



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ENVIRONMENT, COMMUNICATIONS AND THE ARTS
LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

TUESDAY, 26 MAY 2009

CANBERRA

BY AUTHORITY OF THE SENATE

TO EXPEDITE DELIVERY, THIS TRANSCRIPT HAS NOT BEEN SUBEDITED

INTERNET

Hansard transcripts of public hearings are made available on the internet when authorised by the committee.

The internet address is:

<http://www.aph.gov.au/hansard>

To search the parliamentary database, go to:

<http://parlinfoweb.aph.gov.au>

SENATE ENVIRONMENT, COMMUNICATIONS AND THE ARTS**LEGISLATION COMMITTEE****Tuesday, 26 May 2009**

Members: Senator McEwen (*Chair*), Senator Birmingham (*Deputy Chair*), Senators Ludlam, Lundy, Troeth and Wortley

Participating members: Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ian Macdonald, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Siewert, Sterle, Trood, Williams and Xenophon

Senators in attendance: Senators Bilyk, Birmingham, Eggleston, McEwen, Fielding, Fisher, Ludlam, Lundy, Macdonald, Minchin, Nash, Troeth, Wortley and Williams

Committee met at 9.02 am

DEPARTMENT OF BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY

Consideration resumed from 25 May 2009

In Attendance

Senator Conroy, Minister for Broadband, Communications and the Digital Economy

Department of Broadband, Communications and the Digital Economy**Executive**

Ms Patricia Scott, Secretary

Mr Colin Lyons, Deputy Secretary, Infrastructure

Mr Andy Townend, Deputy Secretary, Broadcasting and Digital Switchover

Mr Abul Rizvi, Deputy Secretary, Digital Economy and Services

Corporate and Business

Mr Richard Oliver, First Assistant Secretary, Corporate and Business Division

Legal

Mr Don Markus, General Counsel, Legal Group

Finance and Budgets

Mr Simon Ash, Chief Financial Officer, Finance and Budgets Group

Broadband

Mr Simon Bryant, Acting First Assistant Secretary, Broadband Division

National Broadband Network Implementation

Mr Richard Windeyer, Acting First Assistant Secretary, National Broadband Network Implementation Division

Ms Marianne King, First Assistant Secretary, National Broadband Network Implementation Division

Mr Mark Heazlett, Assistant Secretary, National Broadband Network Implementation Division

Network Policy and Regulation

Ms Pip Spence, First Assistant Secretary, Network Policy and Regulation Division

Mr Philip Mason, Assistant Secretary, Network Policy and Regulation Division

Mr Brenton Thomas, Assistant Secretary, Network Policy and Regulation Division

Telecommunications, Network Regulation and Australia Post

Mr Keith Besgrove, First Assistant Secretary, Telecommunications, Network Regulation and Australia Post Division

Ms Sabeena Oberoi, Assistant Secretary, Communication Security Branch

Mr Richard Desmond, Acting Assistant Secretary, International Branch

Ms Sue McIntosh, Acting Assistant Secretary, Consumer Protection and Australia Post Branch

Regional Strategy, Digital Economy and Research

Mr James Cameron, First Assistant Secretary, Regional Strategy, Digital Economy and Research Division

Broadcasting and Content

Dr Simon Pelling, First Assistant Secretary, Broadcasting and Content Division

Mr Simon Cordina, Assistant Secretary, Broadcasting and Content Division

Mr Lachlann Paterson, Assistant Secretary, Broadcasting and Content Division

Mr Gordon Neil, Assistant Secretary, Broadcasting and Content Division

Mr Greg Cox, Assistant Secretary, Broadcasting and Content Division

Ms Ann Campton, Assistant Secretary, Broadcasting and Content Division

Digital Switchover Taskforce

Mr Robert McMahon, Assistant Secretary, Communication, DST

Mr Paul Vincent, Assistant Secretary, Program Management and Coordination, DST

Ms Barbara Grundy, Assistant Secretary, Communication, DST

Agencies

Australia Post

Mr Jim Marshall, Acting Managing Director

Mr Michael McCloskey, Corporate Secretary

Mr Peter Meehan, Chief Finance Officer

Mr Bill Mitchell, General Manager, Commercial

Mr Don Newman, Acting Group Manager, National Logistics

Ms Catherine Walsh, Acting Group Manager, Corporate Human Resources

Mr Stephen Walter, Group Manager, Corporate Public Affairs

Ms Christine Corbett, Manager, Strategy, Governance and Major Change

Australian Communications and Media Authority

Mr Chris Chapman, Chairman

Mr Chris Cheah, Member and Acting Deputy Chair

Ms Maureen Cahill, Acting General Manager, Convergence and Coordination Division

Ms Nerida O'Loughlin, General Manager, Industry Outputs Division

Ms Claire O'Reilly, Acting General Manager, Legal Services Division

Ms Dianne Carlos, General Manager, Corporate Services Division

Mr Giles Tanner, General Manager, Inputs to Industry Division
Ms Andree Wright, Executive Manager, Industry Outputs Division
Mr Paul White, Executive Manager, Industry Outputs Division
Mr Derek Ambrose, Executive Manager, Corporate Services Division
Mr Vince Humphries, Section Manager, Industry Outputs Division

Australian Broadcasting Corporation

Mr Mark Scott, Managing Director
Mr David Pendleton, Chief Operating Officer
Mr Murray Green, Director, International, Corporate Strategy and Governance

Special Broadcasting Service Corporation (SBS)

Mr Shaun Brown, Managing Director
Mr Jonathon Torpy, Chief Financial Officer
Mr Bruce Meagher, Director, Strategy and Communications
Mr Paul Broderick, Director, Technology and Distribution

CHAIR—Good morning, everybody. I declare open this public hearing of the Senate Environment, Communications and the Arts Legislation Committee. The committee has set Friday, 31 July 2009 as the date by which answers to questions on notice are to be returned. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice.

Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has copies of the rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised and which I now incorporate in *Hansard*.

The statement read as follows—

Order of the Senate—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.

(Agreed to 13 May 2009.)

(Extract, Journals of the Senate, 13 May 2009, p.1941)

CHAIR—Officers called upon for the first time to answer a question should state their full name and position for the *Hansard* record and witnesses should speak clearly and into the microphones. Mobile phones should be switched off.

I welcome Senator the Hon. Stephen Conroy, Minister for Broadband, Communications and the Digital Economy, and portfolio officers. Minister, would you like to make an opening statement?

Senator Conroy—Not at this point, but when we move onto the NBN I do have a statement.

CHAIR—Thank you. We will now call officers from the department in relation to Program 1.2: Telecommunications, Online and Postal Services, and invite questions. I understand that there might be some general questions of the department as well to start off with. Thank you. Ms Scott, did you wish to make an opening statement at all?

Ms Scott—No, Chair.

CHAIR—Thank you very much, and welcome this morning, Ms Scott.

Ms Scott—Thank you.

CHAIR—Senator Birmingham.

Senator BIRMINGHAM—Thank you, Chair. Minister, Ms Scott, good morning. Can I firstly turn, and we touched on this with ACMA last night, to the impact of the Gershon review quickly. In response to question on notice No. 34, the department indicated the requirements of the Gershon review in terms of the 7½ per cent and 2½ per cent reductions, but did not indicate any estimates in terms of actual money that would be saved. Now that the budget process has been proceeded with, could you tell us what is in the budget in terms of savings out of Gershon and any other figures related to Gershon, please?

Mr Rizvi—The question on notice answer that we provided, you are correct, indicated only a percentage at that stage because the precise figuring of the 2½ per cent savings had not been determined at that time. The savings in respect of the 2½ per cent have now been determined and they are, specifically for 2009-10, \$180,000. The balance of the savings is not yet determined; that is, the remaining five per cent.

Senator BIRMINGHAM—So the \$200,000 essentially in round figures in terms of page 29 is in for the out-years and has been taken out of the funding for the department?

Mr Rizvi—It has been taken out of our base funding, that is right, Senator—\$180,000 rounds to \$200,000 in the budget statements.

Senator BIRMINGHAM—But, as with ACMA, the other five per cent has not yet been budgeted for and taken out of that base funding?

Mr Rizvi—Those figures have not yet been finally determined.

Senator BIRMINGHAM—Have not yet been finally determined and they are not reflected in the budget in any way?

Mr Rizvi—That is correct. If I might just correct that, Senator, they are not reflected in our statements; they may be reflected in Finance's statement, I cannot comment on that. They are certainly not reflected in our statements.

Senator BIRMINGHAM—Thank you, Mr Rizvi. Turning quickly to No. 31, if we can duck back there, which relates to staff training, could you advise in each of those areas of training who the responsible provider is?

Mr Rizvi—We would have to take that on notice, Senator. We can provide that.

Senator BIRMINGHAM—If you could and I will follow up with other questions on notice in regards to that so that we keep things moving quickly today. Minister, do you not like community cabinet meetings?

Senator MINCHIN—Doesn't he go?

Senator Conroy—I am sure you have got your tongue in your cheek when you ask that question. They are a valuable way of keeping the government and the cabinets in touch with the views of Australians.

Senator BIRMINGHAM—I just note that between June and September last year there were four community cabinet meetings and you appear to have only made one of them.

Senator Conroy—I think you might find that I was possibly overseas. I am happy to take it on notice. I think I was on leave for one, I think I was overseas for one and I think I may have missed one over a family funeral. I am happy to chase up my records on that for you. I know that I had a reason for not being in attendance for each of them. For the one we just had in Emerald in Victoria, I was speaking at the fibre-to-the-home conference in Melbourne on the same evening as that one took place. I only miss them if I have another obligation or I am on leave.

Senator BIRMINGHAM—I am sure you have good reasons, Minister, and it would be understandable if you were missing the Prime Minister's grandstanding showpieces of the rolling community cabinet in any event. That is all my general questions, thank you, Chair.

Senator MINCHIN—I think you mentioned your inability to be at a community cabinet because you might have been overseas, Minister. I thank your department for their reply to our question about costs of your travel last winter. They indicated that it comes to something just over \$90,000 for your trip to the US and the UK. Could you just confirm you took just one departmental officer and one adviser with you on each leg?

Senator Conroy—Yes, that is correct. I noted the inability of the author of the article to do maths. I had one staffer and one departmental officer with me on each of the legs.

Senator MINCHIN—I am pleased to see that. It looked unduly excessive to take two, and I thought you would not indulge yourself in that fashion.

Senator Conroy—No.

Senator MINCHIN—No doubt, like me, you are always shocked by the cost of these trips, so I am not going to regale you on that. I do notice that your colleague, Mr Tanner, says that we are now going to save lots of money by having videoconferencing. As the minister for communications I am sure you are really enthusiastic about using videoconference facilities rather than travelling. Is this something you enthusiastically agree with Mr Tanner on and that you see the possibility to reduce the cost of overseas travel by using videoconferencing?

Senator Conroy—I think there is a whole range of benefits to videoconferencing, not just cost; there are obviously greenhouse carbon footprint benefits as well. Where it is possible and appropriate, they are a valuable resource for the government.

Senator MINCHIN—Have you got any trips planned this winter, Minister?

Senator Conroy—No.

Senator MINCHIN—None planned. If you could let the committee know if that were to change—

Senator Conroy—As I am sure you noticed from that photograph of myself shaking hands with Arnold Schwarzenegger, I was overseas briefly a few months ago. I think I was in the air and in airport lounges longer than on the ground at Hanover. But that was—

Senator MINCHIN—I have been to Hanover; that is a worthwhile trip.

Senator Conroy—Yes. I do not know if you got to meet Governor Schwarzenegger but I am sure you are very envious.

Senator MINCHIN—I missed out on that. He is a great Republican.

Senator Conroy—Not according to the Republicans in California! He was able to regale us on trying to get recalcitrant parliaments to pass his budget. He had much worthy advice. We might fly him in to lock the building and tell you to bring your toothbrush.

Senator MINCHIN—No, the problem in California is it is actually a surfeit of democracy.

Senator Conroy—It is a surfeit of Republicans.

Senator MINCHIN—I will tell you who created the mess. I think that is all I had on your travel arrangements, but if you are planning anything in the winter, we would appreciate advice to that effect.

Senator Conroy—No, there are no plans.

CHAIR—Senator Lundy has some general questions for the department as well, I understand, before we go to 2.1. Are you still on general questions?

Senator MINCHIN—Yes. I wondered if Ms Scott could just brief the committee on the restructure of the department which is referred to in the *Australian Financial Review* of 15 May, scheduled to take effect from 1 June. Would you like to just outline what you have in mind?

Ms Scott—Senator, as a result of the significant initiatives the government has announced that we are in the process of delivering on, we are refocusing resources to those major priorities. We have put the NBN with spectrum, we have put broadcasting together with the digital switchover and, in line with the program structure established under Operation Sunlight, we have put all of our services together. It is consistent with the broad approach taken in the PBS.

Senator MINCHIN—It does not reflect what we have here in terms of—

Ms Scott—In terms of—

Senator MINCHIN—With this list and the breakdown here, this is now history, is it, effectively?

Ms Scott—I will get James Cameron to outline how the two work together. Effectively Sunlight gave us the guidance about how we should think about the three program areas as infrastructure, broadcasting and digital switchover and then as services. I think you will find that the alignment is closer, not further away from what it was.

Mr Cameron—As the secretary pointed out, the main line areas of the organisation have been grouped into the three broad groups that reflect the program structure which is now reflected in the PBS. As you noted, Senator, the new structure takes effect from next Monday, so we are in the midst of the switchover. That might explain some of the differences with the witness list for today and the structural organisation.

Senator MINCHIN—I presume first assistant secretaries will head each of the three, will they?

Mr Cameron—There are three deputy secretaries who lead each of the divisions. Mr Colin Lyons—

Senator MINCHIN—Who is head of which?

Mr Cameron—Colin Lyons is the deputy secretary for the new infrastructure group, Mr Abul Rizvi is the deputy secretary for the digital economy and services group and Andy Townend is the deputy secretary for the broadcasting digital switchover group.

Senator MINCHIN—So his role is the digital taskforce?

Ms Scott—Yes, that is right.

Senator MINCHIN—In a sense he keeps that but with added responsibility.

Mr Cameron—Adds responsibility for broader media and broadcasting regulation.

Senator MINCHIN—But it is a restructure. It does not involve additional staffing, it is just moving within the existing resource base and staffing, is it?

Ms Scott—Ninety-three per cent of the staff either stay exactly where they were, or they have a slightly different line of reporting. For example, the people who were reporting on broadcasting issues will now report to Andy Townend. A lot of people were reporting to Col Lyons already, but he had been offline working on National Broadband Network and I had been looking after some of the shop and now it will go back to a normal structure where he will be looking after more divisions. There are some areas that we are expanding in size. We are going to be doing obviously more work on conversions and spectrum over time. We have identified some potential areas of duplication where we would like to achieve some efficiencies. They have been identified and we are now working to reduce staffing levels in those places, principally through redeployment within the department, some people are interested in redeployment in other areas of APS, and we will be using voluntary redundancies for some small number of staff. Ultimately the size of the department increases but within the total, the numbers are varying a little as a result of new priorities.

Senator MINCHIN—I note with interest the *Australian* did quite a good little table of all the departments and their spending on wages and suppliers, and I am pleased to note that Communications currently is the fourth cheapest department. Congratulations on that. But more dramatically it shows—

Senator Conroy—Only in cost, not in quality of advice, Senator.

Senator MINCHIN—I am sure that is right, Minister. There is nearly a 50 per cent drop over the next three years, according to this table which is based on budget figures, from \$164 million to \$87 million, the second biggest drop over the next three years, second only to Climate Change. I presume that is because your activities associated with the NBN, digital switchover and things like that you optimistically believe in three years time will all be done and you can cut the size of your department by half.

Ms Scott—I am sure you recall from your days elsewhere that many of the forward estimates of departments show a decline like this, but of course new initiatives emerge over the years. I am not sure that those figures that you have referenced there are accurate. We did a calculation a week or two ago, and I might have it slightly wrong, but I think there was a 26

per cent decline in our forward estimates compared to the last year of the forward estimates 2008-09. An even worse figure could have been derived last year. Forward estimates typically look like this, which is why I think there is a conservative bias built into Finance's numbers, because of course new initiatives do emerge, and there were new initiatives this year.

Senator MINCHIN—It is quite a dramatic total; virtually every other department is static but it does show this very substantial drop in Communications and Climate Change. I will go back and examine the detail of that. Thank you.

CHAIR—Thank you, Senator Minchin. Senator Lundy, did you have general questions for the department?

Senator LUNDY—I will take some guidance from the department. I have some questions about disability access to telecommunications services and I was not sure if they were in general questions or if we can move into 1.2 and ask them there.

Ms Scott—Chair, the officer is available if you would be comfortable to take them now. We are happy to take them.

CHAIR—That is fine.

Senator LUNDY—Thank you very much. I would like to start by asking officers for an overview about the government's initiatives to improve access to communication services and technologies for people with disabilities, with particular attention to the specialised equipment to help people with disabilities access telco services.

Mr Besgrove—Senator, under the universal service obligation, Telstra is obliged to provide appropriate equipment to customers who cannot communicate using normal telecommunications equipment. Telstra must provide this equipment at the same rental rate as it provides standard telephone handsets. It meets its obligations through a process called the disability equipment program. Optus and Primus also maintain a disability equipment program and in some circumstances other carriers can also use the disability equipment programs that Telstra and others provide to their customers. The eligibility requirements and the decisions on what equipment is provided are actually made by the carriers themselves. They have an obligation to provide the equipment but the specific kind of equipment which is made available is left up to the individual carriers themselves. Carriers with revenue over a prescribed threshold also fund the national relay service, which provides text based services and voice carryover for people who are impaired but able to speak, and hearing carryover for speech impaired people.

The government has recently announced a review of these equipment programs, in part because of some longstanding concerns raised by a range of disability advocacy groups that, while the existing program was quite good as far as it went, the choices available to people with disabilities were limited to the three carriers who actually had the disability equipment program. Earlier this year at a disability forum in Melbourne, the minister announced that there would be a review, which the department is currently conducting.

We released a discussion paper and called for submissions on that review. That call for submissions is now closed and we have, from memory, received about 35 submissions. We are going through the process of looking at the ideas and propositions that have been put

forward in those submissions. We have also embarked on a fairly substantial process of consultation around Australia, quite deliberately seeking to get first-hand opinions from disability advocacy groups as well as the carriers themselves and other interested parties. That consultation process is continuing at the moment.

Senator LUNDY—Is the consultation process related to the feasibility study that I understand the government has undertaken with respect to the Disability Equipment Program or is it related to the review?

Mr Besgrove—It is essentially one and the same. Sorry, I called it a review; it is also referred to as a feasibility study.

Senator LUNDY—One of the issues that has been raised with me is the potential for captioned telephony. Are you familiar with that equipment?

Mr Besgrove—I am, and that is one of the issues which has been raised. A number of the disability advocacy groups have been seeking a review of this general area for some time. The terms of reference of the review are reasonably broad in order to endeavour to capture a wide range of perspectives. I should say, going back to the forum which the minister spoke at—along with his colleague Bill Shorten—in February, there was quite a range of groups represented at that gathering. They were looking at a range of issues to do with accessibility and affordability for the disabled community in general. In an event of that sort, you invariably end up with a very wide range of issues being placed on the table. The purpose of this review process is to try and get as much of those issues out and to try and get some idea of what might be feasible changes or improvements to the existing arrangements.

Senator LUNDY—Can you provide a list of the different organisations that the department has already met with in the context of this review or feasibility study? Do you have a list?

Mr Besgrove—I am happy to table it. I will just touch on a few of them. We have met with a number of different departments such as the Department of Health and Ageing, the Human Rights Commission and disabled representative groups such as Women with Disabilities Australia and the National Council on Intellectual Disability. We have also met with carriers such as Telstra and Optus. Other groups include the Aboriginal Disability Network and Deafness Forum of Australia. We have also quite deliberately engaged with industry representative group such as the Communications Alliance, and the Internet Society of Australia has also been involved. We are trying to cast the net fairly broadly. One of the things that we find when we look at an issue such as this is there is a very wide range of stakeholders with at least some opinions and certainly a number that are directly affected by decisions in this area.

Senator LUNDY—Do you plan to meet with telecommunication companies that do not currently have a disability equipment program?

Mr Besgrove—Yes, we do. We are endeavouring to talk to some of the smaller carriers as well, given that one of the issues which the disability community has raised is that they would like to see opportunities for greater choice than what is currently available under the existing disability equipment programs offered by the three carriers that I mentioned.

Senator LUNDY—You mentioned before that the carriers choose which equipment is provided. What role is there potentially for the government to oversee an across-the-board equipment upgrade given that it seems to be that the carriers are not responding to the needs of consumers in this area with the latest equipment? I guess I am making that interpretation given the position I am familiar with, with organisations like the Deafness Forum lobbying hard for captioned telephony.

Mr Besgrove—Perhaps I could just touch on the terms of reference. It is looking at the current arrangements, including how equipment is currently accessed both in Australia and overseas, the demand for specialised equipment and attempting to project what that demand might look like over the next 10 years, the eligibility criteria and the types of equipment, software and other technologies, possible organisational and governance models and the assessment of projected costs of such a program including outreach activities, and finally options for funding an independent disability equipment program. We are quite deliberately casting it broadly. I do not really think I should be speculating as to where this might go, but it is very clear that we will be looking at a range of measures, including improvements to the existing schemes and whether there is support for alternatives.

Senator LUNDY—Can you tell me whether the various groups representing people with disabilities are going to be part of the new consumer peak organisation ACCAN?

Mr Besgrove—Yes, ACCAN, as you are probably aware, is still being formed and will commence formal operations on 1 July. The process of formation of ACCAN is well advanced. It has a legal structure, it has a board which has met on three occasions now and it recently announced that it has selected a CEO. So the process of forming ACCAN is quite well advanced. I am not actually sure how many groups have expressed an interest in joining or affiliating with ACCAN but it is certainly more than 50. What we are seeing with the development of ACCAN is that it is already shaping up to be a very significant umbrella advocacy organisation which is likely to have much stronger representation across the board than was the case with its predecessor organisations.

Senator LUNDY—I do not know how much you went into this yesterday evening, but I am interested in the philosophical approach to ACCAN and also how much the government has committed to it in budgetary terms.

Mr Besgrove—Certainly the approach that we have taken in advising the minister is that the preceding arrangements for consumer and disability representation in Australia, which has operated under the section 593 grants for the preceding 10 years or so, had been effective up to a point. They had certainly supported the activities of a number of organisations which had done some very useful work. However, it was quite clear that those efforts were somewhat fragmented and underresourced, and the minister quite early supported the idea of developing a much more effective peak body.

The intention behind forming ACCAN is to first of all provide a much stronger and better resourced advocacy voice for consumers and disability groups in Australia in the telecommunications space. We have also quite deliberately emphasised the need for ACCAN and its affiliated organisations to rely much more on research in the future. There has certainly been some tendency in the past for these groups to rely on anecdotal evidence and not

necessarily to back that up with well-founded research. A major element of the new entity's role will be to research communications consumer issues in depth. The idea is to try and put the consumer and disability groups onto a more equal footing with industry and indeed with government. The minister is on record as saying that he does not expect them to always agree with him.

Senator LUNDY—What about the level of resourcing behind this initiative?

Mr Besgrove—The level of resourcing has been increased. The previous section 593 grants had a total of \$800,000 per annum which, as was discussed yesterday in the questioning of ACMA, is recovered from the carriers as part of the carrier licence fees. That had been sitting at \$800,000 per annum for a number of years. The minister took the view that that should be increased, both to recover the original value of the \$800,000 because that had declined in real terms and to provide an additional amount of money that would, if you like, reinforce the underlying philosophy behind ACCAN, which was to enhance its capacity for representation, build its ability to do much more rigorous research and also to provide much stronger education and training activities, including training for voluntary advocates. I mentioned earlier that there are a very large number of groups that have indicated interest in affiliating with ACCAN. Part of its role will be to help to train volunteers within those entities.

Senator LUNDY—What does ACCAN stand for?

Mr Besgrove—It is the Australian Communications Consumer Action Network.

Senator LUNDY—Can you just describe how you envisage it working? You mentioned there is a board. Will that board convene regular forums of the membership groups and will they prioritise their work program? How do you actually see it working?

Mr Besgrove—Some of that is still to be worked out. The new CEO, Alan Asher, actually takes up his role, I believe, on 14 July. Once he arrives some of this, I think, will become a bit clearer. The way that the department envisages ACCAN working is to pick up some of the former roles of groups such as the Consumers Telecommunications Network—CTN—and the Australian Federation of Disability Organisations which has operated in this space as well. Those groups are involved in a range of activities: they develop common approaches to, for example, government inquiries; they sit on councils that are convened by Telstra and Optus, amongst other carriers, specifically to look at consumer issues as they come along if they are specific to the carrier in question. Telstra, for example, has operated consumer and disability councils for a long time where they raise issues specific to that carrier. It is also our hope that ACCAN will create expert advisory groups that are focused on consumer issues, disability issues and other issues as on an as-needs basis as they come along. Because new issues emerge from time to time, a spectacular example being mobile premium services which was also discussed yesterday with ACMA.

Senator LUNDY—What was the final number of the financial resources to this initiative?

Mr Besgrove—It is \$2 million per annum indexed, so that represents an increase of \$1.2 million over the existing funding.

Senator LUNDY—It is more than doubling what was there before?

Mr Besgrove—In money terms, yes; in real terms, it is a bit less than doubling, depending upon which deflator you use of course.

Senator LUNDY—With programs such as Broadband Guarantee et cetera, what level of priority do people with disabilities, who could potentially benefit from high-bandwidth services, get in accessing some of the government's programs for high-bandwidth services?

Mr Besgrove—I might have to defer to one of my colleagues on that one, Senator.

Mr Bryant—I manage the Australian Broadband Guarantee program. In terms of specialised equipment for that program, we do not have any specific accommodation for that. Clearly, people with disabilities have access to the program in the normal way that other people have. We encourage our registered providers to market their service as widely as possible to consumers and to consumer groups.

Senator LUNDY—I know we are going to go to the broadband issue shortly but I just want to perhaps leave you with a question on notice. I would imagine that, with a program in the NBN moving to a universal high-bandwidth service, this will enable a range of new applications and technologies to support people with disabilities. I want to ask the department if they are aware of the sorts of new applications that will become available in a ubiquitous high-bandwidth network, and what thinking there is or what policy plans or ideas there are within the department about making sure that there is a comprehensive approach to supporting people with disabilities in that high-bandwidth network. I am not sure how much this has to do with the feasibility study to which Mr Besgrove was referring but I would like to just get a general response as to what you are doing with that forward-looking agenda for people with disabilities.

Mr Besgrove—I think we should take some of that on notice. The department, through its technology advisory unit, is certainly doing quite a lot of forward-looking work and it will certainly continue to do so. Just to go back to the feasibility review process for a moment, clearly, one of the imperatives that has been driving the disability community to want us to look at this and one of the reasons why we were quite responsive to the idea of suggesting to the minister that he agree to such a process is that there is a very clear potential for emerging broadband applications to have quite significant impacts on the lives of people with disabilities. I do not think that the department pretends to fully understand what all of those are. If we had that sort of hindsight we might be working somewhere else. It is very clearly the case that rapidly expanding broadband services will carry with them quite a range of potential applications that could be very beneficial to people with disabilities, and we are very conscious of that. I think it is certainly germane to the feasibility study but I think it is also important for the longer term as well.

Senator LUNDY—Could I just finish up on this line of questioning by asking what is the indicative time frame for the feasibility study and when can a group of stakeholders representing people with disabilities expect to see an outcome?

Mr Besgrove—We have a commitment to go back to the minister with a report by the end of this year.

Senator LUNDY—By the end of this year?

Mr Besgrove—By the end of this calendar year, yes.

CHAIR—If there are no further general questions for the department then we will move to Program 1.2: Telecommunications, Online and Postal Services. Are senators aware of which items are in 1.2?

Senator MINCHIN—Yes.

Senator LUNDY—I have got quite a bit, Chair, across a range of areas.

CHAIR—Senator Minchin, are you ready to go?

