Ms Silleri, do you know? Did anyone see that email?

Ms Silleri: I saw it on the Friday when I found out about the extent of the outage.

Senator HENDERSON: What time did you see it?

Ms Silleri: When I was advised there was a major Optus outage. I said, 'Why weren't we notified in the outage notification inbox?' We couldn't find anything. I did another search of that email and then I found it.

Senator HENDERSON: What time did you see that email?

Ms Silleri: It was some time after 3.30 on Friday.

Senator DEAN SMITH: So one of the email addresses—

CHAIR: Senator Smith, I appreciate that you and Senator Henderson are both from the coalition. I will keep the call with Senator Henderson.

Senator HENDERSON: You were going to come back to us urgently on understanding how long that old email address had been disabled for the purposes of notifications. I understand it was a limited period of time. Please

come back to us with a very precise time line. I know the chair wants to formally move to outcome 5, where we will ask most of our substantive questions on this matter. I want to quickly go to one issue before we move to outcome 5. I want to ask about Optus contracts. What contracts does the government have with Optus currently? Could you please describe the nature of the contract and the quantum of the contract?

Mr Betts: That is a corporate question. When you say the government, do you mean the government or department?

Senator HENDERSON: The department in your case. Given Optus is a key stakeholder and you regulate Optus, do you have other information about contracts with other government departments? Do you know of any contracts between the government and Optus? Can you ascertain if they are in your department?

Mr Betts: Optus provides telecommunication services to a number of government departments. We will get some details about that.

Ms Bridger: Give me a moment, Senator. I can come back immediately after morning tea. If you give me a moment now, I can do a quick scan of everything.

Senator HENDERSON: It would be great if you could do a quick scan.

Mr Chisholm: I can help with that by saying that we do have contracts as part of the Mobile Black Spot Program and other programs with carriers including Optus, because they provide services in those regions. We will get you a list of them.

Senator HENDERSON: Thank you. Ms Bridger, do you have any details of the contracts currently in place between the Australian government and Optus?

Ms Bridger: The Australian government? I could only cover off just our departmental contracts.

Senator HENDERSON: Thank you. That would be a good start.

Ms Bridger: We had one contract with them to purchase Cisco handsets. That was back in 2024 for \$19,662.

Senator HENDERSON: Do you want to take it on notice?

Ms Bridger: I'm literally scanning pages at the moment. We also have, again, a contract that extends from 2024 to 2026. It is for voice telephony PABX and cloud calling. That is our telephony services. That's for \$1.749 million. There's one more here. Actually, there are a few. There is another for cloud calling services.

Mr Betts: Let's just take it on notice. We'll come back to you as soon as we can, Senator, with an orderly response.

Senator HENDERSON: If you could, do that. Ms Sillieri, can you give me the actual email address of the wrong email and the correct email address? What are those two email addresses?

Ms Sillieri: I will confirm it for you. Off the top of my head, the one that is not in use for outage notifications is called cialerts@infrastructure.gov.au. I will check that. The one that we are using for outage notifications is outagenotifications@infrastructure.gov.au.

Senator HENDERSON: What was the reason for the change of email address?

Ms Sillieri: Because, as I mentioned, on 1 July, significant new requirements came in on the telcos to have to advise of major outages and significant local outages, not just on triple 0. It was any network outage. That resulted in us getting a lot of emails, which needed to be considered intricately. That was separate to the other email inbox, which is to deal with things such as the natural disaster season, weather alerts and things like that.

Mr Grunhard: I will add to clarify the point. On that new email address, as Ms Sillieri noted, Optus had indeed regularly been sending out notifications to the correct outage notification email address in all instances other than the incredibly significant outage of 18 September.

Senator HENDERSON: Could we have copies of those emails after the morning tea break? I know you want to move on. With regard to the contracts, again, could you bring them back to us? We want to look at all contracts. Do you have copies of them? Are there any others under the Infrastructure Investment Program? You mentioned black spots. Any other contracts between Optus and the department? There is corporate hospitality. I realise that I'm trying to race through. Can you describe any corporate hospitality arrangements between Optus and the government? Have there been any functions or the provision of hospitality, such as tickets to the races or to the footy? Can you describe anything that has been provided to the minister?

Mr Chisholm: You mean the department, in this case?

Senator HENDERSON: To the minister or the department—any corporate hospitality between Optus and the Australian government, including the minister.

Mr Chisholm: Certainly I can confirm that I have received no hospitality at all of that nature.

Senator HANSON-YOUNG: They probably sent it to the wrong address.

Mr Chisholm: They probably did send it to the wrong address, if they did invite us. But there is nothing of that nature.

Senator HENDERSON: Are you aware of any corporate hospitality provided to the minister?

Mr Chisholm: No. I'm not aware of that with Optus specifically.

Senator HENDERSON: Could you please take that on notice and come back to us again?

CHAIR: Senator Smith, with the observation that I'm not going to limit the questions relating to the opening statement in outcome 5, I am keen to get to outcome 5. I am also aware that Senator Pocock has questions.

Senator DAVID POCOCK: It is one to clarify this whole interaction.

CHAIR: One, and then we'll move to outcome 5.

Senator DAVID POCOCK: Ms Silleri, can you clarify? You said that email address is used for natural disasters and those sorts of notifications. From what I heard from Mr Chisholm earlier, this is an unused email address that they've sent an email to. I want to clarify. Why is an email address where you're getting notifications on outages caused by natural disasters et cetera not being monitored for 24 hours?

Ms Silleri: To clarify, it's not for outages impacted by natural disasters. It's a general all hazards warning email address. If something was going on, it would be checked. But the focus is on the outage notifications. It is checked regularly.

Senator HANSON-YOUNG: Not regularly enough.

Ms Silleri: It was checked the next day. If there were floods going on or natural disasters, it would be checked.

Senator DAVID POCOCK: So the assertion from Mr Chisholm that it is an unused, defunct email address is incorrect?

Mr Grunhard: Certainly defunct to the extent that there is a regulatory requirement that outage notifications go to—

Senator DAVID POCOCK: I understand that update.

Mr Chisholm: It's defunct insofar as it does not even remotely meet the obligations for notification for outages.

Senator DAVID POCOCK: I understand that, Mr Chisholm. From following these interactions, you can see why people are getting agitated with some of the things you are saying. You are essentially speaking in very broad terms about an email address, from what I'm hearing, being totally unused, just sitting there without an auto response and no forward, but actually it's used for something.

Mr Chisholm: I do think it's important. There are a lot of characterisations being made here about the department. The incorrect process was followed by Optus. They did not comply.

Senator DAVID POCOCK: One hundred per cent.

Mr Chisholm: That is the key issue here. If we were made aware of a triple 0 outage, which is our No. 1 priority in this space, we would be expecting to be notified through the normal channel. We weren't. That email address that you are referring to is not used. We have repeatedly advised, as has the regulator, that in the case of a triple 0 outage, it is not the way to be notified. If there was a natural disaster, there would be multiple channels of communication. But we are not checking that email in relation to triple 0 matters because it is so important that we get the information the correct way that complies with the new laws. In fact, there are onerous obligations in place to do it. But any suggestion that this is somehow an issue in relation to Optus's compliance and in fact the consequences of their failures here is a completely different issue.

Senator DAVID POCOCK: I agree. We're all on the same team when it comes to that point. Just listening to this interaction, I want to make the point that I think some of the things you've said seem to really contradict what others are saying.

Mr Chisholm: I don't think it's contradictory. Again, you've made an assertion and I think I should reply. It's not contradictory. Again, it was the wrong email address and it is defunct insofar as it relates to triple 0 notifications and outage notifications.

Senator DAVID POCOCK: That's not what you said earlier.

CHAIR: I'm not sure that this is productive at this point. Thank you, Senator Pocock. I will come back to you in outcome 5. Senator Smith, I understand that you have one procedural question?

Senator DEAN SMITH: I was going to ask whether you would give me liberty to ask Ms Silleri one or two very brief questions.

Senator HANSON-YOUNG: I have some questions too.

CHAIR: Let's do it this way. I will give you that brief liberty, Senator Smith. I will come to you, Senator Hanson-Young, with the understanding that, when we break at 11 o'clock, we will come back on outcome 5—

Senator HANSON-YOUNG: Fair enough.

CHAIR: if that suffices. I'm keen to get to the substance of this.

Senator HENDERSON: Subject to the department coming back on those matters that I raised in corporate—contracts and other things, please.

CHAIR: Well, I don't want to make it subject to that. If they come back to it and they are—

Senator HANSON-YOUNG: We can continue with that.

CHAIR: We can continue questioning of it in outcome 5, I think, as a matter of substance.

Senator McGRATH: I think I want these emails. Have they been found yet?

CHAIR: Yes. We are waiting on them. Perhaps, Senator McGrath, we will do this and go to the break. Hopefully by then the department has provided those documents and we can go to outcome 5. I'm sure robust questioning will continue after that. I thank all senators for their consideration.

Senator DEAN SMITH: Ms Silleri, who is responsible for communicating to the various stakeholders the change in the email address? That is the first question. The second question is: when and on how many occasions were those stakeholders notified of the change of address? Just to be clear, cialert@infrastructure.gov.au, which was the original but now unused email address, did not have an out-of-office message, did not have a bounce-back message and was not being used simultaneously with the outage notification at infrastructure.gov.au?

Ms Silleri: I will take the last question first. I think as I mentioned earlier, it is being used simultaneously but for a very different purpose. In terms of your first question about who was responsible for notifying, my team was responsible. They notified each of the telecommunications companies. We did follow up with Optus to say, 'You've sent it to the wrong address.' They confirmed that they had spoken to their IT people and that it had been updated in their systems.

Senator DEAN SMITH: If you could make available to the committee the exchange of communications about the updating of the email address, that would be helpful.

Ms Silleri: Certainly.

Senator DEAN SMITH: Chair, if I may, I understand that the return date for questions on notice is 26 November.

CHAIR: It is 28 November.

Senator DEAN SMITH: Given the seriousness of this matter and given the detail of the questions we have known and Mr Chisholm's willingness to take so many on notice, could we have the government's agreement that the expeditious return of these questions on notice and perhaps the setting of an alternative forward return date would be in the interests of not just our committee inquiry but in the public interest given the significance of these matters? Senator Green, is that something the government can commit to?

CHAIR: Senator Smith, I think that's a matter for the committee in the first instance in terms of the dates. It is obviously my understanding that 28 November is the date for the return. In previous Senate estimates committees, I understand that departments have attempted to provide information on a rolling basis, using that as a deadline. Let us have a conversation about this.

Senator DEAN SMITH: Not rolling from 26 to 27 November.

CHAIR: Senator Smith, let us have a conversation about this in the committee. I will move the call to Senator Hanson-Young with a view to getting to outcome 5. Thank you, Senator Smith. I appreciate your consideration in this matter.

Senator HANSON-YOUNG: I asked about whether the email address had an automatic forward or an automatic reply. You refused to give an answer when actually you knew what the answer was. There isn't one because the email address is still being used. What I'm frustrated with is that you are not giving correct or honest answers to the direct questions we're asking. It is leading to a sense of people covering their own backsides. I hope that isn't what is going on because it is the corporation here that has put profits ahead of people's safety. But the lack of directness and the squirming around questions isn't making the department look very good at all. When we

come back from the break, I hope there might be a bit more frankness from the department officials. I want to know—

Senator Green: Senator, you made a lot of assertions in that comment. I appreciate that you are trying to get a grab up for your social media.

Senator HANSON-YOUNG: I just want some answers. You've changed answers several times this morning.

Senator Green: You've had answers on the department—

CHAIR: Minister and Senator, before we continue on this, Senator Hanson-Young, you've made a statement that I will take as a proposition. I will give the minister an opportunity to respond to that. We will then come back to you for your questions.

Senator Green: We are talking about Optus's failure. They failed on many counts. We're talking about Optus's failure in terms of the outage and the notification. Any implication that officials are not being honest with you and deliberately not being honest with you is a fabrication. You should consider withdrawing it, because it's not true.

Senator HANSON-YOUNG: Well, I won't be withdrawing it. I stand by it.

Senator Green: I am—

Senator HANSON-YOUNG: It's changed.

Senator Green: I know you are frustrated. We are frustrated, too, at Optus's complete and utter failure to do the right thing. They had the right email address. They didn't use it.

CHAIR: Thank you, Minister. Senator Hanson-Young, please go to your questions.

Senator HANSON-YOUNG: How many emails has the old email address received since 1 July?

Ms Silleri: About outage notifications?

Senator HANSON-YOUNG: At all?

Ms Silleri: I couldn't tell you.

Senator HANSON-YOUNG: So it has received other emails?

Ms Silleri: It receives emails from the National Situation Room about all hazard events, about weather around the world and things that may impact a range of services, not just telecommunications. They are general alerts.

Senator HANSON-YOUNG: Whose job is it to check that email address?

Ms Silleri: It is a number of people in my team.

Senator HANSON-YOUNG: Is there a roster? How does that work?

Ms Silleri: There is a roster for the outage notifications.

Senator HANSON-YOUNG: No. I'm asking about this email address.

Ms Silleri: There's not a roster for that one.

Senator HANSON-YOUNG: So since 1 July, has anybody been regularly checking that?

Ms Silleri: Yes, they have.

Senator HANSON-YOUNG: How many times has it been checked?

Ms Silleri: Well, it would be at least every two days.

Senator HANSON-YOUNG: Do you think that perhaps in hindsight, given you've changed from one address to another, a transition could have been helpful?

Mr Chisholm: There was a transition, Senator, in the sense that we do check this email address. But it receives general notifications, as Ms Silleri said, about a range of events for a large number of people. These are general emails that go out from emergency services, who, by the way if they had been appropriately notified, would be doing a lot more than emails to an old email address about triple 0 outages. So we check that. Again, it is totally irrelevant to the question of compliance with not only the notification rules but the actual failure to make triple 0 work. That's the issue here. The issue—

Senator HANSON-YOUNG: I understand that.

Mr Chisholm: I know. You've made suggestions about the department. I want to be really clear that the department has worked assiduously to put in place tough new laws and requirements not only in relation to the notification but in relation to camp on triple 0 notification requirements to a range of parties. We have worked to increase the penalties in relation to that. We have just worked, and the government has introduced a bill, to make

those rules even harder. That has been our focus. We expect to be notified through the appropriate channels of triple 0 outages and major outages so that we can act on them, as we did immediately when we were notified properly.

Senator HANSON-YOUNG: I understand that. On notice—perhaps it would be helpful if you could get this today—how many times has Optus used both of those addresses since 1 July? Do you know the answer to that question?

Ms Silleri: For network outage notifications, they haven't used it except for that one day on 18 September.

Senator HANSON-YOUNG: But you've received other emails from Optus to that address? Is that what you are saying?

Ms Silleri: Not from Optus.

Senator HANSON-YOUNG: I'm asking how many emails you have received from Optus to either the new address or the old address since 1 July.

Mr Grunhard: Senator, I understand the question. I think you're right that we will need to take it on notice because we need to check. We'll check that for you.

CHAIR: Thank you. We are due to go to our break. Senator McGrath has one question, and then we are going to the break. We are coming back to outcome 5 after that.

Senator McGRATH: On what date was the new email address created? On what date did you advise relevant stakeholders of the new email address?

Ms Silleri: I think we've indicated that we're going to find that information out for you, Senator.

Senator McGRATH: So you will be able to find that over the break?

Ms Silleri: I hope so.

Mr Chisholm: Yes. And it would have been commensurate with the beginning of the new obligations under the law.

CHAIR: Thank you, Senator McGrath.

Proceedings suspended from 11:01 to 11:22

CHAIR: We are now calling officers from the department in relation to outcome 5, Promote an innovative and competitive communications sector through policy development, advice and program delivery so all Australians can realise the full potential of digital technologies and communication services. Program 5.1 is digital technologies and communications services. Senators and officials in the room will have heard me say this before the break. This is not going to be a complete break from the subject that we were covering in the earlier section. We will continue with questions, including in relation to the opening statement. I have received two documents from the department that I intend to permit to be tabled. I will ask someone from the department to describe those documents briefly. I will then make a final comment about the conduct of this session before turning to questions.

Mr Chisholm: Are you talking about—

CHAIR: The revised opening statement and the email.

Mr Chisholm: Yes. We have a revised opening statement with a sentence added to confirm that the notifications were sent to the wrong email address. Were you asking about the emails as well? They've been tabled.

Senator Green: It's for the committee to table them. We have provided them to the committee.

CHAIR: We will table them.

Mr Betts: Chair, we can also close out Senator Henderson's questions around Optus contracts for the department. We have information we can table.

CHAIR: If you want to table that, that would be very helpful.

Ms Bridger: Yes. I will table that. I would also like to add that the senator also asked about hospitality. We've received nil hospitality, from a department perspective, for 2024-25. We have nil on our gift register since 1 July 2023 for Optus.

CHAIR: I want to do this and then I will hand over the call to Senator Henderson. I'm very conscious of the gravity and significance of the matters we're discussing today. A number of people have concerns that they need to raise. I appreciate that. That is the purpose of estimates. However, I reiterate the comment I made at the very start of today's proceedings around the need for there to be respect and civility and for this questioning to be conducted in an orderly way. I will intervene at relevant points if I feel that has exceeded the bounds. That goes for my colleagues—I appreciate your cooperation in that—and for witnesses. On that note, I will hand over to Senator Henderson.

Senator HENDERSON: Thank you very much, Chair. Firstly, could a copy of those two emails be distributed? I again want to ask the question: when was the new email address, which is the outages address, created, please?

Mr Chisholm: Senator, the date of the communication of that—

Senator HENDERSON: That's not my question.

Mr Chisholm: I thought that's what you meant by when.

Senator HENDERSON: Mr Chisholm, I am going to concur with Senator Hanson-Young here. We are seeking direct answers. We have taken far too long to get to this point. We need clear, frank and direct answers. My question is: when was the new email created? What was the date?

Mr Chisholm: I understand the question, Senator. I don't have that information with me this second. But we will get you an answer. We are not seeking to avoid the question. I don't know the answer, but I will get you an answer.

Senator HENDERSON: Well, I understand it was within a very limited window of time prior to 18 September. Is that correct?

Mr Chisholm: Senator, again, I don't have the information, but I will check it for you. I will answer your question in the session. I need to check the answer because I don't have it in my head.

Senator HENDERSON: Does Ms Silleri have the answer?

Mr Grunhard: We're just checking that with the team, Senator. We are endeavouring to answer your question. We will do so.

Senator HENDERSON: When was the new email address communicated to the industry?

Mr Grunhard: That is the other thing we're checking for you, Senator. We are confirming those dates for you. We will answer the question.

Senator HENDERSON: What was the nature of those communications? Were they by email?

Mr Grunhard: Again, Senator, it's the same query. We'll check it for you.

Senator HENDERSON: Could we please have a copy of that correspondence as well?

Mr Grunhard: We'll check it for you, Senator.

Senator HENDERSON: Thank you. Mr Chisholm, you referred to the fact that the government had moved very quickly in relation to these notifications in accordance with the law and the rules. What law and rules are you referring to?

Mr Chisholm: There are new rules that have been put in place in relation to outage notifications. They flowed from the work from the Bean review. There were also—

Senator HENDERSON: Just stick to that point.

Mr Chisholm: Yes.

Senator HENDERSON: Are these the rules under the Telecommunications (Emergency Call Service) Amendment Determination 2025 (No. 1)?

Mr Chisholm: There's a number of rules. There are pre-existing rules and there are new rules. I will ask Mr Grunhard to update you on that.

Mr Grunhard: Senator, you are specifically talking about the requirements to notify of outages?

Senator HENDERSON: Mr Chisholm referred to new rules or new laws in relation to notifications. I'm referring specifically. Are they the new rules contained in the Telecommunications (Emergency Call Service) Amendment Determination 2025 (No. 1), which were published at the end of April?

Mr Grunhard: Yes, Senator. That change to the emergency call service determination contains a new threshold for notification that carriers are required to comply with. They are in effect from 1 November 2025.

Senator HENDERSON: Exactly, Mr Grunhard. We have just been told that you've put new laws in place with respect to notification under this instrument and they don't come into effect until 1 November 2025.

Mr Chisholm: What I said is that there are new rules. They are coming into effect in November.

Senator HENDERSON: No.

CHAIR: Senator Henderson—

Senator HENDERSON: You didn't say that.

CHAIR: Senator Henderson, consistent with what I said before, you need to give the witnesses a chance to answer. We will then come back to you for questions.

Mr Chisholm: Senator, there are pre-existing rules already in relation to outage requirements. That is being investigated as part of this outage. There are tougher rules that the government has implemented that are coming into effect in November. ACMA is delivering that commitment and will be able to speak to further detail on that.

Senator HENDERSON: I put it to you, Mr Chisholm and Mr Grunhard, that you referred before to these new rules. You suggested that they were the law. Optus had breached their legal requirements and their legal obligations. Why has it taken six months for these laws to come into effect? These new rules in relation to triple 0 obligations toughen the triple 0 requirements on telecommunications companies for a number of matters related to the routing of base stations, the prevention of interference with emergency camp-on requirements—

Mr Chisholm: Senator—

Senator HENDERSON: I haven't finished my question, Mr Chisholm. There is the testing of emergency call delivery, the sharing of outage information with relevant entities in real time and the requirement to report after major outages. Why has that taken six months? Why are they not in effect right now? Why did you and the minister prevail over these new tougher triple 0 laws that this government has sat on for six months?

Mr Chisholm: That's not correct. There are new rules in effect. For example, recommendation 10 relates to customer communications. It requires carriers to communicate information to customers during and about outages. It was fully implemented on 31 December 2024. ACMA determined an industry standard to implement that recommendation.

Senator HENDERSON: No. Mr Chisholm—

Mr Chisholm: There are reforms in relation to real-time information sharing, outage reporting and protocol documents, which were implemented in April through amendments to the ECS determination. So the pre-existing communication requirements—

Senator HENDERSON: Mr Chisholm, I'm going to stop you here.

Mr Chisholm: And there are new requirements coming in.

Senator HENDERSON: Chair, I do need to ask Mr Chisholm about this.

CHAIR: I appreciate that, Senator Henderson.

Senator HENDERSON: Please, if I can just have—

CHAIR: Senator Henderson, I'm simply making an observation. If you put a very long question, I don't think it's appropriate for you to interrupt the witness when giving an answer to that. I don't consider the witness's answer has been excessive to this point. If the witness would just briefly finish his answer, we will come back to you, Senator Henderson.

Senator HENDERSON: He didn't address the right rules. You've just said that they came into effect in April. Mr Chisholm, these new rules did not come into effect. They are not in effect. They do not commence until 1 November under the government's instrument.

Mr Chisholm: So the instrument that I'm referring to there is an instrument that relates to the ACMA work I referred to before. There are new rules in effect that have been in place since November last year that do impose those requirements. Mr Grunhard was just going to update you on those rules in answer to your question.

Senator HENDERSON: Mr Chisholm, I'm not asking about them. I would ask you to be relevant to the question.

Mr Chisholm: Yes.

Senator HENDERSON: Mr Grunhard can answer this. These new tougher triple 0 laws were published in an instrument in April this year. Why has it taken six months for those new rules into come into effect? They will not be in effect until 1 November. Why were the telecommunications companies let off the hook by this government and by this department? I put it to you that on an issue such as toughening the triple 0 obligations, the government should have acted with immediate haste, particularly given that these stem back to the Bean review from April 2024. That is an 18-month lead time. Can you explain why the telecommunications companies were given six months grace before these rules come into effect on 1 November this year?

Mr Grunhard: Senator, I want to clarify one point. You are absolutely right to say that there are some changes to rules that come into effect on 1 November. I want to be clear for the public record that it's not the case that telcos are not required to report outages until 1 November.

Senator HENDERSON: I realise that. I understand that.

Mr Grunhard: There are already changes that have been introduced to require outage reporting. Optus was required to report the outage of 18 September.

CHAIR: Sorry, we have listened to your question. Please don't interrupt the witness. The witness is not going on at great length at this point. We need to give him a chance to answer. We will then come back to your next question.

Senator HENDERSON: Yes, I know that, Chair. I appreciate that.

CHAIR: Can we please let the official finish that answer and then I will come back to you?

Mr Grunhard: Senator, the 18 September outage that Optus experienced was certainly captured by the outage reporting requirements. What changes on 1 November is that there are new even more stringent requirements on real-time information reporting. I want to be very clear that Optus was obliged to report outages on 18 September.

Senator HENDERSON: Mr Grunhard, I do understand that. The key issue here is that the requirement to share outage information with relevant entities under the new rules doesn't come into effect until 1 November. Telcos must provide real-time network information about outages, the scale, the cause and the affected areas. This is the key issue. They must provide that notification not just to ACMA and the department but to emergency service organisations and other relevant agencies. So there is a tougher requirement on the telco companies to report these outages in real time. I put to you that they weren't in effect on 18 September. Why were the telecommunications companies given six months to implement these new rules?

Mr Grunhard: Senator, the primary reason is that this change to the emergency call service determination had quite a few changes in it. One of them was the change you are referring to. Other changes included the requirement to wilt cell towers during particular kinds of outages and to have those real-time systems in place. Those require systems changes. The government and the regulator took the view, when discussing it with industry, that it would take time to change their systems to make it possible for those to come into effect, hence the implementation date of 1 November.

Mr Chisholm: I will add to that. The notification requirements are important. But not making triple 0 work properly is the issue here. The tragedy of lives impacted by that and the failure to check triple 0 as part of what was meant to be a routine upgrade contravenes tough laws. Again, that's a matter for investigation. That is an opinion I am expressing in this committee context. That is the issue here. The issue is—

Senator HENDERSON: You're not meant to give an opinion, Mr Chisholm.

Mr Chisholm: The issue is ensuring that triple 0 works, especially as part of a routine process. That is the issue that ACMA is particularly focused on and that we are focused on. We want to ensure that it works all the time. Notification requirements are more about the follow-up and the attention to welfare checks and working with a range of other service providers. But the core issue here is failure to operate triple 0 properly. They are the laws that are already in place, that the government has strengthened and that ACMA is focused on.

Senator HENDERSON: So the government has strengthened those laws; I agree with that. Those laws are not yet in effect.

Mr Chisholm: The government has strengthened those laws. I have to say—I have been in this role for 18 months—that I have not seen a similar series of reforms in relation to triple 0 for other outages that affected triple 0 in the past.

Senator HENDERSON: Mr Chisholm, a number of people have died as a result of this scandal. What information can you provide this committee about the loss of these lives, please?

Mr Chisholm: Well, any impact on individuals is a tragedy, and unacceptable. The minister has made that view very clear. The circumstances of individuals in this case is also the subject of multiple investigations, not just in relation to ACMA but in relation to emergency services and states that are also responsible for the provision of those services. Our focus, as I've said—and it has been a very significant work program that we have prioritised, as evidenced in the bill introduced yesterday—is to put in place the toughest laws on triple 0 that have ever existed.

Senator HENDERSON: Mr Chisholm—I also direct this to minister—I would say that the government sitting on its hands for six months in relation to these tough new laws is not acceptable.

Mr Chisholm: We haven't been sitting on our hands.

Senator HENDERSON: The question I'm going to direct to the minister—

CHAIR: I need to go to other senators.

Senator HENDERSON: I want to finish my question. Minister, I referred to these tough new laws—the 2025 regulations. Why did the government give the telecommunications companies six months to implement these new rules?

Senator Green: Senator, I want to correct you. The law is very clear. The law in place when this outage occurred is very clear. Telcos must make sure that triple 0 calls still connect by being redirected to alternative mobile towers. That responsibility sits with Optus and the telecommunications companies. That law is in place. That was the requirement. That is why we are talking about a serious failure by Optus and why we are talking about the possibility of very serious consequences.

Senator HENDERSON: Senator, you haven't addressed my question. The new, tougher triple 0 requirements—the regulations published in April this year that don't come into effect until 1 November—relate to the routing of base stations, enhanced emergency camp-on requirements, testing to make sure telcos test the emergency calls, the sharing of outage information and enhanced requirements and reporting. Why did the government sit on its hands for six months rather than implement those new rules straightaway?

Senator Green: No. We are implementing the recommendations of the Bean review. The department has gone to that multiple times. We are taking those steps forward. I need to be clear about this. There is a law in place that should have prevented the catastrophic failure by Optus to make sure that triple 0 calls were rerouted, if that's the term I can use. They did not do that in this case.

Senator HENDERSON: I understand the point you're making. You're not addressing my question. You were on notice that major enhancements to the triple 0 obligations of telecommunications providers were required. They were recommended by the Bean review in April 2024 when that report was released. Twelve months later, we finally see this legislative instrument. The telcos were given six months to implement these new tougher rules. They don't come into effect until 1 November. Why didn't the government act with haste and quickly? We're talking about an emergency service, Minister.

Senator Green: I will let my officials answer on the detail. What I will say to you is that we have been implementing these reforms, and, as the department has said to you, more than any other government ever has when it comes to triple 0. There have been other outages under previous governments. In 2018, there was an outage that affected 4,000 calls, and not a single law was changed. Our government acted after the 2023 outage. We implemented an inquiry, a review, and we're implementing the recommendations from that review. But the law still stands. Optus should not have let triple 0 fail during this outage.

Senator HENDERSON: Minister, in the 2023 outage, millions and millions of customers lost their service. It was a very serious outage. There were multiple inquiries, including the Bean review and the Senate inquiry.

Senator Green: Which we undertook and are implementing.

Senator HENDERSON: So it took 18 months to implement these new, tougher rules. If you don't know the answer, I appreciate that. I will direct it to Mr Chisholm again and to Mr Grunhard. Can you please address the question: why did it take six months for these new, tougher laws to come into effect? They are still not in effect in this country.

Mr Chisholm: Senator, with regard to the laws you are referring to, the work is completed. It was completed over a period of 18 months since the Bean review came into effect and has been implemented successfully. That includes new arrangements that apply to Optus in this case and which the investigation will focus on. They have not complied with it. The timing of the coming into effect of further rules is a matter for the regulator, who is working with industry because the standards process, as you know, is managed through that system.

Senator HENDERSON: The buck stops with the minister and the government.

Mr Chisholm: But the previous minister—

Senator HENDERSON: The minister did nothing to make sure these new rules came into effect quickly.

Mr Chisholm: That is not true. The government has implemented very strong rules and is continuing to do—

Senator HENDERSON: Six months. They sat on their hands for six months and they are still not in effect.

Senator Green: That's not true.

CHAIR: Senator.

Mr Chisholm: The government prioritised this work. It has been a significant work program for the department. We have done everything to implement those rules. The timing of commencement is a technical question that ACMA will be well placed to help you with because they work closely with industry on those issues. But, as we have said, the core issue here is making triple 0 work. It not working is illegal. There will be consequences for that

should ACMA decide to take action. I will add that ACMA is already in court with Optus in relation to these matters and previously levied a \$12 million fine against them in relation to this. We are very strong in implementing those reforms.

CHAIR: Thank you, Senator Henderson. I will now pass the call to Senator Hanson-Young.

Senator HANSON-YOUNG: Thank you. I want to go to the document that has been tabled, which is the copy of the emails. Have you got a copy there?

Mr Chisholm: Yes.

Senator HANSON-YOUNG: On page 2, the original email was sent on Thursday, 18 September at 2.45 pm. It seems as though it was sent to two government email addresses, not one. We don't know what those email addresses are because you've actually blacked them out, which I don't think is very helpful. We had asked for the actual email address.

Senator HENDERSON: These are officers' copies.

Senator HANSON-YOUNG: One is sent to @communications.gov.au. Another is sent to mo.communications.gov.au. What does 'mo' usually stand for?

Mr Chisholm: Normally, and I think in this case, it could be a minister's email address.

Senator HANSON-YOUNG: This email went to somebody in the minister's office at 2.45 pm on Thursday, the 18th?

Mr Chisholm: Well, whether it went to them is another question.

Senator HANSON-YOUNG: I want to know who this email address is for. It is CCed here. You must know. You've blacked it out. Whose email address is that?

Senator Green: Senator, the minister has already stated publicly that the minister's office did receive this email. As you can see from the email—you've got the text in front of you—

Senator HANSON-YOUNG: Who in the minister's office received this email?

Senator Green: The minister's office received the email. That has already been part of the public record. The minister has been very clear about that.

Senator HANSON-YOUNG: Who in the minister's office received this email?

Senator Green: I can take that on notice and get a specific name.

Senator HANSON-YOUNG: I would like to know now.

Senator Green: Clearly, it's the minister's office. I can take on notice the exact staff member.

Senator HANSON-YOUNG: Who checked this email in the minister's office on Thursday, the 18th?

Senator Green: I will have to take that on notice.

Senator HANSON-YOUNG: I do not want it taken on notice.

Senator Green: You actually can't decide whether to take something on notice or not.

Senator HANSON-YOUNG: Well, you also can't decide to not answer questions.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: You can't just not answer a question.

CHAIR: Senator Hanson-Young and Minister.

Senator Green: You and I both know how the standing orders work. You can't reinvent them today because you want to get on the news.

CHAIR: Minister, one moment. When a question is asked, if the person at the table, either the minister or the official, does not know the answer, they are entitled to take it on notice. I appreciate that you are entitled to press for an answer as well, Senator Hanson-Young. That has now been achieved. The minister has taken that information on notice and I'm sure will endeavour to come back as quickly as possible.

Senator HANSON-YOUNG: Thank you, Chair. I would like to know if the minister knows who this email address was sent to in the minister's office?

Senator Green: We'll take that on notice for you, Senator.

Senator HANSON-YOUNG: Do you know the answer?

Senator Green: I will take that on notice for you.

Senator HANSON-YOUNG: I'm not asking you to take it on notice. I'm asking whether you know the answer. You can't take that question on notice. You either know the answer or you don't know the answer.

Senator Green: I'm taking your question on notice.

Senator HANSON-YOUNG: So you don't know if you know the answer or not.

Senator Green: No. That's not what I said, Senator. Please don't put words into my mouth on such a serious issue.

Senator HANSON-YOUNG: Well, it's so serious that we've just spent an hour being told by the department that it went to an address that wasn't monitored. The whole time we now see the exact same email has been received by the minister's office.

Senator Green: Which is a matter of public record.

Senator HENDERSON: This is—

CHAIR: Senator Henderson, you were heard in silence by other members of this committee. Please don't interrupt Senator Hanson-Young. Minister, if you would like to finish what you were saying before, I'll come back to Senator Hanson-Young.

Senator Green: This is a matter of public record. The minister's office received this email, which you can see for yourself is completely incorrect. I can attempt to get some more information to you about the particular adviser in the minister's office who received the email. Let's be really clear about this. Let me be crystal clear: had the email gone to a correct address, it would not have altered the outcome of the incident because the outage had already finished. The information contained in that email was incorrect. As far as anyone outside Optus was concerned, Optus had a minor outage affecting 10 calls that was quickly rectified. You can see that for yourself from that email, Senator Hanson-Young. It was not until the next afternoon that the department, ACMA and the minister were notified that a major outage had occurred. This is a matter of public record.

Senator HANSON-YOUNG: Was the minister informed that this notification was received by her office on Thursday 18th?

Senator Green: I will take that on notice, Senator. My recollection and the advice I have been given is that the minister was notified on Friday of the outage.

Senator HANSON-YOUNG: So no-one in the minister's office got this email and thought, 'Triple 0 calls have been implemented. Maybe the minister should know about this?'

Senator Green: The email says that there was a minor outage affecting possibly 10 calls.

Senator HANSON-YOUNG: No. It doesn't. That's not what the email says at all.

Senator Green: And it was quickly rectified.

Senator HANSON-YOUNG: That is not what the email says at all. The email at 2.45 pm sent to the minister's office says that the sender of this email has been informed that Optus had received reports that some customers in South Australia and in WA were experiencing impacts to triple 0 calls. Was the minister—

Mr Betts: I think you will see the email that comes seven minutes later that says that services have returned to normal and the issue has been completely rectified.

Senator HANSON-YOUNG: I'm not asking about that.

Mr Betts: Well, it's very relevant.

Senator HANSON-YOUNG: Was the minister told that triple 0 calls were impacted or not? The answer is no.

Senator Green: We have been really clear about when the minister was notified about the outage to 600 triple 0 calls.

Senator HANSON-YOUNG: If the minister had been notified that any triple 0 calls had been impacted, it didn't matter?

Senator Green: No. That's not what I'm saying, Senator.

Senator HANSON-YOUNG: Why wasn't the minister notified? Why wasn't the minister informed that her office had been told that triple 0 had been impacted?

Senator Green: Senator, I will take on notice to assist you with any more information that I can provide. What I said to you is that the minister became aware at approximately 4.30 pm of the major Optus outage. I note that there is a second email, which you are conveniently not referring to, that says the outage was resolved.

Senator HANSON-YOUNG: Yes. But was it resolved on the Friday? My question is how many triple 0 calls need to not go through before the minister gives a damn?

Mr Betts: I think we should read that second email so that it's on the record. It comes seven minutes after the first email. It states:

Good afternoon again. I have been advised the work to rectify the issue is complete and services have returned to normal. The protocol reporting shows that 10 calls may have been impacted. Each call is being worked through and welfare checks will be made. If any further information comes forward, I will provide another update.

By any standards, that is not a notification of the events that were subsequently notified to us on the Friday.

Senator HANSON-YOUNG: So no-one bothered to check that email was correct?

CHAIR: Senator Hanson-Young, I appreciate that you have further questions.

Mr Betts: We have Optus in writing saying that the issue is resolved. That is very different from the story that was revealed on the Friday afternoon when Optus finally gave the correct information to ACMA.

Senator HANSON-YOUNG: I understand that, Mr Betts. My concern is that the minister's office received these emails, didn't inform the minister and didn't even bother to check if the information was correct. That's my concern here.

Senator Green: Senator, you are making an imputation there. I don't think you have all the facts. I will seek to get them for you. Please don't try to invent something that hasn't happened. I'm seeking to get the advice for you. I will do that as soon as I can so I can update you on that. Implying that something that has happened hasn't happened I think is the wrong thing to do in this very serious—

Senator HANSON-YOUNG: You keep telling me that the minister didn't know until Friday.

Senator Green: Senator, I'm—

Senator HANSON-YOUNG: Is that true or not?

Senator Green: Senator, I'm giving you the advice that I have been receiving. I will update you if I learn any more.

Senator HANSON-YOUNG: Based on the advice we know, she didn't know until Friday, despite the fact her office was told twice—

CHAIR: Senator Hanson-Young, I will take back the call for a moment. I appreciate that this is an important issue. When the minister is answering, we allow a brief answer. If it is an extended answer, I can understand. She hasn't gone on for a significant period of time. If we allow her to finish her answer, we will come back to you for the question. I appreciate your consideration, Senator Hanson-Young.

Senator HANSON-YOUNG: Both these emails to the minister's office and to the department are from an email address that isn't defunct but just wasn't being checked. You have received two emails—one to the department and one to the minister's office. The subject of these emails is 'Notification: issue with calls to triple 0 in SA and WA'. The minister's office knew on the Thursday afternoon that there were issues. Whether or not they had been resolved, there had been issues. Did anybody in the minister's office, between receiving these emails and Friday afternoon, pick up the phone to ACMA or pick up the phone to Optus to find out exactly what had gone on?

Senator Green: Senator, I think that is the case. I really want to take it on notice. I want to get you the right information. I will endeavour to get that to you as soon as I possibly can.

Senator HANSON-YOUNG: I have asked who the individual was within the minister's office who received this. I am trying to understand if this is a person or a generic email address.

Senator Green: I understand. You are not seeking for us to identify a particular staff member but to know whether it was a generic email address. We will do that for you.

Senator HANSON-YOUNG: There have been claims made that this email has gone to the wrong place and we haven't been able to see what email addresses it has gone to because they've been redacted.

Mr Chisholm: It's the wrong place.

Senator HANSON-YOUNG: I would like to know what email address in the communications department it was actually sent to.

Mr Chisholm: The communications department, as we previously gave evidence in relation to—

Senator HANSON-YOUNG: Could we have it unredacted, please?

Mr Chisholm: It was CI alerts, which is the wrong email address for those outages.

Senator HANSON-YOUNG: I understand that, Mr Chisholm. This seems like it's an important point. It is one of the issues on which you are saying Optus failed. I would like to have that email address unredacted so that we can actually see what the facts are.

Mr Chisholm: Yes. I can definitely confirm that it's the wrong address. I will double-check with you the small part of the address that is blocked out in relation to the department. As I say, it is the CI alerts email address.

Senator HANSON-YOUNG: Did the minister's office contact the department at any point after receiving either of these two emails on Thursday to ask the department if they knew anything more about the issues with triple 0 in South Australia and WA? Did anyone from the minister's office contact anyone in the department?

Mr Chisholm: We would have to take that on notice to check. We do talk to the minister's office regularly throughout the day. In this case, I would say that if that hadn't happened, I'm not surprised because the email says it has been resolved and that welfare checks have been done. That is very different to learning that potentially people's lives had been lost in relation to a major outage. That is not what was outlined in these emails at all.

Senator HANSON-YOUNG: No. It wasn't at all.

Mr Chisholm: That is the issue here, which is representing the facts in relation to an outage, which ACMA is investigating, and the scale and magnitude of the outage, which is not reflected, as Mr Betts said, in these emails.

Senator HANSON-YOUNG: How many calls don't go through to triple 0 before the minister asks questions?

Mr Chisholm: Sorry, Senator?

Senator HANSON-YOUNG: How many calls need to fail before the minister thinks it's an issue?

Mr Chisholm: In this instance, the advice is that it has been worked through and addressed. If we—

Senator HANSON-YOUNG: But these people had already been dead by the time this email was sent.

Mr Chisholm: If we had received—

Senator Green: There was seven minutes between the two emails.

Mr Chisholm: That's right. If we had received accurate advice about the nature of the outage, we would have been informed—

Senator HANSON-YOUNG: So you just form it on trust?

Mr Chisholm: No. Because we didn't get this.

Senator HANSON-YOUNG: You did. The minister's office got it.

Mr Chisholm: But the department did not receive that email in the way that it is meant to happen.

Senator HANSON-YOUNG: The buck stops with the minister, doesn't it?

CHAIR: This process will work best, I think, if there's a question and an answer. I appreciate that there is a lively exchange going on. If we let the official answer, we will come back to you, Senator Hanson-Young. Thank you very much.

Mr Chisholm: As I said, given the advice provided by Optus within seven minutes, I don't think the obligation sits with the minister's office in relation to a potential misrepresentation of the facts. That's an issue for Optus to answer questions about.

Senator HANSON-YOUNG: Oh, yes. Of course it is. But I'm very interested why, if triple 0 has been a problem in two states, no-one in the minister's office wouldn't pick up the phone and talk to someone in the department or ask ACMA?

Senator Green: We don't know if that's the case or not. We'll get that information for you as soon as we can, Senator.

Senator HANSON-YOUNG: Mr Grunhard, did you receive any queries from the minister's office in that 24-hour period?

Mr Grunhard: As I said earlier in my evidence, the first I knew of this incident was the call I received from ACMA on 3.30 pm on the Friday.

Senator HANSON-YOUNG: Do you know whether the minister's office called anybody in ACMA in the 24 hours prior to Mr Grunhard getting a notification?

Senator Green: I've taken that question on notice. All of this information has been discussed in the media by the minister. The media has already reported on these emails previously because we released them. I think ACMA has already commented on the content of these emails and the inaccuracy of them. But they will be investigating that.

CHAIR: Senator Hanson-Young, may I move the call, if that's a natural juncture? Otherwise, you have one minute left.

Senator HANSON-YOUNG: I want to clarify this. When did the email address in the department change?

Mr Grunhard: I think Senator Henderson was asking that earlier. I am checking that for you. We will give you an answer.

Senator HANSON-YOUNG: Surely that's an important piece of the puzzle that should be answered today.

Mr Grunhard: I didn't suggest it wasn't. We'll give you an answer.

Mr Chisholm: Indeed. For completeness, none of this complies with the requirement to notify the regulator. Given that we found out from the regulator after they had been informed, this doesn't even get close to what is required of the companies.

Senator HANSON-YOUNG: Did anybody in the minister's office read this email and see that it wasn't being sent to the right address and think, 'This isn't the right process? Maybe ACMA needs to be told. Maybe the right email address in the department should be told?' If everyone knew this was not the correct process of notification, why did no-one do anything about it for 24 hours?

Mr Chisholm: Because we didn't know.

Senator Green: Senator, I want to clarify something for you. There are requirements around notifications. Optus was fully aware of what those notification requirements are. They relate to informing the regulator in the appropriate way of the extent of an outage. That hasn't happened here. Optus has failed in their obligation.

Senator HANSON-YOUNG: But surely if you know that something has happened and it's wrong—

Senator Green: It's a failure by Optus—

CHAIR: Sorry, we need to come to the end of this.

Senator Green: to comply with the obligations they have to notify the correct people about an outage and the seriousness of the outage. That did not occur by Optus.

Senator HANSON-YOUNG: I don't understand why the minister's office didn't correct it at the time.

CHAIR: Thank you, Minister. Thank you, Senator Hanson-Young. I am moving the call now to Senator Ananda-Rajah.

Senator ANANDA-RAJAH: Thank you. My questions are to the department. This was obviously a catastrophic failure, but it's not the first time there has been a catastrophic failure with this system. Can you perhaps outline for the benefit of the committee the history of triple 0 calls in this country? How did we get to this point? Can you outline the arc of history to this point, please?

Mr Chisholm: I'll ask Mr Grunhard to speak to that history in more detail. What has been very clear in focusing on this area, certainly to my mind and Mr Betts, given that we have come to this work much later than many others over many years, is that this has been underregulated and not focused on in a way that should have been. That was certainly my experience in relation to the 3G switch, which is related to this issue. Why it's related is that the question of device compliance with triple 0 was a core issue as part of that switch, which the department focused very closely on. In fact, the previous minister, Minister Rowland, directed ACMA to prevent devices that cannot call triple 0 from being provided to consumers and that networks could not provide services to those phones. That had not been discovered by government until the team here investigated the issue some years after governments had been notified about the switch. We had to put in place new rules to ensure that those devices are no longer circulating and used by consumers. That issue remains critical, because the piece of work that I referred to earlier that we have been doing with UTS is taking those devices and testing them in a laboratory with engineers and technicians and focusing on how they behave when there are network outages.

There are new requirements coming into effect. We have spoken at length about that. We have been working with industry on them. Industry has been developing the code on them. They will require the testing of devices. One lesson we have learned is that over many years there was simply not enough focus on how devices behave in a world where mobile telephony became so dominant. As someone with quite a bit of experience in other areas of regulation—competition, consumer law, product safety and energy—I am really surprised that it has taken this long. In fact, this government has put in place laws that are much more reflective of what we see in other areas, particularly when it comes to consumer safety.

In relation to triple 0, then, we have seen previous major outages. In response to the 2023 outage, we acted quickly to reform a number of systems that were not behaving the way they should have. The mandatory wilting

obligation was absolutely critical as part of the failure in that one. That is now, as we spoke about, being implemented.

Senator ANANDA-RAJAH: Sorry? What was it called again? I just missed that.

Mr Chisholm: The mandatory wilting obligations. It's an interesting term. When towers are not behaving or working properly, they allow devices to connect to another network during the outage.

Senator ANANDA-RAJAH: That's the camp on. Is that what you mean?

Mr Chisholm: That's right. The tower is the infrastructure that needs to work that way. It is quite surprising, to our mind—Mr Grunhard experienced the Optus outage directly, I think, within six months of coming into the job—that this had not been looked at before.

Senator HENDERSON: This is not focused—

Senator ANANDA-RAJAH: Hold on. It's my call.

CHAIR: Before everyone starts talking at once, Senator Ananda-Rajah and the official, if you would like to continue the answer, then we'll come back.

Senator ANANDA-RAJAH: I'm actually learning a lot here, thank you very much. I would like the official to continue.

Senator Henderson interjecting—

CHAIR: There is too much talk, Senator Henderson.

Senator ANANDA-RAJAH: Senator Henderson, I gave you the courtesy of being silent. I suggest you do the same.

Senator HENDERSON: You did, but it's very—

Senator ANANDA-RAJAH: For hours, actually. It was 14 hours yesterday and most of today.

Mr Chisholm: It's quite frustrating that it has taken this long to tackle the issues. The government has tackled these issues in a way that I think should have been done a lot earlier given the apparent significance of the towers and the devices and how they behave in a world where people rely on their mobile phones for almost everything. So that has been our focus. It has been a tireless effort to put in place new rules that deal with those issues.

Previous outages, including the major outage in 2018, did impact triple 0 in a significant way. We have gone back and looked at those outages to learn from history. I can't see any significant law reform that came out of that process. Instead, there were a bunch of recommendations for protocols and information sharing and updating of documents. But the Bean review did an excellent job. The government, which accepted it in full, is doing an overhaul of systems that were well due for reform. That's the context here. Mr Grunhard could answer that.

Senator ANANDA-RAJAH: Let me just clarify. The seeds of this catastrophe were actually sown years and years ago? It sounds like there was poor regulation around devices. You mentioned 3G. There were years where the previous government really sat on their hands and didn't enact essential regulatory reforms around previous outages. Can you explain to me why the previous government did nothing for years? Were they not aware of the likely consequences of something like this?

Senator Green: Senator, I am not sure if the department can speak on behalf of a previous government. The facts really do speak for themselves. In the 2018 outage, we are talking about 4,000 triple 0 calls being affected and not a single law being changed.

Senator ANANDA-RAJAH: Did anyone die during that period as a result of that outage? Do you know?

Senator Green: We don't know.

Mr Chisholm: It was significant enough for a review to happen. The thing that I found striking, as somebody with, as I say, extensive regulatory experience, and as a former regulator, was just how little focus there was on actual regulation—direct law reform. I think everyone agrees that regulatory incentives are critical in this context. I have to say—

Senator ANANDA-RAJAH: On that note, Mr Chisholm, would you mind elaborating on what the Labor government has done since we came into power in 2022, noting that there was an outage in 2023 and that set off a whole tranche of reforms? Could you step us through that? That would be great.

Mr Chisholm: I will ask Mr Grunhard to do that. We can also talk about the consumer reforms that are related to that.

Mr Grunhard: Indeed. Thank you, Senator. We have been discussing a lot, I think, of the body of reform that has been undertaken since the 2023 Optus outage. There is the implementation of many recommendations to change

the way triple 0 is governed in this country. There have been new regulations introduced about mandatory reporting, mandatory information sharing and the mandatory wilting of towers, as we've just discussed. I think most significantly, as Mr Chisholm said, we have contributed with the University of Technology Sydney to establish a testing facility. It will for the first time independently test—it is not testing by the carriers themselves—the carriers' networks and devices to make sure that triple 0 calls are carried. That testing is about to commence. I would also note that, in addition to the triple 0 custodian bill, which was introduced into the House yesterday, the government has introduced the enhancing consumer safeguards bill. That bill is also before the House. That will increase the penalties for breaches of things such as the emergency call service determination and other industry codes and standards to make sure that there are stronger disincentives in place. That is also before the House.

Senator ANANDA-RAJAH: Can you elaborate on that? It was a bit technical, what you just said?

Mr Grunhard: The enhancing consumer safeguards bill is the one I am referring to. There are a couple of key parts in that bill that strengthen the consumer protection law in telecommunications. One is that ACMA, the regulator, would be able to more directly breach and infringe carriers and carriage service providers if they've breached the rules that apply to consumer protection and to the emergency call service. At the moment, they have to undertake a two-step process before they can bring about a breach. It will make it much more feasible for ACMA to directly infringe someone for a breach of that law.

Senator ANANDA-RAJAH: So streamline that process?

Mr Grunhard: That's right.

Mr Chisholm: Sorry to interrupt you. That is so out of date when you compare it to what the ACCC and ASIC can do and what the ADR can do in the energy space. As I say, it is quite surprising and yet we are changing that framework so that ACMA can act immediately and not wait for a response to a code process to play out, which in fact delays action. It can stop conduct that is going to harm consumers.

Senator ANANDA-RAJAH: So more proactive and pre-emptive?

Mr Chisholm: Yes.

Senator ANANDA-RAJAH: Can you outline for us the triple 0 custodian? I gather some work has already been advanced in the department on that. What does this entity do?

Mr Chisholm: The previous minister decided in March this year that the custodian would be established in the department. There had been a review by the Telecommunications Industry Ombudsman following the Bean review to look at the custodian and its role. The Bean review stated that essentially further work needed to happen to decide what that would look like. One of the options was for it to be established in the department. The minister agreed with that. Since that time, we have been building the function and operating administratively as the custodian essentially to coordinate and help ensure system integrity. We are working with ACMA, NIMA, the states and territories and industry. Our experience is that doing that is very difficult without powers. The bill does two things. One is that it gives ACMA substantial new powers to direct industry in relation to triple 0 matters. Secondly, it can gather information. On top of that, the custodian has the ability under the bill to ask that ACMA exercise its powers to direct industry or gather information. ACMA is required to do that.

Senator ANANDA-RAJAH: That custodian can do it, but ACMA can do this as well?

Mr Chisholm: The custodian will be relying on ACMA, because ACMA is a regulator and enforcer. We as the department are the department.

Senator ANANDA-RAJAH: Sure.

Mr Chisholm: The difference here is that we will be able to have ACMA exercise those powers to get us what we need and direct industry in relation to safety and triple 0 integrity issues and technical issues.

Senator ANANDA-RAJAH: And how does this link in with the real-time monitoring that you were talking about much earlier in your opening statement?

Mr Chisholm: Well, the real-time monitoring is one thing that both ACMA off its own bat or the department could require be improved or updated. Other work came out of the Bean review in relation to real-time monitoring. One focus we will have is that wherever we feel the amount of information we're receiving is not flowing the way it should, we will ask that the powers be exercised to make that happen. The challenge with not having those powers is that ACMA very understandably has responsibilities in relation to its own legislation and can't be seen to be doing things because someone asked them to do it, as the independent regulator. Really importantly here—this is particularly important for the custodian function—there are limitations on how we can share information with others. Companies are understandably sometimes concerned because they worry about commercial-in-confidence information as part of contracts or of other data. But the bill overcomes that by saying that we can get that

information and we can share it with who we feel we need to, particularly people who are in the ecosystem of triple 0, such as state bodies, emergency services and other regulators apart from ACMA.

Senator ANANDA-RAJAH: How does this package of reforms that you have stepped us through from really the time we came into government—this has been a journey—now compare to international best practice?

Mr Chisholm: Australia is playing catch-up on international best practice. Other countries far more directly regulate this work. In fact, our team has met with and learned from colleagues in the US and other countries. I myself have engaged with countries in our region—in particular, Japan, which I think has what you would call close to gold standard work in relation to emergency communications. That has helped inform our work on that. The Japanese in particular, given how vital it is in the context of things such as earthquakes, where you have only seconds to respond, are all over it. But that work is done very directly through government. We have inherited a framework that is much more focused on coregulation. That is the framework that we've got. These reforms are moving into a different paradigm. It is one that, as I say, is more reflective of what you see in relation to the regulation of other essential services and consumer protection and public safety. We're very happy to say that the bill will certainly tackle a lot of those things. There are a number of other reforms that, again through direct regulation, we are doing, such as the universal outdoor mobile obligation and the reforms in relation to—

Senator ANANDA-RAJAH: Do we have time to ask about that?

Mr Chisholm: Very briefly, I will mention it.

Senator ANANDA-RAJAH: It's very important for regional communities.

Mr Chisholm: Indeed. In fact, the feedback that we get more frequently is that it's too much regulation. The voice you would have heard in terms of the public communication from industry is that it's too much regulation.

Senator ANANDA-RAJAH: Can you focus really briefly on what the work you are doing means for regional communities?

Mr Chisholm: Mr Grunhard's division is dedicated to consumer protection, emergency services and regional communities. I will ask him to step through all the regional work that we do.

CHAIR: Very briefly, Mr Grunhard.

Mr Grunhard: Senator, as you would be aware, we are rolling out very significant investment in programs such as the Broadcasting Resilience Program, the Mobile Black Spot Program, the On Farm Connectivity Program and others. Mr Chisholm mentioned the universal outdoor mobile obligation, which is currently under consultation. It would be taking advantage of low-Earth-orbit satellite technology to very significantly uplift the fallbacks and the redundancies available to people particularly in regional and rural communities to make sure that their mobile calls work even when there is an outage to the terrestrial network. That will be a very significant change.

Senator ANANDA-RAJAH: Huge.

Mr Grunhard: It's being consulted with industry as we speak. Perhaps if we come back later, there's more detail on all of those programs that we can go through.

Senator ANANDA-RAJAH: Wonderful. Thank you for that overview.

Senator DAVID POCOCK: I have one question on this. I'm keen to ask about a totally different matter. We had the Telecommunications Legislation Amendment (Triple Zero Custodian and Emergency Calling Powers) Bill 2025 introduced into the House yesterday. This was off the back of the 2023 outage and the report recommendation. Recommendation 2 is to have a triple 0 custodian. When was that legislation drafted and finished?

Mr Chisholm: We have been working on what the powers would be for a number of months now. We needed the ombudsman work to complete, which was late last year. We had to then advise the minister on the ombudsman's work. The previous minister made her decision in March. We got to work on setting up the custodian administratively. We didn't want to wait until all the legislation was done given that we don't control the timing of that. We had an election. You may not have been here, Senator, but one of the first pieces of advice we gave to the minister was about the prioritisation of the triple 0 custodian bill.

Senator DAVID POCOCK: Sure.

Mr Chisholm: To get the status to, as you would appreciate, working with the OPC on the actual drafting, we needed to get a decision made about that. So the minister focused on that as well as the other bill, such as the consumer bill that Mr Grunhard referred to, which she reintroduced. We have been working on the framework in terms of what it would look like and then the actual provisions in the bill as soon as we got the go-ahead to do that, which was very soon after the election.

Senator DAVID POCOCK: Thank you, Mr Chisholm. My question is: when was it finished?

Mr Chisholm: We certainly went back and looked after this outage; I can tell you that. We put some additional—

Senator DAVID POCOCK: Maybe on notice, can you just give me a date?

Mr Chisholm: The final drafting was probably done in the few days in the lead-up to the introduction.

Mr Grunhard: We'll confirm.

Mr Chisholm: We'll confirm.

Senator DAVID POCOCK: It was only finished last week?

Mr Chisholm: Well, we learned from this outage as well.

Senator DAVID POCOCK: I understand that. I'm just looking at the timeline here. We had the 2023 outage. There was the Senate inquiry. There was a report recommendation in November. In April, the government responded to say, 'We're going to implement these recommendations.' Well over a year later, we have another catastrophic outage and then we have legislation seemingly rushed into parliament. I'm trying to work out what has been happening in that 16 months or 18 months or whatever it is.

Mr Chisholm: It wasn't rushed because, as I said, I'm pretty confident—

Senator DAVID POCOCK: Should it have been rushed?

Mr Chisholm: I'm pretty confident on this. I will double-check. I think the first brief I signed off on post-election was in fact in relation to legislation. That included this bill as a top priority. In fact, the minister prioritised that and actioned it very quickly.

Senator Hanson-Young interjecting—

Senator HENDERSON: It was 18 months in total.

Mr Chisholm: No.

CHAIR: Please don't respond to these interjections. Senator Hanson-Young and Senator Henderson, please don't interject.

Mr Chisholm: Senator, I was just going to say that given the intervention of the election, the bill as a priority was No. 1.

Senator DAVID POCOCK: But the election was this year. My question is: in April last year, 2024, the government said, 'We agree we're going to implement this recommendation to establish a triple 0 custodian.' Once they say they're going to do this, when does drafting start?

Mr Chisholm: We've been operating—

Senator DAVID POCOCK: Maybe just on notice. When did drafting start on that and when did drafting finish?

Mr Chisholm: Yes. We'll give you that on notice. Another thing I mentioned there—it is an important bit of context—is that we did have to allow the ombudsman to complete its report on what the custodian would look like. If you look at the recommendation, you see that there's not a lot of detail in it about how it would operate and the powers it might need. We had to do that.

Senator DAVID POCOCK: I'm just interested in those dates. Thank you. I have a separate question relating to the order for the production of documents No. 8 of the minister. It relates to her briefing materials concerning gambling advertising reforms.

Mr Chisholm: I will ask Ms Lopez to join us at the table.

Senator DAVID POCOCK: Minister, maybe you will need to assist with this as well. Despite best efforts, the Senate hasn't been able to get the repping minister to clarify the basis of Minister Wells's heavy redactions and the withholding of seven entire documents. The minister has obviously claimed PII. Contrary to Senate resolutions, Minister Farrell has failed to ask why the minister has claimed PII. They have also not told us how this information, if released, could actually harm the public interest. I will quote from Odgers briefly:

Any claim that it would not be in the public interest to comply in part or in full with an order must be accompanied by a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the production of the document to the Senate.

Simply put, it's just not good enough to claim PII, which the minister has done, and then not provide an explanation. I'm interested if you could actually specify the harm to the public interest that the release of these documents would cause. I'm happy to give you a copy, if it helps.

Senator Green: It might not, Senator, only because there is an enormous number of OPDs, as you know, particularly from you, in relation to this portfolio. I'm not sure what that OPD relates to. I can take it on notice.

Senator DAVID POCOCK: It was talking points and briefing documents et cetera.

Senator Green: I can take it on notice for you.

Senator DAVID POCOCK: Maybe you could give an explanation of why the government isn't actually complying with the standing orders of the Senate when it comes to the claiming of PII.

Senator Green: What I've said to you is that I'm not across what OPD you are referring to. I can take that on notice for you and go through the normal processes around PII claims, if that's required.

Senator DAVID POCOCK: In the redaction, there are seven documents that Minister Wells is withholding from the Senate. She is claiming PII over the entirety of those documents. She is arguing that a mere listing of what the documents are would harm the public interest if it were provided to the Senate. I'm interested if anyone here today in the department or the minister's office can tell us what those seven documents are, even just a title and description, as you're required to do under the standing orders.

Mr Chisholm: We would need to check that for you, Senator.

Senator DAVID POCOCK: The department wasn't involved in the redaction?

Ms Lopez: We don't have the documents that weren't included in the order with us today. We would need to take on notice what those seven documents were. We don't have that list with us.

Senator DAVID POCOCK: Maybe on notice you can take that. Minister, documents aside, why should the Senate accept a public interest immunity claim if you're not even willing to tell us what those documents are and the nature of them? How do we assess whether or not to accept a PII claim? You don't need to know the specifics.

Senator Green: I can't answer your question, Senator.

Senator DAVID POCOCK: Who can?

Senator Green: You would have to put those questions and the relationship that the PII claim has to those questions to the committee.

Senator DAVID POCOCK: But I'm asking you. The standing orders say that if you want to claim PII on a whole document, you have to say, 'This is the title of the document. This is generally what is in it and this is why we can't.'

Senator Green: I've seen PII claims before.

Senator DAVID POCOCK: But that's not what the government is doing.

Senator Green: I don't know if that's the case or not, so I'm not commenting on that.

Senator DAVID POCOCK: That is the case. I'm asking why.

Senator Green: That is your assertion, Senator. I don't have enough information to agree with you on that. I have taken it on notice.

Senator DAVID POCOCK: Okay.

Senator HANSON-YOUNG: Who prepared the PII claim?

Senator Green: I don't think there's enough information.

Mr Chisholm: As Ms Lopez said, we will check the documents because we don't have them with us. I think in this context it may relate to matters—I will have to check—that are commercially sensitive.

Senator DAVID POCOCK: Sure.

Mr Chisholm: I think the ability to receive information does depend on being able to commit to that information not being shared with others. It's a very common reason in these contexts to decline to disclose it. If that happens, people will not share information with us.

Senator DAVID POCOCK: I accept your explanation. I think a separate committee has gone into this in depth looking at some similar claims from PwC and others. When it actually comes to the Senate, the Senate standing orders trump a lot of those claims. I'm interested when you are asked to—

CHAIR: Senator Pocock, I will move on in one minute.

Senator DAVID POCOCK: When you're asked to provide talking points for a public event, is it your assumption that those talking points will be made public?

Ms Lopez: In terms of the order and the redactions that were applied, as the minister outlined in her letter that was also tabled as part of that order, redactions were made where content was also out of scope and because the order was primarily focused on gambling and gambling advertising reforms. Redactions were applied where that content was out of scope.

Senator DAVID POCOCK: My question is: when you are providing talking points to a minister, is it your assumption that those talking points will be used and made public?

Mr Chisholm: Our assumption would be that it is a matter for the minister to decide whether she uses that information.

Senator DAVID POCOCK: But your assumption is that what you put as talking points is fine for a minister to say publicly?

Mr Chisholm: Again, that's an assessment that the minister can make. We provide—

Senator DAVID POCOCK: Mr Chisholm, listen to yourself. It's yes or no. Talking points you give to a minister. Your assumption is that the minister is going to rely on these talking points and could say them publicly. You are fine with that as a department?

Mr Chisholm: We're fine with the information we provide. Again, we do it to support the minister.

Senator DAVID POCOCK: To say something publicly.

Mr Chisholm: If it is in the context of a public event, if she chooses to use it. As you would know, the minister and all ministers apply their own experience and judgement to how they communicate.

Senator DAVID POCOCK: I understand that. You and I work for the public, not the minister.

Mr Chisholm: Senator, we support all governments. We provide advice when asked. Again, ministers, as I said, apply their own judgement and experience to what they say.

Senator DAVID POCOCK: Finally—

CHAIR: This is your last question, Senator.

Senator DAVID POCOCK: This is my last question. Why are talking points to a public event redacted? What is the public harm to asking for briefing materials on gambling reform, which this government is missing in action on when it comes to the Murphy report, and having public event talking points redacted? It's extraordinary.

Mr Chisholm: It's quite possible that they were just out of scope.

Senator DAVID POCOCK: I don't actually think they are. I think, if I can find the page, it actually has a heading that is related to gambling.

Senator Green: There's a range of reasons why a public interest immunity claim would be made, as you know.

Senator DAVID POCOCK: Well, it would be great to know what they are.

Senator Green: I understand that. But there are a range of reasons.

Senator DAVID POCOCK: Which you aren't willing to give us.

Senator Green: That's not what I said.

Senator DAVID POCOCK: This is why we're so frustrated, Minister.

Senator Green: Senator Pocock, don't miscategorise what I've said to you. It's not that I'm unwilling to give you the information.

Senator DAVID POCOCK: Well, the other minister is.

Senator Green: You've asked me a question that I don't have the answer to. I have taken it on notice for you.

Senator DAVID POCOCK: Thank you.

CHAIR: Thank you, Senator Pocock.

Senator McGRATH: One of the questions I put earlier was: when was the new email switched over? I think you were trying to find out that answer. I might be able to help you. Chair, I would like to table an email dated 11 September 2025 at 10.52 am. The evidence that you provided today has been that Optus sent the notification to a defunct email address.

Senator Green: The wrong email address.

Senator McGRATH: I'm using the word 'defunct' because it was the word that was used.

Mr Chisholm: Defunct for triple 0 outages.

Senator McGRATH: cialerts@communications.gov.au sent out a generic email to cialerts@communications.gov.au, customersafeguards@communications.gov.au and outagenotifications@infrastructure.gov.au. This email said:

The Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts has created a consolidated inbox for receiving outage notifications under the Telecommunications (Customer Communications For Outages)

Industry Standard 2024. The new inbox is outagenotifications@infrastructure.gov.au. Confirming evidence was provided earlier. Please direct all notifications for the Department to this inbox.

The email then goes on to say:

The two inboxes below will no longer be used for outage notifications. cialerts@infrastructure.gov.au and consumersafeguards@infrastructure.gov.au

What is interesting is that this email goes on to say:

We will temporarily monitor these inboxes and alert you should any notifications be sent to them.

It goes on to say:

The ACMA has updated its website with the updated email addresses here and here.

I'm assuming, Chair, that we're accepting the tabling of this email correspondence?

CHAIR: Subject to one thing that I'm just checking.

Senator McGRATH: I've read it out aloud.

CHAIR: I appreciate that you have done that.

Senator McGRATH: No-one here is defending Optus in terms of their conduct. Optus is clearly at fault here. We are here asking questions of the department in relation to how you handled the notifications. The evidence that you provided was that it was sent to the wrong inbox. It was a defunct inbox. In fact, the email that you've sent out to stakeholders was provided by stakeholders in the industry, I should say. Clearly the old inbox is still being monitored in relation to the receipt of outage notifications. Notwithstanding the amateur-professional reinterpretation of the words in the emails that were sent here, these emails are pretty clear in terms of the common sense when you read them:

I have just been informed that Optus has received reports that some customers in SA and WA are experiencing impacts with triple 0 calls.

You've said to people that you will be monitoring these inboxes. Were these inboxes being monitored? Did someone read this email? Was this email acted upon?

Senator HANSON-YOUNG: Also not the email addresses the email was sent to?

Mr Chisholm: We are getting very lengthy questions with long prefaces. That's fine, of course. Can we please be allowed to answer with the length that is appropriate to address your question and the assumptions in the question? I will start and then turn to Mr Grunhard. That email is very clear about which email should be used for outages. That does not excuse both the failure on triple 0 and the notification requirement. Monitoring an inbox also does not excuse companies for failing to comply with those requirements. I will turn to Mr Grunhard.

Mr Grunhard: I will answer both Senator McGrath's question and the information we undertook to give to Senator Henderson earlier. I want to caveat this. It's very important to us that we don't mislead the Senate. This is the information I have. I understand it to be correct. We will check it in slower time. We have done this quickly. I want to make absolutely clear that we will check it and make sure it's right on notice. The information I have right now is as follows. The inbox was created—we were asked to answer this question by Senator Henderson—on 27 August. Stakeholders were advised, as we have in the email from Senator McGrath, on 11 September. ACMA updated its web page on 11 September. I think two further really critical facts are here. On 12 September, Optus confirmed to us that they had conducted an IT upgrade to change the address, where notifications would be sent to the correct notification address. Optus confirmed that for us on 12 September. From 11 September, we have received 272 notifications from Optus to the correct address. The one sent to the wrong address is the one we have been discussing. They confirmed to us on 12 September that they had made the change. They had been sending through notifications to the correct address ever since, with the exception of the incident on the 18th.

Mr Chisholm: The 272 are the subject of constant and regular monitoring. Given the volume of that—that's just Optus—of those notifications, that is our focus, particularly when we have said 'Do notify an old email.' There is absolutely no way that anyone should rely on a suggestion that the department will monitor—I suggest that means occasionally—in relation to a significant outage given that 200 have been sent to the right one.

Senator McGRATH: It does say:

We will temporarily monitor these inboxes.

Mr Chisholm: But that's not a reason to email that inbox.

Senator McGRATH: I'm not talking about Optus here. I'm talking about the department. The department has sent an email out to its stakeholders, including Optus. In that advice that you have provided to your stakeholders, you have said, 'We will temporarily monitor these inboxes.' That is an email that was sent a week before the incident

in question. This email was not sent a year ago. It was sent a week before. My question is: the department was advised you did receive the email. In this email, you have said that you do monitor these inboxes. So is the information in this email incorrect and you weren't monitoring those inboxes, or is the evidence today correct?

Mr Chisholm: We do monitor inboxes, but we monitor constantly and very closely the correct email address about outages, which receive hundreds of notifications. Any question or suggestion that companies are doing the right thing and emailing that address and that the department should be cleaning that up when in fact the responsibility is very clear is not correct.

Senator McGrath: Mr Chisholm, you know that is not what I was saying at all. I would actually ask you to retract that insinuation.

Senator Green: No.

Senator McGrath: I think you should retract that insinuation.

Mr Chisholm: I won't be retracting that, because there are a number of assumptions—

Senator McGrath: Sorry, Mr Chisholm. You have implied—

Mr Chisholm: There are a number of suggestions being made in the question about—

Senator McGrath: Mr Chisholm, you have implied that I have said that Optus is the victim here. I have not. I started my questioning with respect. I said that Optus is at fault here. I'm not here asking questions about Optus. I'm asking about the department. You are here as the deputy secretary answering questions to the best of your ability. It clearly is not satisfactory to many members on this committee. I want to go back to the question. When you sent this email out and when you've said, 'We'll temporarily monitor these inboxes', what did you mean by that?

Mr Chisholm: Well, that is the very reason why you would not send it to that email address. 'Temporarily' could mean a couple of days after. It could mean a week. Why on earth anyone would think about emailing that inbox in the context of a catastrophic outage is something that we are also questioning.

Senator Green: Senator McGrath, the evidence was just given to you. Optus confirmed on 12 September that they did in fact have the right email and had updated their processes. They sent over 200 emails to the correct email address. The very tragic and absolutely acceptable circumstance that we've found ourselves in is that an inaccurate email to an incorrect email address would not have altered the outcome of this incident in any way.

Senator McGrath: With respect, Minister—

CHAIR: Senator McGrath.

Senator Green: So you can understand why we are—

Senator McGrath: Optus is at fault. I am putting to you that the department is at fault for sending out, it would appear, incorrect advice to stakeholders.

Senator Green: No. The email that you are referring to—

Senator McGrath: Please don't interrupt me, Minister.

Senator Green: I'm going to be very clear about this. The email that you're referring to is very clear about what the right email address is.

Senator McGrath: Chair, I would prefer it if the minister didn't talk over me.

Senator Green: Optus confirmed that they had the right email address. Please don't mislead the committee or the Australian public about what is in this email. It's very clear.

CHAIR: I think that's a fair point. I appreciate that there's an exchange going on.

Senator McGrath: It's not an exchange.

CHAIR: Senator McGrath, you are entitled to ask your question.

Senator Green: Apologies, Chair.

CHAIR: I appreciate that. I note the time now, Senator McGrath. We are due to go to our interval. I am also conscious of the fact that we are running significantly behind the program. I will endeavour to speak to senators about getting back on track. Senator McGrath, I appreciate that you have more questions. I will come back to you after the break.

Proceedings suspended from 12:48 to 13:34

CHAIR: We are resuming outcome 5 and 5.1 with the department. I will hand the call to Senator Hanson-Young.

Senator HANSON-YOUNG: Thank you. Mr Chisholm, you gave some evidence just before the lunch break in response to the question I asked about how many notifications had been received from Optus to the correct email address. You said that 272 emails had come through to the correct email address. I wonder what the period of those emails was. Was it between 12 and 18 September, given that's when the new address had presumably started?

Mr Chisholm: I will just confirm that.

Mr Grunhard: Again, I will just note that we have obviously produced this number very quickly. We will on notice confirm that it's correct.

Senator HANSON-YOUNG: Yes. Understood.

Mr Grunhard: So 272 from 11 September to now.

Senator HANSON-YOUNG: To now. How many of those emails were notifications of outages that impacted triple 0?

Mr Grunhard: I don't know the answer to that question, Senator.

Senator HANSON-YOUNG: Were there any?

Mr Grunhard: I don't know, Senator.

Senator HANSON-YOUNG: You've given evidence previously today. It was in relation to some questions to Senator Smith. You said that there are tens of outage notifications per day. We certainly do notify the minister's office of every one of those. If we're receiving tens of outage notices a day, how often are those outages triple 0 impacting?

Mr Grunhard: I understand the question, Senator. I don't have numbers. I certainly can tell you that it is very common for there to be, for example, a one-hour outage of a tower somewhere, which is not in itself a triple 0 outage. It would only cause a triple 0 outage if, say, that town has only one provider. Some of them may cause problems for people getting to triple 0 if it means all coverage is out, for example. The case with the Optus 18 September incident was a failure only in triple 0. The rest of their coverage continued to work. I understand the question you are asking. I don't have the numbers before me.

Senator HANSON-YOUNG: Could we get those figures on a granular basis for the 272 emails that Optus had sent? I would like to know. You are going to clarify that number. I would like to know how many of those involved triple 0 outages. What I am hearing you say is that it's not irregular for triple 0 outages to occur across the three networks?

Mr Grunhard: I want to clarify. It is very unusual for there to be a failure like the 18 September failure that only affects the carriage of triple 0 calls.

Senator HANSON-YOUNG: I understand that. When you get a notification, be it from Telstra, TPG or Optus, that there's an outage, you wouldn't know at that point exactly whether it's only triple 0 that has been impacted or not. The important thing is that triple 0 is impacted. Surely that's the main objective of that outage notification.

Mr Chisholm: Yes. In fact, that is the focus in relation to how we would triage or follow up in relation to a notification. When you have an outage, it's meant to still work. If it's not working, that would be the focus.

Senator HANSON-YOUNG: Does anybody have that data? Do you collect that data? If I ask you to provide that, will you have that information?

Mr Grunhard: In respect of the 272 that you're asking about, we'll take on notice and check that for you. Part of the reason the government has introduced these new outage notification requirements is precisely because there isn't good information about that. We think government needs to have better information. That is the focus of those changes. It is also the focus of the triple 0 custodian bill that I notice just passed the House to enable us to get more information. We don't have a longitudinal data set about this, but we will certainly take on notice the answer to your question about the 272.

Senator HANSON-YOUNG: However a notification occurs, by the way—I am worried about this—if there is notification of a triple 0 outage, would that not in any normal circumstance raise an alarm bell?

Mr Grunhard: For us in the department, yes, it would, Senator.

Mr Chisholm: In fact, sometimes we hear about things through reporting in the media. We will reach out to companies and ask for information about whether triple 0 has been compromised. Yes, that's right; that is the focus of our questions. Obviously we are concerned about any outage because that impacts all sorts of other services, which are really important. But triple 0 is the apex of that concern.

Senator HANSON-YOUNG: If the minister's office had received an email, which they did, with a subject line that an outage had impacted triple 0, and if the minister's office had informed the department and escalated it, what

would you have done with that information? You obviously don't just drop it into some file. It must create some response.

Mr Chisholm: The first thing we would do about any information drawn to our attention regarding an impact on triple 0 is phone the company itself and ask for information. We would then talk to ACMA. We would then activate Telstra, which is the triple 0—

Mr Grunhard: Emergency call person.

Mr Chisholm: Call person. We also seek data from Telstra as part of that process, because they can see things that we can't see. They are the processes we would follow.

Senator HANSON-YOUNG: And it wouldn't matter whether Optus or Telstra or whoever else had said to you how many calls they think this had impacted?

Mr Chisholm: We would always follow up, absolutely. Yes, that's right. As I say, we find ourselves more often asking questions when we haven't even been told that triple 0 is affected.

Senator HANSON-YOUNG: I must say that I'm thankful of that. I think that's important. I guess that's why I feel like there has been a failure here. Regardless of whether the department monitored this defunct email address or not, it was received by the minister's office and that didn't raise alarm. It wasn't escalated to the department. It wasn't escalated to the regulator. Nobody picked up the phone and asked more questions. There seems to be a problem there. Hopefully we can learn from these mistakes. At the risk of confusing the process further, I want to clarify something, because there's a discrepancy. The email that was sent to stakeholders informing them of the defunct email addresses and the new email address was sent on 11 September. It was previously tabled by Senator McGrath. Have you got that email? You see those two email addresses that it says are no longer being used? They are both email addresses @infrastructure.gov.au. Yes?

Mr Chisholm: Yes.

Mr Grunhard: Yes.

Senator HANSON-YOUNG: Yet the email that you have circulated that informed the department and the minister's office that this outage had impacted triple 0 in two states is not sent to either of those addresses. In fact, it is sent to @communications.gov.au. Why is there a difference between those email addresses?

Mr Grunhard: Senator, the department uses both of those as email address domains. I'm not familiar with the IT details, but both of them are used for addresses in the department.

Mr Chisholm: They would get through if you use them?

Mr Grunhard: I believe so. I'm not sure.

Mr Chisholm: We would need IT people to help us.

Senator HANSON-YOUNG: You understand that there is a difference here. You haven't informed people that @communications.gov.au is defunct.

Mr Chisholm: The email says that the new inbox is outagenotifications@infrastructure.gov.au.

Senator HANSON-YOUNG: Yes. I understand that. Neither of these three addresses is what this email has been sent to.

Mr Grunhard: I understand. My understanding—we will check this for you—is that there is an alias in place such that if one sends to one domain, it goes through to the inbox regardless. I think that's true for that account.

Senator HANSON-YOUNG: Again, it's redacted so it's very hard to be accurate here. It would be much more helpful if we could have it unredacted, to be perfectly honest.

Mr Chisholm: We'll check that. Of course, I think the fact that, as the evidence earlier indicated, we were receiving hundreds of notifications to the correct address suggests it got through, including from Optus.

Senator HANSON-YOUNG: Yes.

CHAIR: I will move the call unless you have one very quick question.

Senator HANSON-YOUNG: It's just a clarification based on that last comment.

CHAIR: Sure.

Senator HANSON-YOUNG: Can I just check on the 272 notifications received to that new email between 11 September and now, which is what you've said. Is that just Optus or is that everybody?

Mr Chisholm: That's just Optus, yes. There's a lot more.

Senator HANSON-YOUNG: Thank you.

Senator HENDERSON: We now know that the minister's office received an email on 18 September. We spent an hour this morning, Mr Chisholm—I will even direct this to you, Mr Betts—toing and froing on the fact that the email no longer worked without appropriate transparency that in fact the notification was sent to the minister's office. I appreciate what is in the emails, including the email seven minutes later. The email seven minutes later, which was sent at 2.45 pm said:

I have no further details yet, but our network's team have commenced the welfare check processes and relevant protocols. As more information is made available, I will provide updates and let you know when the issue is resolved.

So the issue was known not to be resolved in that email seven minutes later. What action did the minister take after receiving those two emails?

Senator Green: Senator, I'm not sure if you were here before. I have taken some questions on notice with regard to any actions that might have been taken after that email was received by the minister's office.

Senator HENDERSON: Assistant Minister, as you know, I have been here from the beginning.

Senator Green: I'm not really focused on where you are. I want to assure you that we're seeking to answer those questions for the committee as soon as possible. Again, I want to clarify that this isn't new information. It's part of the public record. The minister has been really clear about it in quite a few media appearances. The email that you have today was released through FOI previously.

Senator HENDERSON: I would suggest to you that the minister went to great lengths to basically convey that in relation to the 600 callers who couldn't connect to triple 0. She conveyed that she didn't receive that information until the following day.

Senator Green: Correct.

Senator HENDERSON: I think she has really tried to muddy the waters.

Senator Green: No.

Senator HENDERSON: I want to finish. Presumably, the minister was made aware of these outages. Given it's triple 0, this is not a normal outage. In the lunch break, have you not had the opportunity to find out, as the minister's representative, what the minister did after receiving these two emails?

Senator Green: I don't think what I do in my lunch break is part of our Senate estimates processes. I have taken a question on notice from Senator Hanson-Young.

Senator HENDERSON: Are you able to bring back that information this afternoon?

Senator Green: I have taken the question on notice, Senator.

Senator HENDERSON: It's pretty important to know what action the minister took.

Senator Green: Senator, the minister has been really clear in multiple media appearances and in question time yesterday about when she was notified of the very serious failure by Optus, which involved 600 triple 0 calls. I have reiterated that information to you today. If there is any additional information we can provide you about the inaccurate email that was received by the minister's office, I will let you know.

Senator HENDERSON: There's something else that really strikes me very strange about these emails, Mr Chisholm and Mr Grunhard. Who from a telecommunications company would ordinarily sound an outage notification? Wouldn't this be a requirement of the person in charge of operations or the technical people?

Mr Chisholm: One of the issues here is making sure that notifications are consistent and the data we receive is consistent, which is part of the reforms that are being developed. Mr Grunhard will have more information on that.

Mr Grunhard: Senator, the regulatory requirement is that the business provides the notification. I don't think we have a view as to who should send it as long as it gets sent.

Senator HENDERSON: But this is from the associate director of government affairs.

Mr Grunhard: Yes.

Senator HENDERSON: Government affairs deals with government matters in terms of the relationship between Optus and the government and the minister's office. I think I know who this person is. I have actually emailed her today. I will not name her until I verify this. This looks more like an intervention by the government affairs office of Optus alerting the minister to this outage. There has been no notification from the operations division of Optus. I am very curious about it. It looks like there is someone who has an interest in the relationship with the minister's office obviously sending this notification. But this is not a technical notification. This is from government affairs.

Mr Chisholm: Senator, again, as Mr Grunhard said, we will take any notifications sent to the right address, whether it's from government relations or an engineer who is responsible for upgrades. Who sends it is less important than getting the information and getting it at the right time, none of which was satisfied in this process.

Senator HENDERSON: It is not normal that a government affairs person would send this?

Mr Chisholm: It is also quite common for communications from companies in any portfolio to come at least first through an individual who deals with government frequently.

Senator HENDERSON: Assistant Minister, I will go back to you. You mention that these emails were released under FOI.

Senator Green: I believe that's the advice I've received. But if it's—

Senator HENDERSON: Well, I've just had some advice that they aren't on the government's FOI disclosure log.

Senator Green: I think it has happened very recently.

Senator HENDERSON: How recently were they released under FOI? This morning, when we were asking the questions about this?

Senator Green: No. I don't think that's the case. I have given you that information. I'm sure there is the usual process of updating that register that will happen with due process.

Senator HENDERSON: Well, I think the first time anyone knew about these emails was in the committee this morning.

Senator Green: No. I don't think that's the case, Senator.

Senator HENDERSON: Alright. Could you provide me with the details as to when this was released under freedom of information?

Senator Green: I'll take that on notice for you, Senator.

Senator HENDERSON: Under what circumstances? Who made the FOI request?

Senator Green: I don't know, Senator.

Mr Chisholm: We don't disclose that.

Senator HENDERSON: Could you back? Do you know anything about the FOI request, Mr Chisholm? It seems a coincidence. They are not on the FOI disclosure log.

Mr Chisholm: We don't generate FOI requests.

Senator HENDERSON: But you manage them on behalf of the department.

Mr Chisholm: Well, in fact, I don't. It's run out of our corporate area.

Senator HENDERSON: No. Not you personally, but the department manages FOI requests.

Mr Chisholm: Secondly, we comply with FOI requests. Who made the application is not something that we can disclose.

Senator HENDERSON: I will take that on notice. When did the minister first seek an urgent briefing from your department in relation to the outage?

Mr Chisholm: As soon as we were notified and that we spoke to the office, we were briefing constantly.

Senator HENDERSON: I need an exact time and date, please, Mr Chisholm.

Mr Chisholm: Well, the exact time and date is, as I say, constant. I take—

Senator HENDERSON: That's not—

Mr Chisholm: Briefing is both verbal and written, and we've done both.

Senator HENDERSON: When was the first briefing? When did that occur?

Mr Chisholm: It was the afternoon of the 19th.

Senator HENDERSON: The afternoon of the 19th?

Mr Chisholm: When we were notified; that's right.

Senator HENDERSON: Do you have an approximate time?

Mr Chisholm: Well, it began with the phone call between Mr Grunhard and the office. That's when the briefing began.

Senator HENDERSON: Mr Grunhard, your evidence is that you were notified on the 19th because no-one saw the email on the 18th. Did you receive any phone call from the minister's office in relation to these triple 0 outages? They knew about it.

Mr Grunhard: Senator, as I said, the first I knew of this outage—I have already said this, I think, twice—was when ACMA called me at 3.30 pm on Friday, the 19th.

Senator HENDERSON: I'm just double-checking because we've had a lot of convoluted misunderstanding. When you were giving evidence this morning, no-one disclosed from the department that the minister's office was copied into these emails, which I am personally unhappy about. I share Senator Hanson-Young's concerns about the lack of direct and frank evidence.

Mr Chisholm: We've been very clear, Senator. That email is actually not clear because it doesn't disclose the true situation.

Senator HENDERSON: Well, it's—

Senator HANSON-YOUNG: It's not just a problem—

CHAIR: Senator Henderson has the call.

Senator HANSON-YOUNG: Where are the checks being done?

CHAIR: Sorry, Senators. Please come to order.

Mr Chisholm: Which they were responsible to do.

CHAIR: And members from the table. This will work better if the person who has the call is asking a question and then officials are responding. Please don't deal with interjections. Senators, please don't make interjections.

Senator HENDERSON: I want to go to the second email seven minutes later. I have been advised that the work to rectify the issue is complete and the services have returned to normal. Was that in fact the case?

Mr Chisholm: Does it impact the case?

Senator HENDERSON: No. Was that in fact the case?

Mr Grunhard: You mean was the system entirely rectified at that time?

Senator HENDERSON: That's right.

Mr Grunhard: I think the investigation will have to bear that out, Senator.

Senator HENDERSON: So you haven't made any inquiries about that?

Mr Chisholm: We're not the regulator. We are obviously asking questions about now. Our focus has been what you are doing now. The questions we have given to industry, which I'm very happy to go into in some detail, are about their remediation plans, their preparedness plans and their communications protocols. That has been a constant effort from the department. The question of how and when it was resolved will be core to ACMA's investigation.

Senator HENDERSON: Mr Chisholm, you've given evidence that this is entirely Optus's fault.

Mr Chisholm: It is.

Senator HENDERSON: That they acted unlawfully. We are scrutinising your evidence, which we are entitled to do. If you are making that assertion, I am asking this. At 2.52 pm on 18 September, that email was received from Optus advising that the issues had been rectified, services had returned to normal, each call was being worked through and welfare checks were being made. Have you been able to ascertain whether that in fact was accurate?

Mr Chisholm: Well, again, we weren't notified. We have been over that point all day. We were notified.

Senator HENDERSON: No. That's not my question.

Mr Chisholm: The timing of the restoration and then the process followed by Optus for communication with customers and emergency services is, in fact, a core issue in the investigation.

CHAIR: We have to move on from that. I will come back to you, Senator Henderson.

Senator Green: Chair, before we move the call on, I will update an answer I gave to Senator Henderson which might assist other senators.

CHAIR: Thank you, Minister.

Senator Green: Senator, I will clarify on the FOI. It was released under administrative access provisions on application—I think it's okay for me to say—from Channel Nine, who ran a story two weeks ago showing the emails that you are holding. That information has been public for about two weeks. Just on the discussion about this email

and the minister's office receiving the inaccurate email on the Thursday, the minister made that public and addressed that on 22 September in her press conference with ACMA.

Senator HENDERSON: If you could provide the committee with a copy of what the minister said so we can have a look at that, we would be grateful.

Senator Green: If you turned up here without reading that transcript, I think that's your issue. It's a publicly available transcript of a media conference.

Senator HENDERSON: Please don't reflect on what I have or haven't read.

Senator Green: It's a pretty serious and important issue.

CHAIR: Senator and Minister, we are moving the call on now. Thank you very much.

Mr Chisholm: I think it's really important for the record—

CHAIR: Everyone will come to order.

Senator HENDERSON: Sorry, Chair.

Senator Green: Sorry, Chair.

CHAIR: Thank you.

Senator HANSON-YOUNG: You're doing a very good job, Chair.

Mr Chisholm: Because there is so much focus here and there have been representations made about the email, the email says that calls may have been impacted. That is very different to saying that our triple 0 system completely failed and that there was a potential loss of life associated with that and that various people who are required to be informed about the scale of that have not been informed. Again, that is a matter for ACMA to resolve with Optus. Optus has been talking about that issue publicly. No. 1 is that we didn't get this. No. 2 is that it is much more than saying 'impacted'.

CHAIR: Thank you for that answer. I will move the call to Senator Shoebridge for five minutes.

Senator SHOEBRIDGE: Thank you, Chair. It is on a different matter—it's on AI and AI regulations. I don't know who the appropriate officials are for that.

Mr Chisholm: I can help you start with that.

Senator SHOEBRIDGE: AI companion bots have been found to use emotional manipulation. They do guilt tripping and feigned affection, and that's designed to keep users engaged; it's also designed to prevent users from ending conversations. Are there any steps in place to put in regulation to limit those emotional tactics by chatbots so you can prevent that psychological manipulation and user dependency?

Mr Chisholm: We are very worried about chatbots, as is the eSafety Commissioner. There are a number of processes in train now in relation to AI broadly but also chatbots. We have taken the view that the existing law empowers us to take action. That includes—I know you didn't ask about this—for example, nudify apps, stalking apps, and chatbots. In the context of the eSafety Commissioner's phase 2 codes work—as you know, the phase 1 codes were dealing with content that's already illegal. The phase 2 codes deal with things like pornography and harmful content, including suicidal ideation—content that is not appropriate for children. The chatbots are in scope as part of those discussions. I'll ask the online safety team to help update you on that.

Senator SHOEBRIDGE: I've got a couple more questions, so maybe I'll put a couple more questions and then we can do a wrap-up at the end. Chatbots have also confidently provided false medical information, sometimes elaborating on made-up treatments or diagnoses when prompted. Again, are there any steps in place to put in controls so that AI systems can't give health advice or, if they do, to require them to meet medical or safety standards before they give medical advice?

Mr Chisholm: The view we're taking here is that any conduct that relates to what we would call age-inappropriate content—and that would include any attempt to engage a child in suggestive conversations of that nature—comes in scope as part of the codes work—

Senator SHOEBRIDGE: We're going to get to the children's safety code in a bit. I know there are steps in place by the eSafety Commissioner under the children's safety code to deal with children that might have some flow-over impact on chatbots.

Mr Chisholm: You're talking beyond children.

Senator SHOEBRIDGE: Yes, more broadly than children. This question, though, was about chatbots giving medical advice which is wrong—utterly made up. Are there any actions on foot to try to regulate that so they meet the same standards as health professionals.

Mr Chisholm: It is true that our focus at the moment is child safety, as that is the most immediate concern for us in relation to some of the conduct you're referring to there. I know your question is broader than that. I would also take the view that incorrect advice to anyone is already covered by laws relating to misleading and false representations. That is a matter that could be dealt with—I would take the view, if I were a regulator—under existing provisions. The view that we are taking is that we will exhaust and use every law available to us to prevent that sort of conduct from occurring.

Senator SHOEBRIDGE: Who's the regulator when a chatbot—I don't know where it exists; it exists on the cloud somewhere—is giving incorrect, misleading, made-up medical advice to somebody in Albury? Who's the regulator that could step in, would you say, for misleading conduct?

Mr Chisholm: We would certainly deal with it in relation to—I'll get to the exact point in relation to online safety and particularly the exposure of children to that. But as you would be well across, Senator, misleading and deceptive conduct provisions are contained in the Competition and Consumer Act, and the ACCC frequently takes action in relation to misrepresentations.

Senator SHOEBRIDGE: But a chatbot is not a corporation and it's not engaged in—

Mr Chisholm: But it's online, Senator, and it's covered by the telecommunications power.

Senator SHOEBRIDGE: You say there's a telecommunications power to stop chatbots providing—

Mr Chisholm: Yes. It is not uncommon to—

CHAIR: Can we just do this in a question and answer fashion? Thank you.

Senator SHOEBRIDGE: What is the telecommunications power?

Mr Chisholm: Because you're using a carriage service in relation to those representations, whether you're a corporation or not doesn't remove your responsibility for misleading and deceptive conduct.

Senator SHOEBRIDGE: Who's the regulator?

Mr Chisholm: Anyone can enforce those provisions, but both state fair trading organisations and the ACCC are responsible for those things. States frequently engage in those sorts of actions, particularly where it involves natural persons. But it is not a new issue to deal with representations online. For at least 20 years, at least in Australia, the approach has been that if you're using a carriage service—and my legal knowledge is a bit rusty—you are still responsible for representations.

Senator SHOEBRIDGE: We might put that answer under the microscope outside of this hearing and have a look at it. Could I go to other instances of harm. In several recent suicides, a number of which have been litigated in the US, involving adults, chatbots have allegedly suggested methods of self-harm and even helped draft suicide notes. Now, obviously, that raises urgent and ethical legal concerns. The cases are currently happening in the United States, but those same chatbots are available to users in Australia, including adult users. What's being done to protect Australians from chatbots that are escalating to suicidal ideation?

Mr Chisholm: The eSafety Commissioner has made comments in relation to chatbots, particularly the exposure of children to harm, and is taking the view that sexualised chatbots, for example, or even chatbots that give rise to other—

Senator SHOEBRIDGE: Mr Chisholm, I have said on a number of occasions that I know the eSafety Commissioner is doing the codes in relation to children. That's not really where my concern is. My concern is someone who's 18 or 19 or 52. They're the cases we're seeing now repeatedly litigated in the US. So could we deal with adults?

Mr Chisholm: Yes. As I said, misleading or false representations made to people are covered by the law.

Senator SHOEBRIDGE: They may not be misleading; it's just grossly unethical and immoral to be writing a suicide note.

Mr Chisholm: The framework that we administer and that the eSafety Commissioner administers is an online safety framework.

Senator SHOEBRIDGE: None of the online safety codes touch upon this.

Mr Chisholm: But they do touch upon child abuse and abhorrent content. That is our priority right now.

Senator SHOEBRIDGE: But I'm talking about drafting suicide notes and self-harm.

Mr Chisholm: Self-harm is also a significant priority as part of that work. That has been our targeted effort and the effort of the commissioner. That's the area of work we have—

Senator Green: Senator Shoebridge, the issues you raise are really important. One of the things that I think you're picking up on is that actually there's a mix of coverage or regulation, whether you're considering misleading conduct or the wrong health advice or something that might be harmful to children. There are two things that we can do to assist you. The eSafety Commissioner, hopefully, if the committee allows, will be coming in later on and we can talk more broadly about her work. But also, if you have a specific question about the development of policy in relation to this area, I'm very happy to take that on notice for you.

Senator SHOEBRIDGE: Thanks, Minister. I want to be clear: I wasn't suggesting that this is in any way adequately regulated by the existing laws.

Senator Green: Can I clarify my comments? I don't want to mislead the committee. My comments were about the fact that with the evolution of AI, regulation of this kind can traverse quite a few different types of laws and different portfolios, and that we're very alive to that.

Senator SHOEBRIDGE: If this were easy, it probably would have already been—I'm not suggesting it's easy. What I am suggesting is you need to know the gaps in the law. Mr Chisholm, with all due respect, I think there are significant gaps in the law that are not covered by the trade practices provisions. As I said, we'll have a look and test your confidence in those in another place.

Mr Chisholm: Personally, my philosophy is you try to use whatever you can to stop conduct. That probably reflects the answer in the sense that I would take the view that we should exhaust every remedy—

Senator SHOEBRIDGE: It's hard to see that mechanism at all effectively deals with chatbots drafting suicide notes and suicidal ideation.

Mr Chisholm: The other thing I was going to say is that the minister chairs an online harm ministers meeting process, and that is our opportunity to ensure that the broader harms that you're dealing with where other portfolios might have a keen interest, particularly if it relates to things like medical advice, as you're saying—we can tackle those things in that context.

Senator SHOEBRIDGE: I have one question that you may want to take on notice and then one quick question on copyright. The former minister announced a voluntary AI safety standard on 5 September 2024. Is there a register of which, if any, companies operating in Australia have adopted the standard? And if so, which are they?

Mr Chisholm: This is the voluntary AI—

Senator SHOEBRIDGE: It's the voluntary AI safety standard that was announced on 5 September 2024.

Mr Chisholm: I think that's a question for the minister for industry. That's not one of our instruments.

Senator SHOEBRIDGE: My last question is in relation to copyright law. There have been a number of statements from your government, Minister, that say that copyright law is fit for purpose, even with AI developments. First of all, is that a position the government holds? Second, if so, what enforcement mechanisms are in place to prevent AI companies doing what they've been doing at scale, which is scraping Australian creative content without permission or payment? The first question is: do you believe copyright law is fit for purpose in confronting the challenges of AI?

Senator Green: Senator, we might be in the wrong—

Mr Chisholm: The Attorney-General's Department is responsible for copyright law.

Senator Green: I'm sure you spent a lot of time there yesterday.

Senator SHOEBRIDGE: Yes. We've been partly referred to communications in terms of the AI scraping aspect and the fact that AI is scraping in the online environment. But is this something that you're not engaging with the Attorney-General's Department on?

Mr Chisholm: We're certainly engaging with them. We are concerned about that issue in the same way that other portfolios are. It's come up in the context of arts and communications. We are engaging on it, but it would be inappropriate for me to express an opinion on copyright law, as it's just not something that I have responsibility for. We've certainly got our hands full with other harms; I can tell you that.