Senator MINCHIN—Thanks. Could I just ask briefly about ACCAN? It has been mentioned a couple of times this morning. I note that it has got an additional \$7.5 million over four years. It supplements \$0.8 million in existing funding allocated to ACCAN in 2009-10 to take it to \$2 million a year. Can someone just give me the history of this consumer network? We touched on it briefly yesterday in relation to the carriers. It is a not insubstantial sum of money. I would just like to know what ACCAN is, who heads it, what salaries they are paid, what makes them the representatives of consumers, who elected them; what that operation is all about.

Mr Besgrove—Very quickly, the previous government established the section 593 arrangements back in, I think, 1998-99.

Senator MINCHIN—That was a grants program, was it not?

Mr Besgrove—It was a competitive grants program, and that operated over the last decade. The amount of money was not adjusted so hence my earlier comment that it was declining in real terms. Generally speaking, over time we found that the money tended to go to the same groups of organisations. The amounts of money varied and sometimes there were more or less groups funded but, by and large, it tended to be the same groups applying for and receiving the funding over a period of about eight or 10 years.

Senator MINCHIN—That was a merits based selection?

Mr Besgrove—Yes, it was, but, in practice, it is a limited field. The major beneficiaries in terms of funding tended to be CTN, to whom I referred earlier; CTEL, which represented the interests of small business as consumers and ADFO TEDICORE, which represented disability groups. There were then a number of other, smaller organisations that got varying amounts of money. The view emerged both within the department, within the consumer network and also within the industry groups, certainly Communications Alliance which represented the carriers, that those arrangements were not working as well as they might, that the quality of some of the work coming forward could certainly be improved, the professionalism of the advocacy groups could also certainly be improved but that the current model was unlikely to deliver those improvements over time. We certainly looked at the potential model of simply increasing the level of funding to the existing groups.

Quite early on the minister started to encourage those groups to think about a peak organisation. We conducted a forum on 1 May last year at which the minister spoke. I think from memory there were more than 50 different organisations present at that forum. Emerging from that forum there was agreement to set up a working group that would then develop the idea of a peak organisation. The working group reported to the minister, I think, by the

beginning of August last year and we had several meetings with the minister. He indicated his support to take the idea forward and it gained momentum from there.

The minister agreed to find some interim funding last year to support the development of the entity and the board of the new entity met for the first time on 17 December last year. The process of selecting the initial board was partly done by the working group, given that they were essentially representative of the 50 different groups that were present. Throughout that process we kept reporting back to the 50 organisations. We were providing them with monthly updates. We were also briefing Communications Alliance and I, myself, had discussions with Telstra and Optus on a number of occasions, because we needed to take all of the stakeholders forward if we were to get support for this new entity. That is the background about where it came from.

Quite early on it became clear that the carriers themselves supported the idea. We got quite strong support from Telstra. I think it is fair to say that that was because Telstra certainly recognised that the old model was not all that satisfactory. Optus also supported it and, to varying degrees, some of the other carriers supported it.

Senator MINCHIN—Was there any opposition from anywhere in particular?

Mr Besgrove—There was a little bit of grumbling about the money, I suppose, but not really. I think there was widespread recognition that what we had had probably outlived its usefulness and that it was time to look at a different model. We have certainly been at pains to try to keep the carriers informed as much as we could within the constraints of budget confidentiality. I think the fact that, as you were saying yesterday, no-one has been complaining about it is, in part, reflective of the fact that the industry had recognised the need for a different model. We have certainly had strong supportive noises from Communications Alliance and from Telstra and Optus at some of the forums that we have been present at in terms of the potential for this new entity to improve the effectiveness of the working relationships between consumers and industry in this space. That is a working relationship which has certainly had its ups and downs, as I am sure you may have heard.

Senator MINCHIN—Does this organisation have in place a full-time CEO or chief executive?

Mr Besgrove—It will have a full time CEO as of, I believe, 14 July in the form of Mr Alan Asher, who was formerly with the ACCC.

Senator Conroy—I am sure you remember him.

Senator MINCHIN—I do remember Mr Asher.

Mr Besgrove—He is currently overseas.

Senator MINCHIN—Is Telstra thrilled about that, are they?

Mr Besgrove—Sorry?

Senator MINCHIN—Is Telstra thrilled with that appointment, are they?

Mr Besgrove—They have not expressed reservations to me.

Senator Conroy—I think they have got a few other things on their mind.

Senator MINCHIN—It is better than having Mr Samuel appointed! What other income will this body have or is it fully funded by the federal government?

Mr Besgrove—Initially, it will be fully funded by the federal government. Mr Asher has already suggested to the ACCAN board that he will be exploring alternative sources of funding.

Senator MINCHIN—I am just wondering what accountability and reporting mechanisms are in place if it is fully funded or largely fully funded by the federal government. I accept what you are saying about the old scheme, but at least competitive grants schemes are competitive. There is a certain degree of accountability, review and you have got to make your case. The only danger with this sort of model is it is a monopoly provider of consumer advice that is fully funded. Who is it accountable to and how does it account for its performance?

Senator Conroy—How many members were there?

Mr Besgrove—There are at least 50. Minister, the other comment I was going to make is that we are currently negotiating a funding agreement with the new entity. I can assure you that we are treating that negotiation very seriously. The department will be stating quite explicitly the government's expectations of the new body, and the process of ACCAN's implementation and activities will be reviewed in two years' time. We will be paying close attention to all of that. I am certainly conscious of the danger you raise.

Senator MINCHIN—Would there be any reason why Mr Asher could not appear before estimates on behalf of his network to report?

Mr Besgrove—I might just see if the minister has a view on that.

Senator MINCHIN—I was wondering if there would be any difficulty with Mr Asher being invited by this committee to appear at estimates to give us a report on his activities and how he is spending \$2 million of taxpayers' money.

Senator Conroy—I am sure that Mr Asher, given his past record, will be forthright in appearing before many committees. However, as he is not an officer, I am not sure this is the appropriate one. I am sure, Senator Minchin, if you turn up to as many committees as Mr Asher by the time you do leave politics you will have done well.

Senator MINCHIN—So this committee could invite him?

Senator Conroy—I am not sure that he is actually an officer of the department and so I do not think it is appropriate for him to appear here. Mr Besgrove can happily answer questions about their activities.

Senator MINCHIN—I think it is important to this committee that—

Senator Conroy—I am sure that you will not be shy and Mr Asher certainly will not be shy about appearing before many parliamentary committees, and you will have an opportunity to question him at considerable length. But I am not sure Senate estimates is quite the appropriate place.

Senator MINCHIN—When did the previous program actually terminate? When were the last grants actually made? Is that continuing through 2008-09? Were grants paid out in the financial year 2008-09?

Mr Besgrove—I might have to take that on notice so that I do not mislead the committee in terms of the exact description. The competitive grants process finished with the current financial year.

Senator MINCHIN—Yes, I would like to know what grants will have been paid in 2008-09, to whom and of what size.

Mr Besgrove—We can certainly provide all of that.

Senator MINCHIN—That is all I have on that.

CHAIR—Senator Lundy.

Senator LUNDY—I have got questions for the Australian Broadband Guarantee.

CHAIR—Senator Lundy, do you want to do that?

Senator LUNDY—Can the department outline how the program functions generally and, in particular, what is the definition of a metro-comparable service?

Mr Bryant—Perhaps it might be best to start with a description of the overall objective of the program which is to provide access to that term metro-comparable broadband services for all residences and small businesses across Australia where such access is not available through commercial means. It is really trying to provide a safety net for, as I said, residences and small businesses—that is, fewer than 20 full-time employees—where the commercial market is not providing those services. In that sense, it is a highly targeted program. The definition of metro-comparable broadband service is currently set at, at least, 512 kilobits per second download and 128 kilobits per second upload and at least three gigabytes per month of data allowance. The service is also price capped at no more than \$2,500 over three years which would include all installation costs, CPE, and charges over a three-year period within that three gigabyte monthly allowance cap. That benchmark has been set bearing in mind the services broadly taken up in metropolitan areas.

Senator LUNDY—I note that, in the 2008-09 budget, some \$270.1 million was committed over four years; is that figure correct?

Mr Bryant—I think the number is actually \$270.7 million, Senator. Yes, that was the amount that was committed, bearing in mind there was a small amount of existing broadband connect funds that was added to that to get a total amount of, I think, \$273.451 million.

Senator LUNDY—\$273,451,000?

Mr Bryant—Yes.

Senator MINCHIN—That is over 2009-10 and forward?

Mr Bryant—No, over the four years, starting 2008-09, so 2009-10, 2010-11 and 2011-12.

Senator MINCHIN—Right.

Senator LUNDY—I read an article in the *Australian* earlier this month—I think it was on 14 May—entitled ‘\$40 million shaved off rural broadband subsidies’. Is there any truth to that article and are you familiar with it?

Mr Bryant—There have been savings identified but \$40 million is not the correct figure. The correct figure is, I think, \$23.1 million, including departmental costs, so that is administered and departmental. To break that down further, \$20.554 million is the administered savings and \$2.567 million is the departmental savings over the next three years.

Senator LUNDY—So that is not out of the actual subsidy—

Mr Bryant—No, the incentive payment per customer remains the same. It is important to understand how the program works to identify how the budget is derived. It is a demand driven program, so the process of identifying the funds required in any particular financial year is quite a complex process of estimating demand for program services in that year.

Senator MINCHIN—But it is a capped program?

Mr Bryant—It is a capped program.

Senator LUNDY—The article I refer to also says, ‘The reduction includes a revised budget for the 2008-09 financial year of \$85 million.’ Is this also untrue?

Mr Bryant—No, that is not correct. The budget for the current financial year has not been amended in any way.

Senator LUNDY—So it has not changed at all? There was no \$85 million reduction?

Mr Bryant—No, the \$85 million is the original budget for 2008-09.

Senator LUNDY—Why was there a reduction in funding for the Australian Broadband Guarantee announced in the last budget, that \$23 million you talked about?

Mr Bryant—As I said, the process of estimating a budget for the program is a fairly complex demand estimation process and the elements of that estimation are really threefold. Firstly, as I said, the program targets areas where the commercial market is not providing metro-comparable services. Inherent in that concept is the concept of underserved premises, which are where we have identified that those commercial services are not being provided. Clearly, as commercial services roll out into those areas, the underserved premises pool reduces and therefore the demand on program funds reduces as well.

Then, of course, you have to take into account the overall demand for program services within that underserved premises pool. That is really a combination, again quite difficult to estimate, of the general demand within the community, within residences and small businesses, for broadband services generally plus any pent-up demand that may exist within that particular pool of premises for broadband services. We have taken that into account as well. To support that we have done quite a significant survey of regional customers focusing on the Australian Broadband Guarantee areas, which are essentially in the more rural and remote areas, to try and understand what the take-up rates have been and what the likely demand is going to be over the next few years.

The third part of the equation is the cost per incentive payment. The incentive payments are set at standardised rates but we have introduced into the program a concept of additional high-

cost payments so that the total payment per customer can be as high as \$6,000 inclusive. We are now targeting more and more remote areas and our registered providers have identified to us in the past that some of these areas are very, very difficult and very costly to install services into, for example some of the remote islands and some of the areas in northern Australia where cyclone proof installation is required. We have introduced into the program this concept of additional high-cost payments which are pre-approved and worked through on that basis. We have to take into account the extent to which we may be required to fund more and more of those kinds of services as well.

Senator LUNDY—Going back to the first of the three areas you mentioned, where carriers are expanding their footprint of metro-comparable broadband services, obviously the demand for the subsidy under the Australian Broadband Guarantee diminishes. Which carriers expanded their footprint in an identifiable way? You were not having to provide a subsidy for their product anymore?

Mr Bryant—The key ISP really has been Optus with its broadband wireless service over its 3G network. As I am sure you are aware, that has been the subject of some discussion in the media and amongst the industry. We have tested that network and we believe it is metro comparable and so we have factored that in as well. It is by no means the only metro-comparable commercial service; we have in the order of, I think, 29 commercial networks deemed to be metro comparable, plus, of course, all of the ADSL retailers as well.

Senator LUNDY—For the record, Optus did not receive a government subsidy for the rollout of their 3G wireless network, did they?

Mr Bryant—No. As I said, an important part of the program is trying to target subsidised services in areas where commercial services are not. Optus is one of those commercial services. The process has been trying to identify where they are going with that service and then making sure that customers who cannot get that service continue to get an ABG service.

Senator LUNDY—Are there other examples of carriers rolling out and expanding their services and thereby being deemed metro comparable for the purposes of the Australian Broadband Guarantee?

Mr Bryant—Yes. This same process has been in place really over the previous iterations of the program going right back to 2004 with the original High Bandwidth Incentive Scheme. It has been about targeting the subsidised support to those areas where the commercial market is not going. As I said, we have, up to now, 29 commercial networks that are identified as metro comparable. It is really important not just to make sure that government support is targeted to areas of need, but it is also very important that that subsidised support does not unfairly compete with commercial networks that are out there providing a decent service. That is really the policy rationale for that kind of approach.

Senator LUNDY—Sure. What I am just trying to clarify is that under the previous government as well there have been services rolled out that have previously been declared metro comparable for the purposes of this Australian Broadband Guarantee style subsidy.

Mr Bryant—Yes. As I said, that has been the case since this kind of program was introduced in 2004.

Senator LUNDY—That was certainly my understanding. How do people go about finding out whether they are potentially eligible for an Australian Broadband Guarantee subsidy?

Mr Bryant—There are really three ways. The program works by registering service providers to offer subsidised services to eligible premises and eligible customers. We have always relied on those service providers to market their services to consumers; they do that and they are obviously required to recognise the government support in doing that. The department also has two key channels for consumers to find out where and how they can get a service and whether they are eligible. The first and most important is the broadband service locator on the department's website. This is an online tool which allows any person in Australia to put in their address or their GPS details if they live on a property. They will then see a map of their particular address and a list of commercial providers offering metro-comparable services, if there are any. If there are not any listed, they will see what subsidised ABG providers are available to them. That process also allows them to do two other things: firstly, to get an information pack which sets out all of the details about the program and details about providers that are available to them; and, secondly, it allows them to register their interest in getting an ABG service. We think that is a user friendly system and well received, but we do have an 1800 number staffed within the department to help consumers who may find that a bit daunting or may not have internet access.

Senator LUNDY—That is right, they might be looking for internet access.

Mr Bryant—Absolutely, yes. We have an 1800 number, 1800 883 488, which is available.

Senator LUNDY—That is good because that will now appear in *Hansard*, so thank you for that. You might just want to say it again slowly, just like on TV. Back in February, I think it was, the government announced additional funding for Australian Broadband Guarantee; is that right?

Mr Bryant—No. We announced a new funding round.

Senator LUNDY—A new funding round. What does that mean, and did that have anything to do with Optus's network?

Mr Bryant—The way the program works is on a periodic basis the department calls registration rounds where applicants are invited to register to become registered providers under the program. In general, we try to do two rounds per year. The purpose of that is to give new applicants an opportunity to register under the program but also, where applicants have failed to meet specific criteria in the assessment criteria, to address the deficiencies that we have identified to them and have another go, if they want to.

Senator LUNDY—There is a quality control about people who are participating in the scheme?

Mr Bryant—Yes. It is fair to say that over the last two or three years we have tightened up the financial liability requirements under the program. They are quite strict and we do not resile from that in any way. Apart from prudent use of taxpayers' money, it is very important also to have sustainable services being provided to consumers. Bear in mind as well that the program, as I said, is now focusing on rural and remote areas increasingly as those commercial networks roll out, and therefore much more marginal markets. That means we

need to keep a very vigilant eye to make sure that providers are viable and that the services they are offering are sustainable. The program guidelines clearly state that the purpose of the program is not to support the business case for providers to operate generally but to support viable operators to extend their services into these more marginal markets. It is an important difference.

Senator LUNDY—Can you tell me whether the department was out there encouraging people to become parties to the register? I think this allegation was made at some point.

Mr Bryant—Yes, I think the allegation was that, having declined some applicants, we turned around and re-invited them to apply. What we did, as we always do, is notify people of a new registration round and indicate to them that if they wish to apply, then here are the contact details. As I said, the purpose of that really is that some providers may want to address the feedback we have given them in an unsuccessful application and resubmit. Indeed, some have, some have not, but it is a quite formal and flat process of notifying people of a new registration round and by no means encouraging them or inviting them to apply.

Senator LUNDY—What is the process for assessment once carriers apply or ISPs apply?

Mr Bryant—It is comprehensive. The guidelines set out the assessment process in great detail. There is a screening process to ensure that sufficient information is provided to make a meaningful assessment. There are rules around who can apply. Straight resellers cannot apply. People have to be adding some infrastructure and some value-add into the process.

As well, there is a detailed assessment of financial viability and corporate credibility of the service solution, the technology to be applied, the service plans that are proposed and, finally, the service areas. All of that is set out in detail in the guidelines, not just the criteria but the information the department requires to assess applications. Then there is a very strict process of ensuring that we do not give feedback, encouragement or any information to applicants as to the status of their application. We do not tell applicants that we like or do not like their application. We have to be as flat as we can. We do seek clarification from time to time if the information provided is not sufficient for us to make a proper assessment, but we do take great care not to prejudice the assessment process by giving inappropriate feedback to applicants.

Senator LUNDY—I am concerned about the prospects of small business infrastructure providers who are being quite entrepreneurial in providing new wireless services in places where no-one else will. If they are unhappy with the decision of the department's rejection of their application, what recourse, if any, do businesses in that position have in challenging that decision?

Mr Bryant—They can certainly seek detailed feedback on the decision, but the guidelines set out the process and the assessment criteria in great detail.

Senator LUNDY—I understand the need for procedural fairness. I am just concerned that if a small business that is not well resourced to provide all of that detailed information gets knocked back, is there, first, recourse, and then a subsequent opportunity for them to get the necessary feedback so that they can make adjustments to their business to make sure they are eligible. Because, to be frank, if they do not qualify, if they are a very small business going

into a new area, this will wreck their business case if they cannot access the program as a registered supplier.

Mr Bryant—I have two things to say about that. Firstly, the whole process of having regular registration rounds, detailed feedback, clear, precise, comprehensive guidelines is designed to allow people if they want to get into the program to learn from the assessment process and to resubmit. But it is important also, and we do make it clear to providers and to applicants in a general sense, that this is not easy yards; it is hard yards going into these areas. We have a primary concern that consumers get access to a sustainable service and that the operation of applicants is sustainable in its own right without government support. That is a very important point. It may well be that some small providers simply do not have the financial sustainability to get into those difficult areas, and we do not resile from the fact that we are not an industry support mechanism; we are there to provide services to consumers.

Senator LUNDY—I do appreciate that. How many applications were assessed in that February round?

Mr Bryant—We have had five applications, and we are close to completion of our assessment of those applications.

Senator LUNDY—Not everyone has to reapply each round. Is that how it works?

Mr Bryant—No. The guidelines themselves clearly indicate to providers that it is really up to them if they want to apply for the program.

Senator LUNDY—How many registered providers are there under the scheme?

Mr Bryant—Sixteen registered providers at the moment.

Senator LUNDY—How many are satellite service providers?

Mr Bryant—Ten offer satellite services. They are not exclusive. Some offer satellite and wireless.

Senator LUNDY—Can you tell the committee how much it costs to sign up a customer to a satellite service, that is, the set-up costs? I guess what I am asking is what is the size of the grants for a satellite service provider?

Mr Bryant—The overall approach of the program is to provide standard payments, and for satellite and wireless providers in rural areas the amount is \$2,500. There are additional high-cost payments up to \$6,000 to take into account special circumstances. It is important also to recognise that the \$2,500 is not just to connect the customer and set them up; it is to provide a service for a three-year period. In the case of satellite providers, there are some satellite support costs within that structure and there are, again, a range of obligations and costs that providers have to wear in meeting the ABG standards. It is to connect and supply a service for a three-year period. Having said that, there are also costs for installation and travel. The customer equipment is expensive and a component of that \$2,500 goes to support that as well.

Senator LUNDY—Again, I want to refer to an article in the *Australian* on 12 May which was titled 'Bush net funding program criticised', which argued that some of the Australian Broadband Guarantee registered companies have been left out of pocket after the application

process during the latter half of 2008 on the grounds that they could not do it in a financially viable way. What is the real story behind that article, and is that true?

Mr Bryant—I am not going to make any comment about whether individual applicants were or were not financially viable, but financial viability is one of the assessment criteria. The other important point to make is that the guidelines clearly say that the cost of you applying for the program is entirely to be borne by you, the applicant, and the department does not support costs of applying for the program. Again, those applicants have to bear that risk. I think the allegation also in that particular article was that somehow or other we had encouraged them to think that they were going to get registered and then dropped them at the last minute. That certainly was not the case. We have a high priority to ensure that we do not provide any encouragement or feedback to applicants about how their application is going. That is quite important. We do seek clarification from time to time, as I said, but it is important that we follow due process.

Senator LUNDY—Am I correct in saying that the scheme did run out of funding back in 2007 under the former government?

Mr Bryant—The Broadband Connect, which was a similar scheme, had its total funds expended I think in March 2007, yes.

Senator LUNDY—Perhaps a final question to the minister: Minister, can you tell the committee if the opposition committed to funding the Australian Broadband Guarantee in the lead-up to the 2007 federal election despite the fact that the scheme ran out of funding in that year as well?

Senator Conroy—After extensive looking through the previous government's election commitments and budget papers, there was no ongoing funding, no commitment. The program was terminated.

Senator MINCHIN—This is a nonsense and abuse of the committee. You know that was because of the Opel Project. You know we were putting in \$1 billion, which you cancelled and deprived rural Australia of the services. Now after 18 months of your government you have got nothing, so do not try to play those silly political tricks here. It is ridiculous.

Senator LUNDY—I think the point is well made and I thank the minister for answering my question.

Senator MINCHIN—Absolutely ridiculous.

Senator Conroy—The budget documents speak for themselves, Senator Lundy—terminated.

Senator MINCHIN—And you just cancelled \$1 billion of spending in rural Australia.

Senator Conroy—They terminated the program.

Senator MINCHIN—You cancelled \$2 billion of rural spending that is not happening because of your cancellation of that project, so do not play that cute game.

CHAIR—Order! We will return to questions. Have you finished, Senator Lundy?

Senator LUNDY—That was, in fact, my final question because I think it is an important point of clarification in the context of the public commentary about the success with which the current government is implementing the Australian Broadband Guarantee program.

Senator MINCHIN—I have a few questions on this ABG. The profiling of what amounts to really a 10 per cent reduction in expenditure on this program is rather odd. It is \$11 million this coming year, then \$9 million and then \$3 million. What is the profile of the total forward estimate for the program?

Mr Bryant—I think that is on page 42 of the budget statement.

Senator MINCHIN—Eighty-five, 59, 46, 38.

Mr Bryant—So you can see there is a tapering off.

Senator MINCHIN—It is fairly dramatic. It halves over the next four years. It goes from 85 in 2008-09—a very substantial drop then in 2009-10. That is a \$25 million drop this coming year.

Mr Bryant—As I said, it is not an easy forecasting exercise, but one of the important elements of those three different variables that I mentioned is the overall demand for metro-comparable broadband services in those areas. We have just done a fairly large regional survey, as I indicate, which demonstrated to our satisfaction that there is widespread take-up of broadband services in the target areas and that we would expect the overall level of demand within that pool of underserved premises to reduce significantly over that period of time.

Senator MINCHIN—You certainly do. Expenditure in 2011-12 will be less than half what it was in this current financial year.

Mr Bryant—Yes.

Senator MINCHIN—That is in anticipation of what, further rollout of 3G et cetera, is it?

Mr Bryant—That is one of the elements, and, certainly, we do expect that to happen. We have Optus rolling out, as you know, but also Vodafone getting into the market. I think the key factor in that reduction is the overall level of demand for services. Based on history, the level of per annum take-up is around about 3.8 per cent to four per cent of that underserved premises pool. We have looked at, through this survey, what the take-up rates are, and they are surprisingly high in those areas. We estimate approximately a 15 per cent pool over that four years. Some component of that will be the overall level of demand over a four-year period. We think we are approaching the top of the S-curve, and other information that we have supports that as well.

Senator MINCHIN—Can I return to the same report that Senator Lundy referred to, which does involve, as I understand it, the great state of South Australia that Senator Birmingham and I are proud to represent. It quotes a broadband officer with the South Australian government, Louise Sladdern, and Anita Crisp, executive officer of South Australia's Central Local Government Region, representing 15 regional councils, as 'appalled' by the treatment of these applicants in South Australia and the way the department handled this whole process, presumably on the basis of people being rejected and then invited to reapply. If they are rejected—it says here 'disqualified'—because they could not prove they were financially viable, why would you invite them to reapply?

Mr Bryant—I repeat, Senator, we did not invite them to reapply. We have a list of interested parties who we notify of registration rounds as a matter of courtesy. Given the fact that a number of them do seek to address deficiencies that we have identified in their applications and reapply, I think it is courteous and proper that we do notify a broad spectrum of parties of a new registration round. That is point No. 1. Point No. 2 is that in some cases, despite the fact we have sought clarifying information, we have not got enough information to make a decision. In other cases, deficiencies in their application may well be addressed by specific action they might wish to take.

Senator MINCHIN—It is not helpful to you, the department or the program to have state and local government officers who presumably work hard to help facilitate these applications—they are dedicated to improving broadband services in their regions—so openly and publicly attacking the program. What steps are you taking to ensure that state and local governments who are assisting applicants who are involved in this program to understand the way you are operating? It is not very helpful for anybody to have such overt criticism.

Mr Bryant—No, I agree it is not helpful.

Senator MINCHIN—Presumably you were not just sitting back. What are you doing to help them understand the way the program works?

Mr Bryant—We have a number of channels to get to people. We have important bilateral relations with all the state governments and with local government. We have fora such as the National Broadband Development Group, where we work through issues with people. We always invite both applicants and people who support applicants to talk to us about any of the issues that we have identified in failed applications. I certainly agree it is not very helpful, but we are always keen to have dialogue with people about the issues that surround the program.

Senator MINCHIN—Have you identified failings in your systems that lead to this quite vitriolic complaint from other levels of government about the way this program operates or do you just think they do not understand?

Mr Bryant—As I have explained to Senator Lundy, I think the process we went through was a proper process. It is about getting appropriate balance between giving opportunities for applicants and making sure that government support funding is provided appropriately and sustainably and that taxpayers' funds are well spent on getting sustainable services in place. Inevitably there will be winners and losers, and some people may take exception. I am not sure there is much we can do about that. To reiterate, my point is that we do seek to talk to these people, and we have talked to the South Australians about these particular disgruntled people and we will follow through on that again. We have recently been to South Australia to discuss this very issue.

Senator MINCHIN—One of the reasons you have had difficulty recently was the declaration, or however you want to describe it, of Optus 3G as a metro-comparable service and the extent to which that is understood to have affected applicants. You mentioned the locator, in talking to Senator Lundy. What is the mechanism by which you amend the locator and the information it provides once you do declare a service to be a provider of metro equivalent?

Mr Bryant—Clearly, when we identify commercial services as metro comparable, we have to get information about the coverage of those services. We rely on goodwill from those commercial providers. We do not have any contractual relationship with those providers, obviously, but it is in their interests to get on to our broadband service locator. In a sense it is a free marketing device because every time someone comes in they see that commercial service there. That is the carrot we try to provide to providers. In the main I think providers have been keen to be involved in that process. They have provided us with their mapping data that assists us to map their services. The way the broadband service locator works is it is driven geospatially, and our services are mapped as tightly as we can.

Senator MINCHIN—You take their map of coverage and—

Mr Bryant—Clearly in the case of Optus and their coverage of their wireless service over their 3G network, the coverage is not the same as the coverage of mobile services. It is much more restricted than that. We have had an extensive process of working with Optus to clarify what the exact coverage is or what the more exact coverage is, and it is a continuing process of updating the information. We are getting much better information on that coverage now. Bear in mind, though, that if there are inaccuracies in their mapping to the extent that they say they can go somewhere where they cannot, our customers, eligible ABG consumers, can still get an ABG service. The process is that they are referred to the commercial provider in the first instance as saying that that commercial provider may well be able to provide them with a metro-comparable service, and then the process is if they cannot provide them with a service, they come back to us and then they become eligible for an ABG service. The issue is not so much consumers missing out on a subsidised service where they are, in fact, eligible; it is really just a process of having to go to the commercial provider and come back, and it is an inconvenience for them and it is a resource for us.

Senator MINCHIN—But the locator would tell you if you are ineligible.

Mr Bryant—The locator will tell you where a commercial metro-comparable service may be able to be provided, and then refers you to that commercial provider in the first instance.

Senator MINCHIN—On the basis that you are ineligible?

Mr Bryant—No, on the basis that you may be able to get a service from that provider. If you can, then you are ineligible. If you cannot, you can come back and become eligible to get an ABG service.

Senator MINCHIN—Is it possible that this locator could tell people in one street that some of them are eligible and others are not eligible?

Mr Bryant—That is an important point, actually. The locator does not say ‘You can get a commercial service from this provider. Therefore, you cannot get one from us.’ It says, ‘We have identified that this commercial provider may be able to offer you a metro-comparable commercial service. Please go and talk to that provider first. If you cannot get a metro-comparable service, come back to us.’ Generally, the way we do that is via our call centre, but we have also developed a capacity now for consumers to push themselves through and to then sign a declaration that declares that they have been to that provider and they cannot get a service. It works, as I said, as a safety net, and consumers can always come back if they cannot get the commercial service.

Senator MINCHIN—Thanks. That is all I have.

Senator BIRMINGHAM—I do not have too much on the broadband guarantee. But just quickly in terms of your estimations for demand, I believe that page 44 of the PBS at the bottom there outlines the number of connections subsidised over the forward estimates?

Mr Bryant—Yes.

Senator BIRMINGHAM—Your estimations are that that satisfies demand in each year?

Mr Bryant—That is our estimation, yes.

Senator BIRMINGHAM—That is your estimation, so that demand is tapering off through those years down to 13,900 in 2011-12?

Mr Bryant—Correct.

Senator BIRMINGHAM—Were those estimations of demand, which I think we discussed in last year's estimates—as well as how you were constructing estimations of demand to some extent—premised, when they were initially done last year, on successful completion of the National Broadband Network?

Mr Bryant—No.

Senator BIRMINGHAM—So, there is no consideration of either NBN1 or NBN2 delivering anything in any of these forward years for the ABG estimates?

Mr Bryant—In terms of this level of service, no.

Senator BIRMINGHAM—For 2012-13 would you still expect there to be some level of residual demand?

Mr Bryant—We have done these estimates based on these forward estimates. I do not think I can comment any further than that.

Senator BIRMINGHAM—But we drop from 34,000 to 22,000 and then from 22,000 to 17,000, so you lose about 5,000 there; and then we drop from 17,000 to 13,000, so you lose about 4,000 there. It would appear to me that if the same tapering off rate occurred, there would still be probably demand for about 10,000 connections in 2012-13 if you followed the tapering-off pattern.

Mr Bryant—That is your observation, Senator. We have not done the estimation for 2012-13, so I do not want to comment on that.

Senator BIRMINGHAM—Minister, you were eager to take a swipe at the previous government before and eager to respond to Senator Lundy and to highlight the government's commitment to this service. If there is still demand in 2012-13, would the government be funding it?

Senator Conroy—We would be considering that closer to the day. We, unlike the previous government, have just given it a funding commitment.

Senator BIRMINGHAM—You have not just given it. You did it last year.

Senator Conroy—Well, last year.

Senator BIRMINGHAM—You have actually taken funding out of it this year.

Senator Conroy—I know that you pay close attention during Senate estimates, Senator Birmingham, so I am sure you have heard the lengthy and detailed explanation as to the growing availability of metro comparable. I would anticipate that will continue to grow. The Vodafone network is coming into play. The Optus network is coming into play. There is a variety of other potential metro-comparable projects that are being done by the private sector even before you get to the government's NBN plans. To try to speculate in the way you are, it is fun playing politics, but in terms of who committed to deliver, Labor did; the Coalition did not.

Senator BIRMINGHAM—Minister, I am asking you to speculate into the final year of the forward estimates. It is not an unreasonable speculation to go that far out because, of course, all your forward estimates attempt to go that far out except in this instance the program which you have taken funding out of this year, funding that could theoretically have been allocated into 2012-13 if there is a demand for 10,000 connection subsidies—

Senator Conroy—We appreciate your desire to lock us into funding commitments three years or four years hence—

Senator BIRMINGHAM—I think you were going to say election commitments then, Minister.

Senator Conroy—It would constitute an election commitment but we will decide our own funding envelope and our own election commitments, but I appreciate your attempts—

Senator BIRMINGHAM—You will save the announcements for the election commitments I think is what you mean.

Senator Conroy—No, I am just not going to let you make our election commitments or our budgetary commitments. The situation is very clear. We have given this program ongoing funding; you did not. It could not be simpler than that, and if you think by dancing around and pointing to that in four years' time you will be taken seriously by the Australian public, I am sure you will be disappointed.

Senator BIRMINGHAM—Thank you, Minister. Mr Bryant, just to be clear, how many connections have been subsidised to date this financial year?

Mr Bryant—I can take the exact amount on notice, but it is close to 30,000.

Senator BIRMINGHAM—Close to 30,000, so you were tracking close to the revised estimate of 34,300.

Mr Bryant—The estimate for this year is for the full amount. We are tracking close to the 85 million figure, yes.

Senator MINCHIN—Can I just come back to the issue of this locator?

Mr Bryant—Sure.

Senator MINCHIN—My attention has been drawn to an example in Haricot Way, Lilydale, regarding 11 and 19 Haricot Way, which are in the one street. The locator says, 'Based on the information provided, your premises have been identified as category eight providers' and then the user is told that they provide land based services.

Then it says, 'You are not eligible for a subsidised Australian Broadband Guarantee broadband service and you should not complete the Broadband Guarantee registration form.' I note at number 8 and number 10 Haricot Way, they are regarded as in category D internet service providers providing satellite services and they are encouraged to pursue that option; all in the one street. But I understood you to say it does not actually—

Mr Bryant—No, it does not.

Senator MINCHIN—tell you if you are not eligible, but it does tell you that you are not eligible—and people in the other part of the street may be eligible.

Mr Bryant—I am not sure what part of the website you are referring to there?

Senator Conroy—The marvellous thing about wireless and satellite technology, Senator Minchin, they—

Senator MINCHIN—Yes, I asked the question before.

Senator Conroy—Some parts of it. Sometimes there can be a tree in the way; sometimes there can be a high rise in the way; a whole range of factors come into play about whether an individual resident can actually be served by the technology.

Senator MINCHIN—But it said it was possible, so that is why I asked—

Senator Conroy—That is why you want to try and reach as many of them with a fibre connection as you can, Senator Minchin.

Senator MINCHIN—Oh, okay, yes.

Senator Conroy—Then you do not have to worry about trees and you do not have to worry about high-rise buildings, hills et cetera.

Senator MINCHIN—Regardless of the cost, okay. What a wonderful world you live in—where you go out and spend. I wish I lived in that world.

Mr Bryant—It might be best if I—

Senator MINCHIN—I am sorry but I thought I understood you to say that the locator will not actually say to anybody 'you are not eligible' whereas clearly it does.

Mr Bryant—Again, I will perhaps take your question on notice. I can provide detailed reference to all of the parts in the locator. The key process, and the locator does say it, is that if you cannot get a commercial metro-comparable broadband service from that category A provider—and again I am not sure what part of the locator you are looking at there—it should say that you may be able to get a service from this provider.

Senator MINCHIN—Yes. It says, 'You are not eligible for a subsidised service. Somebody may be able to offer you a metro-comparable service. Do not complete the form.' It is basically saying, 'Forget about this program, go and buy yourself—

Mr Bryant—Again, perhaps if I take your question on how the locator works on notice. I am happy to provide you with a detailed reference because it is, as I said, not a simple process. There is a process of going backwards and forwards and that is within the locator. I will certainly take that on notice.

Senator MINCHIN—My impression is that this is causing some considerable confusion out there.

Mr Bryant—Yes, well, sometimes things can be improved upon.

Senator MINCHIN—Okay, thank you.

Ms Scott—Senator, when I first came into the department, I sat in on phone calls with people ringing up our little call centre and using the locator. Sometimes people volunteered that they knew that neighbours or friends a block and a half away were getting services that they could not get. It seemed to be one of the limitations inherent in the system of RIMs and pair gains and so on that you could find, even within a relatively short space. I am not familiar with this Haricot Way, but I do know from listening in that people within, I think a block and a half, were pointing out to our operator and me the disparity in the service offerings sometimes as a result of historical factors and the rollout of services. We will look into it and we will come—

Senator MINCHIN—They say even windmills.

Mr Bryant—It is undoubtedly true that it is a reasonably complicated process. When you have a highly targeted program, it is necessarily so. It is undoubtedly true—

Senator MINCHIN—But you are basically relying entirely on the coverage maps of the providers as well in doing this too, are you not?

Mr Bryant—Well, not entirely, as I said. Because the way the program works is that if you cannot actually get that coverage you can get back to us. We are about to post up a detailed FAQ which I am more than happy to provide to you on notice as well, which in fact I proofread yesterday which sets out the process, hopefully as simply as we possibly can, for consumers. It is fair to say that consumers have been confused by it in the past. It is one of the reasons, in fact, why we have set up our call centre and we have about 15 people working full-time dealing with consumer queries. In fact, we have sent out 50,000 information packs this year to consumers to—

Senator MINCHIN—Fifty thousand?

Mr Bryant—Yes, 50,000. It tells them very clearly the process. But as I said, sometimes a word or two expressed the wrong way can lead to problems and confusion so we are happy to address it where that is identified.

Senator MINCHIN—All right, thank you.

Proceedings suspended from 10.38 am to 11.01 am

Senator BIRMINGHAM—Would you, Senator Conroy, like to take me through all of the funding in response to the Glasson review on regional telecommunications?

Senator Conroy—I am sure that we can provide you much information on that matter.

Mr Cameron—As you are aware, Senator, the Glasson report was provided to the government in September last year. On 5 March this year, the government tabled its response to that report, which included responding to most of the recommendations of the report. That initial response included a \$61.1 million package of funding measures which comprised the \$46 million Digital Regions Initiative program, which will fund innovative broadband

applications to improve emergency services and health and education services in regional areas; an \$11.4 million commitment to continue and enhance the Satellite Phone Subsidy Scheme for Australians living and working in areas without terrestrial mobile phone coverage; and an additional \$3.7 million contribution, bring it to a total of \$30 million, for a refocused Indigenous Communications Program that improves basic telecommunications services such as community phones and public internet access services and training in remote Indigenous communities.

Senator BIRMINGHAM—Are they all of the measures that have been committed to in response to the Glasson report?

Mr Cameron—In the recent budget, the government announced an additional commitment of \$14 million in relation to the Digital Regions Initiative, which brings the total funding for that program to \$60 million. In addition to that initial response, the government responded to a range of other recommendations that did not involve funding commitments but will involve cooperation and increased consultation with the states and territories to take forward a number of the other recommendations that the committee put forward.

Senator BIRMINGHAM—So, the initial government response outlined a package of \$61.1 million, and then further measures in the budget totalled \$14 million, bringing the commitment in response to Glasson to about \$75 million. Is that a correct précis?

Mr Cameron—That is correct.

Ms Scott—Consistent with the recommendations of the report, the Glasson report had recommended the government give consideration to an initial response and then consider further recommendations in light of the outcome of a national broadband network. A number of the recommendations that were made in the report relating to consumer standards, regulatory changes and so on are effectively swept up in the discussion paper that was released also on 7 April as part of the national broadband initiative. So you can see that there is a staged response from the government to the Glasson report.

Senator BIRMINGHAM—How much is allocated for that staged response?

Senator Conroy—The total?

Senator BIRMINGHAM—Yes.

Mr Cameron—The government indicated in last year's budget that up to \$400 million would be available for regional telecommunications services, subject to consideration of the Glasson recommendations.

Senator BIRMINGHAM—It indicated \$400 million last year and that remains the—

Senator Conroy—Remains the case.

Senator BIRMINGHAM—It remains the case, very good news. In that case, in terms of recommendations in response to the outcome of the NBN, what is the government defining as 'outcome' in that regard now when it is considering further steps in the response to Glasson?

Mr Cameron—There were 17 recommendations that were not addressed the initial response. Eleven of those recommendations are being dealt with through the release of a

discussion paper entitled *National broadband network: Regulatory reform for 21st century broadband*.

Senator BIRMINGHAM—Could you just repeat that again?

Mr Cameron—A discussion paper entitled *National broadband network: Regulatory reform for 21st century broadband* was released at the time of the announcement of the NBN outcome. It includes discussion of a number of possible reforms in relation to the Telecommunications Consumer Safeguard Framework. The government is addressing another four of those recommendations through the commitment of up to \$43 billion for the National Broadband Network itself, and the fast tracking of a \$250 million investment in competitive backhaul infrastructure in regional areas through its Regional Backbone Blackspots Program. Two remaining recommendations will be considered once the National Broadband Network arrangements are further advanced.

Ms Scott—Senator, you might recall this booklet; it is the one that both James and I have referred to.

Senator BIRMINGHAM—Thank you, Ms Scott and Mr Cameron. Ms Scott, when are comments on the regulatory response to the discussion paper that you just showed us due? When can those 11 recommendations that hinge on the outcome of that be considered and progressed in some manner?

Ms Scott—Senator, the response submissions are due on 3 June and the government will then deliberate the matters. The government has also indicated its interest in undertaking some regulatory reforms this year, and its intention is to have passage this year of a number of its regulatory reforms.

Senator BIRMINGHAM—In relation to the outstanding \$325 million from the \$400 million commitment, from a budgetary perspective is that still sitting in a fund somewhere?

Ms Scott—It is still available and still effectively earmarked for this purpose, Senator.

Senator BIRMINGHAM—So the funds that were raised out of the Communications Fund have been preserved, so that they can definitely be accessed for this? It will not be the subject of a further budget bid or anything of that sort?

Mr Cameron—The \$400 million funds are drawn from consolidated revenue, Senator.

Senator MINCHIN—Yes, the Communications Fund has all gone through Senator Conroy's NBN, as I understand it.

Senator Conroy—I think we announced we were doing that. I think you went to the toilet when that vote was on, from recollection, Senator Minchin, according to reports.

Senator MINCHIN—Yes, I did so—

Senator Conroy—Along with a lot of other of your colleagues. It must have been a very crowded toilet at that moment, Senator Minchin.

Senator MINCHIN—I did not realise you had such interest in the toiletry habits of the coalition, Senator Conroy.

Senator Conroy—No, I just noted that only five of your colleagues actually stayed in the chamber and everyone else apparently all had the urge to go to the toilet as well.

Senator MINCHIN—It is surprisingly difficult to sit next to the Labor Party in the chamber, Senator Conroy.

Senator Conroy—You should try it every now and then, Senator Minchin. It is good for the soul.

Senator MINCHIN—I would find it very hard to do that.

Senator BIRMINGHAM—It is very challenging.

Senator MINCHIN—The point is the comms fund has effectively resolved and gone—that money is sitting in the—

Senator Conroy—No, you supported transferring it across actually.

Senator MINCHIN—We did not oppose it, that is right.

Senator Conroy—No, you supported it. Your frontbench decided to support it. Four or five of your colleagues sat with us.

Senator MINCHIN—We did not oppose it. Rural money is all out of consolidated revenue, as the officer is saying.

Senator BIRMINGHAM—Is the \$325 million that is going to come out of consolidated revenue budgeted for in the forward year in some way, shape or form?

Mr Cameron—The government has indicated a commitment that up to \$400 million will be available and so its consideration of how to respond to the remaining recommendations would be consistent, as the secretary said, with that earmarked commitment of funding.

Senator BIRMINGHAM—There is a slight difference from up to \$400 million being available and—

Senator Conroy—I think that has always been the words that have been stated. I have used the words ‘up to \$400 million’ in the chamber, in the parliament, in the public.

Senator MINCHIN—Very useful, those words ‘up to’.

Senator BIRMINGHAM—Actually, Minister, allow me to quote your words from this committee hearing on 27 May last year:

All of the interest earned—and we believe the estimate is around \$400 million—will be spent on the Glasson committee recommendations...

There was no ‘up to’; there was no caveat. Do you stand by that statement you made in this estimates committee last year?

Senator Conroy—They are not inconsistent statements to what the officers have said, I have said many times and what you are quoting there. They are completely consistent.

Senator BIRMINGHAM—Will you repeat those words for me? Will all of the interest, will the \$400 million all be spent on the Glasson review recommendations?

Senator Conroy—That is what the government has stated.

Senator BIRMINGHAM—All of it will be spent, not ‘up to’ \$400 million, which could be any figure ranging up to \$400 million. You have committed 75 at present—that could meet that objective.

Senator Conroy—They are not inconsistent. The statements are not inconsistent.

Senator BIRMINGHAM—They may not be inconsistent; however, there is a distinct difference.

Senator Conroy—The government has committed to spending the \$400 million.

Senator BIRMINGHAM—And you are committing again that it will be \$400 million? Come back to where the other \$325 million is, then. Will you have to be going back into the budgetary process, if it is coming out of consolidated revenue, and bidding for that other \$325 million? You will be lining up in front of the razor gang—

Senator Conroy—You probably should check with Senator Minchin on the finer points of what you have described as the bidding process. What you have described is not necessarily an accurate way that all programs—

Senator BIRMINGHAM—You tell me, Minister. Point me in the budget papers to where I can find the other \$325 million.

Senator Conroy—We have a public commitment to meet that target. It could not be clearer. I have stated it, the budget papers last year stated it and it remains an ongoing commitment.

Senator BIRMINGHAM—Ongoing over what period of time? This, of course, was meant to be an every three- to four-year process under the communications fund.

Senator Conroy—No, let us be very clear. These were funds to respond specifically to the Glasson report, and that is what they were identified for. Glasson has reported and we have met his initial ask, the committee’s initial ask. I think they talk about 15 per cent. We have met the 15 per cent that the committee recommended to us, and the committee recommended that we consider the remainder in the light of the NBN decision. That is exactly what we are doing. There is no pretence. When the Liberal Party crossed the floor and voted with us on this issue, you understood this was not an ongoing—

Senator BIRMINGHAM—We are trying to get the bottom of where your \$400 million has gone.

Senator Conroy—This was not an ongoing commitment. This was a one-off \$400 million for the Glasson review. There is no ongoing. Your program you voted to terminate.

Senator BIRMINGHAM—Are you basically saying when you talk about the NBN process—which we have learnt in the past 18 months or so, of course, is a bit like the piece of string that never ends—that regional Australia could be waiting 10-plus years to see the remaining \$325 million spent anywhere?

Senator Conroy—The regional review recommended to government that responses relating to the NBN are held until the outcome is fully known.

Senator BIRMINGHAM—How do you define what the outcome being fully known of the NBN is?

Senator Conroy—At this stage, the final outcome is not known.

Senator BIRMINGHAM—That is plainly obvious for all to see.

Senator Conroy—It is a matter of ongoing discussions between ourselves and the Tasmanian government. It is a matter of an ongoing tender process to be commenced shortly for the Regional Backhaul Blackspots program. It is an ongoing process of the implementation study which will report in February next year. It is an ongoing discussion with satellite, wireless and fibre owners at the moment to meet the national broadband network proposal. All of those are ongoing. What we have said is that the project will take up to eight years. We have not tried to pretend that this is anything other than the largest infrastructure project in Australia's history.

Senator BIRMINGHAM—Will the outcome be known at the end of the scoping study in February next year or will it not be known for eight years when all your targets are met?

Senator Conroy—It is an implementation study.

Senator BIRMINGHAM—That is right, you are not doing a scoping study.

Senator MINCHIN—No, they are not bothering with that.

Senator BIRMINGHAM—Sorry about that.

Senator Conroy—It is an implementation study which will recommend to the then board how to implement our proposal to round out all of those issues, which have been legitimately raised by not only yourselves but also many in the sector. We are not going to rush simply because you are demanding we have an outcome before we actually have it, just because you are demanding it.

Senator BIRMINGHAM—I am not demanding you have it before you have it. I am just trying to find out when you are going to have it, Minister.

Senator Conroy—Now you are talking about two different things, so let us just be clear.

Senator BIRMINGHAM—No, at what point in all of these different processes will the Glasson requirement for an outcome to the NBN be met? What do you define to be the outcome?

Senator Conroy—We will see what the implementation study provides to us and then we might be in a better position to make an assessment along the lines that you are calling for. At that point we will be able to make an assessment of the question you are asking.

Senator BIRMINGHAM—We take this as a 'don't know', but the \$325 million out of the \$400 million remains unbudgeted and somewhere in the never-never and regional Australia just has to wait and see what happens with the NBN.

Senator Conroy—It remains an ongoing public commitment by the government that was listed in last year's budget papers. It is an ongoing commitment.

Senator BIRMINGHAM—It is not listed in the budget papers, Minister. Show me where it is in the budget papers.

Senator Conroy—Sorry, described, listed or described, whichever word you prefer.

Senator BIRMINGHAM—The allocation of money is nowhere there; \$75 million out of the \$400 million is allocated in the budget papers. The other \$325 million has vanished.

Senator Conroy—I repeat to you that the regional review recommended to government that responses relating to the NBN are held until the outcome is fully known, and that is exactly what we are doing. We have a public commitment and we are actually following the recommendations of the review.

Senator BIRMINGHAM—And you cannot tell me when that outcome will be known or what threshold point has to be crossed for you to be able to define that that is the outcome?

Senator Conroy—I said to you that when we receive the implementation study we will be in a better position to comment further on the question you have asked.

Senator BIRMINGHAM—In the meantime, regional Australia is duded, waiting on the NBN to see when they might get the promise honoured, if ever.

Senator Conroy—Regional Australia is the beneficiary of the ABG. It is the beneficiary of the ongoing programs which Mr Cameron has described. It is the beneficiary of the \$250 million in funding for backhaul blackspots. Regional Australia will have the most comprehensive communications and telecommunications outcome in the Western world certainly. Given the 18 failed broadband proposals put forward by your former government, regional Australians are going to be far better off under Labor's plans than the Mickey Mouse failed programs that you put in place.

Senator BIRMINGHAM—Minister, will the \$325 million, if you ever decide to attempt to fund it, be part of the two per cent annual spending cap of government from here on in?

Senator Conroy—This is a public commitment. Unlike you, when we make public commitments, particularly election commitments—

Senator BIRMINGHAM—Public commitment, both?

Senator Conroy—You are trying to suggest that they conflict. All I am saying to you is I do not believe they do conflict.

Senator BIRMINGHAM—When you go to try to ever access this \$325 million—

Senator Conroy—It is not a question of trying to. It is always easy to access when you have actually made a public commitment and you are on the record as saying you will keep them.

Senator BIRMINGHAM—It does not matter of course that there is a massive budget deficit that you have to access it against.

Senator Conroy—No, that is always relevant.

Senator BIRMINGHAM—It does not matter that there is now a promise for a spending growth cap that you have to try to access it against too.

Senator Conroy—The Labor Party has delivered on each and every one of its election commitments, and in terms of the NBN we are going to exceed it—

Senator BIRMINGHAM—Aside from the NBN; we will come to that later.

Senator Conroy—We are going to exceed our election commitment. It is very easy for the Rudd government to say that it will deliver this because we have delivered our promises. We have delivered our public commitments, unlike those opposite.

Senator IAN MACDONALD—\$300 million—

Senator Conroy—Macca, I am so pleased that you have come. We have missed you. Can I say it has been incredibly dull and boring without you and we are sure you will now lighten the day for us, so we welcome your attendance.

Senator IAN MACDONALD—I am just interested in the \$300 billion debt.

Senator BIRMINGHAM—Maybe the best that regional Australia can hope for is the promise that you will deliver the extra \$325 million but it is a bit like perhaps returning the budget to surplus, it is somewhere out there, maybe beyond 2020 or 2030, who knows when.

Senator Conroy—It is actually following the recommendation of the Glasson review. I invite you to read it, because clearly you have not. If you read it, you will find quite clearly stated—

Senator BIRMINGHAM—You can read it to me. You like to read things to me in these hearings.

Senator Conroy—I have read it out to you, but given that you do not seem to believe that I am giving you the correct context or quote, perhaps if you actually read the report you would see that we are actually following the advice. Commit 15 per cent and wait with the other 85 per cent until the outcomes of the NBN, which is exactly what we are doing.

Senator BIRMINGHAM—I am sure it was not Dr Glasson's aim that the \$325 million had to wait eight-plus years into the future.

Senator Conroy—That is an assertion you are making that is not based on any fact—

Senator BIRMINGHAM—Not to mention that there was a vastly different NBN at the time you made that recommendation.

Senator Conroy—Not based on any fact whatsoever, Senator Birmingham.

CHAIR—Can we please revert to questions and answers. It is very difficult for Hansard to transcribe talking over the top of each other. Senator Birmingham, we are still on regional telecommunications.

Senator BIRMINGHAM—That is fine. Minister, I think we have established clearly that it is not in the budget, we do not know when it will be and we will adopt this wait and see approach from the government, a bit like everything else. So that is fine for me—

Senator Conroy—Given that was not a question, it was a commentary, I repeat that we are following the recommendations of the Glasson review. We have delivered the 15 per cent and we are awaiting the outcomes of the NBN policy.

Senator BIRMINGHAM—And I am quite sure that Dr Glasson was not expecting to be waiting indefinitely for the other \$325 million.

Senator Conroy—He will not be waiting indefinitely. That is nothing more than a bit of exaggeration to try and get a cheap headline, Senator Birmingham, but you are welcome to try it.

Senator BIRMINGHAM—You cannot give me a timeline.

Senator Conroy—We are following the recommendations of the Glasson review.

Senator BIRMINGHAM—You cannot give me a timeline, so how am I not meant to think that it would be indefinite.

Senator Conroy—The Glasson review did not put a timeline on it. It suggested we wait until the outcome of the NBN policy, and that is what we are doing.

Senator BIRMINGHAM—Yes, which has become an ever more shifting feast since the Glasson review was released.

Senator Conroy—I am sure we will get to lengthy debate on this. I know there will be no end point to your calls for delay so that you can go to the next election claiming we have not delivered any broadband to anybody. I appreciate that that is your entire political strategy, Senator Birmingham, but I think you will be disappointed on that front too.

Senator BIRMINGHAM—I am sure as long as we are sitting at this table, we will be talking about the NBN process, Minister. I am not sure about the outcome.

CHAIR—NBN is under program 1.1. So can we continue with program 1.2 please, Senators. Senator Birmingham.

Senator BIRMINGHAM—That is all from me on Glasson.

CHAIR—Senator Minchin.

Senator MINCHIN—Thanks, Madam Chair. Can I just turn to program 1.2: to develop options for government consideration of internet service provider level filtering. Can I just get a sense of the profile of expenditure under that deliverable? In the PBS on page 42 under 'cybersafety', which I presume covers this issue of filtering, you have got \$3.7 million in 2008-09 and then \$30 million in 2009-10 and then \$4.6 million, \$3.6 million and \$3.6 million. I would like an explanation of the profiling, what that reflects, why the huge bulge in 2009-10 and how that accords with your indication to us earlier that around \$40 million of the total 2008-09 budget cybersafety provision of \$125.8 million is for the purposes of developing and implementing mandatory ISP level filtering. Is the \$40 million figure still an accurate reflection of the cost of this exercise?

Mr Rizvi—Senator, I think at the last estimates I indicated that the government had allocated, out of its \$125 million cybersafety program, \$44.4 million for filtering. That includes both PC filtering and ISP filtering. The allocation for filtering in 2008-09 out of that \$44 million is \$5.6 million; the allocation in 2009-10 is \$30.8 million; in 2010-11 it is \$4.57 million; and in 2011-12 it is \$3.4 million.

Senator MINCHIN—The \$5.6 million in this current financial year includes the wind-up of the NetAlert program, does it?

Mr Rizvi—When you say 'wind-up'—

Senator MINCHIN—Residual spending on a program now terminated.