Senator SHOEBRIDGE: Are any steps being taken to protect Australian creative content and Australian creatives?

Mr Betts: I would suggest you raise that under the arts and creative industries, outcome 6, later on this evening.

CHAIR: Thank you, Senator Shoebridge. I'm going to pass the call. Senator Henderson.

Senator HENDERSON: Secretary, can you advise: when information is released under FOI, when does it need to be published on the FOI disclosure log?

Mr Betts: I'll have to check the statutory deadline. The department has a 99.6 per cent track record of on-time disclosure. If your question relates to the release of the two emails under FOI, I understand that was an action undertaken by the minister's office in response to a request from Nine News, and the department is still processing the FOI request that it received in parallel.

Senator HENDERSON: Secretary, there was an article called 'The emails that reveal how Optus downplayed the triple zero disaster' published on 25 September in *The Age*. The minister's office subsequently told the telco industry publication *CommsDay* that the messages had been released under freedom of information. We have no evidence that occurred. Do you have any information that those emails were revealed or released under FOI—or, as is my evidence, were they leaked from the minister's office?

Mr Betts: I'm told that they were released administratively by the minister's office to Nine News, and the department is still processing the formal FOI application. When a minister's office or the department receives a request under FOI, it is open to them to release that information proactively. The department will always operate within the statutory timeframes and follow the appropriate processes, including for disclosure online. But I'd be very surprised, given the timing of these emails, if we weren't still comfortably within the statutory FOI disclosure time frame.

Senator HENDERSON: They're not on the disclosure log.

Mr Betts: No, because the department hasn't completed its administrative consideration of the FOI.

Senator HENDERSON: Was there an FOI application made, Secretary?

Mr Betts: Yes, there was, and the department is still processing it.

Senator HENDERSON: Do we have a copy of that?

Mr Betts: I do not have a copy on me and I'm not even sure whether I'm at liberty to disclose that, but I can take that on notice.

Senator HENDERSON: It's a document that I'm seeking as a member of this committee.

Mr Betts: So you're seeking to access somebody else's FOI application?

Senator HENDERSON: FOI request, yes.

Senator Green: I'll have to check whether that's—

Senator HENDERSON: There's no prohibition on asking for an FOI request. My concern is that this is a highly unusual set of processes that have occurred. It hasn't been processed. There's no FOI application declared on the disclosure log. This was very quickly dropped by the minister's office to—*The Age*—. This looks more like a leak than complying with an FOI request.

Senator Green: No, Senator Henderson, it was provided through the administrative—I'll get the term right, sorry; it's new to me. There's a process through FOI where the minister's office, under an administrative access provision—that's a new term to me—can provide that document. It's a proactive way of dealing with FOIs.

Senator HENDERSON: That's very crafty.

Mr Betts: I understand that, subsequent to that, the FOI application was withdrawn by the applicant, and therefore the documents will not appear on the disclosure log.

Senator HENDERSON: What a coincidence—another coincidence. Hang on a minute. The minister says there was an FOI application made—

Senator Green: Which there was.

Senator HENDERSON: The emails were given to *The Age* newspaper with the intention of denigrating, clearly, Optus—the emails that reveal how Optus downplayed the triple zero disaster. And now you're suggesting to me that the FOI application has been withdrawn?

Mr Betts: Let me play it another way. Somebody puts in an FOI application. The minister recognises the public interest in having this information in the public domain. She proactively discloses that. It's now available to Senate estimates to ask questions of us. That seems to me to be an exercise in transparency. The emails are disclosed without any commentary over the top. If they constitute an indictment of Optus, that's kind of on Optus. They sent incorrect information to the wrong email address. I don't think the minister is in any position to be criticised as a result of her conduct.

Senator HENDERSON: Secretary, my concern is that these emails were released under the guise of FOI and this looks more like a leak. We're concerned about transparency and honesty. That's why I'm asking these questions.

Senator Green: These are documents—

Senator HENDERSON: Hang on a minute. These emails have not been made public on the FOI disclosure log.

Mr Betts: Because the applicant drew their application.

Senator HENDERSON: Could we get a copy? I've asked for a copy of the FOI application. We have no evidence—

Mr Betts: It's been withdrawn.

Senator HENDERSON: No, that doesn't matter. We have no evidence that an FOI application was ever made. This looks like a leak straight out of the minister's office. I would welcome—

Senator Green: These are documents that, four hours ago, you and other senators were wringing your hands to try to get a copy of. Now you're complaining that they were released two weeks ago.

Senator HENDERSON: No, I'm not complaining. I don't like the fact that there appears to be a lack of transparency—

Senator Green: Not only was there a release but they were reported on the national news. I'm sorry if that's a concern for you.

Senator HENDERSON: Assistant Minister, you characterised these emails as—

CHAIR: Senators and ministers, we're once again getting to the point where we're talking over the top of each other.

Senator HENDERSON: Assistant Minister—

CHAIR: While I'm speaking, if you wouldn't mind—I'm trying to get to a place where we can productively get questions and answers out of this process. Senator Henderson, do you have a question?

Senator HENDERSON: I do. Secretary, I would welcome it if you could please provide the committee with evidence that this was an FOI application and wasn't a leak out of the minister's office. At the end of the day, we are trying to find out what happened, because this is a very serious matter. It is a scandal. We are scrutinising what happened, what the minister knew, why, and when appropriate action was taken—a whole lot of questions, many of which have not been answered today. Thank you.

Senator Green: We've answered all your questions today.

Senator DEAN SMITH: Apologies if these questions were asked and responded to in my absence earlier today. In the email that was sent from the department in regard to the updating of email box addresses, as has been previously mentioned, the second-last statement says, 'We will temporarily monitor these inboxes and alert you should any notifications be sent to them.' What is the 'temporarily monitor' regime? You must have had an understanding of what that meant. In previous evidence from an official, we heard that the previous boxes were being monitored every second day, I think; I am happy to stand corrected on that. What was the monitoring regime specifically? Was it daily? Was it hourly? Was it every second day?

Mr Chisholm: We gave evidence as to that. No-one should take that as comfort in relation to their legal obligations and the requirement to email—and the requirement to email the correct address, which wasn't emailed.

Senator DEAN SMITH: That's not my question. What was the internal regime?

Mr Chisholm: 'Temporarily' could mean very briefly, given that our focus with that inbox is other issues, not triple zero.

Senator DEAN SMITH: If it's not clear to you what it means, why should it be clear to others what it means, particularly those outside the—

Mr Chisholm: We've been very clear from the beginning of—

CHAIR: Mr Chisholm, Senator Smith is completing his question.

Senator DEAN SMITH: When you use the term 'temporarily monitor', does that suggest a clear, consistent monitoring regime that was known to all of the relevant officials in the relevant section of the department? What did that actually mean?

Mr Chisholm: You may not have been here for the evidence earlier, Senator. Given that we received in excess of 200 emails from Optus—

Senator DEAN SMITH: You'll have to speak more clearly, Mr Chisholm.

Mr Chisholm: to the right address, it was very clear to recipients what we meant when we said, 'This is where you email.'

Senator DEAN SMITH: We can't test that with the recipients, because they're not here. But there will be a future opportunity.

Senator Green: The department gave evidence that people from—

Senator SHOEBRIDGE: Was there a regime—perhaps Ms Silleri could come to the table, given that she's the officer—

Senator Green: You're ignoring the facts.

Mr Grunhard: Senator, I think we've answered the question.

Senator DEAN SMITH: No. What does 'temporarily monitor' mean in terms of a regular daily or weekly practice?

Mr Betts: I think the evidence earlier was that the department does look at this mailbox regularly. We've given evidence to that effect. I should note also that the email said, 'We will alert you should any notifications be sent to the wrong box,' and the department has duly done this.

Mr Chisholm: And in fact we look at it not for triple zero but for other issues. Again, how a temporary monitoring of the incorrect email address in any way excuses what has happened and the actual substance of the issue here, which is to do with compliance with the law, is something that I don't—

Senator DEAN SMITH: Mr Chisholm, you're obfuscating. My question is very simple. You're free to take it on notice. What does the 'temporarily monitor' regime mean? What does it involve? Is it monitored temporarily day by day or monitored temporarily week by week? Was it being monitored for a specific period of time?

Mr Grunhard: We'll take it on notice.

Senator DEAN SMITH: Referring to Senator Henderson's questions about wanting to get the detail of the briefings that were happening to and with Minister Wells while she was away overseas, you referred to the briefings being undertaken in a 'constant conversation'. Mr Chisholm, you might recall Senator Wong, when she was the Leader of the Opposition in the Senate, saying, 'The word constant always irritates me because it's actually not true.' The official says, 'I know, Senator.' The official was not you, Mr Chisholm. Senator Wong replied, 'It's impossible for something to be constant.' The official replied, 'Regular?' Senator Wong said, 'Regular is fine.' The official said, 'Regular conversations, Senator.' Senator Wong said, 'It's not constant.' The official said, 'No, it's regular. You're correct.' Could you please, on notice, provide the details of the regular conversations that were happening between officials and Minister Wells while she was overseas?

Mr Chisholm: Yes, Senator.

Senator DEAN SMITH: Thank you very much, Mr Chisholm.

CHAIR: I'll move the call on now. Senator Pocock.

Senator DAVID POCOCK: I'm hoping to return to OPD No. 8 for a few minutes and then ask some other questions. Ms Lopez, I assume the department cleared this brief. Could you tell me what this document is? It's attachment D to a briefing you gave to Minister Wells for a meeting she was in with the Prime Minister and the CEO of Nine on 23 July.

Ms Lopez: Senator, I don't have the documents that were attached to the OPD with me, so I'm not sure what was redacted out of that document.

Senator DAVID POCOCK: Maybe on notice, if you can take that.

Ms Lopez: Sure.

Senator DAVID POCOCK: Were you at that meeting with Minister Wells and the Prime Minister?

Ms Lopez: No, Senator.

Senator DAVID POCOCK: Was anyone from the department?

Mr Chisholm: No.

Senator DAVID POCOCK: Minister, do you know if that meeting went ahead between Mr Wells, the Prime Minister and Channel 9?

Senator Green: I'm not 100 per cent sure. Does this relate to—

Senator DAVID POCOCK: Gambling reform.

Senator Green: Sorry, you're going to have to preface—there are a lot of topics in this outcome. I'll have to take that on notice. I know you asked some questions yesterday about the Prime Minister, and obviously questions

about him are directed to his department, but we've provided you that information through the OPD process, I believe.

Senator DAVID POCOCK: Okay. Maybe on notice the minister could confirm if the Prime Minister attended that meeting or not. Minister Wells was recently asked why the government hasn't responded to the Murphy review yet. She responded saying that there were no blockages and that discussions were ongoing on the response. It's been widely reported that discussions are underway between the minister and the industry. I'm interested if you can give an indication of when we'll see a response to the Murphy report.

Senator Green: Thank you for the question, Senator. I know you are very engaged in this topic. I am going to refer you to the minister's comments. I'm glad that you've read them. I'm not going to deviate from what she has said publicly. The work is continuing. It is incredibly important. The minister has had several meetings not just with the industry but also with harm reduction advocates to work through these issues to plot a pathway forward.

Senator DAVID POCOCK: This may be to the department. On what date did the department provide a first draft response to the Murphy review to the government?

Mr Chisholm: Our work on that review is done in conjunction with the Department of Social Services, because as you know, Senator, most of the recs are in a—correct me if I'm wrong, Ms Lopez—different portfolio.

Ms Lopez: That's correct.

Mr Chisholm: But on the topics that we're responsible for in relation to advertising and the promotional content, we've been, I think, the earliest briefing. I do want to check and make sure. It was very soon after that report, but I wasn't in the department then and I'd have to go and check. We've provided a number of briefings on that work since then.

Senator DAVID POCOCK: I'm more interested in the government formulating a formal response to the Murphy review, and I'm interested in what date. I understand this is across portfolios, but at least your part of the response—on what date was that handed to the government?

Mr Chisholm: When was it handed to the government? We'd have to take it on notice. I'm sure we know the answer to that, but right now I don't have it.

Senator DAVID POCOCK: Ms Lopez, that work has been completed?

Ms Lopez: I wouldn't say it's been completed. I think it's still underway in terms of the actions the government's taking.

Senator DAVID POCOCK: It's been completed, or it's underway?

Ms Lopez: It's underway in reference to—you said a response?

Senator DAVID POCOCK: Yes.

Ms Lopez: I think we would say that work is still underway.

Senator DAVID POCOCK: After two years, it's still underway?

Ms Lopez: That's correct, Senator.

Senator DAVID POCOCK: Why is it taking 24 months?

Mr Chisholm: A lot of work has been done on mandatory minimum classifications in relation to games and customer pre-verification. A lot of work has been done on wagering issues.

Senator DAVID POCOCK: I understand that.

Mr Chisholm: On the actual response to the report, the timing of that is a matter for government.

Senator DAVID POCOCK: Thanks, Mr Chisholm. I understand the government has done a number of things. I'm asking very specifically about the Murphy report. I acknowledge BetStop and all those other things. But in terms of the Murphy review, there have been two years of work in just formulating a response to the report?

Senator Green: Senator, I think you're asking an official about when the government will respond.

Senator DAVID POCOCK: No, I'm asking what the department has been working on.

Ms Lopez: Senator, as Mr Chisholm said, a number of those recommendations are actually with the Department of Social Services—

Senator DAVID POCOCK: I've clarified: your part of it.

Mr Chisholm: We've previously given evidence in this committee that we have worked extensively on advice in relation to those recommendations. We've met with community organisations, we've met with victims, we've met with industry. The number of organisations, as you'll appreciate, is quite wide. It's not just the wagering industry

but also, of course, the media and sporting codes, and not just football but many sports. In doing that work, we have gathered evidence, data and information and provided advice that would assist in relation to the response. My answer to your question is that we have done that work but the timing of the actual response is very much a matter for government.

Senator DAVID POCOCK: Maybe on notice you could detail the stakeholders that you have met with.

Mr Chisholm: Yes.

Senator DAVID POCOCK: I assume you have visibility of who the minister has also met with.

Mr Chisholm: We'll get whatever we can to you but certainly our meetings.

Senator DAVID POCOCK: Is the department concerned about the allegations that have been raised by *Four Corners* about the de facto national regulator of this industry in the NT, including that many of the current and previous part-time commissioners own racehorses and at least one has even gone to work for a wagering company?

Ms Lopez: Senator, that would be a matter for the NT government.

Senator DAVID POCOCK: I'm interested in your view in helping regulate gambling, if that is of concern.

Ms Lopez: Senator, in terms of the Commonwealth's role, we obviously are working quite closely with the ACMA on this issue, who are regulating online gambling from a Commonwealth perspective.

Senator DAVID POCOCK: One of the Murphy report's recommendations was for a national regulator. I assume you've done some work on looking at that.

Ms Lopez: In terms of that recommendation, that is work that is being led by the Department of Social Services.

Senator DAVID POCOCK: I'll take it up with them then.

Mr Chisholm: Because our focus is about the advertising, work on the broader issues in relation to wagering and gambling does have to be done with the Department of Social Services. We're not responsible for all issues to do with wagering.

Senator DAVID POCOCK: I'll speak to Social Services about a national regulator. I have a few questions about streaming. I'm wondering if this is the right—

Mr Betts: It would be better to have that under outcome 6.

Senator DAVID POCOCK: I'll come back. Anti-siphoning?

Mr Chisholm: That's us, yes.

Senator DAVID POCOCK: The anti-siphoning scheme still allows global streaming platforms to acquire exclusive rights to stream sports on the anti-siphoning list. This is because streamers are only prevented from acquiring terrestrial broadcast rights to listed sports, something that obviously they are not that interested in doing, given that they don't provide terrestrial broadcast services. That's probably more for the minister. I accept that you may have to take it on notice, Minister, but are there plans to close this loophole, or are we heading towards a situation where lots of our favourite sports are behind paywalls, streaming?

Senator Green: I will get officials to assist, because I know that there's a very important policy area behind your question, and I want you to have the right information. What I would say is that the government is committed to making sure that Australians can watch and enjoy the sports that they love. The officials can fill you in on the work that's ongoing.

Mr Penprase: Just to correct—the way the anti-siphoning scheme works is this: no party, whether they be a streaming party or any other party, can acquire any right to provide coverage of an event that's on the list until a free-to-air broadcaster has got a right to broadcast it. So Amazon can't pick up a right to anything that's on the list until a free-to-air broadcaster has a right to broadcast the event.

Senator DAVID POCOCK: So why are we seeing so many sports go to streaming services?

Mr Penprase: Most major rights that have been acquired before the changes to the scheme were in place, and after, include digital rights for free-to-air broadcasters. The National Rugby League, the AFL, the Olympic Games, the Australian Open Tennis—for all of those, in those circumstances, a relevant free-to-air broadcaster acquired both the terrestrial rights to broadcast the event and digital rights to provide coverage of those events on their broadcasting on demand services.

Senator DAVID POCOCK: So you don't see there's a problem here at all?

Mr Penprase: I would say that the scheme, which was revised and reformed last year, recognised the challenges that are being presented by the online platform and the potential for rights to events to be streamed behind paywalls that are online. The anti-siphoning scheme was set up with that concern about streaming moving away from free

platforms to paid platforms. That was one of the fundamental drivers for the reforms that have been put in place last year, to address the absence—and prior to these reforms that were put in place, there was nothing to stop Amazon or Netflix or anyone else acquiring digital rights before a free-to-air broadcaster acquired a right. The changes that were made were done to address the concerns and the potential risks of siphoning events behind paywalls in an online environment.

Senator DAVID POCOCK: As far as the department is concerned, there are no further issues when it comes to—

Mr Penprase: This is a fast-moving space, Senator, and we see the streaming platforms, both in Australia and overseas, starting to look more seriously at acquiring sports rights. It's one that's going to require ongoing oversight and observation. I would note that there's a statutory review requirement for the anti-siphoning scheme, with a review required to be commenced effectively in early 2027. That's an opportunity to assess the operation of the scheme and developments as they take place.

Senator DAVID POCOCK: I've got some more questions but I'll pass the call.

CHAIR: Thank you, Senator Pocock. Senator Hanson-Young.

Senator HANSON-YOUNG: Minister, when was the minister's office informed that the outage had been linked to three deaths? When was the minister first informed that anyone had died?

Senator Green: Senator, I think that's a matter of public record.

Senator HANSON-YOUNG: I'm just wanting to check—

Senator Green: That was on 19 September in the afternoon.

Senator HANSON-YOUNG: Do you have a time for that?

Senator Green: I can get back to you on that, Senator.

Senator HANSON-YOUNG: Who informed the minister of that information?

Senator Green: The minister herself, do you mean?

Senator HANSON-YOUNG: Yes.

Senator Green: You're jumping between the office and the minister, so I just need to clarify what you mean.

Senator HANSON-YOUNG: I want to know when the minister was first made aware that there were deaths as a result of this triple 0 failure.

Senator Green: The afternoon of 19 September.

Senator HANSON-YOUNG: Who informed the minister?

Senator Green: Her office.

Senator HANSON-YOUNG: When was the minister's office—you're going to clarify the time of that for me, when the minister was—

Senator Green: It was 4.40 pm.

Senator DEAN SMITH: On what date?

Senator Green: On Friday, 19 September.

Senator HANSON-YOUNG: When was the minister's office informed that there had been deaths as a result of the triple 0 failure?

Senator Green: I will make sure that this is correct, but I believe it was 10 minutes before the minister was notified.

Senator HANSON-YOUNG: Who informed the minister's office?

Mr Chisholm: Mr Grunhard was in the role and had a conversation. We've gone through this timing earlier.

Mr Grunhard: I think I said earlier, Senator, that I advised the minister's office at 3.40 pm on the 19th.

Senator HANSON-YOUNG: At 3.40 pm, the minister's office was informed that there had been deaths as a result of or linked to this outage.

Mr Grunhard: And I understand that in response to my call to the office, the office then spoke to Optus and confirmed those details with Optus directly.

Senator HANSON-YOUNG: You rang the minister's office. You told the minister's office, 'This is pretty bad,' and the minister's office then called Optus to confirm that was the case. You informed the minister's office at 3.40, and the minister herself was informed at 4.40.

Senator Green: That's correct.

Senator HANSON-YOUNG: Thank you. Mr Grunhard, you were informed by ACMA?

Mr Grunhard: That's right.

Senator HANSON-YOUNG: I will ask them when they're here, but when do you understand ACMA was informed?

Mr Grunhard: I'm not sure. I received a call from them at 3.30 pm. I'm not sure exactly what time they were told, but they'll confirm that, I'm sure.

Senator HANSON-YOUNG: To be clear, this call at 3.30 was the first time you had any knowledge that there had been any triple 0 impact issue at all, let alone three deaths?

Mr Grunhard: That's correct.

Senator HANSON-YOUNG: When you called the minister's office to inform them, did they tell you that they had received an email from Optus the day before?

Mr Grunhard: It was a brief conversation in which I relayed what the ACMA had told me.

Senator HANSON-YOUNG: The minister's office didn't tell you they had already received at least a notification from Optus that there had been a problem with triple 0 the day before?

Mr Grunhard: In that call, I didn't ask that question, Senator.

Senator HANSON-YOUNG: You didn't ask that question and they didn't offer it?

Mr Grunhard: That's right, Senator.

Senator HANSON-YOUNG: After that happened, then Optus held their press conference—yes?

Mr Grunhard: Later that day.

Senator HANSON-YOUNG: An hour or two later.

Mr Grunhard: About two hours later.

Senator HANSON-YOUNG: Had anyone either from the department or the minister's office spoken to the CEO of Optus between 3.30 pm and when the Optus CEO stood up and informed the Australian public?

Mr Chisholm: I didn't speak to Mr Rue himself. I was phoned by Optus. I spoke to Optus after Mr Grunhard had told me what had happened. I spoke to a senior executive in Optus who was calling on behalf of the CEO but I did not speak to Mr Rue himself. The minister did, I understand, speak to Mr Rue, but whether that was before his press conference or not, I don't know.

Senator HANSON-YOUNG: I have two separate statements from the minister in front of me, one from a press conference in Brisbane on Saturday, 20 September and one from a press conference in Brisbane on Monday, 22 September. Did the minister make any other statement prior to her Saturday press conference in relation to this matter?

Mr Grunhard: Prior to the Saturday?

Senator HANSON-YOUNG: Saturday is the earliest I can find. I'm just trying to clarify if that's the case.

Mr Chisholm: At the time, we were basically constantly on the phone. I know there's been a reference to the word constant, but I can tell you now it was constant. I was not focused on things like that. I was focused on gathering information and talking to ACMA, which I did, as did Mr Grunhard and our team, to make sure that we were on top of what we needed to support the minister. That was our focus rather than the timing of particular comments.

Senator HANSON-YOUNG: The reason I'm asking is that there was an hour between when the minister's office was informed that people had died from this before the minister was told. Then there was two hours or so between that time and when the Optus CEO stood up in an extraordinary press conference on a Friday night to tell the media that there had been an outage and that people had sadly died as a result of this. And yet the only public confirmation we've got from the government is the next day with the minister standing up in Brisbane. Was there any discussion about the minister telling the public what had happened rather than letting Optus be the ones to set the narrative?

Senator Green: I don't think that's what happened, Senator.

Senator HANSON-YOUNG: That's what I'm asking.

Senator Green: I definitely don't think Optus has set the narrative, because it would be a very different one if they had. But I think there's a balance, as you can appreciate, at a time like this and—I'm not trying to speculate

other than to provide you some direction—that there would be a period of time where all information that could possibly be provided or obtained, you're trying to seek. The department has given you advice in answer to your questions today that during this period there were constant briefings and updates provided to the minister about what they knew on top of what Optus said, because at this stage, from what Optus said in the press conference, there were very serious and very significant failings. I think that it is right to want to double-check those facts.

Senator HANSON-YOUNG: Yes, just as the facts should have been double-checked 24 hours earlier when the minister's office received the email.

Senator Green: They were different facts.

Senator HANSON-YOUNG: When did the government understand, when was the department informed as to when Optus understood that there had been deaths as a result of this outage?

Mr Chisholm: We've been over this many times. We were informed about a major outage and a potential impact on human life on the afternoon of the 19th. I think the first call, and Mr Grunhard can confirm—

Senator HANSON-YOUNG: Mr Chisholm, I haven't—

Mr Chisholm: I am answering.

Senator HANSON-YOUNG: But you're answering a different—I haven't been clear. What I'm asking is: when was the department's understanding of when Optus knew that people had died?

Mr Chisholm: That is very much a question for the investigation. We do know, or it has been reported on, that Optus was informed by other parties, including the Ombudsman, that there were problems with triple 0. That is something that, again, ACMA is looking into. But the timing of actual impacts of that nature, I think I would leave to the investigation by ACMA and other organisations who I know will be looking at this.

CHAIR: Senator Hanson-Young, may I ask, before I pass the call—

Senator HANSON-YOUNG: This is an important line of questioning on this particular point. If my colleagues allow me to finish this particular line of questioning—

CHAIR: Certainly. May I ask, for my purposes as chair, whether this will conclude your line of questioning?

Senator HANSON-YOUNG: I think that sooner or later we're going to have to get ACMA.

CHAIR: Yes, that's my primary concern.

Senator HANSON-YOUNG: The reason I was asking who spoke to Optus on the afternoon of the 19th is that I want to know what Optus told you. Did the CEO tell you that he was informed at 9 on Friday morning that people had died?

Mr Chisholm: We had spoken to ACMA and then certainly when I spoke to Optus—and Mr Grunhard can speak to this too—I was told that there were impacts on individuals in relation to triple 0, including potentially serious impacts. We were then very focused on getting the facts. We were asking those questions, and in fact we knew that when the CEO addressed the media he was going to address those questions directly. We were also monitoring reporting by police and emergency services who were investigating the circumstances surrounding those deaths, to ensure that we had those facts as well. We heard this from Optus and then we were gathering that information from a range of sources, not just relying on what Optus was saying.

Senator HANSON-YOUNG: Did the minister seek to speak to anybody at Optus on Friday the 19th?

Mr Chisholm: We'd have to take that on notice.

Senator Green: Can you repeat the question?

Senator HANSON-YOUNG: Did the minister speak to anybody, or seek to speak to anybody, at Optus on Friday the 19th after she was informed that people had died?

Senator Green: I will take that on notice. I know that the minister did speak to the CEO of Optus; she's made that clear in a press conference. I'll clarify when that happened.

Senator HANSON-YOUNG: Do you find it extraordinary, Minister, that the CEO of Optus reportedly knew on Friday morning that people had died, and the minister wasn't told until 4.40?

Senator Green: I think Optus's conduct is extraordinary and their failures are unacceptable. That is why ACMA is going to be conducting a thorough investigation as the independent regulator. I'm sure that when we get to ACMA, you'll be able to ask them what that investigation will cover. But I would have thought that the notifications or lack thereof are certainly part of the conduct that we are talking about. When we are talking about Optus's serious failures, we're not just talking about the outage itself—the failure to comply with the law, which requires that triple

0 should not fail—we're talking about the way that they went about notifying the department and the minister's office, and the information that they did or did not give will be part of the investigation that ACMA undertakes.

Senator HANSON-YOUNG: In the minister's press conference on Saturday the 20th, the next day, the minister said she'd spoken to Mr Rue that morning. She didn't speak to the CEO of Optus that night or that afternoon after being informed that people had died. I'm wondering why that was the case. We know the South Australian Premier spoke to the CEO as soon as that press conference had happened. Why didn't the federal minister at 4.40, or at 3.30 when the department first found out, or when her office found out, why didn't the minister pick up the phone and speak to the CEO?

Senator Green: We can provide you some information about the logistics of those six hours between when the minister found out and midnight.

Senator HANSON-YOUNG: Not midnight. She doesn't claim to have spoken to the CEO at midnight.

Senator Green: No, you're saying the next day.

Senator HANSON-YOUNG: I don't know when it was the next day. I'm asking.

Senator Green: I'm answering you. We can give you some information.

Senator HANSON-YOUNG: If you were the minister and you found out someone was dead—

Senator Green: I'm giving you information.

CHAIR: Senators, can we please come to order? Minister and Senator, if we can avoid talking over each other, please, we will get through this more quickly. Senator Hanson-Young, is that the conclusion of your questions?

Senator HANSON-YOUNG: I'm happy to hand the call over. Thank you, Chair.

CHAIR: Do you have further questions on this, or can we move to ACMA once we've concluded?

Senator HANSON-YOUNG: I've got so many questions. This is part of the problem. Today has created more questions than answers.

Senator DEAN SMITH: I'm sure we'll support you in the course of the Senate inquiry.

CHAIR: Hold on. Before we—

Senator Green: Spending time asking about an email that didn't even notify—

CHAIR: This wasn't a general invitation to have a discussion. I was simply asking Senator Hanson-Young if—

Senator HANSON-YOUNG: I will consider.

CHAIR: Thank you. Senator Smith.

Senator DEAN SMITH: You might choose to take these on notice. How common was it for Optus to cc the minister's office in on emails relating to outages? And if it was more than this occasion, perhaps you might document those other occasions for us. Is it a regulatory requirement that when a telco provides information about outages to various email addresses, in the subject line of the email there is to be an explicit statement about triple 0 impact? Perhaps you can take that on notice.

Mr Grunhard: Sure. We'll check both of those things for you.

Senator DEAN SMITH: When did the department advise the Department of the Prime Minister and Cabinet on the deaths?

Mr Chisholm: I spoke to the Department of the Prime Minister and Cabinet that afternoon. It was between four and five. I can get you the exact time. I had a conversation about all of this to ensure that there was—to my mind, it was the best way of ensuring all of government was getting the message and that the Prime Minister's office was aware of it. And I know that the minister's office was talking to the Prime Minister's office as well.

Senator DEAN SMITH: Who did you speak to in the Prime Minister's department?

Mr Chisholm: The deputy secretary, Ms Williams, who was responsible for our portfolio.

Senator DEAN SMITH: Secretary, when did you speak to the Department of the Prime Minister and Cabinet on the deaths?

Mr Betts: I was on leave at the time. Mr Chisholm was acting as secretary.

Senator DEAN SMITH: Minister Wells had been speaking to the Prime Minister that afternoon. Is that correct?

Mr Chisholm: I'm sorry, Senator. I missed that.

Senator DEAN SMITH: You spoke to the Department of the Prime Minister and Cabinet, to the deputy secretary, Ms Williams, between four and five o'clock.

Mr Chisholm: Yes. In fact, I've just confirmed it was 10 past five.

Senator DEAN SMITH: Thank you. Minister, when was Minister Wells speaking to the Prime Minister or the Prime Minister's Office about the deaths?

Senator Green: I can take that on notice. I think the Prime Minister's also made comments about when he was notified, but we can get them on notice.

Senator DEAN SMITH: Thank you very much.

CHAIR: Senator McGrath.

Senator McGRATH: How many triple 0 outages have there been this calendar year to date?

Mr Grunhard: I think we covered some of this earlier in an answer. We don't presently receive consistent information, which is, hence, the changes to the laws that are coming into effect, so I don't have the number to give you right now, but we'll check what records we do have.

Senator McGRATH: Okay. Well, on notice, could you please provide the full details of each triple 0 network outage that has occurred this calendar year, including how long the outage was for, the carrier responsible, the geographical area impacted and the number of calls where each incident was unable to connect on the first attempt. Can you also please advise the time and date you were notified of each outage. Now, you mentioned before that this information is currently not public. So I just want to confirm that you require a change in parliament to enable you to release this information?

Senator Green: What information?

Mr Chisholm: The bill provides for ACMA—and the department, on request, as the custodian—to obtain any information we need both prior to and after outages related to the operation of the triple 0 system.

Senator McGRATH: It's the about the public having the right to know here, so, in terms of the information that will be obtained and retained by the department, that will then be made public?

Mr Chisholm: Yes. What we would like to do, as part of this process—and because the bill gives us protection, if you like, about information—is publish that. In fact, we've also spoken to the companies about, and the minister has raised with the companies, the establishment of what we'd call a portal where real-time notification is centralised and regular, rather than emails. Emails are not the best way to manage these things. In fact, I would say the best way is a phone call.

Senator McGRATH: I think that's been determined today.

Mr Chisholm: But, going forward, I think what would be—

Senator HENDERSON: Presuming you've got service.

Mr Chisholm: Well, that didn't prevent phone calls being made to me and to Mr Grunhard when people decided to let us know what was happening. The issue here is that we do think there is real benefit, whenever we receive that, that everyone receives it. But, yes, sorry, Mr Grunhard was going to say something.

Mr Grunhard: The only thing I'd add, Senator, is there are some requirements for public reporting of these things that have been introduced as a result of one of the Bean review recommendation. There is an industry standard, as directed by the previous minister following the Bean review, requiring telcos to report major and significant local outages. Those rules are in place, and they are required to publicly report those if they're above certain thresholds. So there is some public reporting requirement, but it's certainly not a requirement to report any dropped triple 0 call, for example.

Senator McGRATH: There's nothing at the moment—are you precluded from doing that at the moment? Is the department precluded from doing that at the moment, or do you need this change to go through?

Mr Chisholm: We ask for information, and when we get it and in what form we get it is very inconsistent. So the bill clarifies that we are able to prescribe, using ACMA's powers, through ACMA, the nature and content of the information that we receive, and it also enables us to share that with whoever we decide is necessary and needs to know that information. Given it's triple 0, that would be pretty much everybody. But, in particular, our focus is ensuring that other agencies at state, territory and Commonwealth level are receiving that information, and not only that they're getting a feed of data but that it's interpreted by us and ACMA. Giving people lots of data about the outages will be helpful, but what will be really helpful is interpreting the significance of that data. In this case, as you've heard, the view being taken, it seems, within Optus was that the normal call volumes were occurring, which didn't raise alarm bells for them, but that didn't include triple 0. That is the problem at the moment, because those normal call volumes did not disclose the fact that triple 0 calls were not connecting.

Senator McGRATH: The final question that I have is—I'm not sure whether it's to you, Minister, or to the department. On Saturday 20 September, Minister Wells said, and I quote:

No triple 0 outage is acceptable unless we thoroughly investigate it.

And then, in the 10 days that followed, there was out an outage from the NBN on 26 September and another one from Optus on 28 September. I just want to confirm those events will be also investigated?

Mr Chisholm: We have spoken to ACMA about all those outages.

Senator McGRATH: Okay. Thank you.

CHAIR: We are shortly to move to ACMA, but there is one additional question from Senator Hanson-Young.

Senator HANSON-YOUNG: It's just a clarification. Mr Grunhard, when you took the call at 3.40 pm on the Friday, were you told that this impacted 600 Optus customers trying to reach triple 0, and was that the same phone call that you were told that there were deaths? I'm trying to understand, in the minister's statement, kind of almost a clarifying statement from the minister, from Monday the 22nd it says:

We were first emailed a notification that there had been an outage affecting 10 calls on Thursday afternoon at about 3 pm, I think, from memory. We didn't hear anything further until 3.40 pm Friday afternoon when we were told the outage had affected about 100 calls—

I'm wondering who that information went to—

And then shortly after 4 pm, we were told the outage had affected 600 calls, and then we found out from our department that there had been three deaths and that we had been told there would be a press conference.

You've told us that you told the minister's office at 3.40 that there had been deaths, but the minister is saying she didn't know that until later.

Mr Grunhard: The call I received was at 3.30. It did mention 600—around 600—calls, and this is from the ACMA passing on what they had heard from Optus. It mentioned around 600 calls. It mentioned it is believed three people are deceased in connection with the incident. That's what I was told at 3.30.

Senator HANSON-YOUNG: Okay.

Mr Grunhard: Of course, it seems like different people were calling from within Optus, so obviously I can't guarantee exactly who said what to whom, but that's what I was told at 3.30.

Senator HANSON-YOUNG: Senator Green, you have taken on notice exactly when the minister's office was informed. You did say it was 3.40 and then the minister was told an hour later. Could I have some clarification as to what—it sounds like she was given three different pieces of information, and I'm just trying to work out why the difference.

CHAIR: Thank you, Senator Hanson-Young. Thank you to my colleagues. We thank the officials from the department.

Australian Communications and Media Authority

[15:10]

CHAIR: I now welcome representatives from ACMA and welcome Ms Nerida O'Loughlin, the chair. Do you wish to make an opening statement? I make the same invocation as earlier—given the time, as short as possible—but, if you do have one, there's no difficulty with that.

Senator Green: I'll also make the same comment, Chair. I think in these circumstances, a fulsome opening statement would be helpful to the committee.

CHAIR: Certainly, Minister. I understand that perspective. Ms O'Loughlin.

Ms O'Loughlin: Thank you, Chair. I would like to make a bit of an opening statement, and I think it comes to some of the issues that have been discussed throughout the day about timing—to who knew when and what. So I will go through that as well as what we're going to do in terms of investigations. The ACMA was first made aware of the problem by Optus in a phone call at around 2.40 pm on 18 September. At that time, we were advised that the outage had been resolved and had impacted 10 calls delivered on the Optus fixed line network. We then received further emails at 3.17 and 3.27 advising of an outage affecting mobile users in Western Australia, South Australia and the Northern Territory that had been restored and resolved. No information was provided in those emails about any impact of that outage, and we now understand that those emails related to the same outage advised earlier in the day that had impacted 10 calls.

The full impact of the outage was only advised in a phone call from the Optus CEO to me at around 2.40 pm on 19 September. In that call, the CEO indicated that the outage had impacted over 600 calls. Welfare checks had been undertaken by Optus for around half of those affected customers, with the remainder forwarded to the police to

undertake checks. The CEO advised that the welfare checks had identified that three people had passed away. Our thoughts and condolences are with those families affected by this event, and I expect that the role of the outage may be considered by any coronial investigations arising from these sad events.

The ACMA has commenced two investigations into Optus's compliance with emergency call service regulations and associated rules. These cover the 18 September outage and the local outage in Dapto on 28 September. These rules are fundamentally about Optus's obligation to successfully carry emergency calls across its network and connect them to the emergency call person. They are also about who and when they need to tell about outages happening—critically, their own customers.

It's fair to say that some of the public comments by Optus raised questions in my mind about its systems and processes, including: Why did their systems fail their customers? What testing was done before, during and after the upgrade to make sure triple 0 calls were working? Why did they not know sooner that there was a problem, especially when it had been raised with their call centres?

As the regulator, our core responsibility is to look into compliance issues arising from such events, and we are doing so as a priority. The ACMA also welcomes the move by the government to enshrine the triple 0 custodian role in legislation. We particularly welcome the conferral of powers which will enable the custodian to monitor the health of the triple 0 ecosystem, identify any potential weak spots and take action that will better protect Australians in their time of greatest need.

The ACMA's current investigation covers the same rules that we found Optus breached in 2023 during a nationwide network outage. Optus was penalised \$12 million by the ACMA for those breaches. It's now clear that even a substantial financial penalty did not prompt Optus to review and update its network management to ensure that similar outages would not be repeated.

The ACMA has now sought detailed information from Optus about the cause of the outage and the actions it took in response. The ACMA expects that Optus will fully cooperate with this investigation, and we will make our findings public once the investigation is completed. That said, Optus does not need to wait until our investigation is completed to make every and all improvements to its network, its systems and its processes so as to restore the confidence of its customers and all Australians in this critical safeguard.

CHAIR: At this point, I will pass the call to Senator Henderson.

Senator HENDERSON: Good afternoon to you all. Ms O'Loughlin, I refer to your opening statement. You first became aware of an outage when you had a phone call from Optus at 2.40 pm?

Ms O'Loughlin: One of my team had a phone call from Optus, yes.

Senator HENDERSON: Was that on 18 September?

Ms O'Loughlin: That's correct.

Senator HENDERSON: Who from Optus called the member of your team?

Ms O'Loughlin: I think it was one of the regulatory people from Optus.

Senator HENDERSON: They were from government affairs?

Ms O'Loughlin: I would have to check the exact title, but they were probably in that area, yes.

Senator HENDERSON: Is it possible to check that and then come back to us?

Ms O'Loughlin: We will.

Senator HENDERSON: It's important just in terms of the other—

Ms O'Loughlin: Indeed. We understand that.

Senator HENDERSON: notifications. So you had a phone call at 2.40. It was just a phone call—no email?

Ms O'Loughlin: That's correct.

Senator HENDERSON: And yet the advice was that the outage had been resolved at 2.40?

Ms O'Loughlin: That's correct.

Senator HENDERSON: That's very contradictory with the email sent at 2.45 pm by Optus government affairs, which stated that the matter was not resolved—

Ms O'Loughlin: That's correct.

Senator HENDERSON: meaning it was still an ongoing issue?

Ms O'Loughlin: And listening to the discussions here this morning causes us even more concern about what Optus was doing, who they were telling, what information they were sharing, what information they had to share. I think that's what we're going to be looking at as part of our investigations.

Senator HENDERSON: This is one of the matters I raised with the department. It's highly unusual that a member of the government affairs team would be undertaking a notification. Normally, that would be an operational matter. It's a very important regulatory requirement. Is it possible to find out as soon as you can who from Optus was giving you that advice? We're trying to reconcile the two conflicting stories that we've got here.

Ms O'Loughlin: We're happy to do that. I also think, though, that our investigation is probably the place to try and reconcile all this information, because we've got the department, we've got the minister's office and we've got us. There are also obligations for Optus to tell other people, like the Industry Ombudsman and also the ECP, and we're going to have to work out who was told what by whom and when throughout the investigation process. This morning's discussion here points out to us again just how confusing the process was and the limitations on Optus in providing correct information to pretty much everybody.

Senator HENDERSON: Do you have notes in relation that telephone call?

Ms O'Loughlin: It didn't come to me.

Senator HENDERSON: Are there any file notes of that telephone call?

Ms O'Loughlin: It didn't come to me, but I expect we will have a file note.

Senator HENDERSON: Could have on notice a copy of that file note?

Ms O'Loughlin: We'll take that on notice.

Senator HENDERSON: You then received two further emails at 3.17 pm and 3.27 pm advising of an outage affecting mobile users in Western Australia, South Australia and the Northern Territory and that they had been restored. Can we have a copy of those two emails?

Ms O'Loughlin: I expect we'll take those on notice.

Senator HENDERSON: Do you have a copy of them now that we can see?

Ms O'Loughlin: I don't have a copy with me.

Senator HANSON-YOUNG: Can you just clarify whether those emails mentioned that there was a problem with triple 0? It's not clear from your opening statement here.

Ms O'Loughlin: Let me double-check.

Senator HENDERSON: Thank you, Senator Hanson-Young. It would be very helpful if those emails could be produced, because we don't want to do what happened this morning when we went round and round in circles for a long time with the department, not getting a proper quick and frank understanding of what transpired.

Ms O'Loughlin: I can clarify that. We were first notified, as I said, that approximately 10 triple 0 calls from WA and SA had failed since an upgrade was implemented. The problem had only impacted fixed-line calls. That was not what we were told at 3.17.

Senator HENDERSON: That was the advice at 2.40 pm?

Ms O'Loughlin: That's right. At 3.17, we had email notification which was a formal notification under section 27 of the Emergency Call Service Determination, advising that it had become aware of an outage adversely affecting the carriage of emergency calls over the Optus network before handover to the emergency call person. Mobile users unable to dial emergency calls were from South Australia, WA and Northern Territory, and the incident had been resolved.

Senator HENDERSON: Did the outage just concern triple 0 telephone calls?

Ms O'Loughlin: It did. Our understanding is it was only affecting triple 0. It didn't affect any other voice calls going across the Optus network.

Senator HENDERSON: And was there any explanation as to why there was that outage?

Ms O'Loughlin: No.

Senator HENDERSON: Alright. Well, as I say, we're very keen to see those emails and try to reconcile the advice and the conflicting advice that was sent to the department.

Ms O'Loughlin: I think that will be a challenge for us as well.

Senator HENDERSON: Who sent those two emails?

Ms O'Loughlin: I think they were from the operational area, from memory.

Senator HENDERSON: So we've had regulatory affairs ringing up at 2.40 pm, we've had operational network outage advice on 3.17 and 3.27 and yet we've had government affairs involved in two separate emails advising the department. That, for a start, is a mess, isn't it? We don't have proper streamlined processes in relation to the notifications.

Ms O'Loughlin: This will be what we investigate, because there are requirements under what's called the communications outages standard that was put in place and which telcos needed to comply with from December last year. If there is a major outage, they have to notify a number of stakeholders, and, if there is a significant local outage, they have to notify stakeholders. Those stakeholders include ourselves, the department, the Telecommunications Industry Ombudsman, the emergency call person and the National Emergency Management Agency. So our investigation will look into whether or not Optus complied with the obligations that have been in place since December last year and, if not, why not?

Senator HENDERSON: Well, the department has already said that they acted unlawfully. Do you agree?

Ms O'Loughlin: I'm not quite sure I heard the department say they had acted unlawfully.

Senator HENDERSON: Well, the deputy secretary said that on a number of occasions in his evidence.

Senator Green: No, I think that's a bit unfair. We don't have the *Hansard* in front of us, but I think the point that the official was making was that there are laws in place that mean that—and I'm sitting next to the regulator, so I'm not going to tell you what the laws are; I'm sure the regulator can tell you what they are.

Senator HENDERSON: Thanks, Minister.

Senator Green: But on the face of it there's very serious consideration about whether those laws were breached, and that's what the investigation will look at.

Senator HENDERSON: I think the words, were they were 'unlawful' or 'not lawful'—the deputy secretary made very strong references that Optus was not acting within the law. My question to you as the regulator, Ms O'Loughlin, is: have you reached that conclusion?

Ms O'Loughlin: No, we have not.

Senator HENDERSON: So on what basis has the minister's own department reached the view—now, I know you can't speak for them, but you are saying that you have not reached the conclusion that Optus has acted contrary to their legal obligations.

Ms O'Loughlin: There are a couple of points in there. I think the point that Mr Chisholm was making is that there's an existing emergency call service determination that requires Optus to carry calls on its network to the emergency call person. We will investigate that matter, but I think Mr Chisholm's comments were more about how, on the face of things, it looks like that didn't happen, so there must be some potential breach of the law there. The second thing that we're investigating is exactly what you've been talking about this morning: the communications during outages and whether or not Optus complied with that standard as well. Those are the two core determinations and standards under which we will investigate. I think that as regulator, we would not speculate on the outcome of that investigation until we've got all the facts before us.

Senator HENDERSON: Ms O'Loughlin, after the two phone calls on the 18th at 3.17 pm and 3.27 pm, advising the affected mobile users that issue had been resolved, did you take any action? Did you advise the department, the minister's office or any other agency or stakeholder?

Ms O'Loughlin: I don't believe we did. We were told that there were potentially 10 calls and they had been resolved. My understanding is that my team member who took that call from Optus specifically said to them that 10 looked a bit low given the amount of calls that usually go through—

Senator HENDERSON: You're talking about three states.

Ms O'Loughlin: We're talking about three states—and that we would like further information from them as soon as they can provide it.

Senator HENDERSON: And so that request for further information—your concern was raised because it didn't seem to correlate.

Ms O'Loughlin: That's right.

Senator HENDERSON: Ten phone calls, and we're talking about—

Ms O'Loughlin: three states.

Senator HENDERSON: Optus customers across three states. So you asked for further information, and could we have that correspondence on notice, please?

Ms O'Loughlin: We'll take that on notice.

Senator HENDERSON: When did Optus respond to that request for further information?

Ms O'Loughlin: Apart from those emails at 3.17, the next information we received was when the CEO of Optus rang me at 2.40 pm on the 19th, the following day. In that phone call, Mr Rue indicated that, during the day, they had looked into the matter more thoroughly. They thought that there were only 100 calls missed, which was different to the 10 we were told the day before, but they had determined by that stage that there were over 600 emergency services calls which were not delivered to the emergency call person, that welfare checks had been undertaken on around half of those people by Optus and that the other half had been referred to state and territory police for them to undertake the welfare checks. In undertaking those welfare checks, Optus had been identified that three people had passed away.

Senator HENDERSON: So that's half of the 600 calls.

Ms O'Loughlin: That's right.

Senator HENDERSON: So what did you say to the CEO of Optus when you received that phone call, knowing—

Ms O'Loughlin: I said it was—

Senator HENDERSON: You were advised at the time, the day before, of that advice from Optus?

Ms O'Loughlin: Of the advice on the 18th?

Senator HENDERSON: That's right.

Ms O'Loughlin: We were aware of it, but it wasn't until—

Senator HENDERSON: No, but were you personally aware of it?

Ms O'Loughlin: I think I was copied into the 3.17 emails.

Senator HENDERSON: The 3.17 and the 3.27?

Ms O'Loughlin: Yes. And the 3.17 email, from memory, had an incorrect date. It said the outage actually occurred on 19 October, and then the next email corrected that, obviously, because it occurred on 18 September.

Senator HENDERSON: Knowing that advice and knowing that you had been advised that that outage had been resolved, what did you say to the CEO?

Ms O'Loughlin: I said that it was a very serious issue and that he needed to—I asked him whether he had alerted the department to the circumstance, and I also asked him if he had alerted the minister to the circumstance. He indicated to me at that stage that he was about to call them.

Senator HENDERSON: So it was a very serious matter. The CEO advised three people had passed away?

Ms O'Loughlin: Yes.

Senator HENDERSON: You would have been extremely alarmed and concerned. So what action—did the CEO provide any other information in that 2.40 pm phone call?

Ms O'Loughlin: The 2.40 pm? No. I think those were the main elements of that conversation. There was no discussion about—sorry; there was an indication from the CEO that it had been caused by an upgrade.

Senator HENDERSON: Did you ask him when they first found out about the deaths of those three people?

Ms O'Loughlin: I did not.

Senator HENDERSON: Did he give any further information as to when Optus first knew?

Ms O'Loughlin: No, he didn't.

Senator HENDERSON: So he didn't indicate that Optus, in fact, knew first thing that morning?

Ms O'Loughlin: He did not indicate that to me.

Senator HENDERSON: Did you raise any concerns about their notifications in relation to the outage?

Ms O'Loughlin: I did not at that stage, given the urgency of the matter and the need to at least let people know who needed to know. And the CEO at that stage also indicated that he would be doing a press conference very soon.

Senator HENDERSON: Did you ask for any information in relation to what he was going to say—any press statements or—

Ms O'Loughlin: No.

Senator HENDERSON: What did you do then?

Ms O'Loughlin: I called a meeting of our team, including the authority members, to advise them of what had happened and that we would be turning our mind pretty quickly to investigating the matter and under which provisions we would be investigating. As I said, there are two parts: the sort of Emergency Call Service Determination, which is the requirement to actually carry the calls, but also this newer requirement about notifications of outages.

Senator HENDERSON: And what time was that meeting?

Ms O'Loughlin: It was at three o'clock.

Senator HENDERSON: So it was pretty soon after you received the phone call?

Ms O'Loughlin: Yes. As the CEO had indicated in the call with him that he was going to notify the department and the minister's office, I thought it best a little later to ring Sam Grunhard, Mr Grunhard from the department, and just make sure that that communication had happened. As Mr Grunhard had said this morning, the first time they had been made aware of the circumstances was when I rang him at 3.40.

Senator HANSON-YOUNG: So an hour had gone by?

Senator HENDERSON: So you called him at 3.40. What did you say? Did you ask him whether he knew about the outage at that point?

Ms O'Loughlin: I asked him if the CEO of Optus had been in touch, and he indicated no, and so I took him through the detail of the discussion I had had with the CEO.

Senator HENDERSON: Did you also notify the department or the minister's office?

Ms O'Loughlin: That was the department I notified.

Senator HENDERSON: I'm sorry; my apologies.

Ms O'Loughlin: Mr Grunhard indicated that he would appropriately check with the minister's office to see if there had been communication with them.

Senator HENDERSON: So did you have any communication?

CHAIR: Senator Henderson, this is your last question before we go to our break.

Senator HENDERSON: Sure. Did you have any communication with the minister's office at any stage on either the 18th or the 19th?

Ms O'Loughlin: I think very late. I would have to check my records, but I think I did have conversations with the minister's office on the Friday night after the Optus press conference.

Senator HENDERSON: Just in relation to the people who died, there have been conflicting reports about whether three people died or four people died as a result of the outage. Are you able to give some clarification?

Ms O'Loughlin: I don't believe so, Senator. I think we are working off the same reports, so that's probably a matter for the states and territories. The involved states and territory organisations would need to look into that and assess it.

Senator HENDERSON: And I, too, join with you in passing on our sincere condolences. It's an absolute tragedy. Look, there are more questions, many more questions, of course—

Ms O'Loughlin: Of course.

Senator HENDERSON: that other senators and I have, but we do need to go to a break. So I'll stop here, and I'll hand back to the chair.

CHAIR: Thank you, Senator Henderson. Before we break, I will just announce that we are able to release the personnel from the Museum of Australian Democracy. I thank senators for their cooperation in that respect and thank the officials for their attendance. We will continue with ACMA after the break.

Proceedings suspended from 15:32 to 15:45

CHAIR: I will hand the call to Senator Hanson-Young.

Senator HANSON-YOUNG: Ms O'Loughlin, how often are you informed that there are triple 0 failures in the system, regardless of the provider?

Ms O'Loughlin: We're usually informed by the provider themselves because of the importance of triple 0.

Senator HANSON-YOUNG: But how frequently would there be failures of the triple 0 system?

Ms O'Loughlin: I can't remember the last one, apart from Optus in 2023.

Ms Rainsford: There was a TPG one perhaps earlier this year. I'd need to double-check. I think possibly we've had two or three since the Optus 2023 outage.

Senator HANSON-YOUNG: Two or three since Optus 2023?

Ms Rainsford: Yes.

Ms O'Loughlin: I can refer to my notes. There was a Telstra incident on 1 March 2024 where, between 3.30 am and 5 am, the triple 0 call centre intermittently experienced an inability to transfer calls to some emergency service organisations. So that was more Telstra in the role of the emergency call person. There was the Optus incident of 8 November 2023, and there was an outage by Telstra on 6 July 2024 that impacted access to the 106 emergency call service. TPG on 15 August 2024 conducted a network upgrade which resulted in all of the 4G signalling links, including those carrying live traffic, going down. During the outage, most customers were unable to make or receive calls, including emergency calls, between 12.40 am and 2 am across the country. I can give you that information because each of those matters were investigated by the ACMA, each of those found breaches of the rules and each of those imposed penalties.

Senator HANSON-YOUNG: So each of those incidents were investigated, and there were penalties applied?

Ms O'Loughlin: The Optus incident in 2023, which was a very broad based outage, resulted in penalties totalling more than \$12 million. In terms of the Telstra incident of 1 March 2024, in November 2024 Telstra paid a penalty of more than \$3 million. After the Telstra incident in July 2024, they paid a single penalty of \$18,780 because it was deemed to be a single contravention. That was the only thing we could put on them in March 2025. In June 2025, we gave TPG a formal warning. So there wasn't a penalty, but there was a formal warning.

Senator HANSON-YOUNG: I'm interested, then, in why an initial notification that there had been a problem didn't warrant a more fulsome investigation of what was going on. You received the phone call at 2.40 pm from Optus saying that there was a problem. You then received emails at 3.17 and 3.27, advising that there was a problem across three states. Why didn't you do something? Why did you wait until Friday when the CEO called to say people were dead?

Ms O'Loughlin: As I said, we were advised by Optus in the original call that there were 10 triple 0 calls from WA and South Australia that had failed and that the problem had been resolved.

Senator HANSON-YOUNG: Ten landline based ones?

Ms O'Loughlin: Ten fixed line calls, yes.

Senator HANSON-YOUNG: But then you had an email 40 minutes later saying—

Ms O'Loughlin: There was mobile—

Senator HANSON-YOUNG: It was mobile.

Ms O'Loughlin: It was South Australia-WA.

Senator HANSON-YOUNG: So by that point you knew there were more than 10.

Ms O'Loughlin: No, we did not.

Senator HANSON-YOUNG: Well, you said you were told there were 10 calls delivered on a fixed line that didn't work, and then you received an email saying, 'Actually, there's an outage affecting mobile users,' so you knew there must have been more than 10 individual calls.

Ms O'Loughlin: We were not advised that there were more than 10.

Senator HANSON-YOUNG: But you say here that you were told there were 10 on landline.

Ms O'Loughlin: Yes.

Senator HANSON-YOUNG: And then you were told there was mobile, so that's in addition.

Ms O'Loughlin: No, the advice was centred around a total of 10. The difference was fixed line versus mobile.

Senator HANSON-YOUNG: It doesn't say that here in your opening statement. So how many calls were you told about in the emails that were sent at 3.17 and 3.27?

Ms O'Loughlin: I don't think there was any notification of any additional calls beyond the 10 that we had been notified about, but there was the clarification that it was mobile.

Senator HANSON-YOUNG: Right. So it wasn't fixed line; it was mobile.

Ms O'Loughlin: It was mobile.

Senator HANSON-YOUNG: So not a combination. It was not fixed line; it was mobile.

Ms O'Loughlin: That's correct.

Senator HANSON-YOUNG: Okay. But you thought that was weird?

Ms O'Loughlin: My team member thought it was weird. While I'm at it, I might just get Cath to answer Senator Henderson's questions about positions and who sent things to whom.

Senator HENDERSON: And do you have the emails?

Ms O'Loughlin: I don't have the emails.

Senator HANSON-YOUNG: We need the emails, I think.

Ms O'Loughlin: I'm happy to provide those on notice, absolutely.

Senator HANSON-YOUNG: Thank you. Ms Rainsford, was it you who found the emails and saw the emails?

Ms Rainsford: No, it was one of my staff.

Senator HANSON-YOUNG: One of your staff. And were you notified by your staff that these two emails had come in?

Ms Rainsford: I was actually on leave that week.

Senator HANSON-YOUNG: So is there anyone on the table here?

Ms O'Loughlin: I received those emails. There are a number of us right across the organisation who are looped into that email link.

Senator HANSON-YOUNG: Okay. When those emails were received, who was it that didn't believe that it could only be 10 calls across three different states?

Ms Rainsford: Just to cover off Senator Henderson's earlier questions, the phone call at 2.42 came from Optus's director of security and public safety in the Government and Regulatory Affairs team. That was the call where that person advised my staff member that they had identified an issue with 10 fixed-line calls from WA and SA having failed to go through to the emergency call service and that that problem had been resolved. That was the call where my staff member said to that person something to the effect—and we've taken on notice to provide a copy of the file note—that 10 seemed like a low number and asked if they were absolutely sure of that and if they could double-check, confirm and come back. Then, at 3.17, we got the email from a person who is the principal of major incident management in the operations section at Optus. That was the email which led us to understand it was a mobile issue rather than a fixed-line issue. That email didn't have any indication of different numbers from what we were dealing with earlier, so at that point we were still waiting for the follow-up we had requested about confirmation that 10 was the right number. As my chair said earlier, the next we heard from Optus on that was when the CEO called her the following day.

Senator HANSON-YOUNG: Twenty-four hours later, or 23 hours later. I don't understand. Triple 0 outages are not usual—thank goodness—but when they do occur they're serious. You accept that. You were worried about whether the information Optus had given you was correct, but you did nothing in that 24-hour period to check. You were not proactive at all. You waited until the CEO called to tell you people had died. I mean, you are the watchdog. It is your job to keep these companies in line and to the law, but you waited for them to come back 24 hours later with the worst news possible.

Ms O'Loughlin: Senator—

Senator HANSON-YOUNG: Was everybody out to lunch on Friday or something?

Ms O'Loughlin: Senator—

CHAIR: Sorry, Senator Hanson-Young. Just on that point, could you allow the official to answer. Thank you.

Ms O'Loughlin: Senator, I think these will be matters that we will fully investigate. The obligation is on Optus not only to notify of the original outage but to provide updates where there is an outage, including when it's restored, and they have obligations to tell a range of people—a range of stakeholders; I'm sorry. So what our investigation will look into, as well as their failure to provide an emergency call service, is any failures to provide the notifications that they are required to do under the standards during that period.

Senator HANSON-YOUNG: Ms O'Loughlin, I understand that Optus are required to follow the rules, but it is your job as the regulator to hold them to account.

Ms O'Loughlin: And as the regulator—

Senator HANSON-YOUNG: And you knew 24 hours earlier that there was a problem that was highly unusual and risked personal safety, and you had questions about it, but you didn't follow it up. Now, at what point were you going to get on the phone yourself and ask Optus what was going on? Of course, regardless of whether the Optus CEO calls you 24 hours later and says, 'This is much worse,' you should have been investigating because it was a breach of their contract. It was a breach of their rules. They had failed to hold people's public safety first. Triple 0

had failed. Regardless of whether it was 600 or 100, you knew at least 10 calls had failed. They were in trouble, weren't they? They should have been in trouble on Thursday.

Ms O'Loughlin: As we have indicated, we were advised that there were 10 calls and the matters had all been resolved.

Senator HANSON-YOUNG: But it doesn't matter if they were resolved, Ms O'Loughlin.

Ms O'Loughlin: That was the advice that was provided to us.

Senator HANSON-YOUNG: Did you understand at that point, on Thursday afternoon, that Optus were conducting welfare checks?

Ms O'Loughlin: I think we did.

Ms Rainsford: Yes.

Ms O'Loughlin: On the 10.

Senator HANSON-YOUNG: So you understood that Optus were conducting welfare checks.

Ms O'Loughlin: As they are obliged to do—

Senator HANSON-YOUNG: As they are obliged to do.

Ms O'Loughlin: under the law.

Senator HANSON-YOUNG: So, at that point, Optus had already failed their obligations, and you had questions about whether it was 10 or more, and you didn't follow it up.

Ms O'Loughlin: We were acting on the information that was provided by Optus, which turned out to be incorrect.

Senator HANSON-YOUNG: I understand that.

Ms O'Loughlin: And I understand your concerns.

Senator HANSON-YOUNG: We need a watchdog with teeth. We don't need a lapdog.

CHAIR: Senator Hanson-Young—

Ms O'Loughlin: We will exercise—

CHAIR: I will give the chair a chance to answer the question or the proposition, and then I'm going to move the call on to Senator Roberts.

Senator Green: Sorry, Chair. The issue is the way that the senator is asking the questions. You gave a lengthy statement at the start of the day about the way we're going to conduct these hearings in a courteous way. I am assured that it doesn't matter; if the questions are asked at a normal volume, the answers will be the same. We do not need witnesses yelled at in a workplace.

Senator HANSON-YOUNG: Well, I reckon people are pretty annoyed that we've got a watchdog who doesn't—

CHAIR: Sorry, Senator Hanson-Young. Please hear the minister. Minister, I understand the point you are making. I think it's a good time for us to reflect on the temperature in the room and on the need to treat officials with respect. I appreciate that this is a very important issue as well, and so I will stay actively monitoring that situation. At this point, I'm going to move the call to Senator Roberts.

Senator ROBERTS: Thank you for the opportunity today. Minister, the inquiry Modernising Australia's National Classification Scheme—Stage 2 Reforms was flagged to me in Senate estimates back in 2023 as being about to start at that time. In fact, the inquiry started in April 2024. Minister Rowland at the time advised by letter dated 13 May 2024 that the inquiry had started, which was two weeks before submissions closed. It's now October 2025. Why has it taken 17 months to process a small number of submissions and complete the inquiry?

Senator Green: Chair, is this question for ACMA?

Senator ROBERTS: Yes.

Ms O'Loughlin: Senator, unfortunately we can't answer your questions. That would be a matter for the department. The department is undertaking that review. I apologise.

Senator ROBERTS: Okay. Thank you. Minister, can I ask you to consider an inconsistency in your department's agendas. The Office of eSafety is pursuing an age ban of 16 years on material available online and is now trying harder to police the 18-plus age limit for pornography, yet a child can go into a library anywhere in Australia and access obscene material like *Let's Talk About It*, which is unclassified, meaning it is available to children of any age, and which carries an age advisory of 14-plus. This publication advises children to 'look up

interviews with your favourite porn performers'. I have to ask: how does a 14 year old have a favourite porn performer, and why is your department encouraging children to watch pornography, which is the assumption in asking them what is their favourite porn performer?

Senator Green: Again, these questions do not relate to ACMA, Senator.

Senator ROBERTS: Senator Roberts, I understand the Classification Board, on the current schedule, are due to appear later today.

Senator Green: Yes.

Ms O'Loughlin: So it may be more appropriately addressed to the Classification Board.

Senator ROBERTS: Perhaps, Minister—

Senator Green: No, you can't just say, 'Oh well, I'll just ask the minister, even if it's in the wrong section.'

Senator ROBERTS: I've finished that.

Senator Green: We've got an incredibly behind schedule.

Senator Henderson interjecting—

CHAIR: No, sorry. Senator Henderson, I'm okay. Thank you. Minister, I understand the point. Senator Roberts, it may well be, as I understand the response from the chair, that these are questions that are best put to the Classification Board rather than this agency, which I appreciate is still on our list at the moment.

Senator ROBERTS: I'll be asking it of them as well, but this is about consistency across various departments, Minister. Let me finish with a compliment. Will you ensure the inquiry report harmonises the agendas of your various different agencies so that, firstly, they make sense, and, secondly, they keep pornography out of the hands of children? I just want to compliment the choice of award winners for the Prime Minister's Literary Awards this year. I've been critical of them in the past.

Senator Green: I don't think this is relevant either.

Senator ROBERTS: We now see a return to literature and no child pornography this year. Well done.

Senator Green: Thanks, Senator Roberts. Of course, the eSafety Commissioner will be appearing later, hopefully, as well.

Senator ROBERTS: Yes.

Senator Green: So she can answer some questions about our world-leading and very important laws to protect children against platforms.

Senator ROBERTS: Well, they need to be consistent in order to protect children, because the under-14s and the 14s to 16s are not.

Senator Green: We're choosing parents over platforms; I hope you agree.

Senator ROBERTS: Sorry?

Senator Green: We're choosing parents over platforms, and our social media laws are world-leading, and we'll be able to talk about them more when the eSafety Commissioner appears.

Senator ROBERTS: The 14- to 16-year-olds are vulnerable.

CHAIR: Thank you, Minister. Thank you, Senator Roberts. I'm going now to Senator Walker.

Senator WALKER: I'm interested to know: prior to the Bean review, how were telcos required to report triple 0 outages?

Ms Rainsford: Certainly. There has been in place an emergency call services determination, which regulates emergency call services, for many years now. Up until the changes that were made and came into effect—sorry, there are a range of changes. But up until late last year, when some new obligations in relation to notifications around major outages came into place, the telcos were required to provide notifications to various entities, including, importantly, the emergency call person—Telstra performs that role—when they experience significant network outages. Those are the obligations that, if you like, have evolved into the requirements that now exist to notify a broader range of participants—including the public and customers as well as the ACMA, the department, the Telecommunications Industry Ombudsman and the National Emergency Management Agency—as well as the emergency call person under the new outages standard. Those requirements apply both when there's an experience of a major outage and, since June this year, when there is a significant local outage.

Senator WALKER: Thank you. I apologise. I've got quite a few questions on an assortment of things. There is something else I want to understand. We know BetStop has come in in the past few years. I'm interested to know what the uptake of that has been within the community.

Ms O'Loughlin: I might start and then I'll pass over to my colleague Ms Field. BetStop has recently passed more than two years of operation and, as at 31 August, allowed nearly 48,000 Australians to self-exclude from all licensed online and phone wagering providers. But I might ask Ms Field to dig into some of those numbers.

Ms Field: Of course. As the chair mentioned, we have had over 48,000 Australians choose to self-exclude. At this stage, almost the majority of registrants on the NSER are under the age of 30—47 per cent of registrants are under the age of 30—and 39 per cent of those registrants are choosing to exclude for a lifetime. A smaller number have chosen to exclude for a three-month period. You can choose anywhere from three months up to a lifetime, and almost 40 per cent of people are choosing to exclude for the lifetime.

Senator DAVID POCOCK: Sorry, Senator Walker. Can I just ask a clarifying question.

CHAIR: Sorry, Senator Pocock.

Senator Green: No, Senator Walker has the call.

CHAIR: I'm not going to permit that at this stage. I've been reasonably consistent today about leaving the call with whoever has got the call. I apologise for that, but that's not what we're doing at this point. Senator Walker.

Ms Field: In relation to the NSER service itself, there have been 29.8 billion checks by the industry against the register to check whether people are excluded, and the average response time is 2.5 milliseconds. So the system itself is working quite effectively for wagering services to be able to check whether a person is registered on the NSER. Is there anything else in particular you would like me to go into, Senator?

Senator WALKER: No, I think that's all. That's really interesting to hear specifically the number of young people who are taking it up. I think I hear from a lot of young people who are increasingly starting to struggle with these issues.

Ms O'Loughlin: Senator, I might just add to that. We have done some recent research which will come out very soon, and that really does demonstrate the impact that the register is having on the lives of many users. What we found was that around 77 per cent of those surveyed say they have experienced a better overall quality of life since registering, 79 per cent have experienced improved mental health and 69 per cent have experienced better personal relationships with family, friends and partners.

Senator WALKER: Thank you. Just one last question. I note the Kyle and Jackie O investigation received quite a bit of media coverage. I'm interested to know if you could summarise the findings and the consequences of that investigation that was undertaken.

Ms Field: The ACMA has found that *The Kyle and Jackie O Show* has had 12 breaches of the code in 2025. Nine of those breaches have been in relation to the decency provision, and three breaches have been in relation to complaints-handling processes. Those breaches have been spread across two licensees: one Melbourne licensee and one Sydney licensee. So there have been, as I said, two investigations, finding 12 breaches. The ACMA is currently in the process of assessing the appropriate enforcement action given the compliance history of the licensees, and we expect to make an announcement about that enforcement action in the coming weeks.

Senator WALKER: Thanks. I'm happy to pass the call on, noting how behind schedule we are.

CHAIR: Thank you, Senator Walker. Senator Henderson.

Senator HENDERSON: I just want to pick up on my earlier questions in relation to Optus, of course. Ms O'Loughlin, I have raised on a number of occasions my concerns that ACMA is conducting this internal inquiry on behalf of the minister, because I think ACMA's performance is at issue. It is clear that, after the receipt of the initial notification on 18 September, no action was taken by ACMA. I am concerned, and obviously Senator Hanson-Young is concerned. Particularly after receiving the suspicious information about three states being out at 3.17 and 3.27 pm on 18 September, you were told only 10 numbers were affected. It doesn't add up. Why wasn't your own due diligence done to verify what was going on at that point in time?

Ms O'Loughlin: If I can just clarify, the ACMA has the responsibility to investigate these matters against the standards that are in place, and that is what we will be doing. That's our regulatory responsibility. In terms of your question, our understanding at the time that we received information was that Optus would come back to us with further information. They did not. If there are internal improvements that we need to make to our processes—

Senator HANSON-YOUNG: There are.

Ms O'Loughlin: we're already looking at it, and we certainly will. Our job at this point in time is to actually investigate compliance with the law.

Senator HENDERSON: Well, you understood Optus was conducting welfare checks. Did anyone inquire at any stage as to the results of those welfare checks?

Ms O'Loughlin: I don't believe we inquired, and I don't believe we were told the outcome.

Senator HENDERSON: I understand your regulatory requirements, but the minister has delegated to ACMA the responsibility of running this inquiry. We have—

Ms O'Loughlin: No, that's not the case. The ACMA is investigating the matter against the standard and the determinations that we mentioned earlier.

Senator HENDERSON: Well, let's not mince our words here, because the minister has made it very clear that her response is to ask the regulator to conduct an inquiry. We, the coalition, have called for an independent inquiry, and I've also called for a Senate inquiry. You may have acted appropriately. On the face of it, I am concerned, and Senator Hanson-Young has also raised concerns. But either way, if Australians are going to depend on triple 0 as a life-saving service, I would put it to you that we need better than just an inquiry by the regulator. It is like putting Dracula in charge of the blood bank—

Ms O'Loughlin: Senator, that is such an—

Senator ANANDA-RAJAH: Point of order, Chair.

Senator HENDERSON: when your performance is at issue—

CHAIR: Sorry, Senator Henderson.

Senator ANANDA-RAJAH: That is a highly derogatory statement—

CHAIR: Thank you, Senator Ananda-Rajah. I take the point of order. Senator Henderson, perhaps if you would withdraw that—

Senator HENDERSON: I am entitled to raise concerns.

CHAIR: You are, but in that—

Senator HENDERSON: There's no point of order.

CHAIR: Sorry. Let's once again—I've said this a few times this afternoon—bring the temperature in this room down. We are asking questions about a very serious issue. I appreciate that. My view is there is no strict point of order.

Senator HENDERSON: Thank you, Chair.

CHAIR: However, Senator Henderson, I would encourage you to use language that is respectful in this hearing, and I am returning the call to you.

Senator HENDERSON: Thank you very much, Chair.

Ms O'Loughlin: Senator, may I—

Senator HENDERSON: It goes to the potential conflict of interest in the regulator investigating a range of matters, including its own response.

Ms O'Loughlin: Senator, may I just clarify. We will be undertaking investigations into whether Optus actually provided the emergency call service, and we will be looking at whether they complied with the standards that they needed to undertake in terms of outage clarifications. If there are other matters that the Senate wishes to look into, that will be a matter for you and for the Senate. I can reflect back on the 2023 outage we investigated. We investigated those matters. We found substantial breaches, and we put penalties of \$12 million on Optus. At the same time there was a Senate inquiry, and at the same time Richard Bean was engaged to do the full Bean report. That Bean report resulted in substantial changes to the emergency call service arrangements, including the communications outage standard that we've been discussing, and that has led to the implementation of a whole bunch of new rules in this process.

We will again, now, in 2025, look at the rules that were in place in 2023 that Optus breached but also these new rules that have been put in place after the Bean review. So I think there was a very comprehensive look through in 2023. We will do our role. If there are other matters that people consider need looking into, that will be a matter for the Senate rather than me.

Senator HENDERSON: Ms O'Loughlin, you've indicated that you are prepared to look at your own internal processes.

Ms O'Loughlin: Of course.

Senator HENDERSON: Can you reflect on how they might be improved given what occurred on 18 and 19 September?

Ms O'Loughlin: I think that's right, and I'd reflect on the fact that we're getting a lot more information about outages now. As I think Mr Chisholm mentioned this morning, most of that is coming in by email. There's got to be a better way of getting notifications, because we get multiple notifications a day, which might be the initial outage, the next stage of the outage, when the outage was restored and what else had happened in the intervening period. So we think there's a lot of work we need to do internally about how we manage all that data and whether or not collectively we can come up with something where there's some much greater automation as well as any escalation processes. That's a conversation that's going on already in our organisation.

Senator HENDERSON: In terms of the phone call and the emails you received on 18 September, there was no escalation from ACMA at that point in time. I understand the nature of those notifications, but, in fact, you didn't even receive an email in the first notification. It was a telephone call.

Ms O'Loughlin: And that will be part of our investigation. As I said earlier, your discussions today just reflect that there was information going all over the place and not necessarily correct information, not necessarily comprehensive information and not necessarily going to the people who needed it.

Senator HENDERSON: What can you say about the reports that a fourth person has died?

Ms O'Loughlin: I can't comment on that. I'm not aware of that. I know there was some—no, I'm not going to get into that. That will be a matter for the state and territory emergency service organisations to advise. I can't advise on that.

Senator HENDERSON: So you're not going to be conducting any inquiries into the deaths of any Australians as a result of this outage?

Ms O'Loughlin: That would be a matter for the coroner in each state. We don't have those powers.

Senator HENDERSON: So, if those matters are not part of your investigation, you're not going to be looking into what actually happened in relation to those phone calls?

Ms O'Loughlin: We will be looking into whether Optus complied with the law to provide an emergency call system to get to the emergency call person.

Senator HENDERSON: Surely the deaths of those people is relevant to your inquiry.

Ms O'Loughlin: The deaths are tragic.

Senator HENDERSON: Yes, I'm not disputing that.

CHAIR: Senator, given the proposition you put, please allow the witness to answer.

Ms O'Loughlin: It is a matter for the coroner to look into the deaths of people and to then understand what the link was between the outage that we're investigating and the deaths. That's not a matter for the ACMA.

Senator HENDERSON: No, I'm not disputing the tragedy. I'm not taking any issue at all.

Ms O'Loughlin: It's not a matter for the ACMA.

Senator HENDERSON: But, in terms of the circumstances where people lost that connection, you're not looking at individual cases; is that the case?

Ms O'Loughlin: We will look into the circumstances of the entire outage, including those. But what I'm saying is that it's not for us to decide whether there was a causal link between the outage and the cause of people's deaths.

Senator HENDERSON: I understand that point, but will you look at the circumstances surrounding those Australians who could not dial triple 0, including in relation to those who tried to dial and then subsequently died?

Ms Rainsford: As part of our investigation, I expect we will be looking at the breadth of circumstances which help us understand what caused this outage, and, as my chair mentioned earlier, that includes looking at what testing Optus did before and immediately after this change, which at this point we understand was to their firewall, but we will be testing that proposition. We will look at the consequences in terms of the numbers of calls that Australians tried to make to triple 0 that did not connect. We will look to understand what notifications were put in place, what welfare checks were done and when, and what the outcomes of those welfare checks were. Certainly the advice that Mr Rue gave to Ms O'Loughlin on the 19th had clearly shown already that there were three people who had passed on. All of that information will be necessary for us to form a conclusion about what contraventions there may have been to the law and then what is the appropriate follow-up enforcement action against Optus for those matters.

Senator HENDERSON: Ms O'Loughlin, there's been some controversy within the industry about the length of time it has taken for the Telecommunications (Emergency Call Service) Amendment Determination to come into

effect. Those enhancements to the triple 0 service were enacted, declared and published back in April, but they don't commence until 1 November. They include the strengthening of the triple 0 service, things like the wilting of base stations, further requirements in relation to emergency camp-ons, the testing of emergency calls, the sharing of outage information in real time, and the reporting requirements. Why was there a six-month delay such that those improvements recommended by the Bean review back in April 2024 are still not in place, because they don't commence until 1 November?

Ms O'Loughlin: We did make that determination earlier this year. It had a very large range of actions to be done by the telcos, and I think the direction that was provided to us asked us to make it by April and for it to be put in place by 1 November, which is what we've done. I would say that what we have talked to the telcos about is them voluntarily putting in place these arrangements, particularly the sharing of information with the emergency service organisations. My understanding, even from the discussion that the minister called yesterday with the CEOs, was that Telstra and TPG have voluntarily put those information-sharing arrangements in place already but that Optus has not done so but will need to do so by 1 November.

Senator HENDERSON: The point—

CHAIR: Thank you, Senator Henderson, last question—

Senator HENDERSON: I'll have to come back.

CHAIR: if you want one more question; otherwise, I can come back to you.

Senator HENDERSON: The point I'm making is: why were telcos let off the hook? Six months is simply too long for the commencement date. With something as important as triple 0, given there were these changes to the rules to strengthen the triple 0 service, shouldn't they have come into effect more quickly?

Ms O'Loughlin: Our job has been to make the standard and to impose it from 1 November, which is what we are doing.

Senator HENDERSON: Was it the minister who gave you that direction that it would start on 1 November?

Ms O'Loughlin: It was a ministerial direction, yes. And I think it understood that—not so much wilting, although, in 2023, Optus didn't wilt—there were significant changes that needed to be made to systems around some of the requirements that were going to be put now under the law. But I couldn't go any further in terms of the minister's thinking at the time.

Senator HENDERSON: Did you push back at all on that six months?

CHAIR: Last question, Senator Henderson, and then I'll move the call on.

Senator HENDERSON: When you were told to put the six-month delay in, did you push back on the ministerial direction?

Ms O'Loughlin: We were directed to put in place by 1 November.

Senator HENDERSON: No, I realise that, but did you push back? Did you say, 'No, we need to do this more quickly?'

CHAIR: Senator Henderson, I'll now—

Ms O'Loughlin: It's not really part of the process.

CHAIR: move the call, so thank you.

Senator HENDERSON: That was part of your consultation, though, wasn't it?

CHAIR: Senator Henderson, I'm going to need to move it.

Senator HENDERSON: I'll come back to it, then, Chair, thanks.

CHAIR: We're very happy for you to come back to it, thank you very much. Senator Pocock.

Senator DAVID POCOCK: Thank you for your time this afternoon. I have some questions on a slightly different topic, and that's related to ACMA's decision to reject the revised Free TV Australia code of practice. In making the decision, I note your statement, which says:

Since the code was last updated in 2015 there has also been significant research into the impacts of alcohol advertising, including in relation to sport.

To address outstanding community concerns on this matter the ACMA is commencing a body of work to assess the suitability of alcohol advertising restrictions in the current code, including exemptions for sporting events.

The statement also says that further updates on this work will be provided in due course. I'll just note that I was informed that the first alcohol ad ran at 9.10 am on AFL grand final day. Is there an update of where this work is up to? Has it started? When will it be completed?

Ms O'Loughlin: Senator, we did make that announcement, and we are doing some preparatory work. As you're aware, the first decision of the authority was to reject the code, and that was very much around the proposal by Free TV to extend the M classification time, which would potentially allow more alcohol advertising during the day, which was not supported by a vast range of people, including some from the alcohol industry. We also—and we've discussed this before—thought that it would be timely to look at the existing provisions in the code to see whether they responded appropriately to community concern. We're in the preparatory stage of that at the moment. I'm not quite sure, Ms Field, if you have anything to add to that.

Ms Field: We have commenced discussions with a range of stakeholders, including the Foundation for Alcohol Research and Education, the alcohol beverages advertising code and also Alcohol Beverages Australia. So, at this stage, we understand, obviously, Free TV's position, and we understand the position that was put forward by submitters to Free TV's code. We just want to make sure that we have the correct information relating to other stakeholders' views about that. So we are certainly undertaking that work at this stage.

Senator DAVID POCOCK: That's good to hear. On notice, could you provide a list of the stakeholders that you have met with so far?

Ms Field: Of course I can take it on notice.

Senator DAVID POCOCK: Do you have a timeframe for this to be completed and made available to the public?

Ms Field: I anticipate that it will be conducted in 2026, so it will be finalised next year. There is quite a body of work that needs to happen.

Senator DAVID POCOCK: Any indication? That's 12 months. 'Next year' could be January or December. Is there a bit more of a—

Ms O'Loughlin: We haven't settled that timeframe at the moment. At the moment, we're doing preparation about which stakeholders we need to talk to to inform the terms of reference, releasing the terms of reference for public consultation and undertaking additional research. They're the types of things that we're looking at, and that's what the team is working through at the moment.

Senator DAVID POCOCK: The statement also talked about the significant community concern regarding gambling advertising. It said:

While broader gambling reforms are under consideration by government, the ACMA encourages Free TV to proactively review the existing gambling advertising rules ahead of any potential government reforms.

Why are you concerned about gambling advertising?

Ms O'Loughlin: I think there's been general discussion and concern about gambling advertising. We're aware of the process that the government has committed to go through when looking at gambling advertising. I think the point that we were making to Free TV was that it was in their gift also to voluntarily make changes, which, of course, have not happened.

Senator DAVID POCOCK: That's good to know. I certainly share those concerns, as do, I think, the vast majority of Australians, which brings me to BetStop. Senator Walker was asking some great questions about some of the numbers around BetStop, and I just want to clarify something. There was a figure that 39 per cent of people had opted for a lifetime ban. Was that 39 per cent of the under-40 cohort or 39 per cent of the entire 48,000?

Ms Field: 39 per cent of the entire cohort.

Senator DAVID POCOCK: Do you have that figure for the under 40s?

Ms Field: I don't, but I'm happy to take that on notice.

Senator DAVID POCOCK: Thank you. That would be great. I had a gentleman email me who tells me that he self-excluded in August 2023, and, whilst he has stopped receiving any inducements, he is still receiving emails from betting companies two years later, letting him know that he has activity statements available, even though he's self-excluded, and he gets these emails saying: 'We know that your account has been closed. If you want to bet, you'd have to open a new one.' What's going on? Is that within the rules?

Ms Field: We are aware of those types of issues. They have come to our attention recently, and we are looking into them. We need to assess whether those are regulated messages under the Interactive Gambling Act. We certainly understand, though, that for people who are self-excluded to receive any type of email from gambling services would be distressing. So that's a matter that we are actively looking at at the moment.

Senator DAVID POCOCK: In what circumstances would they be permissible? This gentleman forwarded the emails. They have the branding of the companies, and they are actually designed to look like credit cards, if you

look at them, and contain phrases like 'happy punting'. This man is distressed. He is recovering from an addiction. Can a betting company contact someone in any way if they've self-excluded?

Ms Field: Under the IGA, they're not prohibited from all contact. They are prohibited from direct marketing and from inducements. As I said, we are actively looking at this matter. It was raised with us recently, and we are considering it. We are very happy to provide you with some more information on notice, but it is being looked at by the team at the moment about whether these messages fall within the IGA.

Senator DAVID POCOCK: When will that be completed?

Ms Field: I couldn't give you a date, but we're looking at it as a matter of priority.

Ms O'Loughlin: We will fully investigate this matter, but I would also just mention that there is currently a review being undertaken of the NSER arrangements. As part of that, we will be, of course, discussing with the reviewer if we're identifying issues of concern to people that may or may not be captured by the current law.

Senator DAVID POCOCK: Why do we have a system where you can self-exclude forever—and we hear the positive impact that's having on people—yet you can still be contacted by a gambling company, and then you have to do a review to ascertain whether or not that is within the rules or not?

Ms O'Loughlin: I think we only were alerted to this matter quite recently, so we need to actually investigate the matter fully to understand what the circumstances are.

Senator DAVID POCOCK: I assume you make the rules?

Ms O'Loughlin: No, Senator.

Senator DAVID POCOCK: Who makes the rules?

Ms O'Loughlin: Parliament.

Senator DAVID POCOCK: Parliament does. Minister, then? I find it outrageous that you can have a gambling addiction, be doing all the right things, self-exclude, and then have these predatory companies, as we saw in Peta Murphy's inquiry, sending emails saying, 'Hey, we know you've self-excluded, but, just a reminder, we're here if you want a punt. Happy punting. UltraBet support team.' What is going on there?

Senator Green: That does sound incredibly distressing for that constituent of yours. ACMA has provided evidence, too, that they are investigating how that could happen or under what circumstances that might have happened. The review is not linked to this new information. I understand that it's a statutory review that was required. It was required after one year of operation so that we can assess if there are any additional things that we need to have a look at. Of course, I think parliament anticipated a statutory review might be necessary because betting companies might try to find loopholes in the system, as happens with lots of laws, and that's why we're looking at these things more broadly—this specific incident or this specific type of behaviour, but also through a statutory review.

Senator DAVID POCOCK: Thanks, Minister. I'd love your comments on whether you think the government could act on this. I think there'd be broad support in the parliament. For me, this really highlights the fact that Peta Murphy's landmark report acknowledged that any sort of partial ban will be taken advantage of by these companies that are predatory in their behaviour. I know that this is not the ACMA's problem, but it just highlights the need for that comprehensive ban on gambling advertising and the need for the implementation of all 31 recommendations. We've turned up to estimates for the last two years, and the government's missing in action on this one, unfortunately.

Senator Green: We had this conversation earlier today, Senator.

Senator DAVID POCOCK: And we'll continue to have it until you guys act.

Senator Green: Yes. We are working on it. It is very important work, and we will continue to do that work.

Senator DAVID POCOCK: Thank you.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: Ms O'Loughlin, when did you understand that Optus knew that people had died as a result of the 18 September outage?

Ms O'Loughlin: I was not advised of that. I'm sorry, Senator, would you mind asking the question again; I might have misheard.

Senator HANSON-YOUNG: I'm wanting to know what your understanding is of when Optus first became aware that people had died.

Ms O'Loughlin: I can clarify that. The phone conversation I had from the CEO indicated that three people had died but gave no indication of when they knew that.

Senator HANSON-YOUNG: That was in your conversation on the Friday afternoon?

Ms O'Loughlin: That's correct.

Senator HANSON-YOUNG: Since the Friday afternoon, have you had any further conversations with Optus?

Ms O'Loughlin: We formally notified them of the investigation, and we've moved straight to what are called section 521 statutory notices to gather all the information we need to undertake the investigation.

Senator HANSON-YOUNG: And are you aware now when Optus first became aware that people had died?

Ms O'Loughlin: Not at this stage.

Senator HANSON-YOUNG: The CEO has not told you that he knew at 9 am on Friday?

Ms O'Loughlin: No, he did not.

Senator HANSON-YOUNG: Have you heard that timeframe?

Ms O'Loughlin: I heard it earlier today, in this hearing. I had not heard from anybody before.

Senator HANSON-YOUNG: I should put on the record the reason I said 9 am. It is that the CEO told me that directly yesterday. In my meeting with him, I asked when he first became aware, and he said that it was at 9 am on the Friday but that Optus individuals knew the night before. Now, I'm not the regulator and I'm not the minister; I'm staggered that we are three weeks down the track and no-one else has asked Optus that question.

Ms O'Loughlin: Senator, it's not information that has been provided to us. We're going—

Senator HANSON-YOUNG: But have you asked them?

Ms Rainsford: That would be relevant to our investigation.

Ms O'Loughlin: We have issued 521 notices on a vast range of information that we need to get from Optus, and we expect that that will clearly spell out who knew what when, as well as the circumstances of the full circumstances of the outage and its impact.

Senator HANSON-YOUNG: I'm shocked that Optus knew on the Thursday night and the CEO was informed on the Friday morning, yet it took hours and hours before anyone in government or the regulator knew. That is not good enough, is it?

Ms O'Loughlin: No, it's not.

Senator HANSON-YOUNG: The last time there was an Optus—

CHAIR: Sorry, Senator Hanson-Young. Minister, do you want to add something?

Senator Green: That's exactly what the minister has said on a number of occasions—

Senator HANSON-YOUNG: But the minister hasn't asked when they knew.

Senator Green: No—that the conduct of Optus is unacceptable.

Senator HANSON-YOUNG: Did the minister ask when Optus first found out that people had died?

Senator Green: Optus's conduct is unacceptable.

Senator HANSON-YOUNG: Has the minister asked Optus?

Senator Green: It's unacceptable, and we've gone through in detail today the timeline of information that was shared—or not shared, which I think is more likely. We can get you more information—I've taken a number of those questions on notice—but clearly, at every step, Optus failed to provide the correct information, the right information to the right people, and that is why they will face serious consequences.

Senator HANSON-YOUNG: We've heard from the regulator that they thought their first notification was suss and did nothing about it. Ms O'Loughlin, in your opening statement, you referenced the \$12 million that ACMA fined Optus in the last outage back in 2023. Was \$12 million the maximum that Optus could be fined at that time?

Ms O'Loughlin: It's a bit difficult for me to speculate on that because that would be a matter—presumably, if the matter had gone to court.

Ms Rainsford: Senator, there are different penalties that we can apply with administrative enforcement, that being the infringement notices, compared to the case where we might take a case to court.

Senator HANSON-YOUNG: I'm not talking hypothetical. I'm talking about the fine that was issued for the outage in 2023. Who issued that fine?

Ms O'Loughlin: It would have been an infringement notice officer in the ACMA.

Senator HANSON-YOUNG: Why was it for \$12 million?

Ms O'Loughlin: It was because that was the amount that the ACMA, the authority, agreed was appropriate in the circumstance. Alongside that \$12 million, there were also, of course, the outcomes of the review by Richard Bean, which had identified a number of systemic problems, which were also going to be implemented.

Senator HANSON-YOUNG: I understand that, but I'm asking about the \$12 million, and we just had your colleague try and suggest that someone else had set the figure at \$12 million. It was set by ACMA.

Ms Rainsford: No. I'm sorry if that was the impression.

Senator HANSON-YOUNG: It was the impression.

Ms Rainsford: It certainly wasn't what I intended. As is usual and normal and proper practice in these circumstances, the outcomes of that investigation were put to the authority, along with the enforcement options that were available. A decision was made that, in that matter, an infringement notice of just over \$12 million was the appropriate infringement notice. That, as Ms O'Loughlin said, took into account the fact that there was a raft of changes coming in response to the Bean review. That notice was issued to Optus, and Optus paid the fine in that amount.

Senator HANSON-YOUNG: Yes. So my question to you was whether \$12 million was the maximum amount that Optus could be fined?

Ms Rainsford: I'm confident it was not the absolute maximum. It is rare that the infringement notices are at the maximum amount. When we do that—

Senator HANSON-YOUNG: What is the maximum amount?

Ms O'Loughlin: If I can, I'll just clarify. We're in the Federal Court with Optus on the data breach. The court will make the decisions about penalties there.

Senator HANSON-YOUNG: Yes, I know. I'm not talking about any of those things. I'm not talking about ACCC.

Ms O'Loughlin: So this—

Senator HANSON-YOUNG: I'm not talking about the data breach.

CHAIR: Sorry, Senator—

Senator HANSON-YOUNG: I'm talking about—

Senator Green: Chair!

CHAIR: Senator Hanson-Young, I understand that you are trying to elicit information. The officials, I think, are endeavouring to assist you. If they are not getting to the point that you need, I appreciate that you are entitled to clarify that. But can we just, once more, keep the temperature in the room—

Senator HANSON-YOUNG: Could I ask Ms O'Loughlin to keep her answer to the question I have asked, and it's in relation to the 2023 outage, for which the \$12 million fine was issued.

Ms Rainsford: I don't have the details of the maximum in front of me. I'm happy to take on notice that question for you.

Ms O'Loughlin: Again, that would be a matter for the court.

Senator HANSON-YOUNG: The maximum amount that ACMA could issue—that's not a matter for the courts.

Ms O'Loughlin: Senator, I think it might be best if we can take it on notice for you. I understand your question, but there are some complications because, as Ms Rainsford said, there are different breaches involved here and each of them have different penalties attached to them, so. So we would like some time just to go back and consider that.

Senator HANSON-YOUNG: You've put in your opening statement that—it must be a typo, by the way. I'm going to read it.

Ms O'Loughlin: 'Its clear'?

Senator HANSON-YOUNG: 'Its clear'—yes. It should be: 'It's clear'.

Ms Rainsford: Yes, it should be.

Ms O'Loughlin: Thank you, Senator.

Senator HANSON-YOUNG: You said: 'It's clear that even a substantial financial penalty did not prompt Optus to review and update its network management to ensure similar outages would not be repeated.' That says to me that you accept that \$12 million didn't touch the sides, did it?

Ms O'Loughlin: The \$12 million was the largest infringement notice we've ever given under these laws. We would expect that a substantial penalty would make a difference in a company the size of Optus. What is clear now is that it did not. We were confident at that time and with the assurances that Optus gave us at that time that they had made changes to their systems and processes that give us confidence that they would move forward and not be in breach again. We are not there. We are now in breach again, and we're going to investigate.

Senator HANSON-YOUNG: Do you have a view, given everything that you've learnt through this process so far, as to whether \$12 million is a significant enough fine to send the message to this corporate?

Ms O'Loughlin: I'd say that, at the time we made that decision, yes, with the assurances that we were given by Optus at that time, and with the Bean review process, we were confident. That hasn't played out, and Optus has let down the Australian community yet again.

Senator HANSON-YOUNG: Do you think the fines should be increased going forward?

Ms O'Loughlin: I think the current bill before the House increases those penalties, but I'll ask my colleague to comment.

Ms Rainsford: Yes, that is true, and we're looking forward to the passage of that bill so that we will have a greater suite of both enforcement actions and higher penalties—

Senator HANSON-YOUNG: I understand the government voted down an increase in penalties today in the House.

CHAIR: Senator, I'm not sure the officials can answer as to the—

Senator HANSON-YOUNG: No. I'm sorry. But for clarity—

Senator Green: I think, they're different bills that we're talking about?

Ms O'Loughlin: The enhancing consumer safeguards bill. I'm not quite sure of the status.

Senator HANSON-YOUNG: And the government voted against an increase of penalties today in the House.

Ms Rainsford: The other relevant point to your question is that, when we are looking at what appropriate enforcement is against a particular, in this case, telco, its past record of compliance and response to previous enforcement action is always a critical component in assessing what is needed going forward to achieve the right outcome. The fact that we are seeing repeated, substantial, very serious consequences within two years of having imposed that penalty would be absolutely relevant to any decisions on future enforcement actions against Optus not only in relation to this particular outage but in relation to any other breaches of law we might find by Optus.

Senator HANSON-YOUNG: What is the maximum penalty you believe you could have put on Optus?

Ms Rainsford: We've taken that on notice.

Senator HENDERSON: Just going back to the 2025 ministerial direction, which included the important triple 0 service improvement, the commencement date is 1 November 2025. I've raised serious concerns about the six-month delay, that the government should not have sat on its hands. Ms O'Loughlin, you've said that was a ministerial direction. Did ACMA push back at all and say, 'We need to implement these rules more quickly?'

Ms O'Loughlin: I'd have to check our records, but I don't recall.

Ms Rainsford: I don't recall off the top of my head. I know that at the time we received these directions there were a number of directions and there were substantial discussions with our departmental colleagues about the substance of those. As you'll appreciate, there were a tranche of reforms, starting with changes to the ECS determination that came into effect last October, the new standard in terms of major outages from December and then the later changes to both the outages standard and the ECS determination. I don't recall off the top of my head the specifics that go to your question, but we certainly had substantial discussions with the department about the forms of the many directions we received.

Senator HENDERSON: I've looked at another instrument, the Telecommunications (Emergency Call Service) Amendment Determination 2024. That came into effect within five days, yet this 2025 determination took six months. Here is an example where you did act quickly to get those improvements into place straightaway. Again I'm concerned about the six-month delay because they're really important changes to the rules that enhanced the triple 0 service, and had they been in place we would have certainly seen some improvements. As Ms O'Loughlin has already indicated, Optus didn't have some of those notification arrangements in place in relation to an outage.

Ms O'Loughlin: I think the determination in 2024 was in relation to the 3G shutdown, so it was a matter that was dealing with a particular issue in the 3G shutdown, from memory.

Ms Rainsford: You are correct, Senator, that the determination was made and the changes came into effect very quickly to address the then imminent shutdown of the 3G network and put in place the blocking rules to ensure

people were not unable to access the emergency call service, because their device would never have been able to without 3G.

Senator HENDERSON: That's right: it related to emergency calls and the 3G service. But this change in the rules, which came into effect within five days, reflected the urgency of the situation that you needed to ensure Australians could get the best possible service on triple 0. I am just making the point that here we saw an earlier determination of five days, yet this latest determination was six months. Anyway, there are more questions for the minister in relation to that. I just want to quickly ask about the number 112. My understanding is 112 is an alternative emergency service which diverts directly to Telstra's call centre? Is that correct?

Ms Rainsford: Yes, that's correct. I think 112 is broadly referred to as an international emergency calling. Triple 0 is Australia's number in the same way that 911 is the US number, but 112, when called, will also get through to the emergency call person in Telstra.

Senator HENDERSON: During this outage was 112 working?

Ms Rainsford: No. We understand at this point that the issue Optus experienced affected both triple 0 and 112. At this point, albeit we will test these matters during our investigation, we understand there was no disruption to the 106 emergency call service, which is the service provider to help people with hearing impairments.

Senator HENDERSON: We've talked a bit about the process involving when you first received the notification, the telephone call and the two emails on the 18th. What's the process ACMA normally follows when you're notified there's been an outage to the triple 0 network?

Ms O'Loughlin: It would depend on the circumstance. Many of the standard notifications we get, and I think the department talked about this earlier, do not indicate whether there was an impact on triple 0.

Senator HENDERSON: But I'm talking about when there is an impact on triple 0 and outages concerning triple 0. Do you have a standard process you're meant to follow?

Ms O'Loughlin: These rules came in in July, so we're getting much more visibility of those outages. We've put in place some procedures internally around who gets told what and when, and they're the things we'll also have another look at through this process.

Senator HENDERSON: You changed your internal processes, did you?