Mr Rizvi—No, the program has been closed to new users since 1 January this year. However, it must continue to service existing users until its originally scheduled close date in 2009-10, which means we estimate an allocation in 2008-09 for the PC filters portion of the program at \$4.37 million, and an allocation in 2009-10 of \$2.6 million. That includes both administered and departmental funding.

Senator MINCHIN—So the \$1.2 million residual in 2008-09 for filtering is essentially expenses associated with the trial of ISP level filtering?

Mr Rizvi—That is correct, Senator.

Senator MINCHIN—Let me come to the \$30.8 million. As I said to you, you have \$30.5 million under cybersafety on page 42, but that is administered expenses: there is another \$300,000 in departmental, is there, to get your \$30.8 million?

Mr Rizvi—If I might break up the funding in 2009-10, the total allocation for filtering in 2009-10, following parameter adjustments in the 2009-10 budget, is \$30.932 million rather than \$30.846 million. That is divided between ISP filtering and PC filtering, with PC filtering at \$2.6 million and the balance, which is just over \$28 million, is ISP filtering.

Senator MINCHIN—I was just wondering why the budget shows \$30.5 million as opposed to \$30.8 million, but I assume the \$300,000 difference is departmental, is it, or—

Mr Rizvi—There is a portion for departmental in 2009-10 of \$0.112 million for PC filtering and \$0.955 million for ISP filtering. I might have to take on notice the difference between the \$30.5 million and the \$30.8 million.

Senator MINCHIN—Yes. It says ‘administered’, so I assume the difference is departmental.

Mr Rizvi—I will need to check that. If I can take on notice the difference, we will get to the bottom of that difference.

Senator MINCHIN—Can you give us any breakdown of the anticipated and considerable sum of \$28 million? You have told us \$2.6 million is for the close-down essentially of NetAlert. The \$28 million that you propose to spend in the forthcoming financial year on ISP level filtering, have you got a break of that expenditure?

Mr Rizvi—We do not have a break of that expenditure at this stage, because that will be dependent on the outcome of the filtering pilot and the decisions government makes on the precise details of its policy approach to deal with ISP level filtering. Essentially those funds have been carried over for a number of years, when originally there was an allocation of—and I just need to check.

Senator Conroy—And your policy failed so miserably, there were lots of funds left over.

Mr Rizvi—There was originally an allocation, and I will need to check the precise number, but it was something over \$80 million for a combination of ISP filtering and PC filtering. The ISP filtering portion of that has simply been carried through, awaiting the details of how that particular aspect of the policy would be implemented.

Senator MINCHIN—You are saying it is a combination of the moneys previously allocated for PC filtering for which there was not the demand that had been anticipated?

Mr Rizvi—No, the allocation of \$80-plus million was for both ISP filtering and PC filtering.

Senator MINCHIN—By the current government?

Mr Rizvi—No, by the previous government.

Senator MINCHIN—Remind me of that, because that was not a mandated scheme. Just remind me of the break on that.

Senator Conroy—The former minister decided some moneys should be put forward to test ISP filtering.

Senator MINCHIN—Right. In a sense what I am asking is, there is no ground-up estimate of the requirement in 2009-10 that leads you to the figure of \$28 million. It is simply the sum that has been in the budget for some time?

Mr Rizvi—That is right; it is a residual.

Senator MINCHIN—You do not have at this stage any idea how that \$28 million might be divided or expended?

Mr Rizvi—As I said, we are not in a position to do that until we have completed the pilot and government has given consideration to the detailed nature of its policy.

Senator MINCHIN—If we just turn to the pilot, I understand some \$287,000 has been allocated to seven of the eight trial participants. Is that a correct sum?

Mr Rizvi—I can get you the precise figures in terms of what has been allocated. The total that has been allocated to date is \$289,259. I just need to check because there has been a further decision to allocate some additional funding to one of the ISPs participating in the pilot to enable them to obtain equipment to test, during the pilot, a much larger load than the actual number of customers they will be dealing with. That will enable us to test what would happen if the volume of customers was scaled up significantly.

Senator MINCHIN—Are you able to say which one of the participants?

Mr Rizvi—Yes, it is Primus. The amount that has been allocated for that purpose is an additional \$14,300 to enable Primus to undertake that additional load testing.

Senator MINCHIN—They had previously been allocated \$70,400, on the advice I have; is that right?

Mr Rizvi—That is correct.

Senator BIRMINGHAM—Would it be possible to table those updated figures, please?

Mr Rizvi—We can do that, Senator.

Senator MINCHIN—I understand Optus have agreed to participate but they are saying they will do it without funding; is that right?

Mr Rizvi—They have not sought any funding to do the testing.

Senator MINCHIN—It is open to them to do so at any stage, is it?

Mr Rizvi—It was open for them to do so in their application. In their application they sought no funding.

Senator MINCHIN—Can you indicate to us which of these participants have commenced their trials and when they are likely to conclude their trials?

Mr Rizvi—They are all at various stages, as you would appreciate. Testing for seven of the ISPs is now partly completed and the other two ISPs are in the process of installing and testing their filtering solutions, inviting customers to participate and resolving details associated with the receipt and management of the ACMA blacklist.

Senator MINCHIN—Did you have a figure on the number of customers across these eight participants that will be involved in the trials?

Mr Rizvi—The processes involved inviting customers to participate. In total around 30,000 customers will have been invited to participate by the nine ISPs in total.

Senator MINCHIN—Do you have a view yourselves as to whether that is an adequate sample base of customers in order to produce a satisfactory basis for evaluation?

Mr Rizvi—There are many dimensions of the pilot test. In some of the criteria that we will test, the volume of customers is not a significant issue; in others it is. For example, if we are testing the accuracy of the filtering solution, that does not change significantly simply because the number of customers has increased. On the other hand, the issue of performance may be a different aspect. That is why we are looking to, in addition to testing with the customers themselves, also undertaking separate load testing and scalability testing to see what the impact would be of a much larger number of customers.

The other dimension to this that we are conscious of is the experience of very large ISPs in a number of overseas countries that are using very similar filtering technologies and techniques where the number of customers they are filtering for is much larger than would be the circumstances in Australia.

Senator MINCHIN—It appears from the minister's statements that the government has moved away from wanting to use the whole of the blacklist as the basis for mandatory filtering—

Mr Rizvi—I am sorry, Senator, I was not—

Senator MINCHIN—That is okay. The minister can confirm this or otherwise, but we understand from his public statements that the government has either formally or informally made a decision not to seek to have the basis for the mandatory filtering that is proposed as the whole of the ACMA blacklist but that part of it which is the refused classification material. Can you confirm, Minister, if that is now the government policy?

Senator Conroy—The policy which I articulated many times was I always believed it should be targeted. If you look at all of my public comments from when we first announced this, we talked about the ACMA blacklist, but I would always specify that this was about the child pornography and that sort of thing, what is often referred to as the worst of the worst. Due to a great deal of misinformation, I have been very precise in identifying, and I think I did it at the last estimates, despite some people claiming it happened after that. I actually think I identified again at the last estimates that we would be very focused and that there was a very

unambiguous case on those issues. So, yes, I can confirm exactly what I said at the last estimates, exactly what I said on *Q&A* and exactly what I said on *Insight* and many other times, that the focus of our policy has always been refused classification, RC. I refer to it now as RC in a literal sense but I have described it previously as the child pornography, bestiality, those sorts of websites.

Senator MINCHIN—In terms of the list, it is the RC component?

Senator Conroy—Yes.

Senator MINCHIN—The trial is based on the RC material being the backbone of the filter, is it?

Senator Conroy—The trial is based on the ACMA blacklist. I am not quite sure where you are going, Senator Minchin. Often I can hazard a guess, but we are testing a range of products—

Senator MINCHIN—I want to know what these people are testing.

Senator Conroy—They are testing the ACMA blacklist.

Senator MINCHIN—The whole blacklist?

Senator Conroy—Yes, that is what they have been asked to test against.

Senator MINCHIN—But that is not what you are proposing.

Senator Conroy—No, I have just said that. There is a range of parameters. Mr Rizvi may want to take you through the parameters that we are testing again, because I am not sure. It may actually genuinely help what you are trying to understand.

Senator MINCHIN—No, I am generally trying to—

Senator Conroy—We talk about 10,000. It does not matter if we are testing 1,300 or 800 or 600; we want the capacity to potentially test up to 10,000. I think that is in the actual documents that we have published. So that has been well known for some time.

Senator MINCHIN—That is why I am trying to drill down on it.

Senator Conroy—These are the parameters that we are testing against because, as I said, we hope to be able to expand the information through international consultation with other agencies around the world that are also very active in tracking down child pornography and child sexual abuse sites. So we want a capacity to do more or less than the existing number. I am talking about a physical number now of 1,300 rather than the individual URL addresses within the 1,300.

Senator BIRMINGHAM—Before Mr Rizvi takes us through those criteria, there seems to be a slight level of confusion over the figures I asked before to be tabled. It would be very helpful, because there is a long list of figures in response to Senator Minchin that Mr Rizvi was reading about, the numbers involved in trials and testing and so on.

Senator Conroy—Some of this information is provided to us confidentially by the companies involved, so we will give you what we are able to, subject to commercial-in-confidence.

Senator BIRMINGHAM—Yes, but Mr Rizvi did give quite a number to Senator Minchin just before.

Senator Conroy—Yes, I know. They are on the record, but we will take that on notice and any information that we can add to what is already on the record, we will provide.

Senator BIRMINGHAM—Okay, Minister. You appreciate, having sat on this side of the table, that when officers start listing off long lines of figures, sometimes it is—

Senator Conroy—They are all on *Hansard*.

Senator BIRMINGHAM—That does not help questioning today.

Senator Conroy—They are all on *Hansard*. So just track it down within an hour, if you are quick, after lunch.

Senator BIRMINGHAM—Yesterday's *Hansard* is not up yet.

Senator Conroy—They can do rush ones if you know the system; trust me.

Senator MINCHIN—So that we can all proceed on the same basis, the policy is to filter for RC, but you are testing a much wider capacity for the reasons the minister said. I accept that that is the basis of it. Can you just indicate to us how and by what means you actually evaluate these trials? What are the criteria for success? How are you measuring success?

Senator Conroy—I think those criteria are outlined, are they not?

Mr Rizvi—Yes.

Senator MINCHIN—How are these trials being audited and how will the results be audited, how will you form a judgment to advise the government to proceed with a filter or otherwise?

Mr Rizvi—I think it is worth while looking at the fact that the testing is taking place at two levels. One is simply in terms of the ability of filters to block the ACMA blacklist as it currently stands, recognising that the policy is a subset of the blacklist. The second level is to test other wider filtering services that may be commercially available or are in the process of being developed by some of these ISPs. So we are testing both.

The testing is a combination of testing through the laboratory itself testing performance as well as the laboratory testing the performance by playing the role of a customer, and, thirdly, as part of what the customers themselves experience. The criteria that we are looking at are, first, the impact on network performance, and that is by comparing the performance when the service is unfiltered with the performance of the service when it is filtered, so that is the impact on speeds. Secondly, in terms of the ACMA blacklist, we look at the accuracy of the filter; that is, the extent to which it accurately filters the URLs identified in the blacklist. In terms of accuracy for the wider service, we also look at both underblocking—that is, the extent to which things that should have been blocked were not blocked—and, secondly, overblocking. That is in terms of the wider filtering service. The test will also look at things like circumvention techniques; that is, how easily or not easily the filter and the different filtering services can be circumvented using a range of reasonably well known circumvention techniques. We will look at scalability—that is, what would be the impact of running this filter on a much larger scale—and I discussed earlier some possible ways of doing that. We

will also look at issues of cost; that is, what it costs the ISP to establish such a service. We will also look at, where the wider filtering service is provided, customer experience; that is, what experience the customers had in receiving this service and how they dealt with it and their views on it, and that will be through a survey that we would undertake.

Senator Conroy—All of this information is about informing the final policy decision. There is not an individual ‘right if you get X’ mark?

Senator MINCHIN—Sure. All of this goes towards a conclusion. When you say ‘we’, is the department itself the one that is measuring performance against these criteria? Have you hired God only knows who to do this for you?

Senator Conroy—We hired the same company you previously used, I think.

Senator MINCHIN—Who is that?

Senator Conroy—NX, I think they are called.

Mr Rizvi—NX Test Laboratories; they operate out of Monash.

Senator Conroy—They are the company that produced the famous 87 per cent figure, for the record.

Senator MINCHIN—Were they simply retained? Did you have a new tender for this trial, or were they already on contract and retained?

Mr Rizvi—I think we already had them on an ongoing contract where they supply us with filtering services. Whether we had to go through a separate new process or not, I will just check that out.

Senator Conroy—They are used by IA to test the PC filters as well.

Mr Rizvi—It was a variation of the contract that we had with them earlier to test the PC filters.

Senator MINCHIN—So they will provide at the end of this trial period, which I am not sure is when—do you have an end date?

Mr Rizvi—We are aiming for all of the testing to be completed most likely early July. Some of this is sometimes out of our hands, because it involves cooperation of customers, the cooperation of the ISPs, it means delivery of equipment and installation of equipment at the right time, so there is some variability as a result of that.

Senator MINCHIN—So at that point, what was the company, the lab?

Mr Rizvi—NX Test Laboratories.

Senator MINCHIN—NX will provide you with a report?

Mr Rizvi—No, NX Test Laboratories will provide initial results from its testing. We will then, for each individual ISP, discuss the outcomes with that ISP to confirm with that ISP that that is an accurate reflection of the outcomes, and then it will be that which is finally reported to the minister.

Senator MINCHIN—When would you be hoping to provide the minister with a report?

Mr Rizvi—Assuming all goes well and the testing is all completed by early July, and assuming we can get responses from the ISPs quickly to the test results, we would be aiming for a report towards the end of July, early August.

Senator MINCHIN—You think a month is all you need to assemble all of this data, come to conclusions and provide the report. Is it your intention in that late July, early August report to provide the minister simply with the outcome or with a recommendation?

Mr Rizvi—The report will be an outcome of the pilot test.

Senator MINCHIN—Yes, but it will just say what the performance was against these criteria.

Mr Rizvi—Correct.

Senator MINCHIN—Someone then has to make a judgment whether or not to proceed. As part of that report, will you be providing advice as to whether or not you believe that the government should proceed to implement its policy? I am not asking for the nature of the advice.

Mr Rizvi—That would be a separate policy development process that we would go through.

Senator MINCHIN—So the first report would simply be, in a sense, a factual report on the outcome of the trial; is that right?

Mr Rizvi—The report will be a report against those criteria and the outcomes. It will be a factual report.

Senator MINCHIN—Is there any intention to make that report publicly available, given that it is just a factual report on the outcome of the trial?

Senator Conroy—I think this question was asked by I am not sure whether it was Senator Ludlam or Senator Birmingham at the last estimates, and we committed to release the report.

Senator MINCHIN—You have committed to release it? Right. Then on the basis of that, you will internally provide advice as to whether or not to proceed?

Senator Conroy—I think the government will make the decision based on the report.

Senator MINCHIN—Sure. I assume the department will be providing its own advice to you on whether it believes that the report substantiates or otherwise proceeding. I am not asking the nature of it—

Senator Conroy—It is a factual report. The final policy decision will be taken by the government.

Senator MINCHIN—Yes, but I presume based on and with the assistance of advice of your own department.

Senator Conroy—We always base our policy decisions on advice.

Senator MINCHIN—I am pleased to hear that. I am not sure that it is always the case.

Senator Conroy—I think you will be disappointed now and disappointed later to discover that is the case.

Senator MINCHIN—I am pleased to know that. I think that is all I had on filtering at this stage.

Senator Conroy—I think Senator Ludlam deserves a turn after that.

CHAIR—Senator Ludlam.

Senator LUDLAM—I suspect I probably do. Thanks, Chair, I will just carry on in this vein. You said you would have upward of 30,000 actual customers on board by the time, what is it, nine ISPs are all up and running—

Mr Rizvi—I think I said around 30,000 would be invited to participate.

Senator LUDLAM—Would be invited to participate. What is the participation rate so far of actual customers?

Mr Rizvi—I would have to take that on notice. I do not have the details of that.

Senator LUDLAM—Okay. So one of the largest ISPs in the country is only just coming on board on the weekend, they are coming in very late in the process; will that extend your timelines for reporting, or are you happy that they have joined in time to be meaningful participants?

Mr Rizvi—At this stage our advice is that they will have completed it by early July.

Senator LUDLAM—Of the people who have been invited, and who say that they are happy to participate in the trial, is there to be a control population of people who think they are being filtered but who actually are not?

Senator Conroy—I am not sure that this is a departmental question.

Senator LUDLAM—Who should I put it to?

Senator Conroy—I think it is a matter of how the test is run between NX and the actual ISP. I am just not sure that these are matters on which we have a position.

Senator LUDLAM—It is not a position. I am just asking how the test is being conducted. It is not a policy question.

Senator Conroy—It is being conducted by the same lab that conducted it last time, and it has its ways and means of conducting it. I am happy to take on notice the question—

Senator LUDLAM—I have not heard yet whether the officers—

Senator Conroy—I am just not sure that the government or the department has generally a policy on exactly the question you are asking.

Senator LUDLAM—Shall we see?

Mr Rizvi—We will be looking at testing a filtered and an unfiltered service from the same provider, so that enables a comparison to be made.

Senator LUDLAM—So there will be a control population as such?

Mr Rizvi—It does not necessarily have to be a control population. It could be the same customer who receives for a period a filtered service and then for a period an unfiltered service.

Senator Conroy—It is a filtered service versus an unfiltered service.

Senator LUDLAM—That is what I was after.

Senator Conroy—It does not necessarily need a control group. So we do not have a policy to insist on one. You are asking a question that we are not actually—

Senator LUDLAM—I was quite happy with the answer; that is fine. How will you take advice or responses from customers? Will that be through the ISP or will they be reporting directly to the laboratory conducting the trial? So, if I am a customer and I am being trialled, and the service is very slow, what do I do? What are my obligations to report, and who do I report to?

Mr Rizvi—The test will enable NX to make those measurements using its own systems in terms of impact. In terms of customers, the issue that you need to bear in mind is what is actually impacting on their internet speed, and they will not always be in a position to know whether it was the filter or a range of other factors. So I think it is better that the laboratory test to test impacts on speed than customers. Customers will not necessarily know what range of factors could be having that impact.

Senator LUDLAM—So you are not seeking direct feedback from customers; it is more happening between the ISP and the laboratory?

Senator Conroy—It is a factual test as opposed to an opinion.

Senator LUDLAM—I think it must have been maybe misreported that you dropped the idea of dynamic filtering, but obviously that is very much on the table. When you are talking about underblocking and overblocking, that is not filtering a list of URLs or DNSs; that is testing a set of categories. Is that correct? There are two quite different sets of filtering technology being assessed here: one against a list which turns over according to ACMA. Can you just describe that second tier of filtering, what you are actually trialling there?

Mr Rizvi—At this stage the versions of that second group that we are testing are essentially broader categories of URLs. A number of these filter providers divide up URLs into different sorts of categories. Some have as many as 20 and 30 categories that they use. The individual customer is able to choose which of those categories they may or may not wish to have filtered.

Senator Conroy—Let us be clear: no-one is suggesting that the mandatory filtering include dynamic.

Senator LUDLAM—Yes, that is where I was going next.

Senator Conroy—It is the second tier where we have always said we want, if it is technologically possible, for parents to be offered a more—robust is the wrong word, but a greater degree of capacity to block material. So the mandatory does not include dynamic filtering.

Senator LUDLAM—So the mandatory side of the government's policy is where you are looking at lists that are informed by ACMA's process or by other lists down the track, perhaps?

Senator Conroy—As we said, the RC list, not down the track. We have said quite clearly, because there has been much speculation, shall we say, and let us be generous to everybody involved, much speculation that we are going to banning political content. But, being generous, we are being very clear and very precise: the RC material is the mandatory material.

Senator LUDLAM—I do not know what proportion it is, and I do not think I asked the officers from ACMA yesterday what proportion of the current ACMA blacklist consists of RC material, but it is a subset of that list, isn't it?

Senator Conroy—Yes. I am just trying to remember what number they said. I know you asked; I am not sure if they took it on notice.

Senator LUDLAM—I was asking about child pornography related material and they said about 30 per cent. But RC is a broader category, obviously, than simply the child pornography.

Senator Conroy—Yes, I think that is fair. There are different categories of RC material. A total of 51 per cent is RC at the moment on the 977.

Senator LUDLAM—You have that in front of you?

Senator Conroy—Yes.

Senator LUDLAM—So it is a subset of the blacklist; it is about half, but that number will change week to week as the list changes?

Senator Conroy—Yes, I think that is what ACMA indicated yesterday.

Senator LUDLAM—Is the government in a position at the moment—and I do not know if you would consider this as legal advice, so you might shut me down—to implement that scheme, or would that require legislative change, because that is a subset?

Senator Conroy—I think it is a subset; I am happy to take that on notice and give you some advice on that, but because we are not changing or expanding, I am not sure if it does. But I am happy to get you advice on that.

Senator LUDLAM—At the moment I would have thought that the regulations refer to what you can and cannot do with material in the blacklist rather than a subset of that list; would that be reasonable?

Senator Conroy—As I said, I am happy to get advice for you on that and take that on notice.

Senator LUDLAM—I would appreciate that. You mentioned yesterday that there are some options that you are looking at, either in this trial or maybe further down the track, that are not ISP level filtering, that there is some kind of central—

Senator Conroy—I was not trying to suggest it was not an ISP level filtering. What we were talking about is whether the list needed to be promulgated. As I said, I am aware of the New Zealand situation where they, in cooperation with the ISPs, were able to devise a system that did not require the promulgation of the list to the individual ISPs. Because that is a relatively recent development, I am not sure whether or not that is being included in our testing.

Mr Rizvi—We are testing a variant of that, Minister.

Senator LUDLAM—So there is a master blacklist resident with ACMA or on some server somewhere that ISPs refer to; is that actually being demonstrated in New Zealand or is that operating now?

Mr Rizvi—No, I think it is being demonstrated, which is why we are testing it.

Senator LUDLAM—Is it on a commercial scale there or on a trial scale?

Mr Rizvi—They tested it on a very wide scale during their pilot, and at least one ISP in New Zealand that I am aware of is using that arrangement, TelstraClear. They operate a central server for that arrangement out of Auckland. We have had some discussions with the New Zealand officials on how that operates, and we have decided we will send an officer from here to New Zealand shortly to discuss with them and examine how they have set up this arrangement.

Senator LUDLAM—Just to be clear, as well as sending that officer, it is part of the testing regime that you are instituting here too. Are any of the ISPs involved in your trial testing technology of that sort?

Mr Rizvi—One of the ISPs involved in the pilot is testing a variant of what is being done in New Zealand.

Senator LUDLAM—Minister, will you tell me how long we have had the current system with the ACMA blacklist?

Senator Conroy—I think it was introduced in 2001.

Dr Pelling—2000 or 2001?

Senator Conroy—In 2000; for nine years we have had the existing structure. As I am sure you know, there are no changes to the nine-year-old scheme that has been in place.

Senator LUDLAM—That list has wandered up and down between the low thousands in that period of time?

Senator Conroy—I am sure we could have a rough guess, but ACMA could have given you a more precise answer. We are happy to take it on notice if you would like us to.

Senator LUDLAM—I am just testing the idea or asking why it is that you would be testing a list that is 10 times the size for a mandatory block. Are we shifting away from a system? Is there a much larger proportion of material out there?

Senator Conroy—What we have indicated is that we want to coordinate internationally with other agencies that are engaged in the pursuit of child paedophile rings and involved in tracking down sites of child sexual abuse, child pornography. We want to have the capacity, if we get more than the 900 we have, to be able to cope with that.

Senator LUDLAM—Is there some deficiency that in Australia we are operating a list of 900 sites currently? The IWF list is at least 10 times that size. What is not on our list that is on the IWF list that you would be concerned about wanting to filter?

Senator Conroy—While I do not have an intimate knowledge of what is on our list because it is not administered by the government, I am advised the IWF list is not as large as

you are suggesting and is only about 1,300. That is my advice, but I am happy to be wrong. I am not suggesting your information is inaccurate.

Senator LUDLAM—I am not working from notes, I am just working from memory. My understanding was that it is a much larger list. Obviously you are testing against a benchmark of 10,000.

Senator Conroy—The 10,000 was indicated some considerable time ago as, at this stage of technical development, a bit of a tipping point where you impact and where you do not. So 10,000 was just an arbitrary figure based on some advice at an early stage.

Senator LUDLAM—That is where it gets difficult.

Senator Conroy—A tipping point I think is how it was described to us. The New Zealand list, I am told, has 7,000 on it, to give you an indication. It is washed through not as regularly as I would probably want ours to be washed through, so there are older URLs on the New Zealand list. We want to be able to cope if there are more than the existing number, and 10,000 was an upper limit which was suggested as a tipping point. We are testing a range of parameters within that.

Senator LUDLAM—Can you see where I am heading, though, Minister?

Senator Conroy—No.

Senator LUDLAM—We have a list at the moment of about 900 sites, half of which is Refused Classification, which the system would seek to mandatorily block. We are testing for a list 20 times that size. That is why some concerns have been raised about the scale of the government's intentions for mandatory filtering.

Senator Conroy—No, those concerns are being fuelled by deliberate misinformation from well-meaning people—

Senator LUDLAM—Certainly not by me, Minister.

Senator Conroy—that we would be including political content.

Senator LUDLAM—No, I did not mention that. The scale of the list.

Senator Conroy—No, you talked about there being some suggestion or some nefarious purpose.

Senator LUDLAM—I did not use any of those words. Why are we testing for a list 20 times the size.

Senator Conroy—That was clearly the implication you were making. I repeat: 10,000 was picked because industry consultations suggested that that was a tipping point with the use of current technology, as opposed to the previous trials which were done some years ago where technology was not so advanced. One producer has even suggested to me and claimed that it could easily without any degradation go as high as 50,000, but I do not necessarily always accept every claim. Ten thousand seemed to be a reasonable consensus, so we decided to test the 10,000. There is no nefarious reason behind it. That was what industry suggested would be a reasonable one to test which would not cause the degradation that was claimed by many people who do not support filtering of any sort of anything at any stage.

Senator LUDLAM—Explain to me in entirely non-nefarious terms why the government is seeking to filter a list 20 times the size of the current RC classified material on the blacklist.

Senator Conroy—No, we are testing the capacity to.

Senator LUDLAM—Yes. So why is that?

Senator Conroy—Because we want to be able to accommodate an increase, if we receive information from international agencies that are focused entirely on child sexual abuse and child pornography, so that we can accommodate them. There is no—

Senator LUDLAM—We have agencies in Australia that work every day on that.

Senator Conroy—There is no intent to expand beyond the RC, despite the claims, imputations and suggestions of many of the people who have involved themselves in this.

Senator LUDLAM—I am not making any claims this morning. I am trying to work out why we are testing.

Senator Conroy—No, to be fair, Senator Ludlam, not this morning.

Senator LUDLAM—Why is the government testing that way? Are we expecting an influx?

Senator Conroy—It is a technical test.

Senator LUDLAM—Just to see what can be done?

Senator Conroy—Yes.

Senator LUDLAM—Just to see what is the largest scale of material we can filter?

Senator Conroy—As I said to you, others who are involved in this area of technological development suggest to me that they can go much, much further, so 10,000 could be described as the current tipping point. Others would say that the tipping point is much higher and we should not believe those who claim only 10,000.

Senator LUDLAM—I am less interested in the technology than the policy.

Senator Conroy—But for the purposes for a technical test, we are testing the claim that 10,000 is the tipping point.

Senator LUDLAM—Why?

Senator Conroy—In case in the future we need to have greater space than the 900 or so on the list at the moment.

Senator LUDLAM—Of which you are seeking to filter half.

Senator Conroy—It is nothing as sinister as you keep trying to imply, and suggesting that you are not implying that is complete disingenuous of you, Senator Ludlam.

Senator LUDLAM—I am just asking the questions.

Senator Conroy—You are being very disingenuous with your questions.

Senator LUDLAM—We are making space for something much larger to occur than currently occurs.

Senator Conroy—What are you suggesting we are planning to do with this, Senator Ludlam?

Senator LUDLAM—I wish you would tell me. Are we planning on expanding—

Senator Conroy—I am not planning to do anything more than I have said, Senator Ludlam, despite your repeated attempts to suggest otherwise.

Senator LUDLAM—This is starting to become a waste of the committee's time. Can you tell us when you foresee net filtering being implemented in Australia?

Senator Conroy—We are awaiting the results of the test, and until we get the results of the test we are not in a position to give an answer.

Senator LUDLAM—No start date?

Senator Conroy—It is a little hard to give a start date until we receive the results of the test.

Senator LUDLAM—Presuming the amount of money that is being spent, leaving the dynamic stuff aside for the moment, testing against a list is being done on a voluntary basis in other countries. You know the technology is possible. The test labs come back and say you can block the blacklist: what is the program then?

Senator Conroy—I appreciate that you want to speculate.

Senator LUDLAM—You can help me not speculate.

Senator Conroy—Your question is a hypothetical. We have been quite consistent on this. Policy would be evidence based and we would await the results of the test.

Senator LUDLAM—So the policy will depend on what is technically possible?

Senator Conroy—I think we have always said that our policy will be evidence based and that is why we are conducting a trial. Why are you afraid of a trial, Senator Ludlam?

Senator LUDLAM—No, there is no fear here at all. It has been described by one commentator as kicking the football and then deciding where to put the goalposts. You are deciding policy based on what—

Senator Conroy—On evidence. Dear, oh dear! Basing a policy on evidence is a terrible government fault.

Senator LUDLAM—Do you have an estimated ultimate cost of the trial? I will just come back to where Senator Minchin left off. The \$28 million, I think, netted out is not for completion of the trial, implementation or anything like that; it is just what is left in the funding pool? That is in 2010.

Mr Rizvi—That is right.

Senator LUDLAM—So there is nothing to be read into the fact that that pile of money is sitting there and the next budget—

Senator Conroy—I am sure some could try to read it into it if they were duly motivated, Senator Ludlam, but I am sure you would not.

Senator LUDLAM—So there is no estimated ultimate cost of this scheme; it is pretty open-ended at this stage?

Senator Conroy—There is a funding envelope that is in place. That would define the ultimate cost potential because it is a funding envelope.

Senator LUDLAM—When we had ACMA at the table yesterday, you said that you made comments earlier in the year on *Insight* and you intimated again yesterday, that you were considering a review of the way the blacklist is administered.

Senator Conroy—Yes.

Senator LUDLAM—We have talked entirely this morning about technology. Moving to the social and political dimensions and consultation around that, again without wandering off into hypotheticals, what process can you foresee for it?

Senator Conroy—I indicated on *Insight* and following some further discussions that we would consider looking at some enhanced measures for transparency. We are moving to a different system, and I think it is a fair and reasonable argument from people who are being constructive that there should be greater accountability. Transparency is a little harder because, as I have always said, it is a genuine dilemma if you are trying to deny access to sites of the kind that we have usually described. People should not think that the policy debate inside the government has not been balancing a whole range of factors on this. I think it is fair and reasonable that some enhanced accountability measures are put in place. I suggested on *Insight* that decisions made by ACMA could possibly be tested by the Classification Board. It does that now.

Senator LUDLAM—In all cases or just in test instances?

Senator Conroy—Not in all cases; in some that are referred.

Senator LUDLAM—I believe referrals to that board are quite expensive, in the case of films and books certainly.

Senator Conroy—That may be the case. Websites of the type we are talking about are fairly—I am prejudging. The cost issue is a separate issue from the policy issue. They are obviously linked, but the list could be reviewed by a panel of eminent persons, a parliamentary committee perhaps, or, as I said, the Classification Board. All of those are fair, reasonable and constructive suggestions that people have put to me over the past couple of months to try to give a greater level of security to those who are concerned that the government—not that the government is involved in putting things on the list that we have described, but that unelected officials could be making decisions about what should and should not be on it.

If you or others have other suggestions to enhance that level of accountability, I would welcome them. I think I said on the program—I am not sure what went to air because I did not watch it—that what we want to do is give the public confidence that the list is exactly what we say it is, which is RC material.

Senator LUDLAM—And those comments you would be welcoming through some sort of formal process down the track?

Senator Conroy—I receive many emails on this every day.

Senator LUDLAM—I bet you do.

Senator Conroy—Not as many as you hope. All of them are well intentioned and raise legitimate points of policy debate. I have received many and I am sure I will receive more, but anyone who is listening now or—

Senator LUDLAM—Perusing the *Hansard*.

Senator Conroy—reads the *Hansard* after it is published should feel free to put forward suggestions. If they are suggestions that there should not be any censorship, as some have put who do not believe anything should be filtered on the net, as we said from the beginning, we will agree to disagree. I am not being critical. Many people have the view that there should be minimal/no censorship of any form. I think Ms Adler, sitting next to me on *Q&A*, advocated no censorship of anything on any platform, including the internet. We will agree to disagree on that, but if there are suggestions that people feel can enhance public confidence in the integrity of the blacklist, then I am open to them. I have suggested three there, but I do not want people to feel that they are the only three that might be available.

Senator LUDLAM—For the benefit of people who will not find themselves reading the committee *Hansard* down the track, do you foresee a formal process of inviting comment on these issues, or is it an informal ‘just email a minister if you feel like it’ prior to the introduction of net filtering?

Senator Conroy—Yes, prior to the introduction. It is a fair point. I am just trying not to slow the debate. I am trying to think through how we can facilitate what you are suggesting. We could put it on the departmental website inviting—

Senator LUDLAM—You called for submissions around this.

Senator Conroy—We could put out a press release. I am happy to consider those issues and come back to the committee on them, Senator Ludlam. I think they are valuable suggestions.

Senator LUDLAM—I will leave it there. Thanks, Minister.

CHAIR—Is there anything more on internet filtering before we go to other issues in this program?

Senator MINCHIN—Mr Rizvi, could you advise the committee on the options available to the government for implementing a mandatory ISP filter?

Mr Rizvi—Sorry?

Senator MINCHIN—By what means can any government commence mandatory ISP filtering?

Mr Rizvi—I think that would go to the nature of the advice we would be providing the minister.

Senator MINCHIN—No, it does not. It is a factual question.

Senator Conroy—No, you are asking for an opinion. I think you are going beyond a factual question.

Senator MINCHIN—I am not asking for an opinion, Senator Conroy. I am asking a factual question: what are the options open to a government for implementing ISP filtering? It is a factual question.

Senator Conroy—That is why we are conducting the trial.

Senator MINCHIN—I want you to elicit factually the range of options open to a government; that is not advice. I am not asking you which option you are suggesting or might suggest that the government pursue. I am asking factually for the benefit of this committee what are the options open to a government that wanted to introduce mandatory ISP filtering.

Senator Conroy—Mandatory would conceivably involve legislation. Voluntary is available currently to ISPs. It may come as a surprise to you, Senator Minchin, but not one ISP before this debate started had voluntarily stepped up and introduced the sort of scheme we are talking about, not one. It has been available—.

Senator MINCHIN—I do not know what on earth you are talking about, Senator Conroy.

Senator Conroy—I am talking about the options.

Senator MINCHIN—I am asking about the options for mandatory filtering. You have indicated to us that—

Senator Conroy—Potentially legislation.

Senator MINCHIN—Potential legislation.

Senator Conroy—One other option is that it could be a voluntary basis, that they could voluntarily agree to introduce it. Unfortunately, they have shown—

Senator MINCHIN—I have never heard of a voluntary mandatory filter.

Senator Conroy—They could all agree to introduce it.

Senator MINCHIN—A voluntary mandatory filter?

Senator Conroy—No, they could agree to do it.

Senator MINCHIN—You mean if they do not do it you will legislate? Is that what you call voluntary?

Senator Conroy—Unfortunately, no ISP in Australia has shown a willingness to step up to the plate, Senator Minchin, despite your previous government looking at some of these issues. I do not know if you were one of the 70-odd, or 60-odd, it might have been, government members who signed a petition calling for it.

Senator MINCHIN—I was not.

Senator Conroy—Many on your side of politics were advocating this path because no current Australian ISP has been willing to step up and engage in this discussion.

Senator MINCHIN—You are justifying your policy of a mandatory filter. I understand where you are coming from, but now you are telling me that it could be a voluntary mandatory filter. What is a voluntary mandatory filter?

Senator Conroy—I did not say that. Those were your words.

Senator MINCHIN—I asked you what are the options for implementing a mandatory filter. One of them is apparently voluntary.

Senator Conroy—The policy outcome in terms of blocking RC material could have been suggested and could be put forward by ISPs. They have chosen not to. They could all say, 'We all sign up on a voluntary basis to block this material.'

Senator MINCHIN—I am aware of that. So that is why you want a mandatory filter. I understand that is your policy.

Senator Conroy—Yes.

Senator MINCHIN—I am asking for the facts as to how a government that wanted to introduce a mandatory ISP filter could do so. You have identified legislation.

Senator Conroy—Are you talking about the technical constraints?

Senator MINCHIN—Yes. Is it possible to do so other than by legislation?

Senator Conroy—We have said that it will be mandatory. That is government policy.

Senator MINCHIN—I understand that. Are you indicating to this committee that, were you to proceed to implement your policy, you would do it by legislation?

Senator Conroy—There is a lively debate inside the ISP community on many issues, but on this one there are some who believe that if we were to go down this path it should be legislative, mandatory, because some believe that if it were voluntary not everyone would step up to the plate and they would—

Senator MINCHIN—You are missing my point. I am wondering whether there are administrative mechanisms by which under existing legislation or other mechanisms.

Senator Conroy—That really does go to policy advice.

Senator MINCHIN—No, it does not. It is factual.

Senator Conroy—If you would like to get the parliamentary research to do some work for you, then, please do.

Senator MINCHIN—No, I think it is quite proper for the department to advise this committee, with responsibility for this policy area—

Senator Conroy—The government has a stated policy.

Senator MINCHIN—what are factually the options open to government.

Senator Conroy—The government has a stated policy, and inviting the officers to give advice about—

Senator MINCHIN—I am happy if you indicate to this committee that, were you to proceed to implement your policy, you would do it by new legislation.

Senator Conroy—I think I took on notice that question from Senator Ludlam and said I would take it on notice and get back to him. I appreciate you genuinely may not have been in the room, Senator Minchin—

Senator MINCHIN—I do not recall that.

Senator Conroy—but I did say I would take that on notice and come back to Senator Ludlam. I think perhaps we have been at cross-purposes here.

Senator MINCHIN—So you are not able to say—

Senator Conroy—Senator Ludlam asked me would it require a legislative amendment, and I said I would come back to him on that, which I think came off one of your questions.

Senator MINCHIN—This is my point. It may factually be possible for a government—

Senator Conroy—I have taken that on notice.

Senator MINCHIN—to introduce this by a range of means. One might be under an existing head of legislation, one might be administrative, one might be new legislation.

Senator Conroy—It is possible. That is why I undertook—

Senator MINCHIN—If you do not want the officers to give us those facts—

Senator Conroy—No, I have taken it on notice.

Senator MINCHIN—I am happy to rely on that if you tell us that you would pursue legislation even if you had other means available to you.

Senator Conroy—What I have said is I would take that on notice. I think we have been at cross-purposes, Senator Minchin. I think perhaps you were genuinely out of the room for a moment—

Senator MINCHIN—Yes, I did not hear that.

Senator Conroy—and did not hear the exchange between myself and Senator Ludlam. So I think we have been at cross-purposes. I have undertaken to come back and give the committee some advice on that very matter.

Senator MINCHIN—Okay. Thank you.

CHAIR—Are there any further questions on internet filtering? If not, other matters under program 1.2. Senator Wortley.

Senator WORTLEY—Thank you, Chair. I would like to move now to the issue of cyberbullying. Yesterday we heard from ACMA when they spoke about helplines and some professional development programs. Today I am interested in pursuing two things, the first being the purpose of the Youth Advisory Group.

Mr Rizvi—The purpose of the group is to consider those aspects of cybersafety faced by Australian children, the views of Australian children on the nature of the cybersafety issues and risks they face and their views on how best from their perspective those issues might be addressed. That would enable us to advise government on priority areas of action in the area of cybersafety.

Senator WORTLEY—I understand that there are 15 schools around Australia participating.

Mr Rizvi—That is correct, Senator.

Senator WORTLEY—They are all high schools?

Mr Rizvi—They are all high schools, yes.

Senator WORTLEY—How many of the children involved, and I know that when it was announced it was said that 305 would be involved, have accessed the online forum?

Mr Rizvi—Of the 305 children who are the initial membership of the Youth Advisory Group, as at 21 May, 168 of them have logged on to and accessed the Youth Advisory Group online forum.

Senator WORTLEY—What has been the reaction of the children to the online forum? Have you had any response from them?

Mr Rizvi—They have been very positive about it. The members have posted many compliments to the site. They have applauded its purpose, its operation, its technical attributes. They are also positive about the way their advice is captured and consolidated, and then their ability, through the use of a wiki, to refine that advice before it is finally presented to government.

Senator WORTLEY—Is the forum moderated? How is it done if it is?

Mr Rizvi—The forum is moderated, but it is moderated after the postings are made. If someone makes a posting that might be regarded as offensive, that individual would be contacted privately and there would be a discussion about the posting and how best to deal with it.

Senator WORTLEY—I understand that when it was set up part of its role was to inform government. How is this taking place?

Mr Rizvi—The way we manage the site is that both we and, indeed, the minister, who has personally been involved in the discussion forums online, might put up a range of topics for discussion and the children themselves put up topics for discussion. Indeed, they put up far more topics than we put up for discussion. The discussion on an accepted topic by the children then takes place and a dialogue occurs between the children on that particular topic. We would then at the end of the discussion on that topic try to compile the views that have been expressed. Having compiled the views, we would put that up on a wiki, and the wiki is then able to be modified by the children to make sure that it reflects more accurately their own views. Once there is consensus amongst the children on that wiki, that then is provided as advice to the minister.

Senator WORTLEY—In relation to that advice and what the children have put up, have there been any new ideas that have come up, or is it the information that we already have?

Mr Rizvi—There have been some interesting ideas put up by the children. In particular, they felt they would appreciate being able to discuss privately directly with someone from government issues that might arise in terms of cybersafety risks, one on one, rather than necessarily have to deal with those issues either with their parents, because they may feel embarrassed about talking to their parents, or someone they know about the issue but are essentially just seeking advice on how to deal with it without necessarily revealing what has happened to their parents. That has been an interesting idea that has been put forward.

Senator WORTLEY—How did they think that could be accommodated—that there would be a central point?

Mr Rizvi—They have come up with a variety of ideas on how that might be accommodated. One means by which we have been looking at that and discussing it with ACMA as well is the development of an online helpline, and that is something we are continuing to explore.

Senator WORTLEY—In addition to the Youth Advisory Group, as I said, we heard from ACMA yesterday about some of the things that were going on with the establishment of helplines and some websites and professional development programs that it is running in schools with students and with teachers. What else is the government doing in relation to cyberbullying?

Mr Rizvi—In relation to cyberbullying a range of measures have been taken. Firstly, it needs to be recognised that youth and education agencies have the lead role in terms of cyberbullying risks. Law enforcement agencies also have a role where serious forms of harassment occur online. But we are also able to assist in this space, and there are a number of things we are doing. Firstly, as we have already discussed, the discussion on the YAG online forum is giving us much greater insights about the nature of cyberbullying that children are experiencing directly and how they think that might best be dealt with.

We have also supported the development of a subcommittee of our consultative working group on cybersafety dedicated to cyberbullying. That committee comprises representatives from Commonwealth and state education agencies, who, of course, regularly meet on these sorts of issues, but also it includes child protection agencies and the online industry. It is interesting that the online industry has been dealing with this issue for some time but has not really had the opportunity to work with Commonwealth and state education agencies. That has been an interesting opportunity for two very disparate groups to exchange views on an issue of common interest.

We have been drawing more generally on the experience of the consultative working group, which has a wide range of members with a wealth of experience in relation to child protection and law enforcement matters. We are developing a survey of parents and teachers to obtain information on their experiences with cyberbullying and how they are dealing with this. The development of this survey will be guided by some recent research that we have commissioned and that has also been undertaken elsewhere.

Senator WORTLEY—Is that survey an online survey, or how do parents and teachers access it?

Mr Rizvi—We have been running that survey as a telephone based survey. We think an online survey of parents in this regard would not be the most effective way of going about it. We need to give parents who are perhaps not so familiar with the online world the opportunity to make input on their experiences with their children's experience with cyberbullying.

Finally, we are also examining some agreements that have been reached in Europe and the United States with the operators of social networking sites to gauge the benefits of those sorts of agreements for Australia and how we might benefit from a similar agreement here. The benefits of those agreements flow through to Australia in any case because many of these social networking sites are global, but there is a question of whether specific benefits are

flowing through from these agreements to children in Europe and the United States and how we might be able to benefit from those here.

Senator WORTLEY—Can you tell us a bit about the research that the Edith Cowan University is carrying out?

Mr Rizvi—Professor Donna Cross at Edith Cowan has conducted for us a very extensive literature survey on cybersafety, and that has enabled us to bring together the outcomes of research internationally on a range of cybersafety issues. It has also helped us to identify where we have potential gaps in our own knowledge. As I said, one of those gaps is really a good understanding of the cybersafety phenomenon as experienced by children, parents and teachers. That is enabling us better to design the way we survey those issues.

Senator WORTLEY—Is that survey the repeatable survey that you were talking about, and how is that carried out?

Mr Rizvi—That is correct, Senator. We have recently called for tenders to design and conduct that survey. We will be seeking to design that survey drawing on the experiences of, firstly, the Bureau of Statistics but also ACMA in undertaking smaller surveys in this space. This will be a much more comprehensive survey with a much larger target population, and also by using the telephone as the basis of gathering the information, we think it will be a much more robust survey than anything we have done in the past. What it will give us is a baseline of understanding of how parents and teachers deal with cybersafety risks so that we can monitor the way parents and teachers deal with them over time.

Senator WORTLEY—Will the research that is being carried out by the Edith Cowan University be released? If so, when will the results be released?

Mr Rizvi—The results of that research will be provided to the minister we hope towards the end of next month and then it will be the minister's decision about the release of that research.

Senator WORTLEY—So at the end of next month the minister will receive it.

Mr Rizvi—Yes.

CHAIR—Any further questions on cyberbullying before we go to something else under this program? No. Any other issues under program 1.2?

Senator LUNDY—I have a couple, Chair. I would like to ask for an update on the budget announcement relating to additional funding for National ICT Australia, or NICTA.

Mr Cameron—Senator, in the most recent budget the government announced further funding of \$185.5 million over four years to 2014 and 2015 for National ICT Australia, or NICTA. This provides NICTA with a six-year funding horizon for its operations and is in addition to \$379 million worth of funding that it will have received from the Australian government by the conclusion of its current funding agreement in 2010-11. NICTA, as I am sure you will know, is a world-class information and communications technology research and commercialisation facility that represents an important component of Australia's innovation system. It provides an important national research capacity which has attracted both domestic and international researchers, including Australian researchers back from overseas. It provides an important base of ICT skills development, including funding of a

large number—somewhere between 250 and 300—of PhD students over time, and also engages in industry development and commercialisation activities that contribute to our broader ICT capability in the economy.

Senator LUNDY—Can you just go through what the allocation is over the next however many years on a year-by-year basis?

Mr Cameron—NICTA's funding for the remainder of its current funding agreement will be \$51.2 million in 2009-10 for the ICT Centre of Excellence program, and \$52.2 million in 2010-11. For the years covered by the funding commitment announced by the government in the most recent budget, there is \$50 million in 2011-12, \$47.5 million in 2012-13, \$45.1 million in 2013-14 and \$42.9 million in 2014. For all of these years the funding is jointly provided through the DBCDE portfolio and also through the Australian Research Council, split fifty-fifty.

Senator LUNDY—Thank you for that. In relation to the function and operation of NICTA, one of the areas I have always been interested in since its very creation was its capacity to commercialise the technologies that it researches and develops. Can you tell me how that is proceeding and the relative successes of NICTA in commercialising its new ideas?

Mr Cameron—Of course. NICTA's commercialisation activities and its commercial engagement generally cover a range of areas, possibly the highest profile of which is its spinning out of companies to commercialise some of the technologies it has completed. Over recent years NICTA has created four spin-out companies, which have developed round about 60 jobs in Australia, and over the coming years it expects the number of Australian jobs to be created from those spin-out companies to increase to somewhere over 100. NICTA also achieves a range of cash and in-kind contribution from commercial partners in terms of its joint research activities and also some contractual research activities. For the period from 2003 to 2012 it estimates it will be receiving cash contributions of around \$16 million and in-kind contributions of around \$30 million from commercial partners. It engages with a range of different commercial organisations, including the international companies IBM, Ericsson and Qualcomm but also Australian companies such as Pavement Management Services, a company that engages in mapping and roadside technologies, and CEA Technologies, a local business.

As well as spin-out activities, NICTA engages in the licensing of technologies. In 2008 it licensed 20 technologies or technological developments. Also, as I mentioned before, it undertakes a range of contract-for-service activities for various organisations, including government organisations such as Centrelink but also commercial interested parties.

Senator LUNDY—How many PhDs are currently engaged at NICTA?

Mr Cameron—NICTA at the end of 2008 had around 300 PhD students. Those numbers do fluctuate over time, but it forecasts it will continue to have between 250 and 300 PhD students for the period up until the end of the current funding arrangements. Clearly the government will need to enter into discussions with it about its target PhD and other commitments for the new funding arrangement beyond that time.

Senator LUNDY—In terms of the different nodes of NICTA, can you remind the committee where the different nodes for NICTA are?

Mr Cameron—NICTA has five research labs. Two of those are in Sydney and one each in Melbourne, Brisbane and Canberra. Those labs have been developed in association with its partners and other contributing organisations, which include seven universities and four state governments.

Senator LUNDY—Seven universities across four states. Which universities are they?

Mr Cameron—I am going on memory here, but University of Melbourne, University of Queensland, University of New South Wales, Australian National University and I would have to get back to you on the others.

Senator LUNDY—That is fine; I know it is pretty comprehensive. Okay, that is all I have on NICTA. I have also got a few questions on the digital economy processes.

Senator MINCHIN—Is the Do Not Call Register in this program?

Mr Cameron—It is at 1.2, yes, Senator.

Senator MINCHIN—I did ask ACMA about it last night, but I just wonder if it is possible for the department to give us some background as to why the list is being expanded. ACMA were not really in a position to do so because their job is simply to charge people for accessing it. When this was established, I think with bipartisan support—

Senator Conroy—Yes. I think we advocated for going further, to be fair, Senator Minchin, but we welcomed that, after three consecutive *A Current Affair* interviews between Tracy Grimshaw and the empty chair, that did happen—that Senator Coonan finally decided to agree. We had just introduced a bill in the lower house by Anna Burke, and Minister Coonan made an announcement. It probably did not go as far as we would have liked, but we were happy—

Senator MINCHIN—Is it always necessary for you to provide such sneering and snide asides, Senator Conroy? Is it possible to just provide a statement?

Senator Conroy—I have given you a historical rundown of actually what happened. I was not exaggerating.

Senator MINCHIN—No, you littered your remarks with snide asides. No wonder Senator Carr thinks you are mad.

Senator Conroy—Ms Grimshaw did invite Senator Coonan on *A Current Affair* on a number of occasions and when Senator Coonan refused to come on there was an empty chair.

Senator MINCHIN—I can see why half the Victorian Labor Party cannot stand you. I was actually being generous in suggesting that this register did have bipartisan support and I thank you for confirming essentially that. But, as I am reminded, and I accept that the Labor Party may not have agreed with this, but there was a quite deliberate decision to treat this as a consumer-based initiative. The purpose was to enable consumers, ordinary residents, people at home cooking their dinner and looking after their kids, to take some action that would prevent them being interrupted by that sort of cold canvassing. Further, that in a sense business to business communication should not be affected by this proposition on the grounds that businesses should be free to contact each other and sell their wares and the government should not interfere in the commercial life of the country.

I do not want to go to the sort of issue of advice, but are you able to tell us whether there has been a history of complaints from business that has been of a level that has prompted this proposition that it should be widened? I am seeking to establish the grounds here because I see the minister says legislation will be introduced. We have not considered our position on this; it runs contrary to the position we had in government. I am looking for reasons why we would want to support this proposition, given the original intent was not to interfere with business to business marketing and communications.

Mr Besgrove—The initial impetus for reviewing the exclusion of spam fax and other measures, I think originally came up during a review of the anti-spam legislation. The department released a discussion paper subsequent to that and took submissions from a range of organisations. We were particularly looking at two issues. The first was whether it would be desirable and practical to regulate fax material by incorporating it into the Do Not Call Register; and the second impetus for this was to try and respond to concerns raised by the emergency services groups that they were in fact encountering a number of calls to telephone numbers set up for emergency calls purposes which were in fact being targeted by telemarketers, not necessarily deliberately, but they—

Senator MINCHIN—Was it an oversight not to include the emergency services?

Mr Besgrove—I think that second one may have been an oversight. Mr Thomas has been more directly involved and I will ask him to comment in a moment.

Senator MINCHIN—I am more concerned about the business-to-business issue.

Mr Besgrove—There was an ongoing level of concern about the incidence of unwanted telemarketing calls to small business in particular.

Senator Conroy—Family small businesses particularly had concerns.

Mr Besgrove—Yes, particularly very small businesses who were finding it difficult to cope with the problem.

Senator MINCHIN—How were you aware of that concern, by what means?

Mr Besgrove—Through a combination of ongoing ministerial representations, responses to the discussion paper and the issue being raised with us at various public gatherings. It was certainly an ongoing source of complaint.

Senator MINCHIN—To the extent that there are formal small business organisations, has this been one of their issues? Have COSBOA, or whatever the current small business industry representation is, formally put to the government that this should be included in the register?

Mr Thomas—Senator, as Mr Besgrove has indicated, there has been ongoing representation from a range of businesses. I am not aware of any specific small business associations, but since the beginning of the operations of the Do Not Call Register, which as Mr Besgrove has indicated is focused primarily on domestic users of telephone services, there has been a steady stream of representations, both in terms of ministerial correspondence and also in terms of individual submissions to a discussion paper that the department put out in August 2008, that actually sought for the inclusion of business numbers on the register. The response to the discussion paper was that there were approximately 186 submissions brought into the process itself, and 75 per cent actually supported inclusion of all the numbers in terms

of the change in terms of business operations. In response to that it was very, very clear that there was a very large percentage of businesses that wanted to list their numbers on the register. As the minister has indicated, it was particularly small businesses and particularly in relation to fax numbers. A number of small businesses were writing to us complaining about the fact that their fax machines were losing paper, losing toner, they were losing time because obviously this is a very important part of their business—

Senator MINCHIN—The fax still is, actually, yes.

Mr Thomas—Absolutely; the exchange of documents is very, very important to their business. There were clearly a number of fax marketers out there that were taking advantage of this and their services were unwanted by these small businesses. Therefore, in response to the discussion paper in 2008, the government made a decision actually to include business numbers, fax numbers and emergency service numbers in the Do Not Call Register.

Senator MINCHIN—What, if any, concerns have been received by the minister's office or the department since the budget announcement about this matter?

Mr Thomas—I think probably one of the most vocal concerns has been from the Australian Direct Marketing Association, ADMA. They are concerned about the issue of genuine business-to-business communications. In fact in our discussion paper we raised that as an issue back in August 2008 and sought input on that. We are actually meeting with ADMA tomorrow and we will be talking to them. We are looking at a provision within the legislation when it comes forward that will look at an ability whereby genuine business-to-business interaction will still be allowed in terms of the process. Of course it is going to be difficult to determine what is an unwanted call compared to what is a wanted call in terms of a business operation. We are looking at an arrangement whereby we would look at a relationship that might exist between a business operation and the potential telemarketer or a fax marketer. We would be looking at definitions that establish some sort of genuine relationship. Perhaps, in addition to that, we might also offer some sort of arrangement whereby the person receiving the call may still have the power to say, 'No, I do not want you to call me again,' actually to withdraw consent on an individual basis. These things we need to work through in the finalisation of the legislation. As I said, we are talking to ADMA tomorrow. We will continue to talk to them as we did in the introduction of the original Do Not Call legislation and we will certainly be looking at a mechanism that allows genuine, wanted business-to-business interaction to continue.