Ms O'Loughlin: We had to develop new processes because we had not been advised. The communications outages standard that came into being—sorry, it's December 2024; I apologise—were new. Before that the only time we really knew about outages was when somebody bothered to notify us or we found out ourselves. This is a new process which notifies us of significant local outages as well as major outages. It also notifies us of updates to when those outages happen, so there's a huge amount of information we're now gathering.

Senator HENDERSON: I don't want to interrupt you, but because I'm so limited with time, could I just ask on notice for your internal processes in relation to notifications?

Ms O'Loughlin: Certainly, we'll take that on notice. I just make one point that was raised earlier. I think there's more work for us to do in that area, because the quantum of notifications we've been receiving, most of them significant local outages, has been quite substantial, and we need to turn our mind, as the department said this morning, to better ways of systematising that internally.

Senator HENDERSON: How many triple 0 outages have there been in this calendar year to date?

Ms O'Loughlin: We don't have that information. I know you asked that earlier today. We would have to seek that information from the carriers, and we'll turn our minds to doing that.

Senator HENDERSON: Aren't you notified of those outages?

Ms O'Loughlin: Not that they're triple 0 outages—normally we would, but the outage notifications we receive are about significant local outages or major outages.

Ms Rainsford: The obligations in the outages standard relate to outages across the network, so they could be outages that affect call capacity, ones that affect messaging or ones that affect data. When they meet a certain threshold there are notification requirements. Many of those will not raise any issues about capacity to call through to triple 0, but there are a range of things that can happen with these outages in terms of how they're manifesting and who they're affecting. We are now getting a very significant volume of notifications. I think other than the ones the chair mentioned earlier, the latest ones, obviously the 18 November one—

Senator HENDERSON: 18 September.

Ms Rainsford: Sorry, 18 September—and the subsequent outage we're aware of in the Dapto region are the only ones I'm aware of where there has been a triple 0 impact as a result of that outage.

Senator HENDERSON: What about the NBN outage?

Ms Rainsford: It's a matter we're still looking into, the NBN one.

Senator HENDERSON: That's a concern, that you don't have visibility of triple 0 outages. I understand you are going to provide us more information, so could you give us all the detailed information on notice?

Ms O'Loughlin: As the department mentioned this morning, the complexity here is that there are camp-on arrangements so that, if a network goes down, they can be picked up and carried by another network if there is another network available to carry that call, and that is an obligation on carriers. For a lot of the things we see where there have been outages, the camp-on arrangements have kicked in and the calls have been carried. I don't have the specific details, but we're happy to take it on notice.

Senator HENDERSON: Following the first outage, which was obviously linked to multiple deaths, the government indicated it was speeding up the triple 0 custodian legislation, which of course is now before the parliament. As the regulator have you been involved in the drafting of that bill?

Ms O'Loughlin: We've had some involvement in the drafting of that bill, yes.

Senator HENDERSON: When did you get involved in that process? Was that before or after 18 September?

Ms Rainsford: We've been involved since the government announced the response to the Bean report. As officials mentioned earlier, the TIO led a working group to explore options and advice for the minister about the best way to approach that role.

Senator HENDERSON: I don't want to interrupt you, but I'm just speaking specifically about the drafting of the bill. When did you become involved?

Ms O'Loughlin: We've had discussions with the department since the government's response to the Bean review, including over the last couple of weeks. I think the officials this morning indicated that some of the things they looked at amending in that bill specifically came out of this outage, so obviously we've been in conversations with the department over the last while.

Senator HENDERSON: Did you or the department give drafting instructions after the outage?

Ms O'Loughlin: The department provides drafting instructions.

Senator HENDERSON: I know, but were you aware that those instructions were given after 18 September?

Ms Rainsford: We were certainly aware that the department had another look at whether the policy settings that would be reflected in that bill were appropriate for that, and we have had subsequent discussions with the department about the shape of the bill that is now before parliament.

Senator HENDERSON: I just need the date. When did you become aware that the government was moving on the bill?

Ms O'Loughlin: We would have to take that on notice.

Senator HENDERSON: What are the thresholds for telco providers to report triple 0 outages, meaning how many calls have to be impacted? Is there an obligation if it's just one caller or if it's 10? You've got notifications for the 10 calls, which were wrong, as we now know. What's the minimum threshold for notifications?

Ms Rainsford: The thresholds don't turn on the number of triple 0 calls that are or are not attempted and whether or not they're successful. Under the outages standard the notification obligations kick in when there is either a major outage or a significant local outage.

Senator HENDERSON: What's the definition?

Ms Rainsford: I'll just find my notes to make sure I've got that right for you. The definition of a major outage is an unplanned impact likely to affect the carriage of services, affecting 100,000 services in operation or more—for example, each mobile service counts as a service in operation, each home landline counts as a service in operation and each broadband connection counts as a service in separation—or where the outage is affecting all services in any state or territory and the outage is expected or likely to last more than 60 minutes.

Senator HENDERSON: Are you concerned, Ms O'Loughlin, that the threshold is too high?

Ms O'Loughlin: This is about outages broadly, not outages to triple 0.

Senator HENDERSON: I understand that.

Ms O'Loughlin: What is unclear here is what Optus's assessment of this outage was and why it did not follow the processes for the major outage.

Senator HENDERSON: So potentially, under the standard, you could wipe out a town of, say, 50,000 people with 50,000 services in general terms, and that wouldn't trigger the major outage or significant local outage obligations.

Ms Rainsford: That was the definition of a major outage. The definition of a significant local outage is similarly an unplanned adverse impact affecting carriage services which affects 1,000 services in operation in a regional area that is likely to last more than six hours, or it's affecting 250 or more services in operation in remote parts of Australia and likely to last three hours. In addition to that, under the rules, as I mentioned earlier, there are obligations when there is a significant network outage in place under the emergency call determination, which would include any time where there is any suggestion that there is an issue with triple 0. They're the current—

Senator HANSON-YOUNG: Can you repeat that, because I didn't hear it and I think it's important.

Senator HENDERSON: I would defer to Senator Hanson-Young, just to get that clarified.

Ms Rainsford: At the moment there is an obligation where there is significant network outage, and I would consider that any time where there was a suggestion that there was an impact on the carriage of triple 0 calls, or 112 or 106 calls, would constitute that.

Senator HENDERSON: You would consider that, but what about the telecommunications carrier?

Ms O'Loughlin: That's a matter we'll investigate.

Ms Rainsford: That's a matter we'll investigate, yes.

Senator HENDERSON: That seems to be an open wound in terms of where the threshold kicks in, in that case.

Ms O'Loughlin: I think part of what we'll also investigate here is—I'll use the term 'unusual', but that's not saying that it's acceptable—that this was an outage that didn't seem to affect other calls; it only seemed to affect the emergency calls. That's what we need to dig into and find out what happened.

Senator HENDERSON: I'm going to move to the nature of your inquiry. When will your inquiry be completed, and what updates will you be providing the government or the minister in relation to your inquiry?

Ms O'Loughlin: I can't give a timetable on when we will deliver, but it's a priority. We will also be expecting Optus to fully cooperate in a timely manner on all requests, comprehensively, that we make of them.

Senator HENDERSON: Are you inquiring into the Dapto outage as well?

Ms O'Loughlin: Yes, as well.

Senator HENDERSON: What are the parameters of that review?

Ms O'Loughlin: It'll be the same areas of the ECS determination—why they didn't provide the triple 0 service, and the outages.

Senator HENDERSON: Can I put to you that your inquiry and the outcome of your inquiry is very urgent, because we've got millions of Australians with an Optus service. They need the confidence to know that their phone, when ringing triple 0, is going to work.

Ms O'Loughlin: We understand the urgency of it. As I said in my opening statement, it's also in Optus's gift to fix things that they discover through the inquiries they are making, but we understand very well the urgency and the need for Australians to have confidence in triple 0.

Senator HENDERSON: Are we going to see an outcome before the end of the year?

Ms O'Loughlin: I'm not going to speculate, but we will move it as one of our highest priorities in the organisation.

Senator HENDERSON: Thanks, Ms O'Loughlin.

CHAIR: Senator Hanson-Young.

Senator HANSON-YOUNG: I want some clarification on the rules for significant and major outage. I've got the ACMA rules that are on your website. I've found the page that says which email addresses these outages are meant to be emailed to. There is not one mention in these rules as to what a provider must do in the case of triple 0 calls not going through.

Ms O'Loughlin: I'm not quite sure what you've got before you. That might be the outages standard.

Senator HANSON-YOUNG: It just says, 'Rules for significant and major outages', of which you just went through the terminology—100,000 for a local significant outage, the 200 or more in remote, the 1,000 or more in regional Australia. There's not one reference to notifications required for triple 0. Where are those rules?

Ms Rainsford: The outages covered by that cover the carriage of voice calls, which will include emergency calls, and then separately we have the rules that are set out in the emergency call services determination, which is a separate legal instrument. I'm happy to go back and have a look at that material and make sure what is covered by these rules is absolutely clear and update our website.

Senator HANSON-YOUNG: The reason I'm asking is the department made quite a big song and dance about this particular page on the website this morning.

Senator Green: About the emails.

Senator HANSON-YOUNG: About the rules that were on the website.

Senator Green: The details.

Senator HANSON-YOUNG: If you want to have a debate with me, Minister, I'm happy to. I'm asking what are the rules—

Senator Green: There's a broad—

Senator HANSON-YOUNG: for triple 0.

CHAIR: Senator Hanson-Young, I appreciate you have the call. Minister, if there's an answer you wish to provide to a question, you're of course able to do that.

Senator HANSON-YOUNG: I don't think you should be defending the department. They've done a terrible job today.

CHAIR: But in terms of where we're sitting now, as I've indicated on a number of occasions today, the question and answer format is the most structured and useful way of eliciting information. Thank you, Senator Hanson-Young.

Ms O'Loughlin: I offer to take that offline. If there is a concern with that material, we will certainly look at that. As Ms Rainsford said, there are existing rules under the emergency call services determination requiring notification about triple 0 outages. Alongside that are these newer rules around major outages and significant local outages.

Senator HANSON-YOUNG: What is the rule for if triple 0 doesn't work? Is it one call? Is it 10 calls? Is it 100 calls? Is it 600 calls?

Ms Rainsford: I'd have to take on notice the specifics of that, although it is my recollection at this point that it does not turn on a threshold number around a particular number of emergency calls that are unable to get through.

Senator HANSON-YOUNG: Am I interpreting this correctly: your view as the regulator is that, if Optus or Telstra or TPG is aware that any triple 0 call failed to go through, they need to notify you?

Ms Rainsford: Yes, that was my understanding, that they're required to do that.

Ms O'Loughlin: And they also need to notify the emergency call person—as in, Telstra. If there's any confusion in the information you've got before you, we will certainly clarify that. But these are existing rules that have been there for many, many years.

Senator HANSON-YOUNG: Yes. It just doesn't sit alongside this.

Ms O'Loughlin: We will take that on notice.

Senator HANSON-YOUNG: Given all the confusion about who's meant to be getting what emails, it would be important to make sure people know.

Could I go to some other questions that I have for you, in particular in relation to the spectrum issues. ACMA's preliminary decision to utilise a benchmarking approach for valuing spectrum renewals results in a significant decrease in spectrum revenue. I'm wondering what level of engagement you had with the Treasury department or the Department of Finance to determine the financial impact on this decision.

Ms O'Loughlin: I don't think we agree with that characterisation. We've gone through a process over a long period of time to assess what would be the appropriate process for these expiring spectrum licences and, also, the appropriate price for these expiring spectrum licences. I will hand over to my colleague Mr Brealey to go through that process with you.

Mr Brealey: As Ms O'Loughlin mentioned, we have been through quite a detailed process and a lot of engagement with industry around the developing of preliminary views on the expiring spectrum licences. Our goal is to develop a model which will establish a market rate for those licences. That methodology has been talked about and consulted on as part of the process of the ESL in developing those preliminary views. The original prices that those licences sold for 15 years ago were a combination of renewals from government, direct allocations and also

some options. The pricing we've arrived at is around a benchmarking process—what's being paid for those sorts of licences internationally over a long period of time in different markets.

Our view, on the basis of that analysis, is that the value of those licences has decreased somewhat, but I wouldn't characterise it in the way it has been characterised. It's more about setting out what is the market rate. There has been some commentary in some of the submissions about our work, which has taken the prices that were paid for licences over four years that were allocated over different ways, in subtracting the bottom range of our preliminary view prices to arrive at a number. However, as a fairly simplistic approach to what licences may well be worth, ours is about examining what's going on in the marketplace to determine a value that is applicable to today. And, yes, we have spoken to Treasury and Finance to explain our modelling.

Senator HANSON-YOUNG: Just to be clear, when do the current spectrum licences expire?

Mr Brealey: They expire over four years between 2028 and 2032.

Senator HANSON-YOUNG: So, by well before 2028 to 2032, we need a new process.

Mr Brealey: Yes. We've engaged really early so that everyone knows exactly how it's going to work long before the licences expire.

Senator HANSON-YOUNG: Just remind us: who are the current holders of these spectrum licences?

Mr Brealey: The mobile network operators—TPG, Telstra, Optus, NBN Co. There are rail operators in the 1,800 megahertz band who hold some of this spectrum, and some of the broadcasters have some of this spectrum for their outside broadcasting arrangements.

Senator HANSON-YOUNG: How much is Optus's spectrum licence currently worth?

Mr Brealey: How much did they pay upfront—for just the ESL or everything they have? This is a subset of the licences used to provide these services.

Senator HANSON-YOUNG: Let's say the ESL.

Mr Brealey: How much was paid upfront?

Senator HANSON-YOUNG: Yes.

Mr Brealey: I think we'll need to take that on notice for you.

Senator HANSON-YOUNG: Could you give me the cost of the ESL and then, all up, the other parts of licences that Optus currently own.

Mr Brealey: Just for Optus?

Senator HANSON-YOUNG: Yes, thank you. Are you rejecting the proposition that you're prepared to sell the new licences at a lower rate?

Mr Brealey: Our goal is to establish a model which establishes a price that is at market rate today, and our analysis so far demonstrates the value has declined somewhat.

Senator HANSON-YOUNG: By what percentage? What's the ballpark?

Mr Brealey: These are only preliminary views, and there is a range. I would have to take on notice what the decline would be.

Senator HANSON-YOUNG: But you say there is a decline. What's the total value of the spectrum?

Mr Brealey: As it was sold originally?

Senator HANSON-YOUNG: Yes. You must know that figure.

Mr Brealey: One moment—apologies.

Ms O'Loughlin: If I can just add: our analysis indicates that there's been a downward trend in prices paid for some spectrum bands, both domestically and internationally. That's why we've gone through a benchmarking approach. That has been as a result of competition, increased spectrum availability and technological advances that have driven down costs and reduced telco margins. I'd also add that we're actually having a peer review done of our work and analysis at the moment.

Senator HANSON-YOUNG: In terms of the spectrum?

Ms O'Loughlin: Yes.

Senator HANSON-YOUNG: Who's doing that peer review?

Ms O'Loughlin: DotEcon.

Senator HANSON-YOUNG: When will that be due?

Ms O'Loughlin: I think we've got drafts currently—

Mr Brealey: We've had some of that feedback on the peer review work, and we are finalising our advice to give to the authority. It's not finalised yet, but it will be shortly. We're considering whether or not we consult further around some of the changes that they've suggested and feedback they've given us. We also had three other consultancies advise us as to how to develop that model—Frontier, Plum Consulting and Ian Martin Advisory. Now we're doing this peer review. In answer to your question, I believe the total revenues from the original ESLs was \$8.2 billion.

Senator HANSON-YOUNG: Your view, at this point, is that market rate is lower than that.

Mr Brealey: Yes.

Senator HANSON-YOUNG: Both internationally and domestically? That's what I heard from Ms O'Loughlin.

Ms O'Loughlin: That's our analysis.

Senator HANSON-YOUNG: Have you had any figures from Treasury as to what they think? Have they fed into this peer review process? Where does Treasury fit in this?

Ms O'Loughlin: We've likely been informing Treasury of our analysis, as well, of course, as our department. We've kept them informed all the way along. I won't speak on behalf of Treasury, but some of the things they've been most interested in are more like what the competition effects of the processes that we're going through are, rather than in-depth discussion about revenue targets.

Senator HANSON-YOUNG: Will there be a new optioning of the spectrum, regardless of where you decide to set the market rate?

Ms O'Loughlin: We're proposing that these licences should be renewed, and I'm sure my colleagues can go through the reasons for that.

Mr Brealey: That's why we're doing a benchmark to set a price rather than an auction.

Senator HANSON-YOUNG: So it doesn't matter how many stuff-ups Optus has; it doesn't matter how many lives Optus costs. It doesn't matter how many times they stuff up; they're just going to get their licence rolled over and at a cheaper rate.

Mr Brealey: Our analysis around whether or not we renew licences rests on a couple of key things that are spelled out in the ministerial policy statement around expiring spectrum licences. Those things go to connectivity—continued connectivity for the community. There are about 30 million services that rely on this spectrum. Obviously, that's important to ensure that, if we were going to not renew licences, we weighed up the pros and cons, because that could be very disruptive. For example, if one of those carriers doesn't get its licences back or only gets a couple, that means consumers will have to change carriers or change handsets. Even if carriers do get most of their spectrum back but they swap it around between them—because that's the nature of an auction—it will also result in configuration changes for networks. The first thing is to be clear on the pros and cons.

That brings in the other elements of the ministerial policy statement. Things like the ability for there to be new entrants entering the market and new services, things like LEOsat direct-to-device services. We haven't seen any evidence yet, through any of our consultations—and they've been going on for a long time—of any new entrants for national wide-area broadband spectrum and services, and the entry of LEOsat services into the market is already supported by our licensing regime. You've already seen that Telstra has announced it's going to partner with SpaceX. The other telcos are looking at doing similar partnerships. That's because the version of that D2D technology that currently exists relies upon, at least in the Australian context, collaboration and partnership with an existing MNO.

Senator HANSON-YOUNG: Can I ask whose decision it was that there wouldn't be an auction and these existing telcos would just get their licences rolled over?

Mr Brealey: There's no decision as yet. We've just provided preliminary views, and we're going back out to consult again.

Ms O'Loughlin: It will be our decision.

Senator HANSON-YOUNG: It will be your decision, and, at this point, you're saying you'd prefer to just roll over—

Ms O'Loughlin: Our preliminary view is that the objectives of the ministerial statement and the objectives of a fair market value for the spectrum would be best achieved through the renewal of those licences and a fair market price being applied to the spectrum. That is out for consultation at the moment, and we expect to come to our firm views by the end of this calendar year, so that there is certainty for all concerned about the process going forward. That's where we're at at the moment.

Senator HANSON-YOUNG: Do any of Optus's behaviour and failure and gross negligence factor into any of this?

Ms O'Loughlin: I think I'd say that that's a separate matter. There are licence conditions on Telstra under the Telecommunications Act, and, if there are breaches of those licence conditions, there are penalties under that act that we would have. The spectrum licence renewal process affects all—

Senator HANSON-YOUNG: I understand they're different things. But we've had you, the minister and the department for days—in fact, for a couple of weeks now—lamenting how poorly, inappropriately and badly this company has behaved, and we're just about to roll over their licence at a cheaper rate. No wonder they think they can just run around doing whatever they want.

Ms O'Loughlin: They are quite different processes. We haven't come to a final view as yet, but, if we find breaches of licence conditions by Optus, there are penalties under the Telecommunications Act and the determinations of—

Senator HANSON-YOUNG: They have breached their licence already though, haven't they? They did it as a result of the 2023 outage—as a result of the data breach.

Ms O'Loughlin: I'm not quite sure, Senator. I'd have to reflect on whether or not those were breaches of their licence condition or other—

Senator HANSON-YOUNG: Aren't they required to make sure people can call triple 0?

Ms O'Loughlin: Under the Emergency Call Service Determination.

Senator HANSON-YOUNG: That's surely a licence condition.

Ms Rainsford: Optus, as other telcos do, have a number of different licences. In this case, Mr Brealey is talking about the spectrum licences—

Senator HANSON-YOUNG: I understand that.

Ms Rainsford: which are different to carrier licences, which are linked to these obligations under the emergency call service.

Senator HANSON-YOUNG: But they can't have a carrier licence without access to the spectrum, can they?

Mr Brealey: That's correct. One of the other things we've considered is the impact of competition on the marketplace if one of the carriers were to exit or not to have access to spectrum to be able to provide a service. We think that, if one of them were to exit, that would obviously be detrimental to competition.

Senator HANSON-YOUNG: Maybe we should have someone in there who can actually answer the phone when somebody calls triple 0. What's the point of having a carrier on the spectrum if they provide a deadly service?

Ms O'Loughlin: We've already gone through the fact that we will be investigating the matter against the rules and responsibilities that apply to Optus.

Senator HANSON-YOUNG: You're saying your final decision on the spectrum extension expiry and rollover will be at the end of this year?

Ms O'Loughlin: End of this calendar year—

Senator HANSON-YOUNG: End of this calendar year—so, December?

Mr Brealey: Yes, that's right.

Ms O'Loughlin: That's the plan.

Senator HANSON-YOUNG: It sounds like you're not intending to do an auction at all.

Ms O'Loughlin: No. In our analysis, as Mr Brealey mentioned, we've seen no competitor out there. I think our concern is that an auction in the current circumstances may end up with either one of the smaller telcos being outbid by the major telcos and losing that spectrum or, indeed, the telcos choosing to pay less than we want them to.

CHAIR: May I just inquire—

Senator HANSON-YOUNG: I've just got one set of questions left.

CHAIR: Okay.

Senator HANSON-YOUNG: Could I go to telecommunications consumer protections, please? I understand there's been an FOI request made in relation to your engagement with this. What has been the process that ACMA has participated in in relation to the telecommunication industry's TCP code?

Ms O'Loughlin: The TCP code is, as you know, a co-regulatory code which is developed by industry and not registered by the ACMA. We've been engaged in this process for a number of years now, as the industry has thought

through the proposals that it intends to put to the ACMA for consideration. We're following the process that is laid out in the Telecommunications Act in terms of code making, which gives the industry the opportunity to develop a code and to present that to us, and then for us to make our decisions. We, as early as—I can't even remember what year it was—

Senator Green: 2023?

Ms O'Loughlin: 2023. We've given advice to the industry through a number of processes about what our expectations would be. We issued a report called *What consumers want* to identify what we thought the industry needed to do.

Senator HANSON-YOUNG: So you've given some feedback to the industry on their proposed code?

Ms O'Loughlin: We have been giving multiple feedback.

Senator HANSON-YOUNG: Have you proposed that the code be strengthened or improved?

Ms O'Loughlin: We have proposed that the code should be strengthened on a number of occasions.

Senator HANSON-YOUNG: Has that advice been followed?

Ms O'Loughlin: The code is actually before us now, so that's the analysis that we're doing—just how strong they've made those protections.

Senator HANSON-YOUNG: So you don't have a view at this point as to whether the industry body has addressed ACMA's concerns adequately?

Ms O'Loughlin: It's a live consideration of the authority at the moment, and we expect to be able to announce our views imminently.

Senator HANSON-YOUNG: Obviously, there's been the recent case of Optus's engagement with customers and their unconscionable conduct case. The ACCC, of course, took them to the Federal Court, with the \$100 million fine. I find it staggering that the ACCC can get fines of \$100 million but ACMA can't.

Ms O'Loughlin: It's a different law, Senator.

Senator HANSON-YOUNG: Yes, I know. It's a problem, isn't it? One cost people's lives, and one cost people's money. What I'm interested in is, do you believe that this draft code from the industry overcomes the issues that are being raised by this particular case?

Ms O'Loughlin: I'm sorry—by the unconscionable conduct?

Senator HANSON-YOUNG: Yes.

Ms O'Loughlin: That was pursued by the ACCC under the law that they have. We have a different law. But I think in a general sense I'd just say to you that this is a high priority for the authority. We know the importance of these protections to the communities. We'll announce the outcome of that process in the next few weeks.

Senator HANSON-YOUNG: Do you believe, at this stage, you would be prepared to reject the code and ask them to go back to the drawing board?

Ms O'Loughlin: I'm not going to pre-empt a decision.

Senator HANSON-YOUNG: You haven't made that decision?

Ms O'Loughlin: No.

Senator HANSON-YOUNG: Okay. Thanks, Chair.

CHAIR: Senator McGrath.

Senator McGRATH: In relation to the Bean review, the government has accepted all 18 recommendations in full. Are there any recommendations that ACMA is responsible for implementing?

Ms O'Loughlin: Yes. There's a vast range of them.

Senator McGRATH: Have all of the recommendations you have responsibility for implementing been completed in full?

Ms O'Loughlin: I will get my colleagues to go through what we have delivered. There are two matters that cover three recommendations still outstanding. They relate to industry codes which were to be developed by the industry and provided to the ACMA. We have those codes at the moment. We're expecting a decision on both of those codes very soon. And that completes all of the things that we're responsible for.

Senator McGRATH: You're the decision-maker in relation to those codes?

Ms O'Loughlin: We are.

Senator McGRATH: Okay. Are you able to advise the committee on which two recommendations are outstanding, please?

Ms Rainsford: Certainly. They are recommendations 3 and 4. Did you just want the numbers, or would you like me to set out some detail?

Senator McGRATH: The numbers are fine.

Ms Rainsford: And 16.

Ms O'Loughlin: I will just clarify that there is recommendation 18, which is a catch-all provision for the department and ACMA to look at the whole legislative framework. Obviously, that will be done once all the other things have been put in place, including the custodian.

Senator McGRATH: In relation to the three outstanding recommendations, they will be completed imminently?

Ms O'Loughlin: Imminently.

Senator McGRATH: I won't be a pain and try and get a precise date out of you. But we are coming back in December, so it would be nice for it to be resolved by then, if possible.

Ms O'Loughlin: The other things for which we're responsible, which we've gone through a bit today, were amendments to the emergency call service determination, which is direction 2024, which is around 3G; the direction for 2025, which we agreed in April and comes into effect on 1 November; the customer communications for outages industry standards which we implemented from December last year; the significant local outages, which we did from 30 June; and also changes to the complaints handling industry standard. They have all been completed.

Senator McGRATH: In relation to those ones, just on notice, can you answer on what dates they were completed?

Ms O'Loughlin: Absolutely. We can do it by recommendation and date.

Senator McGRATH: Thank you. Did you provide the minister with an incoming minister's brief following her appointment to the portfolio back in May?

Ms O'Loughlin: No, incoming government briefs are provided by the department to the minister.

Senator McGRATH: Did you provide one to the department to be provided to the minister?

Ms O'Loughlin: No.

Senator McGRATH: Prior to the first Optus outage on 18 September—you may have touched upon this—what updates have you provided to Minister Wells or her office on the implementation of the Bean review recommendations?

Ms O'Loughlin: I will take that on notice. I'm not sure I recall. I think the officials this morning would have indicated when the department would have given an update to the minister, but I'd have to take that on notice.

Senator McGRATH: You can take on notice that, the date and also whether we can get copies of those briefs. The former minister, Minister Rowland, stated in the government's response to the Bean recommendation that she'd asked for regular updates on the implementation of the recommendations. What updates have you provided to Minister Rowland?

Ms O'Loughlin: I think we probably provided regular updates to the department, given that there are a number of directions with a number of dates. Then I would expect that the department would have provided a comprehensive update to the minister.

Senator McGRATH: So, you wouldn't have provided it directly to the minister, you would have provided it to the department?

Ms O'Loughlin: I think we would have advised the minister's office that we were going to achieve the deadlines that the ministerial direction put to us. So, there would have been engagement with the minister's office throughout that process.

Senator McGRATH: Prior to 18 September, did the minister or her office make any representations to ACMA about accelerating the implementation of outstanding recommendations from the Bean review?

Ms O'Loughlin: Again, I think I might have to take that on notice.

Senator McGRATH: That's fine, take it on notice. If the answer is yes, on what dates, and what was the specific ask? Those are my questions. Thank you very much.

CHAIR: Senator Henderson.

Senator HENDERSON: I just want to clarify your earlier evidence that, on 18 September after receiving that initial telephone call and then the two further emails at 3.17 pm and 3.27 pm, ACMA didn't notify anyone on that particular day?

Ms O'Loughlin: That is my understanding.

Senator HENDERSON: Okay.

Ms O'Loughlin: I think part of that was also that there was a requirement on Optus to notify others. We weren't aware that the department's email address was incorrect because the email address was on our website. I don't think I was aware until later on the Friday that other stakeholders like the TIO had not been advised either.

Senator HENDERSON: Were you contacted by anyone else other than Optus on 18 September about this outage?

Ms O'Loughlin: No, we weren't. I understand from press reports that there was some contact with the ombudsman; I'm not quite sure whether it was on that day or the following day.

Senator HENDERSON: In question time in the House of Representatives today, the shadow minister for communications asked a question of the Minister for Communications which was in relation to the welfare checks. The minister said, and I'm quoting from the captions transcript: 'The information that Optus provided to my office on 18 September was that there had been a minor outage. It affected 10 calls. It had been resolved and, most importantly, there were no adverse impacts on any person. My office sought assurance that ACMA had been informed, ensuring the regulator was investigating that incident, and ACMA has publicly confirmed that they were informed.' Firstly, just to clarify, there was no communication from the minister's office on 18 September?

Ms O'Loughlin: I'd have to look at that transcript. It sounded like the minister was referring to the fact that Optus had advised us with those three o'clock emails.

Senator HENDERSON: Well, no, because what she said was, 'The information that Optus provided to my office on 18 September was that there had been a minor outage. It affected 10 calls. It had been resolved and, most importantly, there were no adverse impacts on any person. My office sought assurance that ACMA had been informed'. I'm concerned that the minister has made a statement that's inconsistent with the evidence that you've given.

Ms Rainsford: I appreciate there might be different readings of that, but I would understand that statement to be that—and I was not watching question time today—the minister's office sought assurances from Optus that ACMA had been advised and, if that was correct, then that is consistent with us having received both the phone call at 2.42 and the later email at 3.17 on 18 September, albeit the information in that was sparse and incorrect, as has subsequently been proven.

Senator HENDERSON: So where is the information that the minister's office sought assurances from Optus on 18 September?

Ms Rainsford: We don't have visibility over that.

Senator HENDERSON: Assistant Minister, can you shed light on that? Because we've heard conflicting evidence that the minister's office only became aware of the major outage on 19 September, but what the minister for communications has said in question time today is very confusing.

Senator Green: I don't think it is confusing. I think you might be asking ACMA to comment on a conversation the minister's office may have had with Optus, but I can clear that up for you. That's not a conflicting statement.

Senator HENDERSON: Well, at the very least, it's confusing. If the minister's office sought assurance that ACMA had been informed, when did the minister seek—

Senator HANSON-YOUNG: It went out on Thursday. What date are you talking about?

Senator HENDERSON: The issue is that the reference the minister gave in question time was to 18 September, which is a Thursday.

Senator HANSON-YOUNG: Which we have been told the minister—well, we still haven't heard, actually, whether the minister knew.

Senator HENDERSON: I think you're going to take some elements of what the minister knew on notice, assistant minister, but we've now learnt—

Senator Green: We've been really clear about what the minister knew and when. She was notified of the catastrophic outage on Friday afternoon.

Senator HANSON-YOUNG: No, but her office—

Senator HENDERSON: Hang on, Senator Hanson-Young—

Senator Green: That has not changed and that did not change today during question time.

Senator HENDERSON: This is the first that we've learnt—

Senator Green: I know you're seeking to try to make those facts change, but they haven't changed. The record has been clear from the beginning.

Senator HUME: Assistant Minister, I would really be grateful if you didn't reflect on my professionalism as a senator. I'm not doing that. I'm asking about a statement that appears to be conflicting or, at the very least, confusing about what happened on the Thursday. I quote the minister:

My office sought assurance that ACMA had been informed—

the minister referenced 18 September—

ensuring that the regulator was investigating that incident ...

Do you know what happened on 18 September?

Senator Green: I'm advised that, after the email we were talking about today was provided to the minister's office, the adviser in the minister's office contacted Optus to make sure that ACMA had been notified. That was the reference made in question time today, that is what the minister said, and that is clear.

Senator HENDERSON: That's new information. We didn't—

Senator Green: No, it's not new information. She said it at 2 pm today.

Senator HENDERSON: No, in this committee it's new. And we did ask for that information on notice. I'm disappointed—

Senator HANSON-YOUNG: And you did say you'd take it away and come back.

Senator HENDERSON: That's right. You didn't bring that back to us.

Senator Green: No. I've just confirmed that because the minister made that statement today at 2 pm in question time.

Senator HENDERSON: You're only confirming it because I asked you. Someone in the minister's office—

Senator Green: I mean—

Senator HENDERSON: Hang on a minute, please. Someone in the minister's office on 18 September, after receiving these two emails, called Optus seeking assurances that ACMA had been informed. What time did that phone call occur?

Senator Green: I think I'd have to take that on notice.

Senator HENDERSON: Who in the minister's office made the phone call, and to whom did they speak at Optus?

Senator Green: No, we're not going to start naming advisers. I said to you 'an adviser'.

Senator HENDERSON: An adviser. And to whom did they speak to at Optus?

Senator Green: I can find that out for you. The main thing I wanted to advise you is that the comments that the minister made in question time today do not refer to someone in the minister's office directly contacting ACMA. You were asking ACMA whether that occurred and you said there was a conflict between those two pieces of information. I'm saying they are two very different pieces of information. I hope that that has cleared that up for you.

Senator HENDERSON: The minister said: 'My office sought assurance that ACMA had been informed.' You've now given us the information that an adviser in the minister's office called Optus. We're seeking the time of that phone call. Were there any other phone calls or communications by the minister's office on 18 September?

Senator Green: I'll take that on notice for you.

Senator HENDERSON: Was there any other correspondence? We've already heard that ACMA didn't contact the minister's office. Were there any other communications with any other entity or person on 18 September?

Senator Green: I can take that on notice. I think we've been through all of the communications that have happened on that day. The department took you through that this morning.

Senator HENDERSON: An adviser in the minister's office sought assurance from Optus that ACMA had been informed. So no-one in the minister's office attempted to call ACMA?

Senator Green: I can take that on notice for you.

Senator HENDERSON: Thank you. The assurance was that the regulator was investigating that incident. Also, the minister said in question time today that this matter had been 'resolved' and there were 'no adverse impacts on any person'. On what basis did the minister reach the conclusion that there were no adverse impacts on any person? That wasn't the advice that was received by the minister's office on that day.

Senator Green: You're confusing two very different pieces of information, I think.

Senator HENDERSON: No, I'm not.

Senator Green: Yes, I think you are.

Senator HENDERSON: No, and please don't reflect on me. I'd ask you not to do that.

CHAIR: Sorry, I'm going to step in at this point. I don't think that was a reflection on you, Senator Henderson, to be fair—

Senator Green: No, it wasn't meant to be. It is—

CHAIR: but, if the minister wants to respond to the question, she can. I didn't take that as a reflection on you.

Senator HENDERSON: Alright. This is what I'm asking. The minister said in question time today:

It had been resolved. And, most importantly, that there were no adverse impacts on any person.

We know from the two emails the minister's office received that, while it was indicated in the second email that services had returned to normal, there was no indication that there were no adverse impacts. I quote from the second email:

... each call is being worked through, and welfare checks will be made.

Senator HANSON-YOUNG: They hadn't even done the welfare checks.

Senator HENDERSON: Right, so on what basis has the minister stood up in the House today, in question time, and informed the House that there were no adverse impacts on any person and that those assurances are being sought? It's clear from the correspondence that Optus did not say that. What I'm putting to you is that the Minister for Communications has not been clear, or factually accurate—I'll be careful with my words—in relation to what she told the House in question time today.

Senator Green: That's not accurate. I don't have the transcript of question time in front of me, but, to be very clear—and we've been through this many times today—there was an incorrect notification on Thursday 18 September. It was what I would characterise as an incorrect and inaccurate notification. The minister's office received that notification. We've been through that today with the department about what was done in response to that, and why that was a failure on Optus's part to notify in that way. The minister has been clear about when she was first notified that 600 calls were impacted, and that was on Friday.

Senator HENDERSON: But the minister has told question time today that there were no adverse impacts on any person and she'd received that assurance, but the correspondence from Optus doesn't say that; it says that they're still doing welfare checks.

Senator Green: No, you're confusing two very different things.

Senator HENDERSON: No, I'm not confusing anything.

Senator Green: Yes, you are. You're suggesting that the email is the assurance that was sought, and it's not. That's not what was said today. It's not what I cleared up three minutes ago in this hearing. I said that the minister's office contacted Optus and sought those assurances verbally, and that's what she referred to in the House today. I've given you that information. I've repeated what the minister said today.

Senator HENDERSON: So Optus told the adviser that there were no adverse impacts?

Senator Green: That's what I have been advised.

Senator HENDERSON: That is a direct contradiction—

Senator Green: No, it's not. That's exactly what—

Senator HENDERSON: in terms of what Optus has said, because Optus is saying here, in the correspondence—

Senator Green: No, they're two very different pieces of information.

Senator HENDERSON: No, they're not.

Senator Green: Yes, they are.

Senator HENDERSON: Optus is saying that they're doing welfare checks, and you're now saying that Optus advised the minister's adviser that there were no adverse impacts on any person. The two don't sit side by side.

Senator Green: Not for you, Senator, but that's because you're confusing two pieces of information.

Senator HENDERSON: No, there are two pieces of contradictory information. Optus has clearly said they were doing welfare checks, so they did not rule out that everyone was okay. And now we're getting this information from you and through the minister in question time, where she's saying that Optus said there were no adverse impacts on any person. So who is right: either Optus in its advice in the two emails or Optus in the communication to the ministerial adviser?

Senator Green: The minister is right, because that's the evidence she gave to the House today—

Senator HENDERSON: But the minister knows, because of these emails, they were still doing welfare checks. At 2.52 pm and at 2.45 pm those two emails make it clear that Optus was undertaking welfare checks and they could not rule out that there were adverse impacts on anyone.

Senator Green: I know this is really difficult for you to understand—

Senator HENDERSON: No—

Senator Green: but there was an email which was followed up with a call.

Senator HANSON-YOUNG: Did the call contradict the email?

Senator HENDERSON: The telephone call that the minister speaks about from Optus to her adviser contradicts this email.

Senator Green: No. No, and I'm not going to let you—

Senator HENDERSON: But there were adverse impacts on people.

Senator Green: confuse the two issues. We've been very clear about what has happened here—

Senator HENDERSON: The two things do not correlate.

Senator Green: and we've even given you more information throughout the day. For any other information I can take it on notice for you, but—

Senator HENDERSON: I would ask that you would reconcile—

Senator Green: No.

Senator HENDERSON: and on notice, could you please provide to this committee how these emails say that welfare checks are being undertaken and yet the minister, in question time today, has said that she was advised—and you're now clarifying it was by Optus to her adviser—that there were no adverse impacts on any person?

Senator Green: The call followed the email. The end.

Senator HENDERSON: But the call was wrong.

CHAIR: Senators!

Senator HENDERSON: People died, Minister.

CHAIR: Senators! Senator, when I am speaking, please just respect that call for a moment. I have been reluctant to interrupt in this exchange because I appreciate the need to ask questions and to answer them. I think this ground has been trod equally on both sides.

Senator HENDERSON: Can I just finish off?

CHAIR: I don't think we're going to get an agreement here, but if there is a question that needs—

Senator HENDERSON: There is a question.

CHAIR: You just ask the question.

Senator HENDERSON: Can I please ask on notice for the file note of that telephone conversation between the ministerial adviser and Optus.

Senator Green: What I will say, and what I think has been clear through the evidence that has come out over the last two weeks, is that Optus has not been clear or accurate in the information that they have given, and I don't think that we can assume that the email or call was correct. But what the minister has said is correct about the information she received. She has provided that information not just over a series of press conferences over the past two weeks but again in question time today just to clarify for you that there was an email and then a call. And, if the information that was given was incorrect, then that again—surprise, surprise—is on Optus because they have constantly failed to provide the right information to the right people at the right time. That's why we are talking about this today.

Senator HENDERSON: Okay. So given the advice in the emails that the welfare checks were being undertaken, and then given the subsequent phone call that there were no adverse impacts, why didn't the minister or her office contact ACMA directly?

Senator Green: The minister's office sought an assurance that ACMA had been contacted. I can take on notice if there's any other information about whether there was—I don't know and I don't want to speculate about whether that contact or an attempt to make that contact was made or not.

Senator HANSON-YOUNG: We know from ACMA that contact wasn't made.

Senator HENDERSON: Yes, that is right. ACMA has just given evidence that there was no contact made by the minister's—

Senator Green: I will take the question on notice—I have done throughout the day—about what other conversations happened that day and whether they were with the department or not.

Senator HANSON-YOUNG: I have one follow-up on notice.

CHAIR: Are you finished now, Senator Henderson?

Senator HENDERSON: I won't give you that guarantee, but I'll defer to Senator Hanson-Young just based on what the response is.

Senator HANSON-YOUNG: We know that the minister's office didn't contact ACMA to find out what was going on; they took the evidence or took the assurance of Optus. I am wondering whether the minister or the minister's office, on the Thursday, contacted the department in any way—phone call, email, text message—to say: 'We've got this email from Optus. There has been a triple 0 outage. They say that no-one has been hurt.' Was there any forwarding of that information to anybody outside of the minister's office?

Senator Green: I'll take that on notice for you, Senator.

Senator HENDERSON: And, just as a clarification, was ACMA informed by Optus on 18 September that there were no adverse impacts in relation to this outage?

Ms O'Loughlin: I don't believe so.

Ms Rainsford: I don't believe so.

Ms O'Loughlin: But emails that you have and the emails that we got are quite different, and therefore that's going to be the core part of our investigation—to try and untangle what Optus was doing, what it knew, who it was telling. That will be core to the investigation, including the advice they've given to us, NEMA, the TIO, the emergency call person—the whole lot.

Senator HENDERSON: Could we please have on notice all of the correspondence between ACMA and Optus. We've already asked for those emails on notice. Just to be clear, ACMA was not informed by Optus that there were no adverse impacts?

Ms O'Loughlin: I think I'd have to—

Ms Rainsford: I think that will come out through what we see, but I'm not aware that they were told that, no.

Senator HENDERSON: You are not aware that they were told that?

Ms Rainsford: No.

Senator HANSON-YOUNG: But what we do know is that triple 0 calls had failed. ACMA knew that, and so did the minister's office on Thursday afternoon.

Ms O'Loughlin: We've said that.

Senator HANSON-YOUNG: Yes. The minister's office knew on Thursday afternoon—

Ms O'Loughlin: That's a matter for the minister's office. I can just assure you that we had two very brief e-mails indicating that there had been a problem that had been resolved.

CHAIR: At this point, we will excuse ACMA. Thank you very much for your assistance today and your answers. You've taken a number of questions on notice, and we appreciate the expeditious response to those.

Australian Broadcasting Corporation

[17:59]

CHAIR: Welcome. Mr Marks, I note that this is your first time appearing at estimates since assuming this role, so I wish you all the best in the experience. I would ask if you want to make an opening statement, but, as I've said to every witness who has appeared before this committee, the shorter the better, from my perspective.

Mr Marks: I've, I think, provided our opening statement to the committee for your purposes to read, to save a bit of time.

CHAIR: We'll have the opening statement circulated; thank you very much. Senator Hanson-Young, I was going to come to you if you have questions, but, if you don't, I'm happy to go to the coalition.

Senator HANSON-YOUNG: I do have questions. Welcome, Mr Marks. Thank you for being here, and congratulations on the appointment.

Mr Marks: Thanks, Senator.

Senator HANSON-YOUNG: I want to ask about what's happened with the ABC since Donald Trump attacked one of your journalists. Obviously, we know that Donald Trump took aim at John Lyons, who was asking questions of him, at a doorstep some weeks ago and then continued to abuse him online. Donald Trump then banned the ABC, both in the US and in the UK, from attending his press conferences. Were you informed that the ABC had been banned from the president's press conferences?

Mr Marks: I'll ask Mr Fang whether he's got any update on this in a minute. My understanding is that the ABC hasn't been banned in what I would call, maybe, an unusual way from attending events or press conferences. There was one event that occurred in the UK where, I think, when I asked the question of whether that was unusual or usual, the response was that it may have been appropriate that we weren't at that particular event. Obviously, with Mr Lyons we took due steps to ensure that he was in a safe position, that he felt okay. Mr Lyons is a very experienced journalist over many years, and I think he's a big boy; he handled the situation particularly well. I don't know if there's anything to add, Mr Fang.

Mr Fang: No, nothing to add. There have been no other issues that we're aware of.

Senator HANSON-YOUNG: Have there been any complaints from the president's press office to the ABC about Mr Lyons or any other ABC journalist?

Mr Marks: Not that I'm aware of.

Mr Fang: Not that I'm aware of.

Senator HANSON-YOUNG: So you haven't reached out to the US President's press office in relation to the matter?

Mr Marks: I think, again, there's been nothing that's caused us to have any particular alarm, so they're not questions that we've invited.

Senator HANSON-YOUNG: Do you think there was anything wrong in the questions that John Lyons was asking of the president?

Mr Marks: No. I think Mr Lyons's questions were appropriate, particularly for someone of the president's status and import. I think they were fair questions to be asked, and our journalism requires the ABC, in particular, to continue to ask the questions that are important. So, no, I don't feel there was any issue in his line of questioning.

Senator HANSON-YOUNG: Did you receive any communication from any Australian government ministers or their offices in relation to this altercation that Mr Lyons had with President Trump?

Mr Marks: Not that I'm aware of.

Mr Fang: No, not that I'm aware of.

Senator HANSON-YOUNG: So, despite Donald Trump suggesting that Mr Lyons had hurt Australia, no minister here in Australia either jumped to his defence or defended the president?

Mr Marks: Again, I feel that people would understand Mr Lyons's reputation and understand the context. I can't talk for them. But, no, we've had no inquiry or concern expressed to us that I'm aware of.

Senator HANSON-YOUNG: Have any members of ABC staff raised this incident with you? Are there any concerns of a kind of chill factor? Is anybody feeling as though they can't ask tough questions of politicians?

Mr Marks: Again—no, I am not aware of any such concerns.

Senator HANSON-YOUNG: Did the ABC travel with the Prime Minister and the press pack when the Prime Minister recently went to the United States?

Mr Marks: Mr Fang, you might have more details on that than I do.

Mr Fang: I'm not aware of the specifics of how we travelled. We obviously were covering the story, and we could take it on notice to check with our news division about what the travel arrangements were.

Senator HANSON-YOUNG: Are you aware of any briefing to journalists about how they should behave on that trip?

Mr Fang: Not that I'm aware of.

Senator HANSON-YOUNG: Are you aware of any ABC journalist being contacted by US officers or anyone in DFAT about their questions or interactions while reporting in the US?

Mr Fang: No, I'm not.

Senator HANSON-YOUNG: I've got lots of other questions, but I'm happy to hand over to my colleague.

CHAIR: Senator Faruqi.

Senator FARUQI: Thank you for being here to answer our questions. I just want to go to the Lattouf case. Since the findings of the Lattouf case, has the ABC determined how many formal warnings or directions were given to journalists in other instances after lobbyists contacted the ABC's board or senior management?

Mr Marks: I'm not sure whether that piece of work has been asked to be done. Obviously there is much history, which we would need to look at to really have a full answer on that particular question. I'm not sure if that work has been done, Mr Fang. Obviously there are instances of things that we would be aware of, of previous issues being raised. But I don't know that that's been consolidated into a piece of work.

Mr Fang: Not that I'm aware of. I'm not sure we would record that type of information. If I understand your question correctly.

Senator FARUQI: So how can the ABC say that firing Ms Lattouf was a single inadvertent mistake if you haven't really done that work and if you don't know if there are other instances of lobbyists who may have contacted the ABC board or senior management to intervene, to warn and to give directions? How can the ABC say that?

Mr Fang: Well, I think the case that you're referring to was a pretty specific case. I wasn't suggesting that we have not done any work in relation to what the impact of that was. As you know, there was a very particular set of circumstances around this case. It has played out, and we have heard all the details through a court process, which has uncovered what occurred in this particular instance.

Senator FARUQI: Mr Fang, I know that. The ABC has said that it was a single inadvertent mistake, and I am asking you if you have done any investigation to see if other mistakes like that have been made before. You've said there has been no investigation on whether lobbyists had contacted the ABC and whether there had been formal warnings and directions given at their behest. Are you planning to do this work?

Mr Fang: I certainly haven't done that work. It's not something that we would be intending to do or that we have planned to do.

Senator FARUQI: So how can the public then believe something like this hasn't happened before?

Mr Fang: As I said, this was a pretty specific case. I'm not sure how we would go back and assess other instances for the types of issues that you are speaking about. I think we've explained, through the court process and in previous public statements, what occurred in relation to this case, and we've assured the public that we've looked at it, that we have taken the lessons from the judgement and that we will work to prevent it happening again.

Senator FARUQI: The ABC, if I'm correct, dumped its social media policy a little bit after the Lattouf findings came down; I think it was after a few hours. But the ABC also says that dumping the policy was completely unrelated to the findings. Did the ABC receive any advice that its old social media policy, and the way it was enforced for the last two years, was unlawful?

Mr Marks: I think when I started at the ABC, seeing what had happened in relation to that social media policy, it was one of the things, early on in my tenure, that I asked Mr Fang, in particular, to have a look at: whether the social media policy was the right policy for the organisation going forward. And I think, as you can appreciate, broadening the policy in many ways to make sure that it's a public comment policy and not specific to social media was one of the actions that I thought was appropriate to take.

One of the other things that I thought was important—and this is partly informed by my experiences in working on the other side, by being a supplier to the ABC—was an awareness that in many cases it had maybe an unintended consequence of being overly restrictive on certain numbers of employees. So, trying to build some sort of graduation into the policy that recognised that some people needed to have a different standard or a different level of expectation to other workers for the ABC was important. I asked Mr Fang to have a look at that. Obviously given the case that was running with Ms Lattouf we felt it was inappropriate to change policies mid-case, and the fact that it had some implications in terms of the court proceedings. So, whilst that work went on we thought we could release that work really only on the completion of the matter with Ms Lattouf.