Senator MINCHIN—The minister's press release refers to industry consultation prior to introduction of the legislation. What form will that take? Yes, I am glad you are talking to ADMA, but what else will you be doing?

Mr Thomas—Certainly we will be talking to ADMA. We will be seeking through ADMA, which has links to a number of the fax marketers, for example, to talk to some of those organisations and we will be looking to contact business associations as well in terms of that process. We will be looking at talking to all of the stakeholders that we can in terms of this process. We are aware that there are within the business community, as I have mentioned, a large number of people who would welcome the opportunity to register, remembering of course that this is in fact a voluntary opt-in type arrangement. No-one will be registering

unless they want this service. We suspect that they will be supportive of it. But ADMA has raised a genuine concern and, as we were aware before, genuine business-to-business interaction is important for the continued effective operation of all sorts of businesses. Therefore we would be looking to allow that to continue.

Senator MINCHIN—I appreciate it is voluntary. I suppose the point from a business point of view is that once this comes into effect, businesses are then going to have to pay to access the register before they do any marketing, aren't they, for fear of contacting businesses that are on the register and being fined for doing so?

Mr Thomas—Yes, that is correct. As ACMA explained last night, there is an access fee for use of the register. The principle behind that is that the telemarketing industry, in effect, is making a return out of their process. Part of their process, though, should be an ability to focus in on those that genuinely want to receive their services. All of us I think are aware, and certainly the business sector is aware, of the damage that unwanted telemarketing can do. Therefore there is a requirement that there be a cost on telemarketing processes as part of the delivery of their service.

Senator MINCHIN—When are you looking for this to come into effect? Is 1 January next year the target date?

Mr Thomas—To come into effect, it requires a legislative change to the Do Not Call Register Act, so therefore we need to bring in legislation that will be subject to the parliamentary timetable. We have, however, immediately commenced drafting processes. The drafting is relatively simple. We have been in contact with the Office of Parliamentary Counsel and we will be looking at progressing that.

Senator MINCHIN—But you envisage it becoming operative upon passage of legislation. It is not a forward start date.

Mr Thomas—Absolutely; it actually requires the legislation.

Senator MINCHIN—No, but you could legislate in November with a view to it becoming operative from a set date and you could now be saying to business, 'From 1 January next year you are going to have to—'. I am asking you which course you are proposing to take.

Mr Thomas—We would be looking at it being operational from the time of the legislation receiving Royal Assent.

Senator MINCHIN—Wouldn't it be better to look to a specific start date like 1 January or a calendar or financial year to give business some greater sense of certainty?

Mr Thomas—That is certainly one thing we could look at as part of the process. It would be a matter for government.

Senator MINCHIN—I appreciate that. ACMA were indicating, certainly from their perspective, their view that they should, at least for the initial phase, be lenient. I presume that is also the department's view, that the department would support ACMA in adopting a lenient approach, at least for the first six or 12 months of the operation of this thing?

Mr Thomas—Absolutely. The current legislation actually allows for effectively a tiered response to a wrongdoing in terms of the process. There are specific warning procedures, then

it goes down towards a second warning stage and then there are penalties that can come in to apply for that. As ACMA indicated last night, in the introduction of the original scheme a lenient approach was taken in the earlier stage accompanied by an education campaign. We would expect that ACMA would be doing exactly that. In fact, I know that is their plan, that we would be looking at a good education process through this and that there would be a lenient approach at the beginning of it.

Senator MINCHIN—All right, thank you very much, that is fine.

CHAIR—Senators, it being two minutes to 1 o'clock, I propose that we now adjourn for lunch rather than start another topic, and resume again at 2 o'clock. Thank you.

Proceedings suspended from 12.57 pm to 2.02 pm

CHAIR—We are still in program 1.2. Senator Lundy?

Senator LUNDY—Where do I ask questions about the Regional Backbone Black Spots Program? Is that 1.2?

Mr Cameron—That would be with 1.1.

Senator LUNDY—The first questions I have relate to the digital economy consultation process. I note that the consultation draft for the Digital Economy Future Directions paper was released late last year and that submissions to that draft consultation paper closed on 11 February. How many submissions were received? What is the time frame now for the consideration of those submissions and the release of the final paper?

Mr Cameron—You are correct. The consultation paper of the Digital Economy Future Directions paper was released late last year. That in fact followed a number of other consultation processes, including three industry workshops and a forum that the minister held in September. Over 110 submissions were received by the department in relation to the consultation paper. All of those submissions, with the exception of a small number where the submitters requested confidentiality, have been put up on the department's website. The department has been carefully reviewing those submissions and, subject to decisions of government, we expect that the final future directions paper will be released in the middle of this year.

Senator LUNDY—As far as the online forum that was conducted is concerned, what sort of activity can you report that occurred on the blog associated with that online forum around the future directions paper?

Mr Cameron—A blog was run for a three-week period in December of last year. I think it was for less than three weeks. During the course of that blog, 2,456 comments were received in relation to a number of subject topics that were put up over the course of the blog. Those comments covered a large range of issues and the comments made have been another useful source of information and commentary for the purposes of the future directions document.

Senator LUNDY—Were there any other sources of information? You have mentioned three industry consultations, the online forum and associated blog and the submissions. Are there any other resources you are drawing on?

Mr Cameron—They were the formal consultation mechanisms.

Senator Conroy—We had the three workshops and then we had the broader forum. That was for the work from the workshops.

Mr Cameron—That is correct.

Senator LUNDY—That was not just an online forum; there was an actual forum as well?

Senator Conroy—There was an actual forum as well.

Senator LUNDY—That is what I thought.

Mr Cameron—Clearly the department continues to engage with interested parties and industry associations as we work through the sorts of issues that have been raised through each of those formal processes.

Senator LUNDY—I am interested to explore that further. For example, for groups or organisations or even individuals who have ideas about how to progress our digital future—and I should say that I conducted such a forum myself called Public Sphere—I want to get an idea from the department or indeed the minister as to the best way to forward those ideas to your office to form part of those considerations. What sort of processes or formats are you looking for putting those ideas and I guess input in?

Mr Cameron—The department would welcome continued engagement from interested parties on these issues in the future. I think one of the key points about the digital economy is that it is highly dynamic in its nature as to the way in which it is transforming people's engagement with technology in their social lives as well as their economic lives. It is something which is evolving quite rapidly and we recognise that it is important for there to be an ongoing discussion. The future directions paper is written and is conceived as the beginning, or part of the beginning, of an ongoing process of conversation. We would welcome people approaching the department either directly or through the minister with written ideas or by giving us the opportunity for us to meet with them to talk through those sorts of ideas. If relevant we can incorporate them into the future directions document or they can be part of the ongoing work of our engagement on these issues.

Senator Conroy—Can I endorse what Mr Cameron said. We welcome all input. Congratulations to everyone, including Senator Lundy, for organising forums. We welcome absolutely ongoing participation. With the incredible speed with which technology and ideas are developing in this sector, we must remain in regular contact. We try to meet as many people as we can. I am sure we do not meet everyone who would like to meet us. There are only so many hours in a day. But with all the technology—the blog, the departmental website—and the reorganisation of the department, which I think should be noted, to give a greater focus to the digital economy area we are very keen for all of that input to keep coming in through yourself, my office, the department or in any way that people can.

Senator LUNDY—Thank you for that. Obviously I think it is a really important opportunity. Particularly with the prospects of the NBN, I know that there is a great deal of interest with people preparing for a high bandwidth environment and really wanting to optimise what it means. You just mentioned restructuring the department to put a greater emphasis on it. Can I get you to outline that briefly and give details about who the contact point or where the contact point would be within that area of the department for these ideas?

Mr Cameron—As the secretary and I indicated earlier in the hearings, the department is being reorganised into three broad program groups, one of which is a group identified as the Digital Economy and Services Group, which establishes two divisions that will focus essentially on the services delivered over communications networks. In this day and age this is increasingly being fundamentally over broadband networks. That group will focus not only on some of the broad and high level policy issues associated with the evolving digital economy but also administers and delivers a range of program initiatives designed to facilitate access to broadband services and facilitate more innovative use of those services. In fact there have been discussions on some of those programs like the ABG Digital Regions initiative and NICTA during the course of the hearings this morning.

That reorganisation does bring together the range of parts of the department that deal directly with the service layer of a converged world which essentially is the digital economy. In terms of the future directions document, my division has primary responsibility for driving that process and Mia Garlick is the assistant secretary who will as of Monday be heading up our Digital Economy and Convergent Strategy Branch. Both myself and Ms Garlick are probably the most appropriate starting points for people who wish to contact us on those sorts of issues.

Senator LUNDY—Thank you for that. That is very helpful and I will be taking up that offer. Before I conclude, can I move briefly on to a couple of other issues in 1.2. One of them relates to a TIO program which I think was called the Connect Resolve Campaign. What did that involve and what is its status?

Mr Besgrove—The Telecommunications Industry Ombudsman is an industry funded body which investigates complaints raised against carriers by communications consumers throughout Australia. The way in which the TIO is funded is entirely a function of the volume of those complaints. The TIO has become increasingly concerned over the last couple of years that it found itself growing because the number of complaints were in fact growing quite substantially both as to volume of individual complaints and the range of issues that consumers were raising when they did make those complaints. I should add that complaints which go to the TIO are very frequently those where consumers have not been able to get satisfaction from the carriers in the first instance. The TIO is what is known as the elevated complaints organisation for these purposes.

The TIO decided to embark upon a more ambitious awareness-raising and publicising campaign called Connect Resolve, which it launched last year. The minister participated in the launch of that campaign. It runs over the remainder of the financial year, so it is getting close to its initial conclusion. The purpose of the Connect Resolve campaign is to increase both consumer awareness of the sorts of recourses they may have if they have concerns in relation to their carrier's performance but more importantly it is deliberately designed to engage with senior management of the carriers throughout Australia.

I think it is fair to say that a combination of the efforts of the TIO combined with a number of public pronouncements which the minister has made, along with other interactions which the minister and the department have had with the industry, have certainly caught their attention. It is certainly the case that the carriers are now adopting a range of measures to deliberately try to train their front-line staff. We have examples from several of the carriers of

quite explicit training initiatives to try to enable front-line staff to be able to resolve complaints by customers much more quickly. We also have a number of undertakings from the CEOs of some of the carriers indicating quite clearly to the minister that they are in fact actively engaged in responding to these issues. We are I guess guardedly optimistic that this might be getting somewhere.

Senator LUNDY—For people who want to be part of Connect Resolve or who may have a connection complaint that they have not had resolved is it just a question of using the TIO website and the normal processes to make contact?

Mr Besgrove—The TIO website is a good place to start. But what the TIO will usually ask is: have you first spoken to your carrier? If the carriers were here they would say that they already deal with a very large volume of complaints which never go beyond them because they are able to resolve them. The TIO is really there to investigate and seek solutions to more complex or more intractable problems.

The concern which the department has had is that, despite that, the volume of complaints going to the TIO has been increasing year after year. I have referred a couple of times to the mobile premium services issue. That was a good example where it received much more attention over the last 18 months in part because of the very significant spike in complaints. At one point the TIO were fielding about 3,000 complaints a month.

Senator MINCHIN—I am sorry to interrupt, but it is after 2.15 on the second day and we have not touched on the NBN—

Senator LUNDY—I just wanted to place one more question on notice. I am very conscious of the time. I did say I would only take about 15 minutes. Could you take on notice providing information about TIO complaints relating to pair gain systems? I still get complaints about people who cannot access ADSL services because of the existence of pair gain systems and the trouble they have getting that resolved. I am interested to follow that up from the TIO's perspective.

Mr Besgrove—Certainly.

CHAIR—There being no further questions in relation to program 1.2 I would like to thank those officers for their assistance.

Ms Scott—We were asked a question earlier about our response on notice to question 31 about staff training. I think the question was from Senator Birmingham, who asked about who our providers are. I have an answer to that question now and I would be happy to have it tabled.

CHAIR—Thank you.

[2.18 pm]

CHAIR—We now move to program 1.1, Broadband and Communications Infrastructure.

Senator Conroy—I indicated earlier that I had an opening statement.

CHAIR—Yes, you did.

Senator Conroy—With the permission of the committee I would like to make a short opening statement about the National Broadband Network. Since the announcement on 7

April there has been considerable progress on the implementation of this policy. We have consulted widely with local and state and territory governments, telecommunications companies, electricity companies, the building industry, other Commonwealth departments and consumer groups. This consultation occurred around the proposed regulatory changes, options for rolling out new fibre backbone networks and the greenfields policy.

In total the department has had more than 70 meetings with people interested in the National Broadband Network policy. We have established a new company. We are well advanced in recruiting a lead adviser for the implementation study. We have entered into negotiations with the Tasmanian government to build a broadband network in that state. We have released a discussion paper on regulatory reforms and received more than 60 submissions for the regional backbone program.

All this activity is directed towards implementing the historic broadband policy announcement this government made on 7 April 2009. This announcement followed a decision by government to terminate the NBN RFP process. The decision to terminate was based upon advice from the panel of experts that none of the national proposals offered value for money for the Commonwealth against the criteria set out in the RFP. The government however remains committed to the rollout of high-speed broadband infrastructure across Australia.

Access to high-speed broadband services is unquestionably in Australia's national interest. It will help to transform the Australian economy. It will change the way people do business with each other and the way Australia can do business with the rest of the world. In a broader context I draw the committee's attention to a recently published OECD report entitled *The role of communications infrastructure in investment in economic recovery*. I believe Senator Minchin may even have put out a press release about this very same report. Among the points made by the OECD are that the effects of telecommunications investment will have a long-lasting impact on the economy which will lay the foundations for future growth, while acknowledging that it may take years to develop. Government policy should focus on four interrelated goals: improving last mile connectivity; using government investment to increase competition, not entrench existing operators; stimulate innovation and growth; and increase social benefits by extending broadband into rural and remote areas. The latest OECD statistics, which rank Australia 16th in terms of broadband penetration and third most expensive out of countries in terms of price, confirm the urgent need for action on broadband in Australia. The deployment of a high-speed broadband network will stimulate the economy and provide jobs for many thousands of Australians. There are also major long-term economic and social benefits.

This is the right decision for Australia. From a technological perspective, we are going to use the best available technologies for the circumstance. We are going to make certain that all Australians can participate in the digital economy, no matter where they live or work. As a reminder for the committee, the essential features of the initiative are that the government has established a company that will build and operate the National Broadband Network. An implementation study will be conducted to advise government on detailed commercial and operational issues, including options to attract private sector investment in the company. The company will invest up to \$43 billion over eight years to build the network. The company will

be a wholesale-only operator. To preserve this, legislation will be introduced to ensure that customers of the network are unable to exercise control over the company.

For the first time Australia will have separation between the infrastructure provider of a national telecommunications network and retail service providers, meaning better and fairer infrastructure access for service providers. The high-speed broadband network will use fibre-to-the-premise infrastructure to connect 90 per cent of homes and businesses. Next-generation wireless and satellite technologies will be used to service the remaining 10 per cent.

With respect to the company, we have stated that it will operate as a commercial entity. As such, it will have the capacity to issue its own debt. Therefore, for the purposes of funding the exercise, I have said that the total cost of the network will be no more than \$43 billion. We are assuming that it could be funded with a fifty-fifty debt-equity ratio and that, of the equity, the Commonwealth will hold 51 per cent. This means that at this stage we are envisaging the Commonwealth's commitment to be in the order of \$11 billion.

With respect to the total cost I should make clear that advice to government identified a cost range of \$38 billion to \$43 billion for the project. While people have expressed a range of views on an enhanced National Broadband Network vision, no-one has seriously suggested that these figures are an underestimate. I note that even the analyst Ian Martin stated in a recent report that the government's proposed NBN company could roll out a passive optical network based FTTP network to 90 per cent of households for less than \$20 billion to \$25 billion. Indeed, we expect the actual cost to be significantly lower than \$43 billion for a number of reasons, including the substantial contingency intentionally built into the estimate.

In addition, we expect that there will be substantial private sector investment in this network. This includes the possibility that companies will want to vend in existing assets that can support the National Broadband Network for equity or some other financial arrangements. This will avoid the need for the duplication of some assets and subsequently also bring down the total cost figure even more.

We acknowledge that there will be legitimate questions with a project of this magnitude. For example, I know many people want to understand, in detail, issues that go to the heart of the National Broadband Network rollout and operation—issues like the precise configuration of the network, the prices that will be offered, future take-up rates, and the design and specification of access services on the FTTP network. I understand and welcome the level of interest and debate that the National Broadband Network is attracting. I also recognise that consideration of these complex issues, amongst others, will be fundamental to the success of the network. That is why we are undertaking a detailed implementation study to establish the solutions and parameters for the project.

What is clear is a unanimous view that access to high-speed broadband is a good and necessary thing for Australia. It is a good thing for the economy. It is a good thing for communities. It is a good thing for all Australians. While the decision to go ahead and build a National Broadband Network had to be made now, it will clearly take some time to roll out. We have said we see this project taking eight years to complete. In the meantime, there is a range of challenges in the industry that need to be addressed.

The second major element of the government's announcement was the commitment to improve telecommunications regulation to make it work more effectively, particularly in the transition to the NBN environment. The government has released a regulatory reform discussion paper which canvasses options to improve competition and strengthen consumer safeguards in the period leading up to, and during the deployment of, the National Broadband Network. The government does not favour any specific reform option, but is committed to ensuring the regulatory framework is effective in promoting the long-term interests of end users, without imposing unnecessary burdens on business. Submissions to this process close on 3 June and the government will be making decisions on the nature of any changes following careful consideration of the submissions.

I would like to comment briefly on the choice of technology. In some circles there is a debate about the merits of wireless technologies versus fixed technologies, and about the merits of fibre-to-the-premise versus fibre-to-the node. The government has received advice on the technical suitability of FTTP from a range of high-level sources. The overwhelmingly strong view of this advice was that FTTP is the technically superior broadband solution. Advice from CSIRO stated:

Of all the technologies available, FTTP delivers the highest dedicated speed to the end user.

The Defence Science and Technology Organisation has stated:

This technology is the most future proof. It is the only technology expected to meet the user demands of 2020 and beyond in urban and suburban environments.

NICTA advised FTTP is the most future-proof technology. Based on that advice and that of our panel of experts, we are now progressing with an FTTP solution to 90 per cent of homes and businesses.

The government has also received advice that different technologies were better suited to different geographic areas. In effect, in a country like Australia there will be a role for wireless and satellite, hence the decision to use a range of complementary technologies suited to the Australian environment, something that the panel of experts supported.

Having made the announcement we have now made good progress in the implementation phase. The Regional Backbone Black Spots stakeholder consultation paper was issued on 23 April 2009. During the course of the consultation process, face-to-face meetings and teleconferences were held with in excess of 40 different parties. These included operators of back-haul networks like NextG, Optus, Telstra, AAPT and ARNet; service providers that required back-haul services to enable delivery of retail services like iinet, Vodafone and Internode; electricity, gas and water utilities like Ergon, Country Energy, Powerlink, Powercore, Electronet; rail operators like Queensland Rail; telecommunications equipment vendors with skills in network design and operation like Nokia Siemens, Huaya, Nortel and Alcatel-Lucent; civil engineering firms with skills in network design and construction like Abbey Group and Visionstream; state, territory and local governments, which is all the states and territories except the ACT and Tasmania; and business and consumer representative bodies. The department has now received submissions in response to the consultation paper and these have been posted on the department's website.

A process is now underway to consider the submissions and determine, based upon the feedback from industry, the priority backbone black spots that might be funded through this program.

We have now entered into negotiations with the Tasmanian government over the rollout of high-speed broadband in Tasmania. My department has had a number of productive meetings with the Tasmanian government. Our plan is that the Tasmanian government, in conjunction with Aurora Energy, will construct a fibre-to-the-premise network to deliver speeds of 100 megabytes to 200,000 Tasmanian households and businesses. The remainder of premises will be served by next generation wireless or satellite services offering speeds of 12 megabytes or more. As this is a subject of ongoing commercial negotiations there is little more that I, or officials, can say with respect to Tasmania at this stage.

With respect to the National Broadband Network company and implementation study, the company has been established with an interim board made up of senior public servants with appropriate skills and experience to manage the company in its infancy. Establishing a company is a major exercise and it does not all happen instantly. The first task, and the one that the company is currently working on, is getting in place the systems and structures to allow it to operate. In terms of a permanent board management an executive search firm is being engaged to recommend names to the government for appointments in coming months.

Immediate steps were taken to engage advisers to conduct the implementation study. The implementation study will be multidisciplinary, including involvement from commercial, technical and legal advisers. It will examine detailed engineering, commercial and structural issues for the project. The study will determine the operating arrangements, detailed network design and ways to attract private sector investment. The study will necessarily examine the precise costs of various project components, such as equipment, engineering work and rollout. It will also examine the opportunities for NBN Co to support services we expect today and those that will arise in the future, such as smart grids and eHealth. It will also look at ways to provide procurement opportunities for local businesses.

It will provide further opportunities for industry experts to share their views and expertise. Expressions of interest were lodged on 19 May and in coming days a request for tender for the lead adviser role will be issued to a select group of firms. We anticipate the lead adviser being in place by the end of June and the implementation study ready to report to government in early 2010.

Considerable activity has occurred with respect to the regulatory reform discussion paper, as well as the proposal to require the rollout of fibre-to-the-premises in greenfields. As I have mentioned, submissions on the regulatory reform discussion paper are due on 3 June. To help with the development of submissions, the department has been engaged in an extensive round of consultation, meeting over 30 organisations, including telco companies; the regulators, ACCC and ACMA; consumer representative groups; user groups and peak bodies.

With respect to the decision to require all greenfield estates to use fibre-to-the-premise technology from 1 July 2010, again the department has undertaken extensive consultations with more than 30 organisations, including local and state governments, planning authorities and representatives from the building and developer industries, and the telco industry. These

initial discussions informed the consultation paper, which will be released shortly and will set out the government's proposed approach and seek views on a number of the technical implementation issues which need to be addressed as part of the initiative.

The government made an historic announcement on 7 April and has been working hard since then to progress the implementation. Now that the RFP process has been formally terminated, we are, unlike in previous estimates, not as constrained in how we answer questions. However, I would note that the details of the proposal submitted and the evaluation of these proposals remain confidential. Therefore, we will not be detailing the contents of either the panel's report to government, the proposals themselves or the ACCC's individual and comparative assessment of the proposals. I also ask that you respect the fact that we are in commercial negotiations with the Tasmanian government. Thank you for your patience.

CHAIR—Thank you for that opening statement. I am aware that there are a lot of questions from a lot of senators so I will allocate time as fairly as I can. Senator Minchin.

Senator MINCHIN—Thank you, Minister, for your 20 minutes of spin and your generous acknowledgement that many of us have questions. I suggested that we approach this chronologically and I will endeavour to do this in a chronological fashion. I would like to start by thanking the department for its answers to questions on notice with respect to the NBN panel's activities and costs, the expert panel being the starting point. I understand the NBN taskforce employee expenses were \$3.4 million. Is that correct?

Ms Scott—I might get you to refer to the question that we answered.

Senator Conroy—The number.

Senator MINCHIN—That is my understanding.

Ms Scott—What number is the question that we answered?

Senator MINCHIN—I have not got that number, but I understand the panel costs were \$703,000 as well, and that panel members were paid \$375 per hour. Could you confirm that the \$375 per hour is the deemed rate and that there was no special arrangement with these panel members, that that is the deemed rate approved by the relevant authority? I would also like you to supply us with the total remuneration for each of the non-government members of the panel. We know they earned \$375 per hour, but what did they each get paid for their service on this panel? Could you also confirm the total cost of the whole RFP process. The budget for the process was doubled from \$10 million to \$20 million. I would like to know, if not now then later this afternoon, what the total cost of this failed process was to the taxpayers. Are you able to supply me with any of that information now, or would you like to come back to me later this afternoon?

Ms Scott—We can address one of your questions, which was about the \$375 per hour.

Mr Lyons—I can confirm that was the amount paid to panel members. The amount was an amount per hour for actual work done and hours performed. It was a rate that was set based on the need to get appropriate expertise and experience on the panel. It was an amount that was consistent with precedent.

Senator MINCHIN—Is that a Rem Tribunal amount?

Mr Lyons—There was no need for a Rem Tribunal determination in relation to that.

Senator MINCHIN—Did you just decide that is what you would pay them?

Ms Scott—It was based on precedent.

Mr Lyons—It was based on precedent.

Senator MINCHIN—That is what you have paid those sorts of people before?

Ms Scott—That is right.

Senator MINCHIN—Are you able to tell me how much each of the non-government panel members actually got paid?

Mr Lyons—I do not think that I have that information.

Senator MINCHIN—Can you get that for us later this afternoon?

Mr Lyons—Yes, we will get that information.

Senator NASH—You said that it was not the Rem Tribunal, that it was based on precedent. Was the precedent based on the Rem Tribunal?

Senator Conroy—I can perhaps offer some information for you as you want to talk about precedent and you have asked about it. We looked at these issues at the time of the sale of the third tranche of Telstra, which is why it is relevant to your question. That took place under Senator Minchin's watch. It was a \$15.4 billion transaction with a sale cost of \$204 million. Other issues we took precedents from were phase 1 of the airports project in Melbourne, Brisbane and Perth, which were \$3.3 billion transactions with an operating budget of \$58 million. Phase 2 of the airport project—

Senator BIRMINGHAM—Is there an hourly payment for advisers somewhere in this lengthy response?

Senator Conroy—I am sure I am going to get there.

Senator BIRMINGHAM—Are you going to get there?

Senator Conroy—I am sure I am going to get there, if you would allow me to finish my answers.

Senator BIRMINGHAM—Aside from anything else, each of the things that you are talking about are things that actually resulted in an outcome.

Senator MINCHIN—Can we stick to the RFP?

Senator Conroy—I am talking about the precedents for which we considered these issues, which is exactly the question that Senator Nash was asking about.

Senator NASH—No. It was very—

Senator Conroy—Phase 2 of the airports project was a \$730 million transaction with an operating budget of \$35 million. As for issues to do with projects that never went ahead, there is Medibank Private. It may come as a surprise to you, Senator Birmingham—you probably were not in the parliament, but perhaps you were. Senator Minchin held a number of inquiries into this and the scoping study costs for that were \$853,000 or something of that magnitude.

Senator MINCHIN—In order to get a return to the government, not waste \$20 million.

Senator Conroy—The Australian Submarine Corporation, \$2.2 million.

Senator BIRMINGHAM—I have at least half-a-dozen consultants that you have paid at least that much to each out of this process, so I would not start throwing around too many of those figures.

Senator Conroy—I am happy to keep doing comparisons as much as you would like. I am responding to your interjection about things that never happened.

Senator BIRMINGHAM—That does not answer Senator Nash's question. What was the precedent for \$375?

Senator Conroy—Senator Minchin was more than happy to spend hundreds of thousands of taxpayers' dollars on this matter, but perhaps the department may have some further information.

Senator MINCHIN—Mr Lyons, in due course could you supply us with some precedents for the hourly rate?

Ms Scott—We can give you that. The panel of experts under the previous government was paid the same amount.

Senator MINCHIN—I asked for the total amounts paid to each and the total cost of the RFP process. Was it \$20 million or some lesser sum? The government released one and a bit pages of observations in the report itself. Can I ask how long the report was? Ms Scott, you are actually the chairman, so can you advise how long the report was?

Ms Scott—I think it was about 800 pages, with all the appendices included.

Senator MINCHIN—Eight hundred pages?

Ms Scott—I will just check that. I have got that number somewhere.

Senator MINCHIN—We will take 800 pages unless you otherwise correct. We have been given one and a bit. Minister, I note that you continued to assert that no more than one and a bit pages of this 800-page report are able to be made available to the public that have paid for this report. I do not wish you to go into a diatribe about my experience as finance minister and commercial-in-confidence. I am aware of commercial-in-confidence precedents. May I seek to make the point that your government has sought to found its newfound love of a \$43 billion fibre-to-the-premises network on the basis of this report? You are asking the Australian parliament and the Australian nation to support your borrowing any amount of billions to do this based, at least in substantial part, on this report, yet you refuse to make anything other than one and a bit pages of observations available. Surely, you could produce a report which blacked out those parts of it that were commercial-in-confidence.

I also note that this is a failed process. There will no longer be any pursuance of a fibre-to-the-node process. At least one of the bidders was a consortium put together just for the sake of this. Two others were foreign companies. There is no longer any commercial interest in, or endeavour towards, a fibre-to-the node network. The whole process is dead, buried, extinct, finished and gone. I do not quite understand the rationale or the basis upon which you can stare the Australian parliament and the public in the face and say, 'No, you can't see it.'

Senator Conroy—Thank you. The ACCC report and the panel of experts report—

Senator MINCHIN—I have not got to the ACCC report.

Senator Conroy—Let me cover off on it for you. Both contain extensive commercially sensitive information provided by NBN proponents in strict confidence. The release of this commercially sensitive information by the government would be irresponsible. Opposition calls for the release of commercially sensitive information is grossly irresponsible. I hesitate to be quite this strong, but, given what I am going to go on to say, it does stand out further: it is hypocritical. Under your watch, Senator Minchin, as the former finance minister, the Howard government did not release the scoping study or evaluation reports relating to the sales of Telstra.

Senator MINCHIN—That was a live process. Yours is dead.

Senator Conroy—Medibank Private, ComLand and Defence Housing Authority. None of them were ever released. That is long after Telstra was gone. Medibank Private, as we discussed already, never got round to it. With ComLand and Defence Housing Authority, you never released any of them under your watch. The opposition continues to seek to opportunistically delay the rollout of high-speed broadband to support Australia's future businesses and services, despite endorsing investment in economic infrastructure. After 11 years and 18 failed plans while in government—

Senator MINCHIN—You have got the biggest failed plan of all.

Senator Conroy—the Liberal Party should not delay the delivery of this important nation building infrastructure with hypocritical grandstanding.

Senator MINCHIN—The hypocrisy lies in your lap. You are the ones who roundly attacked our government for all of this and then proclaimed a new era of transparency and openness. The first test of it, this panel's report upon which you found a \$43 billion investment, we cannot see and you are expecting the parliament to support it. It is ridiculous. I would like to come to the one and a bit pages of the report that we are allowed to have, which refer to why the panel rejected the bids. It says, and I will abbreviate—

Senator Conroy—Just before you go there, do the officers want to add anything?

Ms Scott—You asked about the length of the report. It is 893 pages long.

Senator MINCHIN—Thank you for that. In sum, the reasons were apparently that no proposal provided a fully developed project plan; none was sufficiently well developed to present a value for money outcome; all the national proponents—and I presume that was to deliberately exclude Tasmania—have found it very difficult to raise necessary capital. The one that interests me in this section of this examination is the risk of liability to pay compensation to Telstra for exclusive access to the last mile. I note, in that context, as a reason why this whole process failed, Senator Conroy, in an interview with *Business Spectator* on 9 April said that compensation to Telstra would be \$20 billion for a fibre-to-the-node network.

Minister, I contrast that with your press conference on 15 December when, in response to the exclusion of Telstra from the RFP and the issue of access to Telstra's infrastructure by the RFP winner, you said that that matter had been resolved by the High Court seven-zip. That

was your direct response to a question about this issue of, if you have not got Telstra in the game, how are you going to get access to their infrastructure? That was fair enough for you to say that in December, but, now you have abandoned this bid and stated as one of the four reasons which we are allowed to see, and one that you have put enormous capital upon—and it seems to me that the basis for you abandoning your election policy is that you seem to have determined that the \$10 to \$15 billion for a fibre-to-the-node network would have to be added to this \$20 billion which you have pulled from somewhere as compensation for Telstra and that is not far short of the \$43 billion for a fibre-to-the-node network. Therefore, you might as well proceed with fibre-to-the-premises. That seems to be the basis upon which you have proceeded.

As I said, that totally contrasts with your previous attitude to this issue of access to Telstra infrastructure in your citing of that High Court case, which I have read, where the court found seven-nil against. I would like an explanation for why you cited the High Court case then and how you can now distinguish that case and assert that you would have to pay Telstra compensation, that it could amount to \$20 billion, and the basis upon which you would do so.

Senator Conroy—Unfortunately, you are confusing two issues, and I know the officers would like to add further. The High Court result of seven-nil is that an access regime is in place. What fibre-to-the-home faced the real risk of was an acquisition of property and not an access to property. Fibre-to-the-node versus fibre-to-the-home is a substantively different proposition. I suspect that the two issues that you are trying to conflate together are actually very different legal issues. One is about an access regime that the High Court has clearly identified seven-nil, in a case that Telstra itself took in trying to strike out the access regime. It said access to Telstra's infrastructure—seven-nil; but to physically cut the copper would be to take possession by bringing across Telstra's customers onto the new network, which was an acquisition of property potentially. I hope I have done justice to some legal issues there. I would invite Mr Lyons to add further.

Mr Lyons—What the minister has said is substantially correct, so the comments that I would like to provide are just additional comments that go to the more general nature of your question. Firstly, in terms of the issue of compensation, it is probably worth bearing in mind that the request for the proposal gave the proponents the opportunity to put forward innovative proposals. They were not limited to being fibre-to-the-node proposals. They could have been a combination of fibre-to-the-node and fibre-to-the-home or they could have been fibre-to-the-home.

Secondly, even within the context of fibre-to-the-node, there was a potential capacity for proponents to put forward innovative proposals that did not raise the same concerns about compulsory access to Telstra's lines and its customers, and which did not transfer financial risk to the Commonwealth in the same way as the proposals did.

Thirdly, there were a range of factors that were considered by the panel in coming to a view about whether the proposals delivered value for money, and no one factor was necessarily conclusive. Fourthly, in terms of any estimates about fibre-to-the-node compensation, it was an issue that was subject to legal advice to the Commonwealth and it would not be appropriate to discuss those estimates.

Senator MINCHIN—Senator Conroy, where did you get the \$20 billion figure from?

Senator Conroy—If you picked up any newspaper you would find constant speculations from eminent lawyers and analysts. One even suggested that the compensation could be as high as \$80 billion. I would not suggest that they were one of the more eminent contributions, given that was probably twice the share capital of Telstra, certainly at the end of the process, conceivably less than twice the capital at the beginning of the process. Lawyers are loath to try to predict a High Court judgment and compensation, but certainly if you looked at any of the informed comment in the newspapers, advice from people in the industry, or any lawyers that you spoke to, they would all tell you those sorts of figures could be kicked around.

Senator MINCHIN—That is where you got the \$20 billion figure from. Did you receive advice to the effect that compensation would be \$20 billion?

Senator Conroy—As you know, we do not normally release legal advice. I have drawn your attention to a range of speculation and assertions in newspapers.

Senator MINCHIN—So you got it from a newspaper?

Senator Conroy—No, that is not what I said. What I said was that I had drawn your attention to speculation in the newspapers and that we do not normally release legal advice. You never did and you never suggested that you would.

Senator MINCHIN—In that press conference, after Telstra was excluded, when this became a very significant public issue, why did you dismiss the question of Telstra's infrastructure in such a reckless way, by saying that it is not an issue?

Senator Conroy—You have actually—

Senator MINCHIN—You did. I am saying you did. You suggested, did you not, that getting the last mile was not an issue because the High Court decided seven-nil against it?

Senator Conroy—There were a number of projects that did not necessarily involve Telstra's infrastructure. That is actually correct. One of them is very public and you can draw your own conclusions as to who it might be, but they completely bypassed Telstra's infrastructure. To have given an indication other than I did would have perhaps indicated a preference for one possible outcome over another. I was scrupulous, following extensive probity advice from my department and the Solicitor-General, to give no indication of the government's views one way or the other before we received the expert panel report and made our final considerations. I think you are drawing together a number of threads that are not actually connected, but not all of the proponents who put forward propositions actually required access to any Telstra infrastructure.

Senator MINCHIN—Why then does the panel make such an issue of the risk of liability to pay compensation to Telstra for exclusive access to this last mile, which seems to be one of the key reasons why your fibre-to-the-node proposal has died a death?

Senator Conroy—They probably reached a conclusion that all of the propositions that had been put forward did not represent value for money. That included the proposition that did not require access.

Senator MINCHIN—In your public statements since, you have made it clear that this \$20 billion compensation is a very big factor in your decision to go to fibre-to-the-premises. Was it or was it not?

Senator Conroy—I invite you to find anyone who suggested that the figure would be less. If you can produce a model—

Senator MINCHIN—You cannot say that the issue of compensating Telstra was not an issue, but on the other hand it was the issue. Which one is it?

Senator Conroy—In the process leading up to receiving the expert panel report, as I am sure you would understand, I was not going to speculate on any of the matters surrounding access to Telstra infrastructure. After receiving the report and considering the report, we were then in a position to give weight to various factors suggested in the report. What I said subsequent to our announcement was that this was one of the factors. I am sure my probity officer would have had a heart attack if I started talking about—

Senator MINCHIN—I am talking about your *Business Spectator* interview after the event.

Senator Conroy—You are trying to suggest that because I did not say in the middle of the process that there is something untoward.

Senator MINCHIN—No.

Senator Conroy—You are drawing from a press conference that I held during the process and trying to suggest that this was inconsistent with what I said subsequent to the process. That is exactly what you are attempting to do. I am simply drawing to your attention the probity rules that were quite regularly reinforced to me about what I could and could not say. I had to be very careful with any commentary at all.

Senator MINCHIN—Here, this afternoon, you made much of the fact that several of the submissions bypassed Telstra and did not involve compensation to Telstra. I am pointing out that, in your post-decision commentary to *Business Spectator* and elsewhere, to justify \$43 billion, you have made much of this alleged compensation of \$20 billion to Telstra if you were to proceed with fibre-to-the-node.

Senator Conroy—Do you have an alternative?

Senator MINCHIN—You have two quite conflicting positions.

Senator Conroy—I do not have quite conflicting positions at all.

Senator MINCHIN—Are you saying to us today that the issue of compensation to Telstra was a very big factor in abandoning that process of fibre-to-the-premises?

Senator Conroy—If the government was going to go it alone it was a significant factor, yes.

Senator MINCHIN—If the government was going to go it alone?

Senator Conroy—Yes, as in we were going to go forward with our own proposal.

Senator MINCHIN—No. You have to justify your abandonment of your fibre-to-the-node proposal which was going to cost \$10 to \$15 billion in favour of \$43 billion.

Senator Conroy—This was the recommendation from the panel.

Senator MINCHIN—They cited the risk of liability to Telstra and then you have gone on and said, ‘That wasn’t really an issue.’

Senator Conroy—They can cite it in their report after the fact. I cannot cite it in the middle of the process. That seems to be escaping you. I was very careful what I could and could not say during the probity period when it applied. The panel afterwards, in explaining its decision, is perfectly entitled to spell that out in black and white. Not for a moment, in the public sense, have I walked away from that and I am not walking away from it today. The panel were concerned about this and I am indicating the government, when it made its final decision, was concerned about this.

Senator MINCHIN—All this highlights is that once Telstra was excluded on technicality your policy was dead, because really only Telstra could build it. We understand that. I would like to come back to the panel report itself.

Senator Conroy—That is your opinion as a wholly owned subsidiary of Telstra.

Senator MINCHIN—I will not take that slur. I would like to come back to the panel’s report. It is difficult for the lay reader to actually determine from the page and a bit of observations that we are allowed to see that the panel actually recommends fibre-to-the-premises. The only reference to fibre-to-the-premises is that the proposals have also demonstrated that rolling out fibre-to-the-node is unlikely to provide an efficient upgrade path to fibre-to-the-premises. That is it. Can we at least see the formal recommendation that the panel recommends going to fibre-to-the-premises?

Senator Conroy—I do not think that any of the panel members that you have misquoted and not quoted have suggested that we are misquoted absolutely—

Senator BIRMINGHAM—We must be able to quote their report.

Senator Conroy—You can speak to them. Senator Minchin has completely misquoted Rod Tucker. Rod Tucker and Reg Coutts have both publicly spoken on this issue. To suggest that the panel were not putting this proposition forward is to ignore public evidence to the contrary.

Senator MINCHIN—Where is it in the report? Why can we not see that part of the report?

Senator Conroy—As I said, the expert panel—

Senator MINCHIN—We are relying on this report for a \$43 billion decision. We cannot even see the actual recommendation. You can at least give us that part of the report?

Senator Conroy—The expert panel report is not going to be released because it contains—

Senator WILLIAMS—The truth!

Senator Conroy—The truth is that it recommends what we say it recommends, Senator Williams.

Senator BIRMINGHAM—Why don’t you quote the relevant part of the report?

Senator Conroy—As soon as you start quoting one part then the argument becomes why don’t you quote the other part.

Senator BIRMINGHAM—You have released a little bit.

Senator Conroy—You are welcome to ask Rod Tucker, Reg Coutts, John Wylie, Tony Mitchell or any of the members, ‘Has Senator Conroy or the government sought to mislead you on the report?’ You are welcome to phone them and ask them. They are all publicly available and they have all been consistent with what we suggested.

Senator MINCHIN—There is no evidence to the parliament that this panel recommended a \$43 billion fibre-to-the-premises network and yet you in your press conference in repeated statements said that you have almost entirely relied upon this panel report. Is that the case?

Senator Conroy—I am sorry?

Senator MINCHIN—I am saying that you are relying, and the government has relied, on this expert panel report as having recommended going to fibre-to-the-premises and yet we cannot see anywhere written evidence of that and no extract from the panel report that substantiates that. There is no evidence for this parliament to rely on that, in fact, your panel recommended going to a \$43 billion fibre-to-the-premises. You will not release the report to enable us to substantiate it.

Senator Conroy—I would like to just clarify one point. You have insisted that only Telstra could build an FTTN.

Senator MINCHIN—No, I was putting that to you.

Senator Conroy—No. You have been insistent on that for a while.

Senator MINCHIN—It is Telstra’s policy that you have pinched from them in 2007. We all know that, Senator Conroy.

Senator Conroy—If Telstra were the only company that could do it then why did you run a competitive FTTN process? Was that just a front?

Senator MINCHIN—You stole their policy. It was their policy that they put to our government. You even stole their figure of \$4.7 billion.

Senator Conroy—Senator Minchin, are you suggesting the previous government was engaged in a sham?

Senator MINCHIN—Anyway, I do not want to go into the past. That was an aside, because you know that only Telstra could have put that policy because it was their policy.

Senator Conroy—Senator Helen Coonan, the former minister for communications, established an expert panel to look at FTTN.

Senator MINCHIN—That was the other part of it.

Senator Conroy—Was that a sham?

Senator MINCHIN—That was the other part of our policy that you pinched.

Senator Conroy—Are you suggesting that it was a sham because you, deep down, really believed only Telstra could do it?

Senator MINCHIN—As I recall, that was not a fibre-to-the-node specific policy, as you stole from Telstra. Can I ask you—

Senator Conroy—I interrupted Ms Scott. She was about to give you some further information.

Senator MINCHIN—I would appreciate that.

Ms Scott—The panel did provide the government with advice on matters that the government might want to consider as it determined a way forward. Among the points that the panel brought to the minister's attention were, firstly, that fibre-to-the-node was unlikely to provide an efficient upgrade path to fibre to the premise. The ACCC had advised the panel that 'a large proportion of the capital costs of fibre to the node would be effectively obsolete if the government, over time, moved to the superior form of delivery of fibre to the premise'.

Senator MINCHIN—Who are you quoting there—the ACCC?

Ms Scott—Yes, the ACCC. You may be aware that Graeme Samuel in a recent speech has stated:

Despite what some parties have said, FTTN is not an efficient stepping stone to a FTTP network.

He further said:

Around two thirds of that upgrade cost would ultimately never be incorporated into rolling out a FTTP network—it would be wasted obsolete expenditure.

The second factor that weighed heavily on the minds of the panel was that the fibre-to-the-node proposals required very extensive overbuild protections that might not be required if there was a focus on next-generation technology. The third factor was that in a country as large as Australia a mix of technology would be required, specifically the use of a mixture of next generation wireless and satellite services in the most remote 10 per cent of the country. The panel also brought to the minister's attention that competition was as important as technology as a way of driving improvements in services for consumers, including a comment to the effect that there was a need to improve competition in back-haul supply, a point that had been made earlier by the Glasson report.

Clearly the panel formed the view that there were problems associated with the fibre-to-the-node proposals and that a focus on next generation technologies might overcome these problems. Clearly the panel's points were taken into account in the government's decision. The government is focusing resources on fibre to the premise and the next generation technologies of satellite and wireless.

Senator MINCHIN—That all goes to the case that the government's 2007 election policy was a dud from the start. What were you reading from?

Ms Scott—Just some notes.

Senator MINCHIN—Your own notes.

Ms Scott—Yes.

Senator MINCHIN—You quoted from the ACCC report. We have not even seen a one-and-a-bit page extract from the ACCC report, as far as I am aware, but again the government has relied on it. We are not even able to see one-and-a-bit pages from that report, or at least get some of the evidence that has just been read into the record.

Senator Conroy—I do not want to speak for Mr Samuel, who is more than capable of speaking for himself, but he will be appearing before estimates. He has been delayed, simply because he is overseas at a very important meeting, but I understand that has been rescheduled. If you want to ask some questions of Mr Samuel then I am sure that he would be able to discuss some of these issues with you. I do not want to pre-empt the ACCC's attitude on some of these issues, but I think that you would welcome some of the information that Mr Samuel will possibly supply you.

Senator MINCHIN—I must say that I think he has stepped way outside his brief in recent weeks. The report is to you and it is for the government. It is entirely within the government's prerogative to release that report or parts of it and yet none of it has been released. You continue to rely on it in public as part of the basis upon which you have decided to make this extraordinary investment. Will you release at least those parts of the report of the ACCC, which goes to why FTTN is a dog, why it has to be FTTP and why they are recommending to you FTTP?

Senator Conroy—I will just quote to you from a press release, of 18 June 2007, of Senator Coonan, the former minister for communications:

To facilitate this process, the Government will establish an Expert Taskforce to ensure an open and transparent process for assessment of bids to build a fibre-to-the-node network

Either you are engaged in an enormous scam or you have just misled the Senate estimates when you said that it was not a process to look at bids for fibre-to-the-node network.

Senator MINCHIN—It was not my recollection, but I stand to be corrected. Ms Scott, was the panel specifically asked to recommend alternatives to a fibre-to-the-node network in its original brief or did it just do that of its own volition?

Ms Scott—No. Mr Lyons indicated earlier that the request for proposals had indicated that the government was interested in fibre to the premise or fibre to the node, with a wide-ranging preparedness to consider any sort of proposal. I think that goes to the answer to your question.

Senator MINCHIN—Professor Tucker says:

The Panel of Experts was never asked to and didn't make any judgment call on the issue of investment for a fibre-to-the-premises network.

He is not here, so I do not want to get it wrong. Does that mean that he is saying that he was never asked about how much it might cost and whether it was a good investment? Presumably the panel has said to just go all the way and someone else can worry about how you are going to pay for it.

Senator Conroy—I am happy to let Mr Tucker speak for himself. In response to your press release, Mr Tucker is on the record as saying:

My comment has been taken out of context by the shadow minister. My statement is consistent with public statements Senator Conroy has made about the range of advice he took in advance of the announcement of the government's decision on the NBN.

The actual transcript of the event shows exactly how badly you have misrepresented Professor Tucker.

Senator MINCHIN—I just took his quotes.

Senator Conroy—You took his quotes and completely misrepresented it. Even the journalist whose article you quoted from did not try to twist Professor Tucker's words in the way that you did.

Senator MINCHIN—His words were:

The Panel of Experts was never asked to and didn't make any judgment call on the issue of investment for a fibre-to-the-premises network.

That is straight as a die.

Senator Conroy—The actual transcript reads:

Can I just say, just to get one thing clear, the Panel of Experts in the National Broadband Network was not asked and didn't make any judgment call on the issue of this NBN company investment going to a fibre-to-the-home network. The primary objective of the panel was to look at the submissions that were formed by the proponents so there was not a lot of discussion had with that on the panel.

What you have done is selectively take a sentence out of the middle of the context of a paragraph and twist it to your own political ends, which forced Professor Tucker to go public and rebuke you, quite frankly, when he said, 'My comment has been taken out of context by the shadow minister.' I repeat, even the journalist who wrote the story from which you quote did not attempt to twist it in the way that you did.

Senator MINCHIN—Ms Scott, another panel member, Mr Tony Mitchell, said to the *Financial Review* on 20 May:

The panel was not asked whether fibre-to-the-home network was the best choice. We weren't asked to do that. What we were asked to do was evaluate the NBN proposals.

Can you just clarify for the record if the panel was specifically asked to make a recommendation on the fibre-to-the-home network as an alternative to fibre-to-the-node?

Ms Scott—I would refer you to the one and a half pages that you had earlier. Paragraph 10 states:

The panel can see a way forward to achieve the outcomes sought by the government and has provided that advice in confidence to the government because of the commercial sensitivities arising.

As it went through the very systematic process of examining the proposal, it came to the view that there were opportunities here for Australia to have improved infrastructure. There is another reference to that in that one and a half pages. It points out the deterioration in the capital markets and all the other points that you raised—the compensation issues and the value for money concerns. It did turn its mind to what could be a way forward and did provide that to the government.

I think that clearly our principal task, our overwhelming task, was to assess the proposals that came forward, but in those deliberations the panel did come to the view that it was in a position to offer its views to the government on a possible way forward, and that is how that happened.

Senator MINCHIN—I cannot see that.

Senator BIRMINGHAM—How was that advice conveyed to government?

Senator MINCHIN—In the report, as part of the 893 pages, I guess.

Ms Scott—My recollection is that it was in a confidential letter that accompanied the report.

Senator BIRMINGHAM—Is there anything in the report that actually conveys that advice to government?

Ms Scott—You have had 1½ pages. I have talked about the emphasis in those 1½ pages, and paragraph 6 talks about the proposals confirming that there are multiple approaches to delivering high-speed broadband and that, with the right technology mix and incentives to create a sound business case being developed, the goal of providing high-speed broadband services to 98 per cent of homes and businesses can be reached. In particular, the proposals have demonstrated the most appropriate, cost-effective and efficient way to provide high-speed broadband services to the most remote 10 per cent of Australian homes and businesses. It is likely to be a combination of next generation wireless technology supported by appropriate spectrum and third generation satellites. Then it goes on. There is a clear flavour of that in the 1½ pages that has been publicly released.

Senator BIRMINGHAM—Is there a separate letter that went from the panel to the government?

Ms Scott—Yes.

Senator BIRMINGHAM—Did that letter form the basis for outlining the way forward that we assume was a recommendation of fibre-to-the-premises?

Ms Scott—That is referenced in paragraph 10.

Senator BIRMINGHAM—Yes. Paragraph 10 tells us that the panel can see a way forward. I am just clarifying whether the letter sent from the panel to the minister outlined that way forward.

Ms Scott—That is correct.

Senator BIRMINGHAM—What date was that letter transmitted to the minister?

Ms Scott—I would have to take that on notice.

Senator BIRMINGHAM—This extract is dated 20 January 2009. I trust that is the date that the report was finalised by the expert panel.

Ms Scott—This extract is from the actual report.

Senator Conroy—An extract of something is actually—

Ms Scott—An extract from the evaluation report.

Senator BIRMINGHAM—An extract from the evaluation report. The report is dated 20 January 2009.

Ms Scott—That is right.

Senator BIRMINGHAM—Can you check for us when the letter with that advice is dated?

Ms Scott—Yes, I am happy to take that on notice.

Senator BIRMINGHAM—I assume that letter was signed by you as chair of the panel?

Ms Scott—That is right.

Senator BIRMINGHAM—And that the content of that letter was approved by all members of the panel?

Ms Scott—That is right.

Senator BIRMINGHAM—How long is that letter?

Ms Scott—It is relatively short, a few pages.

Senator BIRMINGHAM—Does it go into any analysis of any of the bids by any of the proponents for the initial NBN?

Ms Scott—I am not going into the content of it because it was written to provide advice to the government on a way forward. It was envisaged that the minister would use this letter in his deliberations and I think it has been used for that purpose. I have just drawn your attention to the relevant parts of the 1½ pages to what has transpired. I am trying to assist Senator Minchin as to how this relates back to the report.

Senator BIRMINGHAM—If 891 and a half pages out of the 893 pages of the report remain confidential, why was there a need to provide a letter in confidence to government separate from the report?

Ms Scott—The report addresses the request for proposals and completes the task that the panel was asked to do. I think I have explained that, during the writing of that report, considering the analysis, the panel came to the view that it was also in a position to tender some advice to the government. Because it was a sort of second step, it was separate to the report.

Senator BIRMINGHAM—Is there anything commercially sensitive in this letter?

Ms Scott—I think you could see from paragraph 10 that it says, ‘because the commercial sensitivities arising’, so I think that paragraph 10 stands to answer your question.

Senator BIRMINGHAM—Is there anything that pertains to any individual company in the letter?

Ms Scott—I am not going to go to the content of the letter except I do refer you to paragraph 10.

Senator BIRMINGHAM—We continue to go around in circles to some extent on these points. It seems hard to believe that, if there is a clear recommendation from the panel in its report or in the letter that we have now uncovered today, why the minister would not at least have thrown out in a speech, in answer to a question here or elsewhere or just generally released those words that clearly provide for that recommendation.

Ms Scott—I have tried to assist you by reading into the transcript a statement about the panel’s views and I have indicated to you that clearly the panel’s points were taken into account in the government’s decision. I have explained to you that the government is focusing resources on fibre to the premise next generation technology satellite and wireless. I would have to say I thought I had been reasonably clear in attempting to assist you to relate the document that is publicly available to public statements by the government.

Senator BIRMINGHAM—We might come back to some of the issues in your statement and take a look at some of those later on. I have interrupted Senator Minchin.

Senator MINCHIN—How long is the ACCC report?

Ms Scott—It is a very lengthy report.

Senator Conroy—It is huge.

Senator MINCHIN—I am not asking to read it.

Senator Conroy—If you are not careful we will lock you in a room and make you read it.

Senator MINCHIN—Did you read it?

Ms Scott—With appendices it is 583 pages.

Senator MINCHIN—Can you just remind us in 30 seconds on what they were asked to do?

Ms Scott—I will give you 30 seconds. You might find that Mr Lyons is more rigorous. They were asked to provide their assessment of the report in relation to pricing and competition aspects and they provided their report to us on approximately 9 January—

Senator MINCHIN—They reported to you, the panel?

Ms Scott—Correct. The panel was able to ask the ACCC questions and get answers back from them, follow up on issues. Not only did we benefit from a very substantial report and very rigorous analysis but we were also able to test our understanding on some competition matters and on pricing matters, on technology matters and on the issue that I raised earlier about the question of obsolescence, because one of the criteria was the capacity for upgrades. I think this did weigh on the panel's mind that if fibre to the node was going to involve obsolescence then the government needed to be advised of that.

Mr Lyons—I could provide a detailed response but I could not be any more rigorous than—

Senator MINCHIN—That is fine. I refer you to the point where they were specifically asked to compare fibre to the node to fibre-to-the-premises because there seems to be a lot of weight put on the ACCC saying you have to have fibre to the premises.

Ms Scott—I think that is consistent with our overall requirement to achieve value for money and to address all 18 objectives outlined in the RFP.

Senator MINCHIN—They were asked for pricing and competition issues in relation to each of the bids, weren't they?

Ms Scott—I think I will have to have the RFP in front of me. Section 10.4 in the terms of reference states:

The Commonwealth will draw on the expertise of the Australian Competition and Consumer Commission during the evaluation process. The ACCC will provide the panel with ongoing advice on proposals including advice on issues such as wholesale access services and prices, access arrangements, proposed legislative or regulatory changes and the likely impact of proposals on pricing, competition— and this is an important part—

the long-term interest of end users in the communications sector. The ACCC will provide a written report to the panel.

Senator MINCHIN—You are confirming you will not release anything of that report to the parliament?