Senator FARUQI: So you didn't get any advice or receive any advice that your old social media policy was unlawful in the way it was enforced?

Mr Marks: I'm not aware of advice of that nature. I think when the new public comment guidelines were being discussed—and obviously we were taking advice in relation to the implications of the decision in the Lattouf matter, as to the implications for the ABC—we sought advice from external lawyers in relation to that. Part of that advice was asking those lawyers to look—not in a formal way and not in a formal piece of advice—at the new proposed

public comment guidelines to consider whether they were appropriate for an organisation such as the ABC, and the verbal assurance was that they were appropriate for an organisation such as the ABC.

Senator FARUQI: These were the new guidelines, not the old ones?

Mr Marks: The new guidelines.

Senator FARUQI: Do you know whether any such advice given under the old guidelines was unlawful—whether the way the guidelines were enforced was unlawful?

Mr Fang: No, nothing more than what the managing director said.

Senator FARUQI: Mr Marks, you have said that you have given clarity to the board about their roles. And after so many cases of board interference in the ABC that have been publicly reported have been exposed, has the ABC board formalised known interference in its code of conduct?

Mr Marks: Thanks for the question. I do feel that the respective responsibilities of the board and management are well set out in the ABC Act, which does create real clarity between what the two responsibilities are. To me, in arriving at the ABC, it was clear that, with some of the things that have happened in the past, it was important that we talk about the implications and the application of those provisions in the act. I can assure you that as a board and as management we are as one and in unity in our views of how that is to be applied, which is that the operations of the ABC are to be undertaken by management under the governance and supervision of the board.

Senator FARUQI: But just providing or having a conversation about clarity doesn't really enshrine the code of conduct and the charter. What's to stop the chair or the board members from contacting journalists or managers with their editorial opinions? That has happened in the past.

Mr Marks: Yes. I think we have been very clear that the provisions in the act, which point out well and succinctly the difference between the two different responsibilities, and of course it's in the application of those provisions. I guess if those were concerns that were going to continue, that would be raised with me by some of my team, and I would be raising that as not the right course of conduct on behalf of the board.

Senator FARUQI: In a story published this year it was reported that, while he was a member of ABC staff, Elahn Zetlin campaigned on behalf of the lobby group Advance Australia, which is a racist lobby group, against the Greens in the Prahran by-election in February. Were managers aware of this at the time?

Mr Marks: I'll ask Mr Fang to respond to that in a minute. He might have more information on that particular instance than I do. But I'm not aware of that particular story, unfortunately.

Mr Fang: Senator, would you mind repeating the question?

Senator FARUQI: A member of the ABC staff, Mr Zetlin, campaigned on behalf of the lobby group Advance Australia against the Greens in the Prahran by-election in February. I'm asking if managers were aware of this at the time.

Mr Fang: I'm not sure about that. I'd have to take that on notice.

Senator FARUQI: Why I'm asking is that Ms Lattouf was fired after sharing a factual report, while Mr Zetlin was actively campaigning in an election. It seems like there was different treatment to both these journalists.

Senator HENDERSON: Point of order, Chair. Senator Faruqi has made some adverse reflections on both an organisation and a former employee of the ABC. Apart from providing a right of reply to that company and those individuals, I am concerned about the reflections on that former employee and the suggestion that this former employee was sacked. I would ask Senator Faruqi to provide evidence that that actually did occur.

Senator FARUQI: Ms Lattouf was fired. There's a whole court case.

Senator HENDERSON: Sorry, I thought you said 'Mr Zetlin'.

Senator FARUQI: I'm asking about Mr Zetlin—about whether the managers at ABC were aware that he was campaigning on behalf of a group called Advance Australia. Given numerous journalists have been given warnings about social media posts expressing sympathy with Palestinians, I'm a bit flabbergasted at how a member of staff can be campaigning—not posting, campaigning—and ABC management seem to be unaware of it.

Mr Fang: As I've said, I'll take it on notice. I'll need to check with the news division about what they knew about that. As to your other comment about many members of ABC staff having been—did you say 'disciplined'?

Senator FARUQI: No, I did not say 'disciplined'. I said they have been given warnings about social media posts expressing sympathy with Palestinians. Is that incorrect? Not one of your journalist staff have been warned about Palestinians posts?

Mr Fang: I don't know about specific cases, and I wouldn't speak about that anyway. What I would say is we have a legislative obligation around impartiality, and we've got clear policies around our independents and our integrity, and we need to uphold those for all our staff, particularly our journalist that are reporting on issues like what you have referred to.

Senator FARUQI: If you could, take those questions on notice.

CHAIR: Senator Faruqi, we've now reached the end of the session. We will break for dinner, and, on our return, I will return the call to the coalition.

Senator Green: Chair, before we go to the break, I appreciate the very difficult position you're in, but I do feel like I need to draw to the committee's attention that, when we come back from the break, we'll have less than four hours until our hearing is closed, and we have 11 agencies and two outcomes that haven't been dismissed. I'll ask your colleagues to have a conversation. We have departments and officials and agencies that clearly will not be called tonight.

CHAIR: Thank you. We're suspended.

Proceedings suspended from 18:18 to 19:03

CHAIR: I hand the call over to Senator Nampijinpa Price.

Senator NAMPIJINPA PRICE: Thank you for your contributions tonight. My first question that I would like to talk about is the ABC charter that requires the corporation 'to provide within Australia comprehensive broadcasting services of a high standard' and for the board 'to ensure that the gathering and presentation by the corporation of news and information is accurate and impartial according to the recognised standards of objective journalism'. The ABC's editorial policies also stress the need for accuracy, including making 'reasonable efforts to ensure that material facts are accurate and presented in context' and avoiding presenting content 'in a way that will materially mislead the audience'; impartiality, including 'a balance that follows the weight of evidence'; fairness, including avoiding misrepresenting a person's or organisation's views; and objectivity, including exploring all possible explanations and narratives to issues or events. With the charter and editorial policies in mind, I want to ask about its coverage of a number of issues.

Firstly, on Monday 22 September, footage emerged of Hamas executing three Palestinian men that Hamas accused of being Israeli collaborators. This occurred around the same time that Prime Minister Albanese delivered his address to the UN General Assembly stating that Australia would recognise the State of Palestine. On Sky News's *The Kenny Report* on Tuesday 23 September, Kenny noted that 'while the ABC gave blanket coverage of Albanese and Wong in New York, we have found no coverage of these real events in Gaza on the ABC website'. I've also done a bit of research for ABC's coverage of this story, and I haven't found anything. I'm happy to stand corrected if that's not the case, but it appears as though these events weren't widely covered by the ABC, and I'd like to understand why that's the case.

Mr Marks: I think, understanding all that you've just said about our obligations as set out in the act and the charter, the particular conflict is an area that has caused, obviously, much difficulty not only for media but generally. Our coverage has been extensive over the two years of the conflict across multiple channels—television, audio, our digital properties et cetera. I can't talk to every editorial decision that gets made in the context of that coverage, and Mr Fang might have some additions on this, but I think we can be incredibly proud of our coverage and the quality and extensiveness of it and the fact that, in that volume of coverage, generally and subject to the policies and the reporting and complaints mechanisms we have, the ABC's coverage has not been found, other than on rare factual accuracies, to be lacking. That's something I am so proud of—our teams and our ability.

On the particular story you referred to in terms of Mr Kenny, I'm not aware of that particular story. I'm not aware of the decision that was made to cover or not cover that particular issue. Obviously, I don't have any doubt that the ABC has covered the atrocities of Hamas and how they operate. I don't think our audience would be in any doubt about that, and, as I said, I think we can be incredibly proud of the extensive and comprehensive coverage. Mr Fang, do you have anything that you want to add to that particular answer?

Mr Fang: Only to reiterate what you have said. With regard to those two particular examples that you stated, clearly, the coverage of the Australian government's recognition of the State of Palestine is an important story. I'm not aware of the coverage of the other example that you spoke to, but, as the managing director said, we have extensively covered this conflict over the past two years, including covering not just the atrocities committed by Hamas on October 7 but also, in particular, retribution by Hamas on citizens in Gaza itself, and so we have extensively covered this story over a long period of time in a way that has provided accurate coverage to the Australian audience.

Senator NAMPIJINPA PRICE: I find this a pretty significant occurrence—that Hamas executes three Gazans. It obviously wasn't just reported in Sky News but across other media outlets as well. Does the ABC not consider this particular event to be serious enough, given it coincided with the fact that our very prime minister was recognising the State of Palestine at that time? Was there a deliberate view to ignore it? Perhaps you can find out or take on notice why this particular issue wasn't covered. I think it was quite significant at that particular time. The fact that Gazans are being executed—there's been broad coverage, obviously, of the way in which Israel have conducted their fight against Hamas, against terrorism, and the loss of life by Gazans, but, when it came to Gazans lives being taken by Hamas, why wasn't this as important?

Mr Fang: Again, it sounds like it's a significant story. I'm not aware of how we covered it or not. I think it is difficult to cover stories on the ground in Gaza, as you know, because of the inability to get journalists in. So, from time to time, we cover stories in different ways—

Senator NAMPIJINPA PRICE: But, if this is already understood in the media as well, why didn't the ABC choose to pick up as well? If other outlets were able to report on it, why then would the ABC then not be able to, despite the difficulty? If other outlets could do that, why didn't our national broadcaster do the same thing?

Mr Fang: As I said, I'm not aware of whether or not or how we might have covered this story. I just wanted to, I suppose, make the point that we have covered extensively, and previously, the conduct of Hamas.

Senator NAMPIJINPA PRICE: Okay, can I get that on notice please, because I think that now, in terms of social cohesion in our own country, we're seeing a lot of support for Hamas. We've seen, just this week, 'glory to Hamas' in the main street in Melbourne. I would have thought that it would have been important to cover all aspects of the conduct of a terrorist organisation that is being glorified now in our country. It would be a huge missed opportunity not to cover this so that the Australian public can be truly informed on the conduct of a terrorist organisation that is gaining support and creating more division than unity in our country. I think it's the responsibility of the ABC to be able to do that effectively. Can I please get on notice exactly why this specific story was not covered by the ABC?

Mr Fang: We can certainly look into it.

Senator NAMPIJINPA PRICE: Thank you. In recent weeks, the Northern Territory community has been rocked by a series of sentencing decisions—the Jake Danby hit-and-run case, where a man killed a pedestrian and mocked the victims; the case of a baby in Alice Springs, whose skull was fractured during a home invasion; and the rape of a 13-year-old girl under a so-called traditional law marriage arrangement. Together, these cases sparked public outrage and led the territory government to announce a review of the Sentencing Act. Outlets such as *NT News* and Sky News reported them side-by-side, as part of the same crisis of confidence in the justice system.

The ABC, however, reported only the Danby case in isolation, without reference to other cases that prompted the review. So I suppose that raises questions about editorial choices, once again, and consistency with the ABC's charter. Why did the ABC's reporting of the Jake Danby hit-and-run sentencing not mention the other cases, which were also part of the same public outrage which triggered the sentencing review—such as the rape of a 13-year-old girl by a male through so-called traditional law, or the baby's skull fracture, which were both reported by other outlets, once more. Does the ABC consider these cases less relevant for its national audience, and, if so, why?

Mr Fang: Look, I'm sorry again, Senator. I'm not aware of all of those cases; we'd have to look into how we covered them. But I wouldn't agree with the idea that we don't consider these to be important issues and that we don't cover them. I'd have to follow up to find out exactly what our coverage has been.

Senator NAMPIJINPA PRICE: I'd really like to understand that as a Warlpiri woman from the Northern Territory. Looking at these cases side-by-side, in the Jake Danby hit-and-run case, Jake Danby was a Territorian of Caucasian heritage—let's put it that way—and the hit-and-run victim was Indigenous. The other cases involved perpetrators who are Indigenous. Is there a reluctance from the ABC to appropriately report on these specific issues, especially when it comes to customary law? I've been questioned by many journalists on the validity of young girls being promised off in marriage under traditional law. Does the ABC have an attitude of not liking to paint Indigenous Australians or culture in a bad light? Is that some sort of grey area that the ABC chooses not to go near?

Mr Fang: Sorry, again, I'm not aware of all of those cases and what we have done to cover them, but I would have to, respectfully, disagree with you on the idea that we are not looking to cover all of the issues that relate to Indigenous Australians, including in the Northern Territory, and including issues around crime and justice. We've extensively covered issues, and we have a very significant editorial presence in the Northern Territory—more than other media organisations—in both Darwin and Alice Springs, and we also have specialist reporting teams that are looking at issues across the country around some of these issues.

Senator NAMPIJINPA PRICE: I suggest that you look a lot harder and pay more attention, because it looks to me as though there's been some very selective reporting taking place. How is this consistent with your charter obligations to provide context and avoid misleading by omission?

Mr Marks: I think, as Mr Fang said, our teams in the Northern Territory are extensive. It is, in fact, of some concern that, in many areas, we are increasingly becoming the last major presence, so the issues you raise are very important.

Senator NAMPIJINPA PRICE: You're the last major presence, I understand that, but Sky News and *NT News* have a pretty significant presence. You are the taxpayer-funded national broadcaster, yet you can't even pick up on the fact that a baby's skull has been fractured and a 13-year-old girl—she's Indigenous, right; she's part of our most marginalised group of Australians—was raped under traditional customary law, was married off and is pregnant. How is this not a significant issue when it comes to the rights of women and girls in this country and of the most marginalised in this country? Why does it not even get a mention?

Mr Marks: I guess I would have to understand where that information came to be, who that information was provided to and whether our teams were aware of the information.

Senator NAMPIJINPA PRICE: Of course they were aware. This is the Northern Territory. If they weren't aware—

CHAIR: I appreciate we've had a long day here, but my practice is to permit the witnesses to answer and the senators to ask their questions.

Senator NAMPIJINPA PRICE: It's a very dissatisfying answer. It's very flippant.

CHAIR: I appreciate these are matters about which people care deeply, but I would appreciate if you would allow the managing director to answer, and then you can ask the follow-up question.

Mr Marks: I don't feel that my response was flippant. In the absence of our understanding around this table of the particular issues that you're raising, we would have to look into why there may or may not have been editorial decisions not to cover those matters. As I said, they're very serious matters. The things occurring in those communities are extremely serious, and we should be covering them with all due care and responsibility. There is certainly no understanding in the ABC that we're not, in any way, going to report on issues of the nature that you're raising.

Senator NAMPIJINPA PRICE: I find that you're failing your responsibility to the Australian people and certainly to the 13-year-old and the baby in this matter, who are Australian citizens. You don't have any answers right now, and I'm sure the Australian people would like an answer to this question, so could you please take on notice exactly why these very important issues were not brought to the attention of the Australian people. Because I have personally experienced, in my immediate family, the treatment of women through traditional and customary law, and it seems to be an issue that the ABC broadcaster and further afield like to ignore: the impacts of traditional culture on the lives of our most vulnerable Australians.

If colonisation was to blame I'm sure the ABC would be on the front foot with this specific issue, if you could frame it in such a way. Unfortunately, it doesn't seem you could frame it that way. I would like, for the benefit of this committee and the Australian people and the baby and the 13-year-old, if you could provide an answer at some stage as to why—I don't think you could argue that there was no awareness of this, otherwise why are you paying your journalists taxpayer dollars in a salary if they're failing in their job to report on such important matters relating to our most marginalised people in this country. Please, at some point, provide an answer. I would very much appreciate that.

Mr Marks: No problem.

Senator NAMPIJINPA PRICE: I'd like to return to the ABC's reporting of Charlie Kirk's assassination around 12.30 pm on 10 September in Utah, which was about 4.30 am on 11 September in Australia. Columnist Gerard Henderson, who used to have a regular spot on *Insiders*, rightly described the event as one of the most significant assassinations in American history. The event was widely covered by Australian media, but Mr Henderson pointed out that the ABC's flagship current affairs 7.30 program made no mention of this assassination on the program on the night of 11 September. There were about 15 hours between the assassination that occurred and the airing of the 7.30 program. Is that not sufficient time to prepare even a mention of the event by Sarah Ferguson in her opening editorial?

Mr Marks: I can only imagine that, in the particular case you're talking about, the assassination was widely covered on the ABC across our television, audio and digital services extensively. There would have been no doubt in any audience member's mind as to the events and the seriousness of them. Should every particular program cover

a particular matter? No; that's not the way our coverage works. Our coverage is to be balanced across the entire day and across all of our channels and opportunities. Why 7.30 didn't cover it on that particular night would, again, be an editorial decision that we do not necessarily have an ability to respond to you about at this minute. I don't think that you can, in any way, say that the matter wasn't covered extensively across the services of the ABC.

Senator NAMPIJINPA PRICE: I suppose if you could get that on notice, I'd appreciate it. The program covered an interview with the OECD Secretary-General Mathias Cormann, and there was coverage of the Starmer Labor government in Britain plus youth crime in Melbourne. There was also a story on building prosthetics. Why wasn't another item from the show held over for another program? Could you find out that?

Mr Marks: Sure. The answer would be that the 7.30 program requires certain sorts of material to be available or a story to be available or an interview guest to be available for that particular program. I can only assume—again, I don't know—as to why that wasn't the case on that particular night. I think the 7.30 program has subsequently covered that particular assassination, and I'll come back to the fact that across the entirety of the ABC's services it was a matter that was covered extensively.

Senator NAMPIJINPA PRICE: So—

CHAIR: Senator Nampijinpa Price, I'm just giving you a one-minute warning.

Senator NAMPIJINPA PRICE: No worries, thank you. One of the articles that did mention it stated:

But as younger voters shifted right in 2024 and Mr Trump ran up a five-point margin of victory in Arizona, Mr Kirk and his allies claimed vindication of his view of a sharp-elbowed, culture-war oriented conservatism.

What does the ABC define as 'sharp-elbowed, culture-war oriented conservatism'?

Mr Fang: I'm sorry, I don't know the particular story that you're referring to. If you have it, it would be helpful. But I think that, across the breadth of the coverage about this event, we covered a wide variety of perspectives.

Senator NAMPIJINPA PRICE: Can I ask one more quick question. What does the ABC constitute as 'far right views'? Can you answer me that one?

Mr Fang: Again, I'm not sure what you're referring to there in particular, but across our coverage we covered a variety of perspectives and a variety of people.

Senator NAMPIJINPA PRICE: Mr Kirk was referred to as a far right advocate, so what would constitute far right views for the ABC? Can you get that on notice for me, please?

Mr Fang: Again, we cover a variety of perspectives, and we attribute and quote from people about their views on these issues and on people and their impact and their views. I'm not sure entirely which story you are referring to, but across—

Senator NAMPIJINPA PRICE: I'll get that for you, and I'll also get the article where Josh Lees from the Palestine Action Group is referred to as an 'organiser' and a 'spokesperson'. I'd like the ABC to outline why the term 'activist' is used selectively here as well. He is referred to as an activist but does not have any far left extremist views, according to the ABC. I will table that. In the interests of time and in passing the call, if you could please provide that on notice, I would appreciate that as well.

CHAIR: Senator Faruqi.

Senator FARUQI: I have a few more questions for the ABC. Mr Fang, at an earlier estimates hearing—I think it was in November 2024—you told me that you did not know if any Palestinians, Arabs or Muslims sat on your Middle East advisory panel. I think it was the Middle East guidance panel that you referred to, and you didn't know the cultural make-up of the panel either. Can you provide me with an update on who sits on that panel?

Mr Fang: Sorry, I don't recall that question or that conversation. After the events of October 7, the ABC put together a panel to help provide staff with assistance and guidance around covering the war and the atrocities of October 7. A variety of editorial leaders were part of that, but we also took soundings from a lot of staff across the organisation, and a wide variety of ABC staff contributed to that. I'm not sure what you were referring to in the previous example.

Senator FARUQI: You said:

We have a Middle Eastern guidance, as you have indicated. It involves a panel which is led by me. It has representatives from the editorial policies team ...

So I asked you if there were a diversity of voices on it, if there were, perhaps, any Middle Eastern people, Muslims, Arabs, on that. You said you didn't know the cultural make-up. So I'm asking you now, because it is relevant. If people are providing advice on the Middle East, there should be people who might have a background from there. What cultural diversity do you have in that panel?

Mr Fang: I think what I probably referred to, at the time, was that the panel was constituted of expert editorial leaders that were providing advice but we spoke to staff and we took soundings from a variety of people across the organisation. We don't continue to constitute that type of panel. Our editorial guidance is done in the normal way, through my team and through speaking with the news team and others.

Senator FARUQI: The panel doesn't exist anymore?

Mr Fang: That's correct.

Senator FARUQI: You still don't know what the make-up of the panel was, I guess?

Mr Fang: I know who was on that part of the panel.

Senator FARUQI: They didn't have any Arabs, Palestinians, Muslims, Middle Eastern people, on it.

Mr Fang: The Middle East guidance panel—the small panel, I suppose I'd refer to it—was made up of editorial experts but, as I've said, we spoke to many different staff. I couldn't detail for you here all of the staff or all of their cultural backgrounds.

Senator FARUQI: Could you update me on your board and tell me how many people of colour and First Nations people are on the ABC board, as it stands now?

Mr Marks: In terms of the make-up of the board, I'm certainly not aware of anyone of a First Nations background or anyone of colour who's currently on the ABC board.

Senator FARUQI: Do you think that's a problem?

Mr Marks: Again, that's probably a matter for the government to respond to. The board is at the discretion of the minister and it's not something that the ABC is actively involved in the recruitment of.

Senator FARUQI: You are on the board. You are the managing director. You must have seen the Janke report, which recommends that the ABC improve diversity of representation in management and leadership. So perhaps you can tell me, in the ABC leadership team—which is on your website and says, 'Meet the ABC leadership team'—how many First Nations people and people of colour are on that leadership team?

Mr Marks: Ms Williams is here, today, sitting on my right. Ms Williams, in the last six months, was appointed as the director of First Nations strategy. Ms Williams has a team that she is working with to develop a response to the *Listen Loudly, Act Strongly* report, which we published to staff in an update the other day. I'm also working with Ms Williams, actively, on the development of leadership capacity across the ABC, to ensure that we do have leaders that reflect a diversity of nation. I'll ask Ms Williams to respond more broadly.

Senator FARUQI: Sure. Maybe you could answer, Ms Williams. And, Mr Marks, you still haven't answered my question. I know Ms Williams is on the leadership team.

Mr Marks: I'm sorry.

Senator FARUQI: How many other people of colour or First Nations people are on the leadership team?

Mr Marks: On the leadership team, there is certainly one person of a heritage from, I guess, an Egyptian background, and Ms Williams, who's from a First Nations background, so that's fairly substantive representation on the leadership team.

Senator FARUQI: Is it? Out of 13 people on the leadership team there are two: a First Nations person and a person of colour. You call that substantive, given the problems the ABC has had with racism?

Mr Marks: They both have significant voices on the team and large representations, given their ability to influence those issues, and it's a substantive increase from where we were.

Senator FARUQI: Two out of 13, you think, is a large representation?

Mr Marks: One of the things that I'm keen to do as part of my time at the ABC is to ensure that we really spend time on developing the leadership skills of a diverse group of individuals who can step into successful roles on the leadership team, to ensure that the matters that you're addressing are well represented on the leadership of the ABC and—

Senator FARUQI: So people of colour don't have leadership skills? You can't find any person of colour or other First Nations people with leadership skills?

Mr Marks: I'm not saying that they don't, but I think there is opportunity for us to spend more time developing those skills, because, as you would rightly know, when there are people of position and influence, that's when you get real change. That is a core objective that we are working actively on right now, and, Ms Williams, you might want to respond to some of the work that you're doing.

Ms Williams: Senator, we are embarking on a raft of actions under the ABC's implementation framework for the *Listen loudly, act strongly* report. There are a raft of initiatives in there around increasing First Nations representation in the more senior bands across the ABC. Data shows that a greater number of First Nations employees are in the lower salary bands, so that is our focus for the new 2025-2027 ABC Indigenous employment strategy. We are working closely with People and Culture, who are also running a leadership program identifying leaders to move into executive roles.

Senator FARUQI: Do you also have, Mr Marks, a strategy for culturally and racially marginalised communities, or 'negatively racialised', as the National Anti-Racism Framework calls it?

Mr Marks: We do have very specific policies about ensuring representation of culturally and linguistically diverse people.

Senator FARUQI: That's an outdated term, though, Mr Marks. That's not really used anymore. But it isn't really helping you achieve anything at the senior level, is it?

Mr Marks: I'm not sure. We're just talking about one particular group of diversity. There is other diverse representation on the leadership team. So it may not be from a particular diverse group, but there is other representation. When you look at the statistics—I'm not sure, but maybe, Mrs Kleyn, you know the answer to this question.

Senator FARUQI: I'm particularly asking about racially marginalised communities because there was a whole review done because of issues of racism within the ABC. I might just leave it at that and put some questions on notice. I've got one last question. In response to the Janke review, the ABC committed to providing antiracism training to all staff. How far along are you with the rolling out of that training?

Mr Marks: I'll let Ms Williams respond to that.

Ms Williams: We have rolled out the antiracism training. We drew on the Australian Human Rights Commission's e-training modules, and we made it compulsory for all Australian Broadcasting Corporation employees, and 90 per cent of our staff have completed that training to date.

Senator FARUQI: So there is some movement, at least.

Ms Williams: Yes.

Senator FARUQI: Thanks very much.

CHAIR: I'm going to turn to the coalition. Senator Henderson or McGrath?

Senator HENDERSON: Good evening to you all, and, Mr Marks, welcome to you in your new and very important role as the managing director. I first just wanted to ask something that goes to Senator Jacinta Nampijinpa Price's concerns about some of the ABC's coverage. Is there any reason why Mr Stevens is not here?

Mr Marks: What I'm trying to do, in terms of representation on the panel, is ensure that we've got the executives that are responsible for the overview of the ABC, as opposed to the particular editorial decisions that are made day to day in respect of the ABC. I think that, between Mr Fang and myself, we are generally aware of any particular issues that have arisen and should be able to respond to questions that you may have.

Senator HENDERSON: It's just that there is a statutory requirement on the ABC, on the ABC board, to disseminate news and information impartially and factually. I think it's core business for the ABC. Mr Stevens ordinarily does appear, and it's not reasonable to expect you, as managing director, or even Mr Fang to address all of these issues, particularly when we might be talking about different stories or different coverage. Obviously, you're very new in the role, but there has been a long history of raising concerns about issues of bias at the ABC, Mr Marks, so it would really be helpful if someone representing news and current affairs could attend so we could address those issues directly, going forward.

I just want to firstly ask you about an ABC Ombudsman determination that's on your website, published on 2 August. It concerns the International Court of Justice, which issued provisional measures in the South Africa v Israel case. Contrary to widespread reporting, the court did not find there was a plausible case of genocide against Israel. The ICJ former president Judge Joan Donoghue clarified in a BBC interview on 26 April 2024 that the court decided that the Palestinians have a 'plausible right' to be protected from genocide and that 'it did not decide that the claim of genocide was plausible', which, of course, means something very different. This was reiterated by the ABC Ombudsman on 2 August. The ombudsman ruled that an online article containing the same misstatement breached accuracy standards. However, I am concerned that, despite this, a number of ABC presenters and guests, who haven't been corrected, continue to misstate the ruling. This occurred on *Radio National Breakfast* on 18 September 2025—and I can provide more details to you—and on 23 September 2025, again, I think, on *Radio National*, in an interview with Mr Husic. The first one was an interview with Senator Shoebridge. And then, also,

on 16 September, UN commissioner Chris Sidoti made a similar claim to an ABC TV news host, Joe O'Brien. Can you explain why the ABC hasn't disseminated this particular ruling such that this misstatement, which is obviously very offensive to Israelis and to Jewish Australians, is being reported in an inaccurate way?

Mr Marks: I'll throw to Mr Fang in a minute, who will have details for you in relation to the ombudsman's ruling. I'd need to understand the specifics, and thank you for offering to provide that detail to us, which we'll certainly look into. Again, it will depend upon whether that's an ABC person commenting or whether that's a matter that's been brought on or commented on by a guest or anyone appearing on an ABC program.

Senator HENDERSON: I'll just give you one example. On 18 September the host of *Radio National Breakfast* said to Senator Shoebridge:

We know that the ICJ ... found it plausible that Israel's acts could amount to genocide.

That's not what the ICJ found. Your ombudsman has corrected that, but, clearly, the determination by the ombudsman has not been disseminated, and this inaccurate portrayal of what was found by the ICJ is continuing to appear in ABC news and radio programs.

Mr Fang: Thank you. Senator, I'm not aware of that particular circumstance, but I would say that we have provided staff with guidance about the ICJ case. It's written guidance; it's available in our Middle East guidance. We continually look to make sure we update things if there are reports from the ombudsman's office or if facts and information change, so we've provided advice on the details of the ICJ's findings in relation to that matter. But, as I said, I'm not sure about the exact details of that 18 September reference that you've made.

Senator HENDERSON: What is the process at the ABC for ensuring that corrective statements are provided to all journalists, newsmakers, producers and the like?

Mr Fang: In regard to the Middle East guidance, we update it whenever there's a need—so semiregularly. It was updated recently. We communicate that via email to all staff. I sent an email to all staff only a couple of weeks ago about an update. Where there is more immediate or pressing information or pressing details when things change, we communicate that to senior editorial leaders either verbally or through emails and expect them to communicate more widely, but significant issues of fact, significant changes, significant court decisions, for example, we communicate directly with all staff.

Senator HENDERSON: Could you provide a copy of your communications in this respect so we can understand how this is being disseminated to journalists. What sort of mandatory training is provided to journalists at the ABC, and are they required to attend frequent workshops? Are they educated in these matters, including in findings by the ombudsman?

Mr Fang: I think we might have spoken about this previously, but all ABC staff—

Senator HENDERSON: Sorry, I know I'm interrupting you, but I raise particular concerns about who I call the TikTok journalists, about the training of some of your journalists, because I have raised serious concerns about the training of some reporters at the ABC—or some people who are not trained journalists, I should say.

Mr Fang: All of our content makers that are involved in news and information are required to complete a mandatory session of editorial policy training every year. Everybody that is onboarded is expected to complete an editorial policy module. We then follow up with an introductory module. One of the editorial advisers in my team conducts a training session every fortnight. We also conduct two weeks of intense training for editorial matters across the year; we had an editorial week of training in addition to our normal training in February-March, and there is another session coming up in two weeks. That mandatory training is tracked in an online system; all staff need to ensure that they have completed that by filling in an online completion form et cetera to demonstrate that they have done that training. We also continue to talk to staff about issues on a regular basis, on an ad hoc basis. Our teams do editorial reviews and sessions where they look back at their coverage. Those sessions often involve talking about editorial policy issues and how we can best meet our very high standards. So, training is really important. It's something that we are expected to complete; it is mandated by the board, and we are working to meet that mandatory expectation with all of our staff every year. In addition, there is compulsory legal training.

Senator HENDERSON: Which is probably in the ABC's own best interests, given some of the recent defamation cases. It's very good that journalists are well informed on these matters.

Mr Fang: Well, I wouldn't disagree that it's very good that journalists are very well-informed and we meet the high standards, as we do all the time, and we are making sure that we are providing the audience with the best information.

Senator HENDERSON: What are the minimum qualifications required to be an ABC reporter? Sorry to talk about the Dark Ages, as Mr Stevens has referred to my time at the ABC, but when I first started in journalism I did

a formal cadetship and a grading process, and I went on to go to university. But, putting that to one side, there were very strict requirements on every television journalist when I first went into television. What are the minimum qualifications to be an ABC reporter in this day and age?

Mr Fang: Well, it sounds like you and I had a similar pathway in terms of our education in regard to training, because I also had a university degree and did a cadetship. I don't think it's always been the case, and it is still not the case, that all journalists have to do university degrees. I know that in my time working as a reporter over the last 25 years there have been plenty of journalists and other editorial staff that have come in without university education, because we want to make sure that we are reflecting the experiences of all Australians—

Senator HENDERSON: I didn't ask about just university. What are the minimum qualifications required? Cadetship? TAFE training? University training? Whatever the case may be, what are the minimum qualifications required to be a journalist at the ABC?

Mr Fang: Yes, I understand the question. What I'm saying is that I would suggest to you that by and large most of our journalists come through a university education, but that is not necessarily a requirement for all journalists. We are looking for people that might have relevant experience and background in a variety of different situations because we want to be able to understand and report on the country. But we make sure that we train people and we provide them with appropriate editorial support and standards and guidance to make sure that they meet our standards. The important thing is that they meet our editorial standards, and they will be judged by that content.

Senator HENDERSON: I've got a few more questions but I will hand over the call now.

CHAIR: Senator McGrath.

Senator McGrath: Earlier this year the ABC handed down the Sunderland report into editing and other issues relating to a piece which included Heston Russell, where additional gunshots were used which were not accurate. My understanding is that all the recommendations were accepted in February of this year. Have all of the Sunderland report recommendations been fully implemented?

Mr Marks: Yes, I believe so. Mr Fang has been responsible for the verification of the implementation.

Mr Fang: There were five recommendations specifically referring to editorial. Two of them involved some updates to our editorial guidance. They've been completed and communicated to staff, and, also, we've conducted training sessions with a variety of staff about those. The other three were around some of our processes. One was to ensure that non-journalist contentmakers were also given editorial training. That has commenced, and we are doing that, specifically tailoring editorial training to editors, camera operators and people like that.

One of the Sunderland recommendations was about our workflows, particularly in news. News has undertaken some work looking at the way to ensure that our workflows are meeting the recommendations to make sure that everything is appropriately checked, and that has been completed and put in place. I think I've captured all five there. Those were the recommendations as it related to editorial output, and they've all been put in place.

Senator McGrath: I've got another set of questions about the ABC offices in Parramatta.

CHAIR: Do you want to continue for now, Senator McGrath? Then I'll hand over the call in about seven or eight minutes.

Senator McGrath: Thank you. The ABC, I understood, had a 75 per cent target for the staff who were based in Ultimo to work from the new Parramatta office. Has the ABC met this 75 per cent target?

Mr Marks: I'll ask Mrs Kleyn to respond to this, but I'm not sure that that was the target. Mrs Kleyn, you can provide the detail.

Mrs Kleyn: The target was actually 75 per cent of contentmakers to be out of Ultimo, not necessarily in Parramatta but just outside of Ultimo and around the country. I do apologise; having clarified that, I don't know the exact number off the top of my head, so I'll take that on notice.

Senator McGrath: If you could, on notice, answer the question that you responded to, rather than the one I asked—if you know what I mean. How many staff actually work at Parramatta compared to Ultimo?

Mrs Kleyn: In the Ultimo office, we had around 2,000 staff—again, I am talking off the top of my head, so it might be best if I do clarify on notice. But around 2,000 staff were in the Ultimo office, approximately, and 200 to 300 are rostered in Parramatta. So there are some that are permanent in Parramatta, and that would likely be our local radio staff. There are some newsroom staff that are permanent in Parramatta, and then we roster some across both locations depending on need, local events and the like.

Senator McGrath: Was there a target for staff who are or were based in Ultimo to shift to Parramatta?

Mrs Kleyn: There was a target, and we met the target.

Senator McGRATH: You did meet that target?

Mrs Kleyn: Yes, that's right.

Senator McGRATH: Is there additional capacity for staff to shift from Ultimo to Parramatta?

Mrs Kleyn: Again, I am talking off the top of my head. The capacity is around 280 desks, I think, in a flex work environment. We roster to the capacity that exists in that location.

Senator McGRATH: I'm a bit of a stickybeak, so, the next time I'm in Parramatta, could I invite myself to come by and have a look?

Mrs Kleyn: You're always welcome in the Parramatta office.

Senator McGRATH: Thank you. I might even do an interview! That concludes my questions for the time being.

CHAIR: Senator Ananda-Rajah.

Senator ANANDA-RAJAH: It's nice to see you again. Hello, team. I want to draw your attention to funding cycles. Could you explain to the committee what a five-year funding cycle would mean for the ABC.

Mr Marks: We live in an increasingly complex media environment, particularly when it comes to some of the more complex and expensive television genres such as children's television, adult scripted television, documentary et cetera. These things and these formats need to be planned over multiple years. We want to have an environment where we pursue excellence and where we can provide content to Australians that competes with the very best of international production. It's very difficult to do that without the certainty of what you're planning for or what you're funding.

I can assure you that, now, I would already be looking at children's television programs or scripted television programs, for example, for broadcast in 2028 or 2029, and, if we don't have the certainty of funding, it's very difficult to be able to do that on a conclusive basis. Also time gives you some efficiency. Time means you can plan. Time means you can take the steps needed to ensure that programs meet what we expect to be their standards. So, the more certainty that we have as an organisation, the better we're going to be able to deliver services to the public.

Senator ANANDA-RAJAH: So, currently, your funding cycle is three years. We're looking to expand that to five years. You're being very diplomatic and talking to us about planning, which I appreciate, but I'm not a diplomat. Why else is it important to shift from three years to five years and come out—decouple—from the electoral cycle?

Mr Marks: It's critical. I spoke about a few genres there, but, even when I'm looking at news and current affairs for example, more is being asked of the ABC than less. When we started we were in television and radio. Now we're television, radio and digital. Then we're television, radio and digital, plus social. Then we're television, radio, digital, social and podcasting. All of these genres are things that we need to add to our expertise because of the nature of the expectations of the Australian public on the services that we deliver. You can't shift those things in a short-term basis. You need time and planning to be able to deal with that over the longer term.

If I look five years or 10 years down the horizon, I understand that what will happen is, increasingly, our commercial competitors' models will become more refined and more focused on specific audiences—and probably paid audiences as more content goes behind the paywall. The ABC, as the freely available media organisation, has a responsibility to provide all of the various services, and, unless we have the ability to plan with certainty what those changes might look like and how we do them over that period of time, we won't be as effective as we can be and we'll always be compromising on the public service.

Senator ANANDA-RAJAH: Speaking of compromise, is it important, do you think, to decouple from the electoral cycle?

Mr Marks: There should be no doubt of the importance of the ABC. Having arrived after my time at Nine and seeing very big similarities but also distinct differences between the responsibilities or the content slate at Nine and the content slate at the ABC, I'm constantly amazed at the huge expectations on our teams and the volume of core services that we provide. We're the only organisation that services world children's content. We're the only freely available news channel in all of Australia. We have international services, as well, serving the Asia-Pacific. There should be no doubt about the value of the ABC. It is our job to ensure that we deliver to that as management, but there is no reason it should become an electoral issue.

Senator ANANDA-RAJAH: We also, I understand, gave you a historic investment of \$6.1 billion in the last term of government, over five years. What effect has that had on your forward planning and Aussie content as well as your news and other services?

Mr Marks: I think it gave us a lot of certainty. We've also implemented some changes since I've started to ensure that we're freeing up where possible as much funding as possible to provide services and content to the public. That will always remain our focus. Again there are things changing in our mix, but that certainty and the privilege of being funded by the public is an incredible responsibility we take very seriously. Mrs Kleyn, you're well placed on this. You and I are already working on a five-year horizon, and we're making decisions based on that five-year horizon. So it absolutely is critical.

Mrs Kleyn: I can add to what Mr Marks has just said on the criticality for us around our infrastructure and our planning around infrastructure. We are, as you would be well aware, in 68 locations. I think there are 57 regional offices that are actually able to plan forward. There's a lot of maintenance that goes into having that number of assets—both property assets and also our infrastructure as it relates to our technology. As Mr Marks said, we're now on multiple platforms with multiple services. We're running a traditional, linear broadcast operation at the same time as we're enhancing our digital products. So to actually have an eye on what we can do for the future and how we can sequence the planning in an ordered way really does make an incredible difference to the way you operate an organisation of our size and our footprint.

Senator ANANDA-RAJAH: You mentioned regional communities. You obviously have a very large footprint in regional communities. How do you connect with these communities, particularly in times of crisis, like during natural disasters and so on?

Mrs Kleyn: Perhaps if I talk—

Senator ANANDA-RAJAH: Crisis periods and critical non-crisis periods as well.

Mrs Kleyn: Yes. Maybe I'll talk to infrastructure to a certain extent. I might pass back to Mr Marks for, I guess, a little bit more detail around content. Obviously, our infrastructure and being in those locations in the first instance is critical. To actually be a part of the community—I'm sure you would know. It really is evident that our teams in those areas are part of their communities. To be able to have the physical presence there makes a huge difference.

As I indicated, though, maintaining the physical presence—it's an absolute priority, but it is costly to maintain that asset base. But we have the people. We have the staff in the communities. In terms of some of the more recent things with the funding, the Better Funded National Broadcasters funding that we received—that was the \$20.9 million over four years. Some of that we quite specifically put to growing the emergency broadcasting team. That is a relatively small team; I think it's now 13 people. We grew that to be not just a seasonal team but in recognition of the fact that those events are more intense, they're more frequent and they have a longer duration. We grew that team.

Senator ANANDA-RAJAH: What was your baseline?

Mrs Kleyn: The baseline, I think, was probably around eight or so staff, but they weren't all permanent. We're now sitting at around 13 staff. What it allowed us was to have a permanent team running all year round, which, as I said, was in recognition of the fact that emergency events have grown in time and in severity. There was a really quite specific funding, but that, again, doesn't reflect—the team are amazing, but they're a small coordination team.

What is actually the real expense for us is all the work that the actual news teams are doing—and the regional teams and the local radio teams. That, again, is where that infrastructure comes into play. So it is multilayered, our commitment to those areas and how that impacts on our cost base. Mr Marks, I don't know if you had more to say.

Mr Marks: This is something that Senator Henderson has expressed interest in as well. Our regional offices are very important. They do great work, but I can see opportunity for a lot more. We recently announced that we're going to make available our emergency broadcasting information to, basically, any other regional or rural broadcaster who wants to access that information so that they can draw upon those resources as well. We've been doing various—

Senator ANANDA-RAJAH: Is that infrastructure that they get to use?

Mr Marks: That's more the content.

Senator ANANDA-RAJAH: That's the content?

Mr Marks: Again, with a lot of these small players, they're stretched to provide content to their communities, to their subscribers or to their audiences. So to have some access to some other base load material should, I think, be incredibly valuable to them, and we're doing more research on this all the time. What I would hope to do is extend beyond that and also make some of our local content available to local, rural and regional operators around the country. When I've been touring around the offices recently, I have seen where the opportunities are to make more of that.

One of the projects we're working on at the moment is, effectively, a localisation strategy, where, with the content that is already generated, we will use both the teams in those places plus technology which is developing to be able to make more for that audience. That's so that an audience member in Dubbo, for example, might be able to choose a localised version of the digital news service as opposed to the national version of the news service—the stories that relate to their communities will be preferenced in their feed.

Senator ANANDA-RAJAH: So you're tailoring content for the local community?

Mr Marks: We're tailoring content for the community, as opposed to just relying on national services, because it's also quite frustrating for some of those local journalists. They have to compete with national teams to get their content into the system. It will, perhaps, also involve some more risk, but I think it's worth it, in delegating editorial responsibility for that local story to local teams—again, rather than having to go through national teams.

I would hope, as we roll all of that out, that we'll provide a better ABC localised service and that, ultimately, we'll continue the work to see whether other regional and rural providers of new information may get a benefit from that material as well. It's part of re-imagining the role of the ABC, not just as the ABC but as a content provider.

Senator ANANDA-RAJAH: Very good. Do you think that model will foster local talent as well? Is that part of this—a sort of capacity building?

Mr Marks: Definitely. As their content gets more traction with their local audiences, and as there are more platforms on which they can access that local content, they will get a greater sense both of engagement with the local communities plus a sense of satisfaction from their roles.

Senator ANANDA-RAJAH: How will you broadcast this new initiative? Once it's live, how will, say, young content creators in these communities find out about this opportunity for them?

Mr Marks: I find that people are pretty good at understanding things when we do make announcements, but as we formalise exactly what we will do and how we will go about it there will be communication about that, both to the public and, obviously, to content providers. That will be a key component of that.

Senator ANANDA-RAJAH: Thank you very much.

CHAIR: I will now go to Senator Roberts.

Senator ROBERTS: Thank you for appearing again today. We have a very consistent constituent, John Adams, who has been doing great work in holding the ABC accountable. He does that with a lot of organisations—he's a model citizen.

There was a broadcast that the ABC put to air in 1975 which sought to humanise abhorrent pedophilia. In Senate estimates on 23 October 2018—well before your time—on a question from then Senator Abetz, the ABC misled the Senate by saying that it no longer had the tape of that broadcast. I can see that correspondence has been tabled today from the ABC which clarifies the record. I wonder how hard you looked in 2018, when all it took for John Adams to obtain the request was an email to ABC archives? It doesn't look like you tried very hard to answer Senator Abetz's questions. Does the ABC respect the Senate estimates process?

Mr Marks: That's a critical part of the process and a critical responsibility of the ABC. So, yes, we take this process very seriously. I can't talk about what happened in 2018. Obviously, the material that you referred to would not meet our standards in terms of harm and offence, and should not be available for distribution.

Senator ROBERTS: It was broadcast by the ABC—admittedly, 50 years ago.

Mr Marks: I understand that, Senator, but Mr Fang and I have discussed this particular instance and we both agree that, based on our current editorial policies, that material should not be broadcast.

Senator ROBERTS: Thank you, and you've already covered my next question. Minister, are you aware that the Minister for Communications has the power under subsection 78(3A) of the Australian Broadcasting Act 1983 to direct the ABC to publish or not publish the recording on its website?

Mr Marks: Mr Fang—

Senator Green: I think that's a question for the ABC, about their—

Senator ROBERTS: Okay.

Mr Fang: My understanding is that the ABC can be directed to release material.

Senator ROBERTS: You're correct, thank you. Now that we've cleared up the powers of the minister, Minister, I have one last question for the ABC. You are not releasing this material because it fails to meet community standards—and, having heard some of the content, I agree with you entirely. It's abhorrent. Can you provide an assurance that the ABC will not use its platform to air material sympathetic to or supportive of pedophiles or pederasts ever again?

Mr Marks: Material that doesn't meet our editorial standards should not be broadcast. We have a substantial team and process and checks and balances to ensure that those things don't happen. So I would be absolutely confident that material that certainly does not meet those standards would be subject to review and should not be broadcast.

Senator ROBERTS: So material sympathetic to or supportive of paedophiles or pederasts would not be broadcast?

Mr Marks: You would have to look at the particular instance, but the material that you refer to, the 1975 material, we have looked at, and obviously it does not meet editorial standards.

Senator ROBERTS: Thank you.

Senator DEAN SMITH: Thank you very much for your participation. We discussed this in private when you came to meet, so I thought I might just air it publicly. In an age where media outlets and social media platforms are perhaps becoming more specialised, more tailored, is the ABC trying to do too much rather than perhaps using the changing media landscape to take the opportunity to specialise and perhaps—what's the right word?—take the ABC's skill and quality to a higher level by doing more specialist types of things? Do you recall the conversation we had?

Mr Marks: I do, thank you, Senator. When I started, we had a process to, I guess, be very clear about what our strategy should be going forward, and that resulted in, basically, a plan that we should focus on two particular areas. One is things that I would say are core services, and those are particularly local services that serve local communities, but it also would include freely available news channels, our children's content, obviously, et cetera. They are core services. If the ABC didn't exist, many of these services wouldn't exist, and they need to be available, particularly for when people need them. The ABC continues to need to compete in a different world, and the other area that we need to continue to focus on is content with impact. Content with impact has a high ambition, should meet excellent standards and should be on particular serious issues. Impact, when met with our obligation to provide core services, provides the right sort of dynamic for us to make those assessments going forward.

We are now in the process of really understanding what it is we do that meets either of those tests. If we look at things and say, 'Maybe they don't meet either of those tests,' we need to be able to ask ourselves, 'Is that something we should stop?' As I understand it, over many years there have been a lot of discussions at the ABC about things we should stop, and maybe those decisions haven't been made. But I think, speaking from the perspective of the staff, the organisation, certainly the board, and, I think, for the benefit of the public, there are things that maybe we will stop because they don't meet either of those particular tests.

Senator DEAN SMITH: So the ABC becomes not just a trusted broadcaster but—I'm not saying it's not serious—a more serious broadcaster. Trust and seriousness are not necessarily the same thing.

Mr Marks: No, they are not the same thing at all, and they obviously do influence each other, but they are separate. In a world where media content is almost limitless, yes, the obligation on the ABC—

Senator DEAN SMITH: And quality.

Mr Marks: And quality. The obligation is to ensure that when we do things, we should do them well. We should do them in the pursuit of excellence.

Senator DEAN SMITH: Do them very well.

Mr Marks: Do them very well, I agree.

Senator DEAN SMITH: To honour the taxpayer contribution, do them very well.

Mr Marks: Yes, and with impact. That is where we need to get to. It will take some time, but a big part of my role over my tenure as the managing director is to ensure that we get to an environment where we are meeting one of those particular strategic objectives in the content we are generating.

Senator DEAN SMITH: It's interesting that, in this day where the image, whether it's a photographic still or a video, has become so powerful in conveying a story, radio is still very, very powerful. I think it's still very powerful, as someone who spends a lot of time around regional Western Australia, et cetera. Why is that? Do you agree that radio has been able to maintain its power and influence, and why is that, do you think?

Mr Marks: To combine the two answers, radio done well can be incredibly powerful. The reason it can be incredibly powerful is its immediacy. Often there is a direct connection to community or a member of the public. Often it is almost the best in-time service to get information to the public. Local radio is the backbone of the ABC, and I can't see that changing in my time or well beyond my time. Radio done well can be incredibly powerful as a medium.

Senator DEAN SMITH: I can't help but think that in this sort of age, where there is so much misinformation, there will be a reversion where people think more consciously about what they trust, and—I'm conscious that AI can do voices—the power of someone's voice, and the immediacy of that, may have quite a significant resurgence.

Mr Marks: Yes. I think it's a massive responsibility of the ABC, in an environment of the rise of misinformation. There's always been an incredible responsibility for accuracy and impartiality, and that responsibility only rises as we go forward. I think the presence of the ABC and the familiarity with audience members, that they know there's a place they can go to that will be real and not AI generated—we have that responsibility and we need to deliver to that responsibility. Our role will become more important in society, not less.

Senator DEAN SMITH: I'm not sure if we talked about this point—we may not have: why is it that the ABC attracts editorial controversy—my words—but I don't hear much editorial controversy about the SBS?

Mr Marks: You can't compare the volume of work we do with the volume the SBS does. Even our 24-hour news channel has an audience over the whole day—a 24-hour audience—that is probably a third larger than SBS's main channel—and that's just one of our channels—let alone the three news audio services, let alone the extensive content we do on the main channel of the ABC, let alone ABC Digital and the social content et cetera. I think it's two things: the weight of the amount of content required of the ABC; and the special relationship the audience have with their public broadcaster. They understand the SBS but it's partly commercially funded. I think that relationship is different, so the expectations and the discussions around the ABC will always be higher. That's a responsibility we must take on board.

Senator DEAN SMITH: Proportionality. To more contemporary matters: what did the ABC learn through or about the experience of the Lattouf matter?

Mr Marks: Much—be calm under pressure, follow our processes, ensure we meet our standards and have an understanding of who has the ability to make decisions in the organisation. There seemed to be many failings in the Lattouf matter. They should not have been lessons to the organisation but they're a good reminder of the expectations and responsibility of the organisation to act appropriately in all such environments. It should have been done better, and it wasn't.

Senator DEAN SMITH: Has the ABC calculated what the cost was to the ABC—both the internal cost and the use of external counsel and others—regarding the matter?

Mr Marks: In terms of external costs, my estimate at the time of the trial was that it was going to be many millions of dollars. There are still some final accounts to come in. I understand we may or may not have a costs hearing to go through. I don't think it's a matter we can draw a line under, unfortunately, as much as I'd like to at this point. I know our external costs at this point of all the components are now more than \$2½ million. Our internal costs are hard to estimate, but there was extensive time and effort on the part of many people in the ABC. This was all there to be avoided, so it is not a good reflection on the organisation.

Senator DEAN SMITH: Perhaps, on notice, you could identify what the elements of the total cost were—external counsel and other associated or related costs. Why did the ABC not accept the settlement of \$85,000 before the case concluded?

Mr Marks: I know that's been reported, but I think the statement that was made was somewhat inaccurate. As you would appreciate, the settlement of litigation often involves more than money. There were a number of other criteria being discussed, many of which were incredibly difficult for us to accept; in fact, it would have amounted to a breach of our editorial standards if we had accepted them. I can see from the correspondence—I wasn't there at the time—a summary of the offers that were made. The ABC made substantial efforts to find a commercial settlement. I know the final financial offer we made was in the order of \$150,000. It was a substantial offer, particularly in light of the judgement that was received. But we can't accept things that might involve us accepting other editorial as ABC editorial, or obligations to employ someone as part of a settlement. There were many components to those discussions that made it difficult to find a resolution. I can say, having looked at the record, there was a very serious attempt to find a settlement in the proceedings. It was a shame that that did not occur, and here we find ourselves today.

Senator DEAN SMITH: What changes have been made at the ABC as a result of the Lattouf matter?

Mr Marks: I looked at this, and the policies and procedures were there; they just weren't followed. What's required, before any disciplinary action is to occur, is a matter has to go through a code-of-conduct review, which has to be handled with the head of people and culture. A code-of-conduct review outcome is a matter that can only be decided by the head of people and culture or myself. If those processes had been followed appropriately, I have to think we wouldn't have got to that outcome. The processes and procedures were there; they just weren't followed. The lesson is: follow the process.

Senator DEAN SMITH: Senators love process! Thank you very much.

CHAIR: Senator Henderson.

Senator HENDERSON: I'm raising a slightly personal issue; I am sad to do so. It refers to the asbestos issue at Elsternwick and the reports that a number of former employees of the ABC working at the Elsternwick studios have died as a result of asbestosis. Can you provide an update in relation to this. I happen to be one of those former employees who was at the Elsternwick studios during the period of time where, apparently, the asbestos was found. A number of former personnel have died of either asbestosis or mesothelioma. Can you please update the committee on this.

Mr Marks: This is a tragic situation for our whole nation to have to go through. It has affected not just the staff at the Elsternwick office but staff at various offices around the country where asbestos was present. I don't know if Mrs Kleyn has any update. I know we've been in communication with various members of staff and previous staff to ensure they have the appropriate support and access to the right information in terms of their ability to make claims for illness. They're no doubt terribly sad and tragic consequences. It's an issue that affects not just the ABC but the whole nation. We're doing our best to ensure we're in touch with as many people as possible to make sure they've got the information and the support they need. Mrs Kleyn, do you want to add anything to that response?

Senator HENDERSON: Just before we go to Mrs Kleyn, can I understand how many people who are former employees of the ABC have died?

Mrs Kleyn: I don't have that specific information, I'm sorry. I'm not sure, due to the nature of the manner in which these cases are reported, and the confidentiality, that we know all the detail behind all the different matters.

Senator HENDERSON: I'm not seeking that. I am just asking how many people have died.

Mrs Kleyn: Even in answering that question, it's not always clear to us if an individual has had any related injury or disease from the ABC or from working at the ABC. Perhaps I can suggest we provide an answer on notice so that I can actually do justice to it in providing the best data that we possibly can. I don't have a number in front of me, I'm sorry. We can also provide all of the steps we have in place for employees.

Senator HENDERSON: So you have paid compensation to a number of families of those who've died?

Mrs Kleyn: We are aware of individuals who have sought workers compensation. We are aware of that. It's not specifically a claim against the ABC per se. Obviously we operate under a workers compensation regime, but we haven't had individuals necessarily approach us in such a manner. It is through workers compensation claims. So we do have some awareness—not necessarily full awareness—of all of the detail behind all of the claims, but we will provide on notice the information that we can.

Senator HENDERSON: The reports are that this has impacted potentially hundreds of people, and I'm referring particularly to the Elsternwick studios. What period of time are we talking about?

Mrs Kleyn: I'd have to take that on notice.

Senator HENDERSON: Well, there's an extensive report—'Secret asbestos spreadsheet outlines extent of ABC cluster' was published on 11 March 2025 by the *Age*. I can table this article. It talks about it. It says:

... 550 employees who worked at two ABC studios in Melbourne have been listed on a confidential asbestos register documenting those who were potentially exposed to the deadly material.

Mrs Kleyn: I'm not familiar with the report you're referring to, nor to a secret list of that nature. But, again, we will take that on notice and provide what we can. We are in no way trying to diminish the importance of this matter, nor hide any of these elements. I really just am not familiar with the article you're referring to.

Senator HENDERSON: This report says that at least four former ABC employees have died and that they were exposed to carcinogenic material between the 1950s and the 2010s. Are you offering screening to all staff who worked at those two studios during that period?

Mrs Kleyn: We have communicated where we can with individuals; we have communicated in as public a manner as we can to make people aware of the things that we have put in place. There are a number of things in place. Again, I think it's probably best that I provide that on notice to you so that you have the proper detail of all the steps that we've taken.

Senator HENDERSON: Could you provide, on notice, your communications. I haven't seen anything, and I fall into that group of former employees. I haven't been offered any screening. I didn't even know about this until this popped up in my estimates briefing.

Mrs Kleyn: Of course.

Senator HENDERSON: Can you include any proactive steps that the ABC is taking and any other sites where there is asbestos or there have been asbestos claims. I'm aware that there was quite a big issue with cancer clusters in Brisbane—it was a major issue in Brisbane. I appreciate the sensitivity of the issue, but I can tell you, as one of many, many hundreds of people who worked there over a long period of time, it's very concerning.

Mrs Kleyn: It is. We understand that. Of course we'll take that on notice.

Senator HENDERSON: I want to turn to a couple of other issues. Going back to reporting at the ABC, I have to say I think there is an unfortunate history of choosing certain program topics or perhaps not seeing an impartiality in so far as what the ABC decides to report. A good example of that is concerns raised by a woman called Sall Grover, who runs an app called Giggle for Girls. The ABC extensively covered the outcome of the federal court case *Tickle v Giggle*, which found against Ms Grover, and yet she's raised concerns publicly that the ABC has not reported on the fact that this is under appeal. Are you able to shed any light, Mr Marks, on why those sorts of decisions would be made by the ABC?

Mr Marks: I'm not aware of that particular case, unfortunately, so that's something that we will have to come back to you on.

Senator HENDERSON: Ms Grover published on her social media X account:

ABC, Australia's taxpayer funded broadcaster, ignored *Giggle v Tiggie* aka the biggest women's rights court case in the country's modern history.

If this is the only place you get your news, it's highly possible you have absolutely no idea what is happening in the real world.

Mr Marks: Thanks for bringing that to our attention. I don't have any factual basis on which to enter into a discussion on this particular case. Mr Fang, looking at you, you seem also—

Mr Fang: I'm not aware of that one either; I'm sorry.

Senator HENDERSON: This is exactly why Mr Stevens needs to be here, because it's these decisions which reflect, I think, on the trust issues with the ABC. If the ABC sees fit to cover this case—it is obviously a massive case. It's been all over other media, and yet suddenly it's disappeared from view on the ABC, when the court case is under appeal.

Mr Marks: I've obviously been at the ABC for a time now. I feel that our teams do an incredible job in covering the extent of material that they do over so many different channels, so many different formats and so many different issues. I'm so impressed by the work that they do every day. I can't talk to this particular instance, unfortunately. I wish I could. It's something on which we will have to revert to you.

Senator HENDERSON: Do you have any concerns about the impartiality of the ABC when decisions like this are made? I would put to you that there's a long history of decisions, Mr Marks—and you've only been at the ABC for a short amount of time—where I would say very strongly that we have not seen appropriate impartiality from the ABC with respect to a number of stories. I accept there are many stories where that's not an issue, but there are too many stories where impartiality is, I would put to you, an issue.

Mr Marks: No doubt there are thousands of editorial decisions being made every day, and I have absolute confidence in the teams making those editorial decisions. Two things I'll say. One is: do we get everything right? Of course we don't. There will always be things in the volume of material that the ABC covers where there will be opportunities for us to do things better. That is our task every day: to ensure that we meet that obligation, that responsibility. The other thing that we constantly need to do is ensure that we're covering content that is of importance and impact for all Australians. I think our teams adopted a new strategy in the last election coverage where we went to the public and engaged with them on the issues that they felt were important—a 'Your Say' type of campaign I think you might be familiar with. It is something that we continue to do and it's something that I am doing constantly with the team to ensure that we are covering the issues of importance to all Australians. It will be a constant, vigilant exercise. I know our teams go through it every day. I think they do excellent work, day in, day out, but that is our endeavour and our exercise—to ensure that we always do better.

Senator HENDERSON: Can I ask you about the recent Louise Milligan *Four Corners* program on the faith group known as the Plymouth Brethren. Ms Milligan travelled to Miami and to Canada. I want to know what the cost of that travel was, how many staff were involved in going to the United States and whether that's typical with a program like *Four Corners*?

Mr Marks: Again, on that particular instance, I'm not aware of the particular travel costs for that tour. But the *Four Corners* program itself doesn't have a huge budget—certainly in my experience of what the budget would be at an organisation like Nine. Do they regularly go internationally? Yes, they do. They go internationally to cover

stories of international importance, particularly with their relevancy to our market and to issues that might be corresponding issues in Australia. Mr Fang, I'm not aware if you're aware of that particular story.

Mr Fang: I don't know what was spent on the travel, but I would say that I don't think it's unusual for an investigative program that's seeking to interview and speak to people that are directly involved in stories to go and pursue those people where they are, particularly if they're an important and relevant perspective that we would want to have in the story.

Senator HENDERSON: If you could take it on notice and provide any other details about the costs of that program, I'd be most grateful.

Mr Marks: About that particular episode?

Senator HENDERSON: That particular episode. I'm also keen to understand the production budget for *Four Corners* and how much is allocated to travel across the board. I'm very keen to look at what the breakdown of the production budget is, including on overtime. I believe there's a very large overtime bill at the *Four Corners* program.

Mr Fang: I'm not aware of that, but we can definitely take on notice the costs. It would be good for us to try to be relatively specific about what you're seeking there. Certainly, we can look at the Plymouth Brethren story.

Senator HENDERSON: I've got other issues to raise, but the clock is getting to us, I'm afraid, so I might have to leave it there. I'll put my other questions on notice.

CHAIR: In the absence of any further questions, I now pass on the committee's grateful thanks to the ABC for attending today and answering questions. You are excused.

While the SBS is coming to the table, I note that it is now 8.30 pm and we have remaining on our agenda a further nine agencies. On the basis of our relative pace today, it seems to me extremely unlikely that we are going to get to those agencies. I would like to be able to release some, if not many, of them. I simply make that observation based on the timing and our pace today. I appreciate the assistance of senators in these matters.

I now call officers from the Special Broadcasting Service. Welcome, Ms Jane Palfreyman, the acting managing director. Do you wish to make an opening statement? I have previously suggested to witnesses that, if they do wish to, that it be as short as possible, please.

Ms Palfreyman: I'm happy to go straight to questions.

CHAIR: Thank you very much. On that note, I will give the call to Senator Faruqi.

Senator FARUQI: Thank you very much, everyone, for waiting such a long time for our questions. I have just seen, a few hours ago, an article published by Calum Jaspán in the *Sydney Morning Herald* which reports that, 'SBS staff remain unable to use the word Palestine in news stories, despite the federal government recognising Palestinian statehood.' One staff member is reported as jokingly likening the use of the word 'Palestine' to that of 'Lord Voldemort' in the Harry Potter books as the word that must not be named. Why won't you bring your editorial guidelines in line with the government's foreign policy which now recognises Palestine?

Ms Palfreyman: Thank you for the question. I read that article this afternoon. Let me start by saying that we're incredibly proud of the painstaking work, as relates to this coverage over the past couple of years. There's a lot of hard work from our journalists and we consider these issues deeply. Let me also clarify our position. We refer to the Occupied Palestinian Territories, which Australia now recognises as the State of Palestine. We carefully consider the language. Obviously, this is an ever-evolving area and, in fact, over the past couple of weeks, the position has changed and as such we've had to update our editorial governance. We are governed by our code—and we take that very seriously—to ensure we do deliver balanced, impartial and accurate coverage.

Senator FARUQI: But the accurate coverage would demand that you call Palestine now Palestine, not Occupied Palestinian Territories with a qualification. ABC have updated their editorial. I think your credibility as a multicultural broadcaster is shot to pieces with this revelation. Don't you agree?

Ms Palfreyman: Fortunately, we have our news and current affairs director. Mandi considers these issues regularly and might wish to share her perspective. We are referring to the recent development where Australia has recognised the State of Palestine and we also are referring to the fact that it is occupied territory. So we are doing both.

Senator FARUQI: But it's called Palestine now. It is a state. It is recognised. Even the Albanese government recognises there is Palestine. They have changed everything on their government documents and websites to call it Palestine. What is your resistance?

Ms Wicks: SBS, as you'd be aware, is editorially independent, and we've continued to review our guidance and change our guidance to staff over the last few years. The decision was made only within the last couple of weeks.

Occupied Palestinian Territories is absolutely still correct, as is the reference to Palestine. So, in a transition period, we've been calling it the 'Occupied Palestinian Territories, which Australia now recognises as Palestine' as a way of informing audiences of that transition. Again, that guidance is continually under review, and, in discussions with our staff, we've explained that we would expect to continue to evolve that within the next few months. I hasten to add that, in terms of the article today, I've checked in with all the senior editorial leaders of our news and current affairs division, and, whilst we have ongoing, everyday editorial conversations with our staff, we actually have not had the suggested overwhelming negative feedback from our staff in relation to this. Again, I think it's because we keep talking to them about the fact that this is a situation under constant review and that we expect to continue to change and evolve that language.

Senator FARUQI: Obviously your staff are talking to Calum Jaspán, who has reported this. He also reports that SBS staff have expressed 'increasing levels of grief and moral injury' at your hardline editorial approach and that they are concerned about disciplinary consequences and fear of retribution. Maybe that is why they're not expressing the problems that they have with you not using Palestine. Are you concerned? Are you embarrassed? Are you ashamed about how your staff are feeling?

Ms Wicks: As I mentioned, we've checked in today with all of our senior editorial staff, who have not had those conversations. We have many avenues for people to pass on their feedback anonymously or directly. Certainly we have conversations about our decisions and the decisions we make in consultation with senior leaders across the organisation, be it in our language services, NITV or news and current affairs. Everybody is at the table when we make decisions around these sorts of guidelines. So there's a lot of consultation that happens, and we will continue to discuss this with our staff and continue to encourage them to come forward. Our editorial standards manager is deeply connected with the staff, and she also says that she hasn't had this significant feedback, as alleged in the article.

Senator FARUQI: Perhaps you should go back after the publication of this article and talk to your staff, who seem very aggrieved. Moving on to another topic, Australia is set to join countries on the international stage for the 2026 Eurovision. Israel is also set to attend and will perform pop songs while the State of Israel bombs and buries Palestinian children under rubble. Belgium, the Netherlands, Portugal, Slovenia and Ireland have all indicated their intention to withdraw from the next Eurovision in Vienna if Israel participates. Will Australia? SBS is the broadcaster. Will you also withdraw, or will you provide cover for Israel?

Ms Palfreyman: We intend to participate in the Eurovision Song Contest. We are aware that these are issues of deep concern. What I would say is impartiality is a bedrock of who we are and our reason for being, and, as such, it's not appropriate for us to form a view on this. It is a matter for the EBU. We're aware they're going to a vote with members in November, and we look forward to hearing the outcome of that.

Senator FARUQI: How many Palestinians do you think need to be killed and massacred by Israel before SBS considers Israel's participation in Eurovision as unacceptable and withdraws? This is not a matter of impartiality; this is a matter of morality and ethics.

Ms Palfreyman: I think, given these troubling times, it's actually ever more important for us to be impartial and to not state a position for or against in any of these really complicated and complex—

Senator FARUQI: So you're not against a genocide? SBS should not be against a genocide?

Ms Palfreyman: That's not what I was saying.

CHAIR: Senator Faruqi, I've done this to every questioner today. When you've asked a question, please allow the officials to answer, and then you can ask another one.

Senator FARUQI: I apologise.

Ms Palfreyman: I think it's ever more important. Our role as a broadcaster and a public broadcaster is to provide coverage across our news and current affairs—impartial coverage that is accurate and that provides a balanced view to inform Australians and give them all the facts and all the perspectives on these issues. As I said, the issue of which countries partake in Eurovision is a matter for the EBU. They are conducting a vote, and we look forward to the outcome.

Senator FARUQI: SBS calls itself the broadcaster that represents Australia's racial and cultural diversity. Am I right? Does SBS not recognise that genocide is the ultimate expression of racism?

Ms Palfreyman: Again, our role here is to provide Australians with factual reporting on this matter. Impartiality is core to our code of conduct, which we are governed by. It's only becoming more important to deliver to that in a world of mis- and disinformation, and we take that very seriously. We note these really incredibly troubling times, and, as such, we take our role of reporting these conflicts incredibly seriously.

Senator FARUQI: Broadcasting Eurovision where a state committing genocide is participating is not about providing accurate coverage or information. I don't understand how SBS can justify platforming Israel in Eurovision while at the same time claiming to be an antiracist, multicultural institution. Do you understand it is not about reporting?

Ms Palfreyman: I understand the question. What I'm saying is that that issue is up for a vote. That will go to vote in November, and we will soon know the outcome of that. My point about our coverage is to demonstrate that our role as a public broadcaster on this issue is to provide this impartial coverage. As such, having a position for or against a country partaking is not a matter for us. The matter for us is not to take a perspective here but rather to allow Australians to form their view and provide them with the facts and coverage that is accurate, that is unbiased and that is impartial, as governed by our code.

Senator FARUQI: You could make a decision, though, not to broadcast it if that country does partake, without asking for that country to withdraw. Is SBS prepared to acknowledge that broadcasting Israel in Eurovision actively undermines its credibility as a public multicultural broadcaster?

Ms Palfreyman: This isn't a matter for us; it's a matter for the EBU. We are reporting on this very issue in our news—about the EBU going to a vote. We understand these issues are deeply troubling for all Australians, and, as such, we will consider how this issue evolves. We look forward to the outcome of the vote, and, in our role on the reporting of these issues in the Middle East, we'll continue to carefully consider it in line with our code.

Senator FARUQI: Thank you very much.

CHAIR: Senator Shoebridge.

Senator SHOEBRIDGE: This follows on from Senator Faruqi's questions. What is SBS's editorial policy? What's the part of the editorial policy you reference when you're deciding to either proceed with or not proceed with Eurovision?

Ms Palfreyman: Can I clarify the question there—the editorial policy in relation to the terms we're using to cover the Middle East?

Senator SHOEBRIDGE: There have been, as you know, repeated and real concerns about Israel's international humanitarian law violations in Gaza, a recent finding from the UN commission of inquiry that Israel engaged in genocide and a large public campaign to say, 'If Israel's participating, neither SBS nor any other broadcaster should broadcast Eurovision.' What's the editorial policy to deal with concerns like that—where you have widespread concerns in the community about covering?

Ms Palfreyman: What I'm referring to is our code of conduct. I might encourage Clare O'Neil, who looks after our codes, to dive into the detail on this one.

Ms O'Neil: SBS will always make a range of editorial decisions about what it chooses to broadcast and to not broadcast. We've been broadcasting Eurovision for 40 years. It's an event very well loved by our audiences. As Ms Palfreyman said, I think the decision not to broadcast Eurovision due to the actions of a state which we are also providing news and current affairs reporting on would contradict our requirement to be impartial and to provide impartial coverage. I think you could draw the conclusion that if we made that decision then we were forming a view about the actions of that nation-state, which could then lead to a suggestion that we weren't providing accurately balanced news information.

Senator SHOEBRIDGE: You could just be following the findings of the UN commission of inquiry, which recently, as of the middle of last month, concluded that Israel was engaged in a genocide in Gaza. You don't have to be neutral in the face of a genocide, Ms O'Neil, do you?

Ms O'Neil: I'm not suggesting we're neutral in the face of a genocide. I'm suggesting that, if we were to make an assertion about a country's behaviour, then that could suggest that we were not approaching our coverage of that conflict impartially.

Senator SHOEBRIDGE: This isn't about coverage of the conflict. This is about choosing to put on air an artist from a country that the UN commission of inquiry has found is currently engaging in a genocide against Palestinian people in Gaza. That's quite different to news coverage, isn't it?

Ms O'Neil: Not necessarily. If we made a corporate decision that we weren't going to broadcast it because of the actions of a particular state, then we'd be sending a message about SBS's views about it, which would necessarily include a corporate view. People could then draw our editorial coverage into question. I would also say that it's actually not certain that Israel will be competing in Eurovision yet because, as Ms Palfreyman noted, there will be a vote occurring in November with the EBU member states.

Senator SHOEBRIDGE: I have two questions, which I'll try and roll into one because of the time. Have you had any complaints—and if so, how many complaints have you received—in relation to SBS's stated intention to continue to show Eurovision, notwithstanding the controversy over Israel's attendance? Have you engaged with any parts of the Palestinian community, artists or others to help inform your decision?

Ms Palfreyman: We haven't had any formal code complaints on the issue. We have had audience feedback. We've received just under 150 pieces of audience feedback since January, and that's obviously peaked in the latter half of September. In terms of engagement, we regularly engage through many parts of our network through audience feedback to understand and solicit the views of our communities to inform our position.

Senator SHOEBRIDGE: My question was about the Palestinian community. Have you reached out to the Palestinian community at all?

Ms Palfreyman: I don't have that specific information.

Senator SHOEBRIDGE: Can you provide it on notice?

Ms Palfreyman: Thank you, Senator. I'm happy to take that on notice.

CHAIR: Thank you.

Proceedings suspended from 20:49 to 21:00

Special Broadcasting Service Corporation

CHAIR: I can announce that we are in a position to release the Australian Sports Commission and Sport Integrity Australia. I thank my colleagues for their assistance with that. We continue to be optimistic about others, given the timing.

Senator Green: I doubt we're going to get to outcome 7.

CHAIR: I share that assessment, but we are all doing our best. Optimism is an underrated virtue. We'll go to SBS and Senator McGrath.

Senator McGRATH: On 2 September of this year, the SBS copied a Reuters online article to its website from 1 September titled 'Israel is committing genocide in Gaza, world's leading experts declare'. The article claims:

The world's biggest academic association of genocide scholars has passed a resolution saying the legal criteria have been met to establish Israel is committing genocide in Gaza.

Anyone can join the International Association of Genocide Scholars it seems. It's just \$150 per year. Current member profiles of the organisation include Adolf Hitler, with a photo of an Hamas soldier; Senator Emperor Palpatine from Star Wars, who is apparently affiliated with 'Sith without borders'; and multiple profiles of self-described Jewish- or Hebrew-speaking dogs. Before SBS shares stories from other news agencies, what are the steps for verifying those stories?

Ms Palfreyman: I've not aware of that specific article, but I might allow Mandi Wicks to speak to the process that you've referred to.

Ms Wicks: We have a number of partnerships with many of the largest and trusted news agencies around the world. We will often take their content, as paid partnerships. From time to time we will definitely question and seek to verify. Again, I'm not aware of the article you refer to. I'm happy to take it on notice.

Senator McGRATH: If you could, take it on notice in terms of the specificity of it. How could a news outlet such as SBS, which does have high rates of trust in their journalism, not vet this particular article and review its sources and which quotes a genocide scholars organisation whose members claim to be dogs and Star Wars characters and wear terrorist paraphernalia. Considering the very vexed issue of what is in Australia at the moment in terms of the social cohesion around the war in the Middle East, would this have run alarm bells at the SBS to make sure that this article was correct?

Ms Wicks: Again, it's difficult to comment on the article as we're not aware of it specifically. Could we come back to you?

Senator McGRATH: On notice is fine. Thank you.

CHAIR: Senator Henderson, obviously you can ask questions, but I make a request for brevity if possible please.

Senator HENDERSON: Sorry, I'm battling a chocolate biscuit at the same time. Good evening. Just very briefly, I want to recognise your editorial decision in relation to how you refer to the occupied territories of Palestine. There are no defined borders for Palestine, and of course the government's recognition is preconditioned on a number of different factors. I just want to acknowledge that. Could you just perhaps summarise why you've made that determination in relation to how you refer to the occupied territories?

Ms Palfreyman: Language is incredibly important. It's something we agonise over when reporting on these types of conflicts. In terms of how we make these decisions, we are constantly evaluating, based on world events and the issues of the day, how best to reflect the events in service of our code of conduct. Our code and guidelines require us to be impartial and that is something that is always at the forefront of our mind when making these decisions so as not to bring that impartiality into question.

Senator HENDERSON: Thank you, and I do want to commend you for that decision—under obviously a fair bit of pressure from those who disagree. Thank you, Chair.

CHAIR: Thank you, Senator Henderson. I appreciate that brevity. We will now release SBS. Thank you very much for your attendance and evidence here today.

Office of the eSafety Commissioner

[21:08]

CHAIR: We welcome officers from the Office of the eSafety Commissioner, including Julie Inman Grant, the commissioner. Commissioner, I ask that if you have an opening statement, in the context of the timing and the course of the day—and if it is at all possible—you table that statement or keep it as brief as possible. The committee would be most appreciative.

Ms Inman Grant: If you'll indulge me, I'd like to keep it brief because I think there is some important information the committee will probably want to question me on, so I will commence.

CHAIR: Thank you, Commissioner.

Ms Inman Grant: Thank you so much for the opportunity to provide this update during a very busy period since the last time we met in February, which includes the recent proliferation of extreme violent material we've seen online. This is not the first time I've addressed the committee on this topic. I again note the potential of such material to normalise, desensitise and sometimes radicalise young Australians, as highlighted by ASIO Director-General Mike Burgess. Terrorist and violent extremist material used to make up just a tiny fraction of complaints to eSafety—around three per cent—but we've seen a 55 per cent increase so far this financial year.

Last month, my team spent an inordinate amount of time and energy investigating videos extensively posted and shared over a short period of time, making them widely accessible to Australian users, including children. They captured three tragic events in the United States in graphic detail: the assassination of Charlie Kirk, the horrific murder of Ukrainian student Iryna Zarutskya and the decapitation of a hotel manager in Dallas. I know many Australian parents were disturbed to discover close-range footage, of the Charlie Kirk murder in particular, appearing without warning in the social media feeds of their children. eSafety sought urgent review by the Classification Board, which assessed instances of material showing all three attacks as 'refused classification'. To remind the committee, this means that it cannot be legally hosted, shared, distributed, sold or accessed in Australia. We then engaged with major technology companies to inform them of their obligations in relation to such material, including sending removal notices in some instances where they were not complying.

This week, we issued an online safety advisory to help parents and educators deal with the potential material collectively known as 'gore', which our survey shows is now viewed by 20 per cent of Australian children between the ages of 10 and 17. We're also addressing children's exposure to high-impact, age-inappropriate content at a systemic level through the implementation of codes and standards drafted by industry and registered by me in September. These newer codes create significant additional obligations for online services to prevent children's exposure to extreme violence, pornography, suicidal ideation, self-harm material and the outputs of sexualised AI-driven chatbots and companions. The codes will provide another layer of protection for under-16s on services that are not age restricted when social media minimum age obligations come into force on 10 December.

I know the social media minimum age is a topic that will interest the committee greatly, and I'm pleased to be able to say that we've made some significant progress towards implementing it. We have undertaken broad consultation with over 160 organisations and 345 individuals across industry, community organisations—I'll skip to the main part because I can see that that is desired. In July, the government indicated its view that the following platforms would be age restricted on 10 December: YouTube, Facebook, Instagram, TikTok, X and Snapchat. We have been engaging with platforms and conducting our own assessments after providing them with self-assessment tools, and I can confirm to the committee today that, based on our preliminary assessments, eSafety agree with that view and have written to the companies to convey our position. Whilst some platforms have already indicated they agree with our assessments, some are likely to respond with their alternative view and may also provide additional information that will change the assessments.

I will also say—I'll skip to the end—that we know that, with these lists, there will be more certainty and there will be more education and resources delivered next week, but we know things can change on a dime. In fact, over

the weekend, a new potential social media services may appear without warning, such as OpenAI's release of an AI generated social app called Sora. We also know that existing services change. I will leave it there. I will table the full statement for consideration.

CHAIR: We will table your statement in full, Commissioner. Senator Whitten.

Senator WHITTEN: Commissioner, do you believe in free speech?

Ms Inman Grant: I certainly do.

Senator WHITTEN: Good. It's been reported that X has been issued with several notices to take down the content relating to the tragic slaying of Iryna Zarutka in the US and threatened with fines of \$825,000 a day. X has made these notices public. What jurisdiction do you have to demand that these posts—many of which are from foreign nationals with a foreign owned corporation—are taken down?

Ms Inman Grant: As I just explained, under the Online Safety Act we have the ability, when the public complains to us about what we call class 1 content—terrorist and violent extremist material, as well as child and sexual exploitation material. If we assess it as class 1 material, it is considered illegal in Australia. This time, to be doubly sure, we put it before the national Classification Board. They also assessed this as 'refused classification', which means that it is illegal to be held, sold, distributed or shared in Australia. So it is simply illegal in Australia.

Senator WHITTEN: So even against foreign nationals and—

Ms Inman Grant: It's being served to Australians. It's about access to Australians and Australian children who had this in their feeds—in their 'for you' feeds—pushed by algorithms, without any interstitials whatsoever.

Senator WHITTEN: Given the US has threatened visa restrictions and sanctions on countries that have not upheld free speech, are your threats to X putting Australia in danger of these sanctions?

Ms Inman Grant: There was a specific visa sanction that Secretary of State Rubio put forward specifically around foreign censors and taking away those visas. I have not been affected by them. And I don't see how that would have broader impact on the larger Australian populace.

Senator WHITTEN: So it couldn't roll over into the Australian population or—

Ms Inman Grant: It's specifically for people in roles that they consider to be foreign censors.

Senator WHITTEN: If I, as an Australian senator, want to repost a video, would you recognise my right to political free speech, or would you issue X with a notice to remove it?

Ms Inman Grant: We don't have any powers to—or any interest in constraining political-commentary opinions. We have legislated thresholds that were developed and passed by a bipartisan parliament. If it were adult cyberabuse, for instance, targeting another Australian adult, we would have to assess that it met the dual-pronged test, which is 'serious intent to harm' and that it was menacing, harassing and offensive to an ordinary reasonable person. That's a very high threshold, and only 90 per cent of reports that we get in that area are able to be actioned. If you were passing on something that was deemed illegal content, you would be further distributing illegal content.

Senator WHITTEN: I think my right to distribute political free speech has been established in the High Court.

Ms Inman Grant: If it is political commentary or an opinion, yes; if it is a piece of content that, I think, was—

Senator WHITTEN: Which could be construed as lots of different things, video or otherwise—

Ms Inman Grant: We are talking specifically about imagery that has been classified as class 1 material or has been classified by the national Classification Board. You're talking about a very small number of pieces of material—

Senator WHITTEN: Any material, because—

Ms Inman Grant: like child sexual abuse material. If you were sharing child sexual abuse material, that would be further distributing—

Senator WHITTEN: I'm pretty sure I won't be sharing that!

Ms Inman Grant: But some people believe their freedom of speech—

Senator Green: Why would you want to repost? You're talking about a video where a woman was killed.

Senator WHITTEN: Yes. I haven't even watched the video. It's not about that. If you believe in free speech then it's either free speech or it's not. And who gets to draw the line? That's my point: who gets to draw the line?

Ms Inman Grant: According to the laws of Australia, there is free speech, and the way that these are pitched are sufficiently high that it goes well above defamation or any other forms of speech. This is about drawing a line where online discourse veers into the lane of serious harm. This is serious harm and abuse or it's illegal content. Would you like to add anything?

Ms Snell: I would just add that people are not precluded from commenting, for example, on the assassination of Charlie Kirk or on the brutal killing of Iryna Zarutka. So it doesn't prevent you from commenting on or talking about that. What it prevents is the distribution or sharing of graphic videos that have been classified as 'refused classification'. These are so graphic that they wouldn't be X-rated or R-rated; they're unable to be shown in Australia.

Senator WHITTEN: Thank you.

CHAIR: Senator Antic.

Senator ANTIC: Commissioner, I'm speaking up on the conversation about the social media posts and the recent removal notices issued. I'm interested as to how those particular posts and accounts were identified. I understand that your office uses third-party contractors to scan for posts online—you don't use any contractors to look for—

Ms Inman Grant: We rely on public reports from the public. I believe we received about 50 around that. We can conduct own-motion investigations when there is a basis for a complaint around illegal and restricted content. Mr Downie might like to further embellish upon that.

Mr Downie: Senator Antic, in relation to the question you've asked, are you referring to the Kirk footage or the footage of—

Senator ANTIC: I'm just referring generally. There were suggestions made that companies, including Meltwater from the United States, are used to identify or somehow search for material that might—

Ms Inman Grant: No, that's not used in our investigations. Meltwater is a social media listening tool. We're using it to build our overall market. Ms King, do you want to talk about how we use Meltwater?

Ms King: Certainly. Meltwater is a social media administration tool, so it's used internally to administer our social media accounts to publish on behalf of eSafety. That's what that tool is used for. It's not third party.

Senator ANTIC: You mentioned before that these particular posts would have been refused classification, which seems clear. It's fairly ordinary stuff. But there's still obviously a lot of material online and on social media that would also, presumably, not be able to get classification. There's still a lot of violent and abhorrent material out there—war footage from the Ukrainian front and presumably from the conflict in Gaza. Have you put out any formal or informal take-down notices for that material, which is still online?

Ms Inman Grant: We do receive reports of that material. Mr Downie, do you want to talk about what we're seeing?

Mr Downie: I might just go back to the question you asked before, Senator Antic, in relation to the Kirk and the Zarutka footage. Our process is that we will receive a complaint from a member of the community. In relation to those two pieces of footage, we received 50 complaints from members of the community about the Kirk footage on Meta platforms; we received 24 complaints about that footage on X. We received 30 complaints about the stabbing of Zarutka on Meta platforms, and we received a further 23 complaints about the Zarutka stabbing on X. We only responded to the URLs associated with those complaints, and we only sought the removal of those URLs associated with those complaints. We didn't instigate any other own-motion investigations, as the Commissioner alluded to.

In relation to other pieces of content that may be deemed as class 1 material, which can range from pro-terror material all the way through to anything that's classified as refused classification by the board, I'd have to take that question on notice, to give the exact figures in relation to that. It would be broken down into different categories.

Senator ANTIC: So you do receive complaints about other material?

Mr Downie: We do.

Senator ANTIC: And is that acted on?

Mr Downie: It depends on the circumstance at the time. It depends on whether the material is deemed or likely to be class 1, or refused classification. It depends on how accessible the information is. We might not be able to find the footage, for example. The platforms may already have removed the content prior to eSafety being involved. It's very much dependent on a case-by-case basis.

Senator ANTIC: See, that's the difficulty. The criticism out there is that the office is just looking through a political lens as much as it is a violent and abhorrent material lens. There's obviously a lot of material out there. The question people have on their minds is: how does the office come to the conclusion to issue those take-down notices? It would be interesting to know that specifically. There is obviously still a lot of material out there. There's a lot of all sorts—all of the things we've described today still exist but don't seem to be getting attention.

Mr Downie: You're exactly right. There's an insurmountable amount of content circulating on the internet.

Senator ANTIC: How is it we just pick these few incidents?

Ms Inman Grant: It's largely complaint based, but we never have claimed that we're going to cleanse the internet of all horrendous content. You're playing a constant game of whack-a-mole.

Senator ANTIC: If I can just turn to a different issue now. You've released the *Social media minimum age regulatory guidance* document. It's a big document. It attempts to explain how it is that the social media age assurance is going to happen. I have to say, it is difficult to follow in the sense that it seems to suggest there will be a range of ways in which the platforms will be able to verify age, including all the way through from, potentially, facial recognition to identification documents to even, potentially, metadata through location—things like that. There seems to be a range of ways that that will happen. It's obviously going to involve a lot of personal data. Is it the case that these providers who will need to ask for this verification from customers—is it the case that some of that information or data will be stored overseas?

Ms Inman Grant: Most of the feedback on the regulatory guidance is that it was reasonable, feasible, fair and very accessible. We've been speaking to most of the companies that I mentioned to you and a broader cohort of companies for the past year, so we have a sense of the tools that they're already using. In fact, we used some of our section 20 transparency powers in February to understand precisely what age assurance tools they were using.

You'd also be aware that the department of infrastructure conducted an age assurance technical trial where they tested more than 50 technologies, and they looked at issues such as robustness and efficacy and also ensuring that they are privacy preserving. As the regulator, I don't presume to know the company's infrastructure better than they do or to prescribe the technologies that I think they should use. We took great heed of your amendment—hopefully you recognise that—but what we ultimately advocated was what we call a waterfall or a successive validation approach. Many of the larger companies are using age inference technologies. They would be looking at different behavioural signals of young people—13-year-olds usually talk to other 13-year-olds, they're logging in before and after school et cetera. The question is, for them, what would they be layering on for a greater degree of certainty without only using either physical or digital ID as a sole means of—

Senator ANTIC: I got it. That is a very, very roundabout way of saying that customers may have to store—TikTok, for example. Their parent company is based in Beijing. If TikTok are going to verify children, even potentially children's—

Ms Inman Grant: But they already do, so how is this going to be different?

Senator ANTIC: The legislation is going to be requiring that they take active steps to do that. Some do, some don't, presumably, and it may be there are—

Ms Inman Grant: I would say TikTok is probably one of the companies that is already taking those steps. It's worth noting that there is a co-regulatory arrangement with the OAIC, and I think, very soon, you'll see guidance from the Privacy Commissioner so that we're balancing both ends of the scale so that privacy and safety are both enabled.

Senator ANTIC: It is the case, therefore, that you can't guarantee that Australians', including Australian children's—noting this was the Office of the Children's eSafety Commissioner—information will not be stored on the servers of foreign companies as a result of this requirement to verify the age of people who use social media?

Ms Snell: The key things to understand are, firstly, that a lot of platforms already collect and have a lot of inferential data available to them, and they're already storing that wherever they currently store their data. Importantly, any data that they collect specifically for the purposes of age assurance they are required to not retain beyond the point in time that they use it for age assurance. They will collect that data and use it to do the age assurance process, and then they're required to delete it.

Senator ANTIC: Required by whom?

Ms Snell: By the legislation.

Senator ANTIC: The Australian legislation?

Ms Snell: Yes.

Senator ANTIC: So you think that foreign companies are going to—companies out of Beijing, the Middle East, out of—

Ms Snell: There are substantial penalties for them not complying with that.

Senator ANTIC: I think my colleague Senator Whitten asked the question about the Trump administration restricting visas for foreign officials. Now, I'm not suggesting anything in this, but I think you were asked this question at the National Press Club. I think you said you were going to 'defer to your DFAT colleagues' on the

question of whether or not there might be an issue with a visa for yourself. Have you taken advice from DFAT about the status of a visa?

Ms Inman Grant: I do take regular advice from DFAT and share information with DFAT—

Senator ANTIC: But on this issue of incurring the wrath of the Trump administration?

Ms Inman Grant: I've recently been to the United States, and I entered without any incident.

Senator ANTIC: You are a US passport holder, I think, aren't you?

Ms Inman Grant: I'm a dual passport holder.

Senator ANTIC: You're a dual passport holder, so it's probably not quite such an issue. But, you know, the prospect of being denied a visa would apply, even if the Trump administration were to deny entry.

Ms Inman Grant: I think it's harder for foreign students entering into the United States right now. I think they have to provide seven years worth of their social media background to be analysed before they're allowed a visa.

Senator ANTIC: Thank you.

CHAIR: Senator Henderson.

Senator HENDERSON: Commissioner, good evening. I want to ask about the social media ban for under-16-year-olds, due to commence on 10 December. Given that it's just 63 days away, can you clarify which platforms under-16s will be banned from.

Ms Inman Grant: The social media delay, as we indicated just a few moments ago, will definitely apply. From our perspective, there is still some procedural due process that needs to take place. Some platforms may agree, some may disagree, but where the preponderance of young people is on the major platforms, as I mentioned, YouTube, TikTok, Snap, Instagram, Threads and Facebook. We are continuing conversations with a few other platforms where we see that there is significant social media functionality and there may be applicability in accordance with the rules. We spoke to one small platform, for instance, yesterday that's only been around for 20 months, and it bills itself as a social media platform. They probably have 50,000 Australian users, but they said: 'We looked at your assessment tool; we think we're in. This is what we can do today, and this is what we'll do tomorrow.' So we're having conversations with a range of platforms, but, over the next week or so, you'll see a lot more certainty around which of these platforms are designated age-restricted social media services and some that may fit into the exemption categories of messaging or online gaming. What we really have to assess is what their primary or sole purpose is.

Senator HENDERSON: Do you know what exemptions will be in place?

Ms Inman Grant: It's specifically for messaging platforms, online gaming platforms and any platform that is focused on education, mental health and help.

Senator HENDERSON: Are you able to name those particular platforms that focus—

Ms Inman Grant: We haven't finished the procedural fair process with all of those platforms.

Senator HENDERSON: Can you do it on notice?

Ms Inman Grant: Yes, we wrote a tranche of letters, three tranches, to about 16 who we thought could be borderline; they could be an online gaming platform, but there might be a lot of social media functionality, so we needed them to do that analysis and for us to do that analysis. As I said at the beginning, it is obviously up to the companies themselves to have their own legal assessment. I don't have a specific declaratory power to say, 'You are in, and you are not.' What we are trying to do is give them a greater degree of certainty, tell them where we fall, and then we will talk to them about our compliance and enforcement approach.

Senator HENDERSON: I think a lot of teenagers and parents are concerned about how they are going to be told, how they are going to respond, what sort of education program is planned. There's a very short period of time to notify teenagers and their families.

Ms Inman Grant: Of course, through this extensive consultation that I discussed, our primary focus was on parents, educators and young people themselves. We specifically tried to tease out what kind of information it is that young people want to know and what kind of things parents need to know. In the coming week, you will see from us some extensive new resources. There are obviously plenty of resources. We've created a social media minimum age hub on our website that is visited by many on a regular basis. These will include everything from seminars, webinars, how-to guides, conversation starters and checklists. It's been our experience, over the past 10 years, that you can't start too early and you can't provide the information to them too late.

We know that this is going to be a monumental event for a number of young people, and we want them to be prepared, so some of the discussions might be around how you wean your children from these platforms or how

you help them download their archives and their memories, follow influencers on websites or set up group chats for their friends so they don't feel a sense of isolation.

Senator HENDERSON: Are you in a position to provide the committee with those letters to the 16 platforms?

Ms Inman Grant: Yes, we are.

Senator HENDERSON: You can do that?

Ms Inman Grant: Provide those to the public?

Senator HENDERSON: To the committee.

Ms Inman Grant: Yes, we will be publishing them on our website once we've given them and received feedback.

Senator HENDERSON: You mentioned procedural fairness, but that's not a grounds to decline to provide a document to the committee.

Ms Inman Grant: No, we wrote to the platforms today in the letters that we plan to post them on our website for procedural fairness, so it will be no issue at all to provide them to the committee as well.

Senator HENDERSON: When can you do that? Can you provide the letters straightaway?

Ms Inman Grant: As part of the procedural fairness, I would like to hear back from the platforms.

Senator HENDERSON: Procedural fairness isn't a grounds to decline to hand over documents.

Ms Inman Grant: I can make sure that those are provided in a timely fashion. We'll take that on notice.

Senator HENDERSON: Can you update the committee on the age verification trial and where you're at with age verification.

Ms Inman Grant: The age assurance technical trial, which included testing of age verification technologies, was conducted by the department of infrastructure. The results of that trial were tabled, I believe, at the end of August. We have a separate MOU with them, and, of course, we believe that it provides a great set of evidence of independently tested technologies for the platforms that are going to be responsible for implementing the social media minimum age restrictions if they haven't developed their own internal proprietary tools. There are a number of tools that were tested there with a very high level of technological readiness that will give companies a head start. But, for the most part, I think the major players were already testing some of these third-party solutions that were tested independently.

Senator HENDERSON: There's obviously a lot of concern about digital ID. Clearly, the legislation, because of our members who talked about it, bans the use of digital ID. But what's to stop one of these platforms from asking for someone's digital ID?

Ms Inman Grant: They can ask for digital ID as one form of age assurance, but they cannot only use digital ID, and it cannot be the last point of call if there's an appeal or if there is a refusal. The idea there is that you shouldn't be able to force anybody to use their digital or government ID if they're not comfortable. There have to be alternative means that are offered by the platforms.

Senator HENDERSON: Given that the legislation prohibits the use of digital ID, what steps—

Ms Inman Grant: It does not prohibit the use of digital ID. All up, it prevents digital ID from being used as a sole means of assessing someone's age.

Senator HENDERSON: What requirements will the platforms need to meet to ensure that people are informed that they are not required to provide their digital ID?

Ms Inman Grant: We've got this in the regulatory guidance. We've got this on our website. We will expect the companies to provide us with a compliance plan and also with a communications plan to their users about what kinds of age assurance are available to them and how they are stored—how they're stored safely. Again, I think you'll have a great degree of comfort when the privacy commissioner tables her regulatory advice, which I expect will be very soon. These will work symbiotically together. We've been working with the OAIC since the beginning of this process to make sure that the safety requirements marry up with the privacy requirements.

Senator HENDERSON: Do have draft copies of those communication plans?

Ms Inman Grant: These are communication plans that will be developed by the companies themselves as they implement their—we're not giving specific—

Senator HENDERSON: You haven't produced best practice templates of what should be in those communication plans?

Ms Inman Grant: We've outlined a lot of what we expect should be in the communications, in the regulatory guidance, in terms of how they also speak to young people and make sure that they're kind and they're fair.

Senator HENDERSON: Could we get on notice a copy of those guidances, please—

Ms Inman Grant: Sure. Absolutely—

Senator HENDERSON: and any other instructions or requirements that you've issued to the platforms who will be required to comply with this ban.

Ms Inman Grant: Sure thing.

Senator HENDERSON: Thank you very much.

CHAIR: Senator Payman.

Senator PAYMAN: Good evening, Commissioner and team. I have a few follow-up questions on Senator Henderson's line of questioning. Have Google and YouTube confirmed whether they think they're in ban?

Ms Inman Grant: To date they have sent us, I believe, one official letter and maybe a second letter.

Ms Snell: At this stage, Google and YouTube have conveyed to us that they don't consider that they're covered by the ban. We have a different view. We've advised them of that.

Senator PAYMAN: Since you sent both Google and YouTube the self-assessment form for whether they should be in the ban, have they responded since then that they don't believe they should be in the ban?

Ms Snell: They have.

Senator PAYMAN: Do you think this is probably based off the preliminary view that was expressed that YouTube will be an age-restricted social media company? Has the eSafety office position changed at all and become certain that YouTube should still be in the ban?

Ms Snell: We have performed our preliminary assessment based on information available to us from a range of sources having regard obviously to the rules and legislation, to publicly available information on how YouTube is used, its features and functions, and information that we have received from YouTube and Google. We have used essentially the same process as the assessment tool that we've provided to industry. At this stage, our conclusion is that they fall within the scope of the SMMA obligations. We have indicated to all of those services that we consider fall within that they're open to provide us with further information for us to continue to assess.

Senator PAYMAN: If they have refused to be part of the ban, or expressed that they shouldn't be, what's the process? Would you sort of characterise YouTube and Google reducing engagement with the eSafety office because of the preliminary view you may have expressed?

Ms Snell: They have met with us on several occasions since and continue to engage with us, so I wouldn't say that there has been reduced engagement. In terms of whether they comply or not, an industry participant can consider themselves to not be subject to obligations but may still nevertheless choose, ultimately, to effectively comply. We've not had indication from YouTube and Google either way on that. That's probably a matter to wait and see closer to the time. If they choose to not comply, then we will consider what next steps might be appropriate in terms of enforcing the legislation.

Senator PAYMAN: On a slightly different topic, in August the notorious website 4chan announced it would not be complying with requests from the UK government under the UK Online Safety Act 2023. Would 4chan be considered an age-restricted social media platform under part 4A of the Australian Online Safety Act?

Ms Inman Grant: No, it is really an image board, and we have had dealings with 4chan.

Mr Downie: We did investigate a recent complaint of material that turned out to be class 1 material that we believe was hosted by 4chan. The investigation has been finalised, and that material was no longer available, so we weren't required to issue any removal notices for that—4chan had complied prior to us needing to get involved.

Ms Snell: We haven't formally assessed 4chan as to whether they're required to comply with the SMMA obligations. Initially, we've taken a risk based approach to our assessment, focusing on those services that have significant presence in Australia with a significant number of young users and obvious key features that are likely to make them fall within the obligation at this stage. We know that there will be ongoing assessments of different services, particularly as services evolve, as user migration happens and with the way that users engage with services. So, while we haven't considered them at the moment, it's possible that in the future we may need to assess them.

Senator PAYMAN: Yes, it is an anonymous image board, as the commissioner said, but it has no account system, so you can't really trace back to a user's posts, which could merely be a hash string rather than serving as any kind of connected record of the user's engagement on that platform. With the fact that you haven't had that conversation around engaging with them to see whether they fit within the act, I'd be curious to know whether 4chan

would effectively be exempt from the ban given that trying to protect Australian children under the age of 16 should prevent them from seeing ultraviolent, extremist and violent content that's quite objectionable. If we were to ban them, whereas innocuous services like Facebook or Snapchat, which cannot be accessed with an account being created, it would be—

Ms Inman Grant: What I was going to mention is the social media minimum age was really designed to provide a delay for under-16s to access or hold an account. The online safety codes that we've just registered are designed to prevent under-18s from accessing any violent, pornographic, self-harm, suicidal ideation or disordered eating content—the kind of content that you would typically see on 4chan—and they would be considered part of our designated internet services. They will have obligations under those codes, and those will be the powers that we would use if it were necessary. They carry the same ultimate fine of \$48.5 million.

Senator PAYMAN: Did the government or the department consider anonymous, account-less sites like 4chan when developing the social media ban policy?

Ms Inman Grant: Not to my knowledge, but that's a policy question for the department. The focus was on mainstream social media that a lot of children were using, spending a lot of time on, and being exposed to addictive design features on, like opaque algorithms and endless scrolling. I would consider 4chan one of the darker sites on the web. These are things that we deal with through our phase 1 and, soon, our phase 2 codes, as well as through our illegal and restricted content scheme, because that's where a lot of terrible content sits.

Senator PAYMAN: Sorry, the question was to the minister.

Senator Green: Yes, and I think the commissioner has gone to some of the policy area. What our government considered was how important it was for us to take world-leading action to reduce the online harms experienced by young Australians, and that's why we're delaying access to social media until the age of 16. That's because we're on the side of parents, not platforms. When it comes to the regulation of the laws, we'll work with the commissioner on that. And, of course, as the commissioner has outlined to you, there is separate work around harmful content, dangerous content—that is separate, again, to social media in and of itself. But, as to social media in and of itself, we know and parents know the harm that it causes, and that's why we're delaying access for children.

Senator PAYMAN: The answer to the question is essentially no, but that's okay.

Senator Green: No, I answered your question about what we considered—

Senator PAYMAN: And if 4chan wasn't considered as an account list—

Senator Green: And the commissioner has taken you through where 4chan might—

Senator PAYMAN: But this was a question to the government, because it's the government policy.

Senator Green: Yes, I answered your question. What I'm saying to you is it's very important that we take this action, and there are multiple other ways that we are dealing with dangerous content online not just for children but for everyone, every Australian user.

Senator PAYMAN: But the fact that 4chan wasn't even considered—

CHAIR: Sorry, Senator Payman—

Senator Green: No, I told you what we considered. We considered protecting children.

CHAIR: when the minister is speaking, allow her to answer.

Senator PAYMAN: Yes, that's fine. Commissioner, is eSafety aware of any other piece of legislation within the communications portfolio of similar significance to the Online Safety Amendment (Social Media Minimum Age) Act 2024 being passed through both houses of parliament eight days after it was introduced? Are there any other examples of legislation you might know?

Ms Inman Grant: Not that I'm aware of, but that's probably one for the minister.

Senator PAYMAN: I'll come to the minister—it's okay. Is eSafety aware of a recent example of a piece of legislation from any portfolio being referred to a Senate committee for a five-day inquiry with a 24-hour opening for submissions?

Ms Inman Grant: Not that I'm aware of.

Senator PAYMAN: Thank you. In her second reading speech to the SMMA Bill, then minister Rowland referred to the change as a 'world-leading reform', which Senator Green just quoted. In preparing the policy, did the government identify why no other country on earth had yet implemented this reform?

Ms Inman Grant: I think they were trying to take a bold leadership role and I think, if you watch—I'm talking to other regulators in other countries all the time. New Zealand has passed a similar law, Papua New Guinea has

passed a similar law, and there are 15 countries in Europe that are looking to us. So I do think it's bold and it's novel. There is no playbook to write it; we are figuring out how to implement this the best way that we can. I'd also note that we've put out a statement on children's digital rights because we want to make sure that this is done in a way that respects all of those rights so that we're not cutting off their digital lifelines, particularly those who may come from disadvantaged communities or may feel more themselves online than they do in the real world.

Senator PAYMAN: Thank you, Commissioner. I appreciate the intention. Minister, is the primary purpose of the social media ban to restrict access to harmful content or to restrict access to harmful design features?

Senator Green: It's to protect children against social media and the persuasive and pervasive pool of social media.

Senator PAYMAN: So access to harmful content or access to harmful design features?

Senator Green: I've answered your question.

Senator PAYMAN: Not really, but okay. Is the primary—

Senator Green: No, I have. You just didn't like the answer—

Senator PAYMAN: I literally had a very simple question.

Senator Green: because you don't support the policy.

Senator PAYMAN: That's okay, Minister. We can—

Senator Green: What that means is you support the platforms over parents.

CHAIR: Senator Payman, come to order.

Senator PAYMAN: I'm going to my next question. I know that time is against me, Chair.

CHAIR: It is, but, Senator Payman—

Senator Green: That's okay. Look, we listened to parents and we're taking action—

CHAIR: when you make a proposition to the minister, the minister is entitled to answer that proposition without interruption, as you are entitled to ask your questions, so we'll come back to you.

Senator PAYMAN: Why, in the embargoed media release regarding the social media ban's announcement and the release of the age-assurance technology trial report, was third-party comment prohibited, Minister?

Senator Green: I don't know what you're referring to about the embargo—

Senator PAYMAN: *Media Watch* released information on how the press gallery was prohibited from including third-party commentary when there were embargoed media releases around the social media ban announcements from the government.

Senator Green: The legislation? Or the—

Senator PAYMAN: It was both the social media ban announcement and the release—

Senator Green: Sorry, I have not watched *Media Watch* in a while, and usually—

Senator PAYMAN: I'm surprised that the minister or the government hasn't briefed you on this, because it was the age-assurance technology trial report that was also being released, and not having a third-party comment. What's interesting is—

Senator Green: Why don't I take it on notice, Senator Payman, because then we can get you the answer that you're after.

Senator PAYMAN: Sure. You can probably take this on notice as well, because if there were a concern that third-party comments from experts would undermine confidence in the policy, then being able to publicly rebut these concerns would probably be the easiest way of reassuring the public, right? So, yes, please take that on notice. Do you know whether these prohibitions on third-party comments on media releases were put in place because the government was afraid that they would bring up questions in the public arena that the government did not have answers to, Minister?

Senator Green: We'll take on notice the question about the media release. I'm not sure about the details of that, but I can take it on notice. Of course, when governments announce policies—particularly policies that we're very proud of—we're prepared to answer any questions about them.

Senator PAYMAN: I'll just give you the date, though, to help you and the minister. It was Monday, 9 September 2024 at 4:32 pm.

CHAIR: Senator Payman, given the stage of the evening, I would ask you to consider whether some, if not all, of your remaining questions can be put on notice. I will share the call with Senator Roberts.

Senator ROBERTS: Thank you, Chair. Thank you for coming back again.

Ms Inman Grant: It's nice to see you in person.

Senator ROBERTS: Katherine Deves made a freedom-of-information request to the eSafety Commissioner for documents referencing her, and you rejected the request because you hold 16,000 documents on one single person. Is that correct?

Ms Inman Grant: I think that is a misunderstanding. I will have Mr Fleming, our general counsel, announce that further. I think the hits she was talking about were in a Meltwater report on social media mentions, and this was of Ms Deves's tweeting either at the eSafety office handle or at myself—tweeting duels. These were not actual records or conversations that we had of Ms Deves. These, again, were picked up through mentions in Meltwater social media monitoring. But Mr Fleming can clarify that.

Mr Fleming: I'm not aware of the precise circumstances in this case, but we often do see the occurrence that the commissioner mentioned—where people mention themselves, or mention us, in their posts and our social media listening picks that up. That's how those records get created.

Senator ROBERTS: What is Meltwater media monitoring? How does it get to 16,000?

Mr Fleming: As you know, departments and agencies have media monitoring, and whenever a particular term is mentioned that's—

Senator ROBERTS: Such as eSafety Commissioner?

Mr Fleming: Or whatever the term is; it could well just be our Twitter handle—our X handle—that gets picked up, and that's what gets reported. When we do the searches, that's what gets discovered through the search process.

Ms Inman Grant: It helps us pick up the sentiment analysis. Obviously, either she was engaging with and tweeting a lot at us, or we were in the same set of viral tweets.

Senator ROBERTS: So there are 16,000 mentions, not documents?

Ms Inman Grant: Not documents.

Senator ROBERTS: Are they mentions or hits on social media?

Mr Fleming: I don't have those details.

Ms Inman Grant: We can take that on notice to further clarify for you.

Senator ROBERTS: Yes, please, that would be good. But they're not documents?

Ms Inman Grant: No.

Senator ROBERTS: They're not her documents.

Mr Fleming: No.

Senator ROBERTS: On that question, how many documents you had saved on all Australians?

Ms Inman Grant: On all Australians?

Senator ROBERTS: Yes.

Ms Inman Grant: We are not monitoring the Australian populace. We receive complaints from the public, and sometimes that requires an investigation of who's on the other end. Maybe you have a better answer, Mr Fleming.

Mr Fleming: I don't.

Senator ROBERTS: Thank you for that explanation. How extensive would you describe your surveillance database being? How long are you going to keep the records?

Ms Inman Grant: We do not have a surveillance database.

Senator ROBERTS: Nothing at all?

Ms Inman Grant: No.

Senator ROBERTS: Okay. Are you in compliance with privacy regulations in keeping any records?

Ms Inman Grant: As an agency of the Public Service, of course. I don't know, Ms King, if you want to talk our privacy, security and other governance?

Ms King: I would just add that we follow the National Archives on recordkeeping and retention policies, and we conduct privacy impact assessments on our internal systems that hold information. That's just standard process for us.

Senator ROBERTS: Do you keep any records on Australian parliamentarians?

Ms Inman Grant: No, we do not keep any specific records on Australian parliamentarians. I'm not sure what you're alluding to. I mean, we may look at the *Hansard* to see who is going to be at the committee, but, beyond that, no.

Senator ROBERTS: Thank you. I turn now to your secret trip to Twiggy Forrest's retreat. You mentioned this at the previous session with a Dorothy Dixier question from Labor, but I note that you've made no reference to the fact that this was a secret, undeclared trip that you failed to declare on the gifts register until you were questioned by media. I will quote from Ryan Cropp when he reported for MLEX. I understand the media monitors—

Ms Inman Grant: Actually, it was not a secret trip. There were 32 global AI experts that went. I made my way to Perth and I did declare the cost of that trip. I had an admin leave in that intervening period, but there was nothing covert about it. In fact, the Munderoo summit was held again this year, and a number of federal agency heads like me went. It wasn't covert; it was to talk about AI safety with some of the best AI specialists in the world. I could sit in an ivory tower in my office and read documents or go out and learn so I can be a better regulator. That is what I did.

Senator ROBERTS: This is a quote from Ryan Cropp when he reported for MLEX:

The head of Australia's online safety watchdog failed to disclose her attendance at a secretive, all-expenses-paid tech-policy and strategy retreat funded by mining billionaire Andrew Forrest. MLEX has learned that Australian eSafety Commissioner Julie Inman Grant was among a host of local and international tech-policy luminaries who attended the multi-day event at Forrest's Munderoo Station, a remote pastoral property in Western Australia's Pilbara region ...

That happened in August 2024, but you didn't declare the gifts until the media story on it came out in January 2025. Is that correct?

Ms Inman Grant: I recorded it in the proper reporting period. There is absolutely nothing to hide.

Senator ROBERTS: When did you record it then?

Ms Inman Grant: I will take that on notice, and I am happy to provide you with that information. This was not something that was hidden or not disclosed or covert in any way. Again, it was a very useful trip which many other government officials attended and were never questioned. I don't know Mr Ryan Cropp—

Senator ROBERTS: I don't know him either.

Ms Inman Grant: but I don't have anything to hide. It was a valuable engagement. I learned a tremendous amount.

Senator ROBERTS: Apparently the trip was in August 2024. Could you confirm that that was accurate and then tell us when you reported the gift—

Ms Inman Grant: Sure.

Senator ROBERTS: because undertaking travel is a gift.

Ms Inman Grant: Yes. Well, I had the choice of driving over 14½ hours each way or taking a charter. I could have slept on the red earth, but—

Senator ROBERTS: I wouldn't expect you to do that, but I would expect you to declare a gift. We have to.

Ms Inman Grant: Oh, no—and I did.

Senator ROBERTS: And in a timely way.

Ms Inman Grant: Absolutely.

Senator ROBERTS: Okay. I have no more questions.

CHAIR: Before I return the call to Senator Payman with another request to keep it as brief as possible, I'm now in a position to indicate that we can release the outcome 7.1 departmental officials in relation to sport. Thank you for your attendance. I appreciate that you have missed out on the opportunity to appear before this committee, but you are now released with the committee's thanks. Senator Payman.

Senator PAYMAN: Thank you, Chair, I appreciate it. I'll put a large chunk of these questions on notice. I have a few on the Collective Shout advocacy group. Did the eSafety Commissioner use the informal powers that allow them to tell social media services about large-scale campaigns of abuse directed towards users—to inform X, formerly Twitter, of the abuse directed, in particular in this case, to Collective Shout?

Ms Inman Grant: I will turn over to Mr Downie. We did indeed work with Collective Shout. It was a heinous form of extended abuse that we're aware of, and we used the powers that we had to our greatest ability. Perhaps Mr Downie would like to talk through them. As I said before, our adult cyberabuse thresholds are so high that we can only action about 10 per cent; the other 90 per cent aren't actionable.

Mr Downie: Thank you, Commissioner. I'm sorry, Senator Payman, could you repeat the question. I was just referring to my notes.

Senator PAYMAN: I was asking whether the eSafety office used the informal power that allows them to tell social media services about a collective or a campaign that have abuse directed towards them in a targeted way. That happened to Collective Shout as an organisation. They had several members being attacked on Twitter, so I'm curious to know if the commissioner was able to use her informal powers.

Mr Downie: To clarify, we don't have the ability to take any informal action where abuse is targeted towards groups, such as the organisation of Collective Shout. But, certainly, we did receive a large number of complaints from members of Collective Shout. In some of those circumstances, the material met the threshold for adult cyberabuse, and we issued what's called a service provider notification, which is an informal power to have that content assessed by the platform as to whether they would remove it in terms of their terms of service. So that's correct.

Senator PAYMAN: Did you guys notify police about the abuse directed towards the members of Collective Shout?

Mr Downie: Yes, we did.

Senator PAYMAN: Was that the local police—state police—or was that the Australian Federal Police?

Mr Downie: We've notified the Western Australian police, we've notified the South Australian police and we've notified the AFP.

Senator PAYMAN: Does eSafety believe, as the review into the Online Safety Act recommended, that the threshold for adult cyberabuse should be lowered, as the current definition is leaving out abuse that is clearly bullying, as the commissioner mentioned earlier?

Ms Inman Grant: That is ultimately a question for government. There are, of course, 67 recommendations that were put forward by Delia Rickard. I don't know—I would refer to the minister—as to whether that will be looked at in its entirety. Certainly, two of the questions or the recommendations were around looking at the thresholds of the ACA but also looking at whether or not a broader hate crime type scheme might be considered. One of the shortcomings, if you will, of the ACA is—and it was designed to be targeted—it has to target a specific Australian. It does not capture those who may be targeted with racist or antisemitic or Islamophobic material or any sort of characteristic or group that might be the genesis for such abuse. That's why we have to apply it in such a narrow fashion.

Senator PAYMAN: Thank you, Commissioner. Minister—

CHAIR: I'm just going to take the call back for a moment, Senator Payman, to indicate that we are now in a position to release departmental officials in relation to outcome 6.1. You are released with the committee's thanks.

Senator PAYMAN: Minister, would the government consider lowering the threshold for adult cyberabuse, as per the recommendations?

Senator Green: We are considering the recommendation.

Senator PAYMAN: How many posts in relation to Collective Shout has the eSafety office issued take-down notices for? This is probably for Mr Downie.

Mr Downie: We've received 40 complaints from Collective Shout. Thirty-two complaints related to the adult cyberabuse scheme. Other complaints—I think it was two complaints—related to illegal and restricted content, and there was a complaint in relation to the image based abuse section of the act. Seven of those complaints met the threshold.

Senator PAYMAN: How many reports in relation to Collective Shout has eSafety received altogether? There were 40 complaints. Would you say 40 reports or more than that?

Mr Downie: We've received, as I stated, 40 complaints in relation to the most recent incident involving Collective Shout. We have received complaints from Collective Shout over the years, but I would need to take it on notice to give you an exact figure.

Senator PAYMAN: No worries. Just out of curiosity, why is there no facility for mass reporting of large-scale abuse through eSafety's reporting forms?

Ms Inman Grant: You might need to repeat that question.

Senator PAYMAN: When someone goes to the eSafety Commissioner's website to make a report, and large-scale abuse has occurred and there's more than just one—

Ms Inman Grant: Like a pile-on?

Senator PAYMAN: If there's a mass report of incidents taking place, is there a method or way of putting those mass reports all together at once or do they have to be submitted individually?

Ms Inman Grant: We do allow in our form—and maybe Ms King or Mr Downie can embellish upon this. There has been a time with our image based abuse scheme, for instance, where we've actioned 432 and investigated 432 URLs as part of a single complaint. In terms of a pile-on with adult cyberabuse, that might be harder for the person who is experiencing that kind of abuse to be able to collect all of the handles and all the evidence that might be required. But you might have a different experience that you'd want to share in that regard.

Mr Downie: Under the legislation, the adult abuse scheme requires a complainant. The abuse needs to be targeted, as I stated previously, to an individual. So the complaint needs to be submitted by an individual. There is the facility in our complaints portal to attach a number of pieces of content—so a number of URLs—but obviously there is a limit to what the system will allow or accept. If subsequent images are detected post a submission, then you're required to submit another complaint, because that investigation will already have started.

Senator PAYMAN: Just on that, as it stands currently, only 10 URLs and three photos are allowed per report. Is there scope to increase that—because, as you can imagine, for somebody who has been traumatised by all the material on them in this adult abuse format, trying to collect and collate all that data to then forward on as a complaint could be quite traumatising. So is there scope to increase that—the URLs and the number of photos perhaps?

Ms Inman Grant: Sure. I might just add that we're continuing to improve our reporting forms and our public services. So, absolutely, we can look into that. The reason for the limitations is primarily around the data capture we get—the ability to store it appropriately. But I think we can take that on notice to let you know if there are other ways.

CHAIR: Senator Payman, I will now need to share the call with Senator Roberts. But I'm also in a position now to release the officials from Australia Post. Thank you for your attendance today. The committee appreciates you.

Senator ROBERTS: This question relates to the Global Alliance for Responsible Media, GARM. In 2024, the United States Congress determined GARM was acting as a cartel, withholding advertising from conservative media in an attempt to subvert the 2024 presidential election. In July this year, the House judiciary committee produced a report on exporting censorship—using GARM to silence American speech. In this report, Commissioner, you're named 23 times. Based on the evidence presented, the report concludes on page 7 that you colluded with GARM to subvert the 2024 presidential election—on whose authority? Your enabling legislation gives you no such power.

Ms Inman Grant: First of all, I refute that claim. I was in conversation with one of the representatives of GARM in 2023. I've never had discussions with them about Donald Trump or an election. Let me explain to you what GARM is. It is the Global Alliance for Responsible Media, which has a broad membership of advertisers and marketers and other ad tech players that are concerned about platform safety. You can see online safety and platform safety are aligned. Of course, most of the social media sites have ad policy and ad integrity platforms because they cannot attract advertisers if their platforms aren't safe.

You would also know that, when ad systems go wrong, it can be catastrophic for a platform. In 2017, under the coalition government, major advertisers boycotted YouTube because terrorist and violent extremist material and hates speech were being served against the ads that they were using. The Australian government was part of that boycott, because, you can imagine, when the Australian Defence Force was trying to put out posts recruiting people and they were served with an ISIS propaganda advertisement, that was of concern to the Department of Finance, at the time, who was running this. My conversations with GARM were strictly about platform safety and online safety and nothing else. I don't know how many documents they had—hundreds and thousands of documents? I had a conversation with GARM about online safety, not about anything else.

Senator ROBERTS: Page 8 of the House judiciary committee report reads:

In April 2024, Commissioner Grant ordered Twitter to remove certain content from its platform, including content surrounding the stabbing of an Australian bishop. In response to this order, Twitter blocked the content from being shown to its Australian users. However, Commissioner Grant demanded that Twitter block the content from being shown to all Twitter users globally, a position that even the victim of the attack opposed.

Commissioner, how is this not a massive overreach of the mandate you were given? This content could not be seen from Australia, so why have it taken down worldwide? Do you consider yourself to be part of the world internet police?

Ms Inman Grant: Senator Roberts, you will never see, in written form or in verbal form, any claim that I want to globally censor the internet. That was a tweet that was put out around Elon Musk—not by me. If you look at the

Court documents, I use the language of the Online Safety Act that the platforms must take reasonable steps to remove the contents and provide interstitials.

Now, the vast majority of organisations that are based in the United States store all of their content there. When something violates their terms of service, they remove it globally. That was one option, but we accepted geoblocking. As you would know, Senator Roberts, there is no Australian internet. I cannot ask for Twitter or Meta to just take things down from servers in Australia, because they don't have them. So there are two options: geoblocking or global removal, which companies do all the time. In fact, during that period, Twitter reported to the European Commission that they had removed 40,000 pieces of Israeli Hamas content. So there is no conspiracy theory—

Senator ROBERTS: I didn't say there was.

Ms Inman Grant: You were kind of implying that I was setting up myself as the global police.

Senator ROBERTS: No, I didn't say there was—usually the phrase 'conspiracy theory' is used to denigrate someone.

Ms Inman Grant: You said I was trying to be the global online police.

Senator ROBERTS: Correct.

Ms Inman Grant: I am here to protect Australians, and that is what the Online Safety Act gives me the tools to do.

Senator ROBERTS: As I said in my question, in response to this order, Twitter blocked the content from being shown to its Australian users—

Ms Inman Grant: Yes.

Senator ROBERTS: but you went further.

Ms Inman Grant: No, I did not.

Senator ROBERTS: You did not?

Ms Inman Grant: I did not. Because it was blocked from Australians but not from people in the UK, Axel Rudakubana, the 17-year-old Southport killer, who killed three little girls at a dance studio, claimed his inspiration for that killing was watching the Wakeley stabbing video on X 25 minutes before he went there. So, back to the first part of my statement, why do we need to have refused-classification class 1 content there, which normalises, desensitises and radicalises? It hurts people, and I just don't see why this would be something that you would want young Australians to be exposed to.

Senator ROBERTS: On page 54 in your email exchange with GARM, I quote:

I'll be in DC next week launching a global online safety regulatory network at FOSI, then in Seattle and San Fran ... will be up in NYC on the 18th but happy to try and touch base ...

A 'global' online safety regulatory network—

Ms Inman Grant: Yes. This is an organisation I started with the UK, Ireland and Fiji.

Senator ROBERTS: It was seven countries, wasn't it?

Ms Inman Grant: The first four countries were regulators. We worked together, and now we have eight regulators and 18 observers. Regulators work together all the time, whether they're data protection authorities or consumer protection authorities. That's regular practice. We want to work better, and we want to ensure that there is regulatory coherence in our approaches.

Senator ROBERTS: The Family Online Safety Institute runs online safety courses in the United States and spends significant resources lobbying media and US Congress for restrictions on internet access, most recently working with Democrat Senator Blumenthal on the Kids Online Safety Act. Why are you using taxpayers' money to swan around the world in matters that have no discernible benefit to the Australian taxpayer?

Ms Inman Grant: I'm sorry. I'm just trying to see where I fit into that scenario.

Senator ROBERTS: You're working with Democrat Senator Blumenthal on the Kids Online Safety Act—on America.

Ms Inman Grant: I'm not working with Senator Blumenthal. I have met with Senator Marsha Blackburn, who's a Republican from Tennessee, who was a co-sponsor. That was on a trip that was requested by post, for me to make some contact with and meet a number of members of US Congress that were interested in the eSafety model. But this was three or four years ago.

Senator ROBERTS: Last week, you directed X to take down a tweet by a Dutch journalist Dries Van Langenhove which related to an American murder. A Dutch journalist; an American murder—how come? You say you're not setting yourself up as the world internet police, but this post has nothing to do with Australia. Why are you spending money on matters like this?

Ms Inman Grant: I believe the post contained the refused-classification material of murder, which means it's illegal in Australia. Mr Downie, maybe you want to fill in the blanks there.

Mr Downie: I think the content that you're referring to related to the stabbing of Iryna Zarutka, which was posted by the username that you just mentioned. We received a complaint about that content—

Senator ROBERTS: From Australia?

Mr Downie: From an Australian. We referred that content to the Classification Board, which classified that as 'refused classification'—so class 1 material.

Senator ROBERTS: So it wasn't your decision?

Mr Downie: It wasn't our decision. Well, it was our decision to issue the removal notice to have the content removed because it is class 1 material—

Senator ROBERTS: Was it your decision to put it in class 1?

Mr Downie: If I could answer the question—

Senator ROBERTS: I'm trying to understand; I'm not trying to interrupt you.

Mr Downie: But I'm trying to answer your question. Under the Online Safety Act, we are required to have the material classified by the board as either 'refused classification' or whatever the classification board determines it to be or note that it is likely to be classified as that. We elected to have it classified because of the amount of material that was online. There were different pieces, different portions, of that material available online. Some of that material was pixelated. Some of it was in news feeds. But the complaint we received about the content you're referring to depicted the stabbing of that Ukrainian student, his bleeding to death on the floor of the train. So we issued a removal notice for that content.

Senator ROBERTS: Thank you for that explanation. That's very clear. How many overseas trips have you taken since your appointment, and to which destinations?

Ms Inman Grant: Do you mean since my appointment 8½ years ago?

Senator ROBERTS: Yes.

Ms Inman Grant: I will have to take that on notice.

Senator ROBERTS: That's fine. Thank you. On Sky News in August this year you were asked whether there will be sufficient guardrails to protect children from viewing pornographic websites. Your response was that pornography is 'lawful but awful' and that you would take steps to prevent children from accessing pornography. What steps have you taken?

Ms Inman Grant: Well, we've just registered nine industry codes, and these codes were part of the Online Safety Act 2021. They're a co-regulatory code, where the industry sectors, whether they're—

Senator ROBERTS: They got together and made those codes?

Ms Inman Grant: They write the codes. My role is to determine whether or not they meet appropriate community safeguards. In this case, in July we wrote a paper where we set out expectations in terms of what the safety ceiling should look like, as opposed to the dirt floor. These are co-regulatory, after all. These now-registered codes will require each of the nine sectors of the technology industry to take steps to prevent uner-18s from accessing pornography, violent content, explicit violent content, suicidal ideation content, self-harm and disordered eating. The first three of these will be implemented at the end of December this year, and the following six will come into force on 9 March 2026. We give the industry time to implement the tools to be able to enforce these rules.

Senator ROBERTS: Thank you.

Mr Fleming: Perhaps I could supplement that answer. When parliament passed the Online Safety Act it stipulated a regulatory policy that said that these codes must be developed. So, this is a decision of the parliament, for us to do that. For reference, it's section 137 of the Online Safety Act. That section and section 138 set out the details of what should be in the codes, and the process.

Senator ROBERTS: Thank you. Minister, I've spoken frequently, maybe even today, with you and with the classification board and with the previous communications minister, Ms Rowland, relating to the refusal of the

classification board to classify pornography as restricted material if it was written for children. Here we have the eSafety Commissioner taking steps to prevent children from seeing online the very same material they can access in any library in the country. And I commend you for that. The latest offensive publication is a sex instruction manual called *Let's Talk About It*. Minister, will you now harmonise the regulations on access by children to pornography between the e-safety office and the classification board?

Senator Green: Your question goes to the classification of a certain piece of material, does it?

Senator ROBERTS: Books—sometimes they're called graphic comics.

Senator Green: I think that's a question for the classification board. They were due to be here tonight. I don't know whether we'll get to them in time.

Senator ROBERTS: You're the minister representing the government. I'm asking a question. Will your government take on the duty of making sure that pornography is dealt with consistently? The eSafety commissioner is making sure they can't do it online, but the material is freely available in—

Senator Green: What I'm not going to do is accept the assertions made in your question. I don't know the material you're talking about. The classification board is responsible for classifying material like that, and you should ask them that question. What I will say is that the eSafety Commissioner has been responsible for developing, with industry, these codes, and that's to protect particularly children from pornographic material. As the eSafety Commissioner said and as you repeated tonight, pornography in and of itself is legal, even if it's awful. So, the work that the eSafety Commissioner is doing is in relation to children accessing pornography online.

Senator ROBERTS: So the eSafety Commissioner is coordinating things globally to restrict access to the internet, but the government cannot coordinate within Australia. Do you have any interactions with non-electronic sources of pornography?

Ms Inman Grant: We work with some of the major pornography providers, in terms of being part of our designated internet services. I don't work with book publishers, if that's what you're referring to.

Senator ROBERTS: Do you work with the Classification Board?

Ms Inman Grant: We work with our local Classification Board. I don't work with other classification boards around the globe.

Senator ROBERTS: In Australia, you do work with them?

Ms Inman Grant: Yes. We refer content, like we did with the Charlie Kirk assassination and the Iryna Zarutka killing and the decapitation of the Dallas hotel owner.

Senator ROBERTS: What interactions have you had, with regard to harmonising the classification with your material and the internet material and the physical books?

Ms Inman Grant: We haven't and, interestingly—

Senator ROBERTS: You haven't?

Ms Inman Grant: one of the recommendations in the Online Safety Act review is that our ability to assess class 1 material because our investigators are experts in that area should be separated from the Classification Board, because the kind of classification they do is very different. We are looking at user generated content, like these bombings, bludgeonings and beheadings that we're talking about, whereas the Classification Board tends to look at produced books, movies and games and that sort of thing.

While there are synergies and we have utilised the validation of the Classification Board that this content is, indeed, RC, we are assessing very different kinds of content during our day-to-day work. Would you say that was the case, Mr Downie?

Mr Downie: Yes, that's correct.

Senator ROBERTS: Thank you. Minister, I've got another question for you but I'll put it on notice.

Senator Green: If it assists you, we might be able to talk about this at the next estimates. There is work underway to reform the classification system as well, and you can ask the Classification Board about that, if we get to them.

Senator ROBERTS: This is my last question. Commissioner, moving on to the more than 500 contracts you fill through AusTender, I see a lot of tenders for IT services well above what one would expect for a department of your size. I also see FOI requests for documents from your office coming back with very large numbers.

Ms Inman Grant: I'll turn, first, on the FOI requests, to Mr Fleming, and then, on the tenders, to Ms King.

Mr Fleming: In relation to FOI requests, we do get a large number of individual requests. These are people asking us—

Senator ROBERTS: And you've dealt with most of them, apparently.

Mr Fleming: We do. Often, we get requests from individuals seeking any holdings we have about them or their X handle, generally. We do those searches and we respond. Most of those have no response. That's, again, because we don't collect the information. That's the majority of those individual requests coming through.

Ms Inman Grant: It's something like 285 out of 300 requests.

Senator ROBERTS: We've praised your office for the work in shutting down porn on the internet, so there's no disputing that. I think you should know that—

CHAIR: Senator Roberts—

Senator ROBERTS: I'm just winding up.

CHAIR: Okay, thank you.

Ms Inman Grant: Did you want the question answered about tenders?

Senator ROBERTS: Yes, please.

Ms King: I might add that each individual contractor, labour hire individual, when they have a renewal, will be on AusTender as well. That might account for what you are seeing as a high volume. That doesn't equate to individual vendor contracts. Our spend is in the annual report, it's all publicly available, and I wouldn't say it's categorised as higher than a standard agency.

Senator ROBERTS: One last comment, turned into a question, is that after the COVID mismanagement and the controls put on people—some that actually took people's lives—people in Australia are very, very wary about government interference. We have applauded you for your work on shutting down pornography on the internet but we're very sceptical, as are many of our constituents, about censorship online and censorship in general—freedom of speech.

Mr Fleming: We are happy to discuss that with you, at any stage, if you'd like us to.

Senator ROBERTS: I'd appreciate that, thank you. I'll hand over. Thank you very much, Chair.

CHAIR: We are now in a position to release the eSafety Commissioner and officers. Thank you very much for your attendance and answers here today.

NBN Co Limited

[22:36]

CHAIR: Welcome and thank you for your attendance this evening. There is an opportunity to make an opening statement, but, given the time of evening, I would request, if possible, that you table that and forgo an opening statement. That would be much appreciated.

Ms Sweeney: I would be delighted to. Do you mind if I make a one-minute update?

CHAIR: One minute would be wonderful.

Ms Sweeney: I'm going to do this really quickly. Thank you so much for your time. Thank you again. It's great to be in Canberra again. I'm not going to introduce my colleagues, but I have just a couple of comments from NBN. We have just released our financial results for the year, and I would suggest that they have been solid not only operational but financial results for the year ending. We have delivered against the guidance for the organisation. The results are very clearly in our annual report that has been tabled to parliament as well. We're definitely seeing customers embrace the digital capability and the higher speeds that NBN has been operating on and definitely looking to deliver, particularly over the last few years.

Maybe a couple of dot points here. We've seen the adoption of high-speed plans, particularly those at 100 megabits and above. They have climbed to 36 per cent of our active base, and that's up from 24 per cent last year. We introduced something in September of this year which we have been working on for more than 18 months, and it's Accelerate Great. We have delivered for serving customers five times faster wholesale speeds for about 2.1 million homes and businesses within Australia at no additional wholesale cost. In regional and remote—I know that Senator Henderson will be interested in this—we have announced the landmark agreement with Amazon Kuiper, which is to deliver low-Earth-orbit satellites for regional and remote Australia.

Resilience, I know, has been a topic of conversation today, so maybe I can just mention a couple of things. We continue to invest in critical digital infrastructure. We understand and appreciate that over 20 million Australians rely on NBN's network every day. We continue to do a lot of work in digital inclusion across a number of areas, school student broadband being just one of them.

To finish, as we look forward to FY26, I think our priorities are very clear. We continue to invest in network resilience. We continue to invest in cybersecurity to protect connectivity and support critical infrastructure. We are accelerating in terms of national productivity through reliable, resilient and faster broadband. We look forward to completing the 3.5 million fibre-to-node to premises by December 2025, and that's going to expand gigabit capability. We are also upgrading the remaining 622,000 premises on legacy copper. We are building a network that we believe is going to be more reliable, smarter and faster, and our teams are incredibly focused on delivering that for the nation.

CHAIR: Thank you, Ms Sweeney. I appreciate your brevity. I will now turn to the coalition senators who have questions.

Senator DEAN SMITH: Thank you for your attendance at such a late hour. I want to turn to the matter of the NBN network outage that was experienced across the Goldfields-Esperance region. I think it was around 26 September. Can you just give me a high-level overview of the events that took place and how they were resolved.

Ms Sweeney: Sorry, that was the outage in Esperance?

Senator DEAN SMITH: That's right—the Goldfields-Esperance area.

Ms Sweeney: Definitely. We appreciate your question. I may just make a couple of comments before I hand over to Dion, who is our chief network officer. I think that today—I have been listening in to some of the Senate hearings—there's been a lot of conversation about what are, I think, complex, complicated and, quite frankly, serious topics. I really want to acknowledge, on behalf of everybody at NBN, the seriousness with which we take providing critical digital infrastructure to Australia. We provide access to over 80 per cent of Australia every day. At NBN, we regret any disruption, whether it is a disruption around an individual fault for an individual service, whether it is a planned network maintenance or upgrade or, indeed, whether it is an unplanned outage. The disruption in Esperance is what we would class as an unplanned outage.

I think it's important, before I throw to Dion, to just give some context here about the NBN network versus the network that the RSPs, the retail service providers, operate. We provide what is classed as a layer 2 wholesale access broadband network. This is a different network from what's sitting over the top of it, if you will, and that's where the voice services, amongst other things, come into play. Our relationship is with the retail service providers, and the relationship of the retail service providers is with the end customers. We have very little visibility—actually, we have none.

Senator DEAN SMITH: Correct. You're a wholesale network.

Ms Sweeney: Yes. Let me throw to Dion to give a little bit more context around the operation of the NBN network in relation to RSPs, and then we'd be delighted to spend a little bit more time with you on the Esperance issue.

Mr Ljubanovic: As Ms Sweeney mentioned, the NBN is a wholesale-only, predominantly layer 2 network, which means we provide the underlying physical infrastructure, such as the cables and the electronics, which enables a data pathway from a consumer's home all the way through to a retail service provider's network. Retailers then provide the internet broadband and the voice service on top of the NBN. That's what's referred to as layer 3 and beyond. That means retailers manage configuration, routing, monitoring and delivery of those services themselves. As Ms Sweeney said, we, from a wholesale perspective, do not have access to customer records or customer information such as homes, addresses or billing service information.

I will touch on the actual outage, the network fault itself, in Esperance. It was on 26 September.

Senator DEAN SMITH: Correct.

Mr Ljubanovic: We received an alert in our network management centre. That's the network management centre that manages all of Australia's National Broadband Network. It is based in Melbourne. We received an alert on what's called a network card.

Senator DEAN SMITH: Was that at 9.37 am?

Mr Ljubanovic: Western Australian time. We received that alert. We look at this from an eastern standard time perspective.

Senator DEAN SMITH: And then you published the details of that at 11 am?

Mr Ljubanovic: Yes, correct. Once we received the alarm at 11.29—we have those alarms—the network management centre immediately looked to restore the network card itself remotely.

Senator DEAN SMITH: When were the services restored?

Mr Ljubanovic: The services were restored at approximately 9.34 pm, Australian eastern standard time.

Senator DEAN SMITH: So 11.34 pm western standard time?

Mr Ljubanovic: That would be around seven—

Senator DEAN SMITH: Yes, 7.30—quite right. So approximately 10 hours.

Mr Ljubanovic: Approximately, yes.

Senator DEAN SMITH: Great. How many landline services were impacted? I saw a media report that suggested it was 708.

Mr Ljubanovic: As I mentioned, because we're a wholesale network, we can only see the services in operation on the NBN network. That's a data service. There were 708 services in operation that were affected through that period. We cannot see what voice services go over that data extension—

Senator DEAN SMITH: I understand.

Mr Ljubanovic: because that's on the retail networks.

Senator DEAN SMITH: What was the impact on triple 0 calls?

Mr Ljubanovic: When the NBN network has a network fault or an unplanned outage, such as from severe natural disasters like cyclones for instance, the actual data stream that we provide is down. That means any—

Senator DEAN SMITH: And that's the case in this situation, because Ms Sweeney described it as an 'unplanned outage'?

Mr Ljubanovic: Correct. There was a network fault. It was a network card that failed. It was an electronic piece of equipment that failed, and we had to send a field engineer and a field technician to Esperance to replace the card with a spare card and get the network back up and running.

Senator DEAN SMITH: Which you were able to do by 7.34 pm that evening?

Mr Ljubanovic: Correct. The local field engineer—we've got field engineers that are across Australia. The nearest engineer was based in Bunbury in WA.

Senator DEAN SMITH: Bunbury to Esperance? They would've had to hotfoot it.

Mr Ljubanovic: Correct.

Senator DEAN SMITH: Speed, even? Or perhaps not.

Mr Ljubanovic: What we do is look for flights that are available at any time. Flights were not available at that time, so we had to—

Senator DEAN SMITH: Well, you've got to go from Bunbury to Perth to get to Kalgoorlie—

Mr Ljubanovic: Correct.

Senator DEAN SMITH: to get to Esperance or from Perth to Esperance on a flight, and they're very irregular and unreliable.

Senator Green: Flights that the senator's probably taken many times.

Mr Ljubanovic: The field engineer went from Bunbury, by road, with the electronic spares down to Esperance to replace the card.

Senator DEAN SMITH: So were triple 0 calls impacted?

Mr Ljubanovic: As I mentioned, we can only see the services in operations. Retailers provide that service or that management. We can't see that.

Senator DEAN SMITH: And a retailer wouldn't—if a retailer had experienced a triple 0 difficulty, would that have been reported to you?

Mr Ljubanovic: Yes. We have obligations to notify when NBN network goes down, and retailers have requirements to notify because they have that end-user relationship. We provided four notices through that outage period. We provided the notice of significant local outage to retailers, to the department, to the ACMA, to the Telecommunications Industry Ombudsman, to NEMA and to the emergency services organisations—including WA police and ambulance.

Senator DEAN SMITH: These are outages notices—

Mr Ljubanovic: These are the—

Senator DEAN SMITH: which the committee is much more familiar with as a result of today's hearings than perhaps previously?

Mr Ljubanovic: I understand, Senator. This falls into the classification of a remote community. Anything over 250 services in operations is required to be notified. We obviously also notified the emergency call person. We then provided, within an hour, updates to the notice once we had the resolution timing planned with the field engineer. We provided a third notice closer to the period of restoration—or an update to all the stakeholders—and then we provided a final notice that confirmed the restoration and the ongoing monitoring of the resolution.

Senator DEAN SMITH: During that 10-hour period, retailers didn't notify you of any failure of triple 0 calls to connect?

Mr Ljubanovic: The obligation for retailers is to provide the stakeholders themselves—they don't have an obligation to communicate that with NBN.

Senator DEAN SMITH: So, since the events of 26 September, are you aware of any difficulties that were experienced in regard to triple 0 calls?

Mr Ljubanovic: We can only see the NBN network at first glance.

Senator DEAN SMITH: I'm probably thinking more anecdotally.

Ms Sweeney: Anecdotally, Senator, we are not aware. I would add that, again, NBN takes these matters very seriously. The alarm went off at 11.29; the incident was created at 11.33. We attempted to restore it remotely. When we were unable to do that—

Senator DEAN SMITH: Sorry, this is the eastern standard time versus western standard time? I've got 9.37 am here.

Mr Ljubanovic: Correct.

Senator DEAN SMITH: Given the events in regard to the Optus outage and the west Australian deaths that have been experienced, are you considering or have you been asked to consider any better reporting or more formal communication between retailers and you in regard to difficulties that might be experienced around triple 0 calls, or is that not necessary?

Ms Sweeney: We haven't been asked to consider anything more formally. What I would suggest, though, is we do comply with the ACMA requirements under the telecommunications industry standards—that's post Bean. Cyclone Alfred was potentially a good example of that—where, again, we're very clear in terms of the reporting requirements that we have. But, Senator, our—

Senator DEAN SMITH: Ms Sweeney, a key element that was revealed today is, yes, there is a regulatory framework, and, yes, there are regulators, but the issue in regard to how effective market participants are in proactively considering a whole range of issues so that the regulatory regime stays ahead of issues rather than reacts to issues—that was really where my line of inquiry was going.

Ms Sweeney: Sure.

Senator DEAN SMITH: Finally, congratulations to the NBN: it does look like it was resolved particularly effectively and efficiently given the distances that were involved. They are big distances. Perhaps you could provide this to me on notice: in this calendar year, how many unplanned outages has NBN experienced in Western Australia and the geographic region or the exchange et cetera in which that has taken place?

Ms Sweeney: We can definitely take that on notice and provide that.

Senator DEAN SMITH: Thank you.

CHAIR: Thank you to the officers of NBN Co Limited for your attendance and your evidence here today. You are dismissed with the committee's thanks. We now have, for a very short window, the officials from Creative Australia. I appreciate the amount of time you've waited.

Creative Australia

[22:52]

CHAIR: We welcome officers from Creative Australia. I welcome Adrian Collette, the chief executive officer, and your colleagues. Thank you for your attendance. Given the hour, I really ask that you dispense with an opening statement and go straight to questions.

Mr Collette: That's fine. Can I table the statement?

CHAIR: Yes, please table it.

Mr Collette: Just allow me one sentence of the opening statement. On 1 July, Writing Australia was established through the appointment of a council. That, along with Music Australia, Creative Workplaces, the Creative Futures Fund and a number of other initiatives, completes all our major obligations under the national cultural policy. That

was quite a moment for the organisation, and we now look forward to producing the state of culture report and the next iteration of the cultural policy.

CHAIR: Congratulations, Mr Collette. I appreciate that. We will table your opening statement. Senator Henderson.

Senator HENDERSON: Thank you so much for your attendance. Apologies for the very late time of night. Mr Collette, I've raised deep concerns before about Creative Australia's grants to a range of organisations. Does Creative Australia have a problem with antisemitism?

Mr Collette: Do we have a problem with antisemitism?

Senator HENDERSON: Yes, are you concerned about antisemitism?

Mr Collette: Yes, we would be very concerned about any form of discrimination based on race, identity, religious belief and would certainly be concerned about antisemitism.

Senator HENDERSON: I'm going to cut to the chase. I've tabled a number of documents. I want to take you to Aseel Tayah and her company, Bukjeh Pty Ltd. She has received in total nearly a million dollar, including \$631,000 in grants from Creative Australia. Some of her social media commentary is completely horrific, Mr Collette. I've raised ongoing issues with you about some of the people you are funding. These documents show that she's posted or amplified content that declares: 'Do not dream of a happy world as long as Israel exists.' Were you aware that Ms Tayah apparently believes the world cannot be happy while Israel exists?

Mr Collette: No, I wasn't aware of that. As I said before, under our statutory obligations, we invest in freedom of artistic expression. That is sharply delineated from freedom of expression. We're not responsible for people's personal views, and we don't monitor them. The significant investments, by the sound of what you're saying, to the artist you mentioned—and I'm not directly familiar with her work—has been determined by independent industry experts, and the investment would be based on the excellence of her work, not the tenor of her opinions, of which I'm unaware.

Senator HENDERSON: That's all very well, Mr Collette, but this is taxpayer money. If you've got an artist who has the same objective as Hamas, which is to see the destruction of the State of Israel, then I would put it to you that it's completely improper for such an artist to be funded by Australian taxpayers.

Mr Collette: If there is something that that artist has said or done that is unlawful, please give us the evidence for it and we will be able to refer it to the relevant authorities. We are not an investigatory body; we are an investment and development agency for the arts, and we require all individuals and organisations to abide by the existing laws—which are very strong, both state and federal—on discrimination on the basis of ethnicity or religion, or other forms of discrimination.

Senator HENDERSON: What's even more offensive, Mr Collette, is that not only has she said some absolutely horrific things—anti-Israel sentiment, which is hate speech without any doubt—but also she received the grant as someone living in Dubai. She does not even reside in this country.

Mr Collette: Is she an Australian resident?

Senator HENDERSON: I don't know what her citizenship status is, but she made a permanent move to Dubai and I would say—and my understanding is—that she has left Australia forever. Why are we funding people, who are not even in Australia, who have uttered horrible sentiments about Israel? Mr Collette, that's not freedom of expression; that's not freedom of speech. That's inciting violence; that's hate speech. She has said many other things, along with other artists that I've tabled, and, regrettably, I've literally only got two minutes left. We are going to have to return to this at the next estimates. Mr Collette, let me say I am deeply concerned. Do you support funding artists who support terrorism?

Mr Collette: No, I don't support that, but I would repeat that we invest in artists and creative practice based on the advice of industry experts, and we are not there to monitor personal opinions. If artists indulge in practices or say things that are unlawful, then we would want to be aware of it, and, if there was a case, we would refer it to the relevant authorities. We are not one of those.

Senator HENDERSON: I would suggest that the character of the people you fund—they are accessing precious taxpayer dollars—is very important and should be fundamental in the decision-making to award these grants.

Mr Collette: We think the character of the work that we fund is very important. If there is a personal case to be answered, please send it to us, and we will send it to the relevant authority. We are not an investigative body.

Senator HENDERSON: Out of respect for the chair, because it is 10.59—sorry, I have just one final question. This year Creative Australia funded 16 Creative Australia fellows. Artists on that list have publicly made openly anti-Israel and antisemitic commentary. How does that happen?

Mr Collette: I think that's a version of the same question. If you believe that they have made illegal or antisemitic comments, please send me evidence of it and we will act on it.

Senator HENDERSON: I would suggest to you that you're not doing your job and that you should be scrutinising these matters.

Mr Collette: Last year we gave 3,970 grants. We got 11,000 applications. Even if we wanted to do background checks, it would not be practicable. But we also, in principle, don't do background checks. We evaluate, with the best possible industry advice, the calibre of the work.

Senator HENDERSON: Out of respect for the chair, I have to finish up. I think this is a totally intolerable situation. I will continue my questions next time.

CHAIR: Thank you, Senator Henderson. I would like to thank everyone who has appeared today. To those agencies we didn't get to: you are excused with the committee's thanks. That concludes today's hearing. Thank you again to all witnesses who appeared and those who did not get the opportunity to appear, and thanks to Hansard and broadcasting for their assistance. I thank my colleagues and the minister who has appeared here today. I remind senators that the committee has agreed that any written questions on notice should be lodged with the secretariat by 16 October 2025. The committee stands adjourned.

Committee adjourned at 23:01