Senator Conroy—The ACCC report. As I said, I do not want to speak for Mr Samuel. I think that he will—

Senator MINCHIN—No, but I am asking you.

Senator Conroy—No, I will not be.

Senator MINCHIN—You are the owner of that report. It is entirely within your prerogative to release any or all of it.

Senator Conroy—It is. But as I said, I think that if you are able to attend the ACCC hearing that Mr Samuel—

Senator MINCHIN—He is not going to release the report, is he? You forbade him from releasing it.

Senator Conroy—No, I have not. Mr Samuel—

Senator MINCHIN—Can Mr Samuel release it if he wants to?

Senator Conroy—I do not want to speak on behalf of Mr Samuel.

Senator MINCHIN—Have you forbidden the release of that report, or not?

Senator Conroy—What I have said is that I am not going to release the information provided because it is commercial in-confidence, but Mr Samuel will be in a position, I think, to satisfy some of your inquiries. I truly do not want to speak for him. He unfortunately has to go overseas next week, but I think you will find some of his evidence informative. Before you move to your next question, perhaps I could just go to something Senator Birmingham said a few minutes ago. He claimed that we did not reference the expert panel advice. Let me be clear: yes we did. In the 7 April press release we stated:

The government's announcement today has been informed by expert advice. The Panel of Experts has encouraged the government to invest in optical fibre technology supplemented by next generation wireless to satellite technologies. The ACCC has also endorsed the use of FTDP as a superior technology to FTTN.

Senator BIRMINGHAM—I think you are not quoting from the advice—

Senator Conroy—I just want to be clear that you said we did not reference the advice and it is quite clear that we did in the press release.

Senator BIRMINGHAM—You have made nothing explicit as to what that advice was. You have reference to an advice that nobody else can refer to. Referencing is fine when the other document is something that people can actually go and look at. That is the point of referencing. If you want to claim something you have to quote it. That is pretty much established practice. You either do one or the other. You reference an otherwise public document or you quote from something that is not publicly available. You cannot have it your way and reference something that nobody else can verify or check.

Senator Conroy—You have the capacity to phone up Reg Coutts, Tony Mitchell, Tony Shaw or John Wylie. I think Ms Scott has been very clear with you about what is in the advice, very clear—

Senator BIRMINGHAM—You have the capacity to sit there and read it out—

Senator Conroy—Unless you want to doubt—and I do not think you are. I think you are playing a bit of politics. I do not think you doubt it. But I do not think you can point to any member of the panel who disagrees with what Ms Scott has said. To continue to suggest that somehow there is some secret agenda running around in the advice to government, you have Reg Coutts, Tony Mitchell, Rod Tucker and the evidence that you have had this afternoon. You are welcome to speak to other members of the panel. I do not believe you will find any of them contradict the evidence that Ms Scott has given you today.

Senator BIRMINGHAM—It is within your power to bring this forward and resolve this once and for all by simply sitting there this afternoon and quoting from somewhere explicitly in the letter or the advice and clarifying exactly what the panel said to you. You could clarify it quite simply. Suggesting we individually phone individual members of the panel and put them on the spot and ask them to betray what is apparently confidential advice to the government in some way, shape or form, or to simply confirm Ms Scott's advice, that is all very well and good. But you could clarify it today by either tabling a relevant extract or quoting from it in ways that are categorical to back up what you claim to be the case. I fail to see why you refuse to do so.

Senator Conroy—Thank you for the invitation. I will decline your invitation as I have done on a number of occasions. You have had evidence from Ms Scott. You have had public statements by Mr Coutts, public statements by Mr Tucker, public statements by Mr Mitchell—all members of the panel. I believe that if you speak to the other members of the panel you will find that the evidence that you have been given today by Ms Scott is entirely supported and consistent.

Senator BIRMINGHAM—Mr Dimasi from the ACCC told the NBN select committee in response to Senator Minchin that 'we are not involved in any secretive process'—it must be news to him now to find that he was—'and we certainly would not have any concerns about our work being made public'.

Senator Conroy—I cannot speak on behalf of Mr Samuel. I am sure if you attend those Senate economics hearings—I cannot remember if you do attend, but certainly Senator Minchin has the capacity to—or you could invite some of your other colleagues to have a conversation about it, you will then find that Mr Samuel can speak for himself on this matter and you will get an update from Mr Samuel. I think he has given some excellent updates recently.

Senator MINCHIN—You have no objection to him releasing the report if he so chooses?

Senator Conroy—I have not directed him, as you have tried to suggest. I think he is, of course, conscious of the highly commercially sensitive information that has been given, but I do not want to speak on behalf of Mr Samuel.

Senator MINCHIN—You have not directed him not to release the report?

Senator Conroy—I will just double-check that. The report was actually to the panel, as the secretary is just reiterating to me. Graeme Samuel can speak for himself and he did recently when he said that this was the most momentous policy initiative in the Australian telecommunications sector since the introduction of full competition over a decade ago.

Senator MINCHIN—Have you directed Mr Samuel not to release that report?

Senator Conroy—As I said, I do not believe I have. There is no indication that I have, but I know that Mr Samuel is very conscious of commercially sensitive information. He deals with it all the time as you well know—

Senator MINCHIN—So it is a matter for him as to whether the report is released?

Senator Conroy—As I said—

Senator MINCHIN—As far as you are concerned it is a matter for him?

Senator Conroy—I am sure he would be conscious of the commercial in-confidence issues—

Senator MINCHIN—That sounds like a direction.

Senator Conroy—But he may have some information. I do not want to speak on behalf of Mr Samuel. He may have some information that he wishes to impart upon you at the Senate estimates.

Senator MINCHIN—I will take it you have not directed him to—

Senator Conroy—I do not believe I have.

Senator MINCHIN—If you could—

Senator Conroy—I do not think we have.

Senator MINCHIN—Have all the failed tenderers been debriefed on why their tenders were unsuccessful?

Ms Scott—All the proponents have had an offer of debriefing but not all of them have taken up that offer at this stage. A number have but not all of them. Maybe they will at some later stage.

Senator MINCHIN—As I understand it, each of them paid a relatively substantial bond to participate in this RFP; is that correct?

Ms Scott—There is a bid bond process. I might get one of my colleagues to outline it for you. Effectively it operates like a promissory note arrangement, so it is not something that we actually hold or earn interest on. If they did not meet the conditions that they had agreed to meet in terms of protecting information, we would have recourse to their bank, but it is not like we are holding a stack of money from them. A number of those bid bonds have now been discharged as people have signed the—

Senator MINCHIN—A figure of \$5 million was in the public arena as the amount they were required to—

Ms Scott—As I said, effectively it is a promissory arrangement that they have with their bank and then they agree that in the event that they do not meet our conditions that we can go to their bank and access it. But I will get one of my colleagues—

Senator MINCHIN—Obviously I would like to know whether or not all proponents have now had their funds released back to them in full.

Ms Scott—We will go through that, but I still think you are operating under the misapprehension that we are holding their money. I would like to be very clear on that—

Senator MINCHIN—I presume you have authority over it? Presumably it is not to be released back to them until you say so.

Ms Scott—I will have my colleague explain it, and then we are happy to take your questions, but I still think you are operating under a misapprehension.

Ms King—On 8 April the department wrote to all of the proponents who had lodged a bid bond and set out for them what needed to be done in order to have their bonds released back to them. They were required to provide deeds of acknowledgement certifying that they would maintain all Commonwealth confidential information, that they would keep that confidentiality, and that they would also destroy any protected carrier information that they were provided as part of the process. They needed to certify back to us that they had destroyed that information and that they would keep the relevant information confidential.

To date, six of the eight proponents who lodged bid bonds have discharged and we have completed all of the paperwork. I am advised that this morning we received some paperwork from a seventh proponent which we are processing as a matter of urgency. We are working with the eighth proponent in relation to meeting their obligations. But all of the proponents were advised of what they needed to do, and it has just been a matter of them doing those things and letting us know, and we have processed that as quickly as we could.

Senator MINCHIN—Should we assume all proponents will receive in full the return of their bond?

Ms King—Yes.

Senator MINCHIN—Have you received any claims for reimbursement in part or in full for the considerable costs incurred by these tenderers to participate in this failed tender?

Ms King—No, we have not.

Senator MINCHIN—There has been public comment to that effect but you have not actually received a request?

Ms King—That is correct. We have not received any request.

Senator MINCHIN—As to the process from the receipt of the report to the announcement by the government of new policy, was the panel's report handed to the government on 20 January together with this mysterious letter? Is that correct?

Ms Scott—All documentation was finalised on the 20th. I think I handed it to the minister on the 21st.

Senator MINCHIN—Was there only the one copy handed over just to the minister? Did any other ministers or the Prime Minister receive copies of it at the same time at that time?

Ms Scott—My recollection is that it was only to the minister. I am just trying to recall if we made other copies at the time.

Senator Conroy—Take that on notice just in case.

Ms Scott—I might have to take that on notice.

Senator Conroy—We do not think so but we are happy to take that on notice.

Senator MINCHIN—Was the Prime Minister or the Prime Minister's department given a copy simultaneously?

Ms Scott—No, that is not our recollection of that.

Senator MINCHIN—As to the briefing of the Prime Minister on this report, when, where and by whom was the Prime Minister briefed on this report? Obviously we have all been advised of various plane flights you were required to make. You might tell us whether those reports are indeed accurate and you were spending January flying up and down the east coast.

Senator Conroy—I cannot comment on the accuracy of all the newspaper commentary, as I am sure you would understand. But, yes, I—

Senator MINCHIN—I hope he did not throw the sandwiches in your face.

Senator Conroy—I do not think the Prime Minister has ever thrown sandwiches in anybody's face, but I can confirm that I briefed the Prime Minister on the 21st on receiving the report—

Senator MINCHIN—That is the same day that you received it?

Senator Conroy—Yes. I was aware reasonably within a short period of receiving the report but I had taken the precaution of finding out when the Prime Minister was available, and as it turned out the only time he was available that day was on his plane flight between Sydney and Melbourne. Then we continued our discussion the next day on his plane flight from Melbourne to Brisbane.

Senator MINCHIN—Did you give the Prime Minister a copy of the report and the secret letter at that time, or is this an old briefing?

Senator Conroy—Can I say I do not think I did. I will happily take that on notice just in case I did. I do not believe I did, but if I have misled you I will come back and correct that for you.

Senator MINCHIN—Were you the only person present briefing the Prime Minister, or did you have officials or panel members or anybody with you to assist you in that briefing process?

Senator Conroy—Can we get back to you as to whether or not Ms Scott was on the Sydney flight. I think from recollection she was on the Melbourne to Brisbane flight. I would say certainly a couple of my staff would have been on the Sydney-Melbourne flight. I think a couple of my staff were on the Melbourne-Brisbane flight. If you would like to know exactly how many, I will get back to you.

Senator MINCHIN—I would appreciate that. When was cabinet actually briefed on the panel's report?

Senator Conroy—I would have to take that on notice and get you any information I can. I just do not have an absolute recollection of that. I would be happy to get you the information—

Senator MINCHIN—I would like to know when cabinet was briefed.

Senator Conroy—I am happy to get you that information. I just cannot remember the exact timing of all of the processes.

Senator MINCHIN—I thought you would have with you a time line. Presumably the government had to make a formal decision to abandon, in effect, the two things, the NBN fibre-to-the-node tender process or RFP process and also effectively an abandonment of your election policy. When was that decision made and who took it?

Senator Conroy—Ultimately I think the decision to terminate the process was actually mine.

Senator MINCHIN—When did you make that decision?

Senator Conroy—I made a formal decision, as in the signed process, I think on 7 April. Cabinet was briefed on a range of matters on both 6 April and 7 April.

Senator MINCHIN—By that answer are you telling me that the cabinet was not briefed on any of this until 6 and 7 April?

Senator Conroy—I did not want to leave that impression. I will get you the absolute time line for the process, but you asked me about when I terminated it so I was just giving you the specifics around the termination. I will come back to you with the other information you have sought.

Ms Scott—I have now got confirmation that I was on the Sydney to Melbourne flight on the 21st.

Senator MINCHIN—You were on both flights then?

Ms Scott—Yes.

Senator MINCHIN—After you briefed the Prime Minister on your joy flights up and down the east coast, what then occurred—

Senator Conroy—I would probably just have to intervene—

Senator MINCHIN—They were not joy flights?

Senator Conroy—No. To describe—

Senator MINCHIN—I can imagine what Mr Rudd said to Senator Conroy when he was briefed.

Senator Conroy—I am sure you could not.

Senator BIRMINGHAM—He is such a placid and polite man usually, particularly in the air.

Senator Conroy—He is always a placid and polite man. I would certainly disagree with your attempt to—and I think you are just having a bit of fun rather than sending any serious political message or making any serious political point in describing it as a joy flight.

Senator MINCHIN—Perhaps. Mr Hartcher, in his apparently well briefed report on all this, indicated that Mr Rudd ‘convened the gang of four that runs the federal government’—Rudd, Gillard, Swan and Tanner; I am sorry you are not part of that gang of four, Senator Conroy—and this report says that that gang was convened and ‘set to work with Conroy to develop a detailed plan’. Does that accurately reflect what occurred once you had briefed the Prime Minister on the failure of the NBN tender? Was that by way of this formal establishment of a cabinet subcommittee with a particular brief, or was this somewhat less formal?

Senator Conroy—Just so that we give you the absolutely correct sequence, I will add that to the earlier question that was taken on notice—just so that we give you the exact dates. There were many, many meetings, and I would not want to give you the wrong information. We will get that sort of time line if you are interested in that sort of thing—

Senator MINCHIN—And the process and whether it was a formal cabinet subcommittee.

Senator Conroy—I will get you as much information as we are able to provide.

Proceedings suspended from 3.44 pm to 4.03 pm

CHAIR—We will get started again.

Senator MINCHIN—Minister, have you been advised in the break as to any cabinet meetings that occurred between the time that you met the Prime Minister on 21 January and the cabinet consideration to which you referred as having occurred on 6 and 7 April?

Senator Conroy—We will happily take that on notice. I have not been able to get an update of that chronology. As I said, we will take that on notice and provide you with whatever information we are able to.

Senator MINCHIN—Are you able to at least confirm that a group of ministers involving the Prime Minister, Ms Gillard, Mr Swan, Mr Tanner and you was formed to work on NBN policy?

Senator Conroy—I can confirm that a cabinet subcommittee was involved in deliberations. I think you will be crossing over shortly into deliberations rather than process, perhaps.

Senator MINCHIN—I am only interested in the process. To go to process, what you now concede as being a subcommittee was apparently not established by the cabinet. Was it established by the Prime Minister?

Senator Conroy—I would have to take that on notice and come back to you, just so that I give you the absolute accurate response.

Senator MINCHIN—I accept that, but I would like to know who formally established that subcommittee. Was it the cabinet or was it the Prime Minister, and at what stage was the cabinet involved? Was the brief to that subcommittee to look at all options for the government to advance once you had abandoned the RFP or was it specifically to look at an FTTP?

Senator Conroy—I appreciate that you are trying to limit yourself to the process, but this question is probably the other side of the process versus policy issues considered by cabinet or the cabinet subcommittee. I will take on notice if there is anything that we can provide to the committee and we will come back to you. To be fair, I think that one is the other side of the process boundary. I appreciate you are trying very hard to stay on one side.

Senator MINCHIN—I am. I am just trying to see to what extent you are able to advise the parliament and the public on the brief of that subcommittee. You have talked about what went on within the government prior to 7 April in terms of reaching its position, so I am trying to understand whether, as from 21 January and the establishment of this subcommittee, the government was only looking at the issue of a fibre-to-the-premises network as an alternative or whether it was actively considering other options.

Senator Conroy—I am very conscious that you are genuinely trying to separate out process from policy consideration. It is best for me to take that on notice and come back to you with whatever information I am able to on that. Again, I would indicate that, even though you have attempted to reword the question, my gut feeling is that you are probably the other side of the process line regarding what the cabinet/subcommittee was dealing with. I suspect that is the other side, but to confirm that I will take some advice and, if it is possible to add to what I have said, I will. I will take it on notice.

Senator MINCHIN—Did the department of communications service that subcommittee or is it multitasked?

Senator Conroy—I am advised that we appear to be breaking new ground. I am not trying to be difficult, I do assure you.

Senator MINCHIN—I do not think that I am breaking new ground; it was broken by the Labor opposition in Senate estimates. I am asking about the department's role in that stage of the process.

Senator Conroy—I appreciate that. I would not put the same proviso that I just put on my last response to you, but I would like to take some advice as to what can be answered in respect to that. I do not put quite the same caveat on it that I put on the previous question.

Senator MINCHIN—It is a simple question about whether the department was servicing this cabinet subcommittee. I would have thought it was fairly simple.

Senator Conroy—You are asking about a whole range of cabinet processes and deliberations. I just want to make sure that I get the precise advice that I need to in order to help the committee with its deliberations. I will take that on notice.

Senator MINCHIN—As you said, I am not going to the advice. I am going to the sources of advice.

Senator Conroy—I appreciate that there is a difference between that question and your last one, which is why I have not put that caveat on it. I just want to make sure that I get the exact advice, so that I can assist you.

Senator MINCHIN—I am trying to do this sequentially for the benefit of everybody and at the moment we are dealing with the period between 21 January and 7 April. You did refer in a speech on 19 May to advice, which presumably you received in this period, on the

technical suitability of a fibre-to-the-premises network from 'a range of high level sources', and indeed today you have mentioned the CSIRO, DSTO and NICTA. Was that advice specifically sought from them during this period?

Ms Scott—Yes. We did approach a number of bodies within government to provide advice to us on the suitability of different technology, and particularly going to that question about the sustainability of the technology in terms of future innovation. I referred earlier to the RFP. Clearly you do not want to find that you are locked into a technology that suddenly is made redundant. We approached CSIRO, the Defence Science and Technology Organisation and NICTA. I think we approached five organisations in all. I can probably come up with a list reasonably quickly.

Senator MINCHIN—I was going to ask you who you approached and who provided advice.

Ms Scott—They are all referred to, in one way or another, in the government's documentation on the day. I will just check my memory and if it turns out I have left someone out I will let you know. We also approached ACMA. I probably have four of the five. I will check if I can get the fifth for you.

Senator MINCHIN—Presumably there was nothing commercially sensitive about the advice they provided.

Ms Scott—No.

Senator Conroy—Other than that it is advice to cabinet.

Senator MINCHIN—Are you not intending to release any of that advice or even extracts of it?

Senator Conroy—I think that I have described some of it and some of it is contained here. Telstra's chief technology officer has described the FTTP as the end game. The Defence Science and Technology Organisation has said that FTTP is the only technology expected to meet user demand.

Senator MINCHIN—I know that you have read from it. I have heard all that.

Senator Conroy—Even you, Senator Minchin, acknowledged on *Lateline*, when you followed me, that 'optical fibre is the Rolls Royce'.

Senator MINCHIN—All good socialists want us all to drive Ferraris, I know that.

Senator Conroy—Rolls Royce.

Senator MINCHIN—Unfortunately, in the real world, not everybody can drive Rolls Royces or Ferraris. So that document summarises some of the advice?

Ms Scott—I am happy to table that if it assists you. In here, there is a section on fibre optic to the home and workplace which draws on the material that we obtained from a number of those organisations.

Senator MINCHIN—You sought technical advice from those in-house bodies, but not any external bodies?

Ms Scott—Within government bodies.

Senator MINCHIN—Did you seek any technical advice from outside the government during this period?

Ms Scott—Yes. We called on our advisers that have already been engaged by the department and we drew on their work in the development of the government's announced package.

Senator MINCHIN—The other crucial element in this period, presumably, was advice on costings. Indeed, because this has been subject of some controversy, the minister himself in that same speech on 19 May referred to costings having been 'done by central agencies and based on advice from their technical advisers'. Were the central agencies the only source of advice on the costings that led to the announcement of the \$43 billion being the government's anticipated cost?

Ms Scott—No. We drew on advice and information available from our advisers. I can go into that a bit more if you wish me to.

Senator MINCHIN—I would like to know, outside the central agencies, who provided advice on costing?

Ms Scott—We put a series of questions to our advisers on elements.

Senator MINCHIN—I am sorry, what does 'our advisers' mean?

Ms Scott—As part of the NBN process we engaged a number of providers.

Senator Conroy—As in the department.

Ms Scott—We engaged a number of providers. Some were advisers on regulatory matters. Some were advisers on legal matters. One was a firm of advisers on technical engineering matters. One was an adviser on commercial matters. We approached relevant advisers in the process of developing the government's proposal and sought from them information which was used to develop the estimates of the cost of this project.

Senator MINCHIN—I have seen reports that Finance advised a figure of \$50 billion. Is that correct?

Ms Scott—I do not have any recollection of that number.

Senator MINCHIN—Was \$43 billion the highest number?

Senator Conroy—I am sure you would not expect us to reveal any advice from any of the agencies to an internal cabinet process. I do note I also saw that report and it is entirely unsourced.

Senator MINCHIN—I will come back later to the make-up of the costings.

Senator Conroy—I am sure you would not expect that. What I can say is that Finance, as you would well expect, provided a constructive and very necessary role in the entire process.

Senator MINCHIN—I am pleased to hear that confirmed.

Senator Conroy—As you would expect.

Senator MINCHIN—As I would expect, indeed.

Senator Conroy—That is not a reflection on anyone else. The whole process met the criteria.

Senator MINCHIN—Having received all of this advice, when did the cabinet subcommittee conclude its deliberations?

Senator Conroy—I would have to take that on notice, just to see what information we can make available on that.

Senator MINCHIN—It is a simple date. Presumably, the cabinet subcommittee reported to cabinet. You have already referred to 6 and 7 April, and again, Mr Hartcher has very helpfully described those occasions. Can you confirm that the 6 and 7 April meetings were the first time, and indeed the only time, that the cabinet considered the considerations of the cabinet subcommittee?

Senator Conroy—I have already indicated that I will take that on notice. You have asked that question in a slightly different way previously and I have indicated that I will take that on notice.

Senator MINCHIN—No.

Senator Conroy—Even if it is slightly different, I am happy to take that on notice. If there is any information that I am able to provide to the committee then we will make it available.

Senator MINCHIN—They are different because I wanted to know if the cabinet, at the start of this process between 21 January and 7 April, had met to consider the report—

Senator Conroy—I accept there is a slight difference. As I said, I am happy to take that on notice and if there is any information that I am able to make available then I will make it available to the committee.

Senator MINCHIN—We are now at the end of the process. Presumably, based on what you have said and what is publicly available, the first and only time the cabinet considered this whole matter in any depth was on 6 and 7 April.

Senator Conroy—As I said, I am happy to take on notice to ensure that you get absolutely correct information, rather than my somewhat hazy recollection of many meetings. We will take that on notice and, if there is any information that we are able to make available to the committee, we will make it available.

Senator MINCHIN—The cabinet meeting on 6 April has been described as a dinner at Kirribilli. Is that correct?

Senator Conroy—I think it was a dinner with the cabinet.

Senator MINCHIN—Was it at Kirribilli?

Senator Conroy—No, it was not at Kirribilli.

Senator MINCHIN—I was going to ask how all of you emerged in Canberra the following morning.

Senator Conroy—That would probably be a good clue as to why it was not at Kirribilli.

Senator MINCHIN—I suspected it probably was not. Mr Hartcher, for once, did not get his facts correct. Presumably, there was a dinner at the Lodge or something?

Senator Conroy—Let me take that on notice and see what information I can make available to the committee. As I said, I suspect we are traversing new ground and I am conscious of not wanting to establish any precedents. If there is any information, at all, in response to your last question—except that no, there was no dinner held at Kirribilli.

Senator MINCHIN—Thank you.

Senator BIRMINGHAM—Just on cabinet meetings, in particular, can you confirm that cabinet discussed the expert panel report sometime before 6 April?

Senator Conroy—I think that leads very directly to the question that Senator Minchin has given on notice. I have said that we will take that on notice and, if there is any information that I am able to make available, I will make it available for the committee. I am being very cautious, firstly, because my memory of many meetings could get mixed up and I want to make sure we give you accurate information. Secondly, there is a suggestion that this may be traversing new ground in terms of when, how and what was considered.

Senator MINCHIN—That is not correct.

Senator Conroy—There is a suggestion.

Senator MINCHIN—For 10 years I was repeatedly asked about when cabinet meetings took place and where.

Senator Conroy—The point that I am making is that there is a suggestion, which is why I have taken it on notice, so that I can give you accurate information to assist the committee.

Senator MINCHIN—The cabinet then met the following morning.

Senator Conroy—As I am sure you would understand, this decision was keenly anticipated in the markets. The decision could be market sensitive, so we were very conscious to ensure that the information was handled in a market sensitive and appropriate way. I am sure you understand that.

Senator MINCHIN—I understand that. You are in danger of leaving an impression that the cabinet of this country only met to consider what you repeatedly and have today described as the biggest infrastructure investment in the history of mankind or at least in the history of Australia over dinner at the night of the 6th and on the morning of the 7th immediately prior to the announcement. That is what we want to determine. Was that, in fact, the only occasion on which the cabinet had to opportunity to consider, discuss and decide on this matter? You have taken that on notice.

Senator Conroy—I am happy to take it on notice to ensure that I give you absolutely accurate information. If there is any information that we can give to the committee to assist in its considerations and deliberations, we will take that on notice and release it. I am very conscious of wanting to make sure that we give you accurate information.

Senator MINCHIN—I appreciate that. I take it from public commentary that the cabinet was clearly not presented with any business plan for this National Broadband Network company and was not presented with any cost-benefit analysis of this proposal.

Senator Conroy—You have gone directly to the content of what was put to cabinet. I think that is actually how you phrased it.

Senator MINCHIN—I am giving you the opportunity to contradict my logical presumptions.

Senator Conroy—If I can take a step back from your question to deal with your substantive issue, rather than the way you phrased it, as I have repeatedly stated, this is an election commitment and we intend to deliver it.

Senator MINCHIN—This is not an election commitment. You cannot get away with that. Your election commitment was a \$10-15 billion fibre-to-the-node network.

Senator Conroy—Our commitment was to deliver a broadband plan. This delivers and exceeds our election commitments.

Senator MINCHIN—This was not your election commitment. You cannot get away with that.

Senator Conroy—I accept that we do exceed our election commitment. You are correct.

Senator MINCHIN—This is not your election commitment. You concede this is not your election commitment. You are quite right.

Senator BIRMINGHAM—You have certainly exceeded it in price.

Senator Conroy—You are right to draw attention to the fact that this exceeds our election commitment.

Senator MINCHIN—This is not your election commitment. You have just conceded that point.

Senator Conroy—The country is crying out for broadband.

Senator LUNDY—This is better.

Senator Conroy—This is the best solution. It is even as you described it, the Rolls-Royce.

Senator MINCHIN—No more spin. We have heard your spin. I want a divided four-lane highway from Adelaide to Melbourne, but I know the nation cannot afford it.

Senator Conroy—That just typifies the attitude of the former government, which spent no money on infrastructure at all.

Senator MINCHIN—As you know, that is rubbish.

Senator Conroy—In fact, if you look at the suite of measures that we have announced in the budget dealing with Adelaide, you two should be ashamed of yourselves about the underspend by the former government with infrastructure in Adelaide.

Senator MINCHIN—We are not going to be diverted by that. We have serious matters to hand here. Your public position is that, as this is a variant on the promise that you made at the election, you are not going to do any cost-benefit analysis of it? Is that your position?

Senator Conroy—I think you asked me this question in the Senate not that long ago when I indicated that we would not be going forward with a cost-benefit analysis. The opposition strategy of simply seeking to avoid having to have a policy of its own, demanding more studies, is simply a ruse so that they can try to go to the next election claiming that Labor has not delivered on its national broadband plan. We are not going to fall for it. The Australian

public will not fall for it. They are interested in lifting Australia's broadband standing worldwide. They are interested in lifting Australia up—

Senator MINCHIN—You are not doing a cost-benefit analysis, apparently because this is a variant of your campaign policy.

Senator Conroy—If I can finish, because you did interrupt me in the middle of my comments.

Senator MINCHIN—You were just repeating the spin that we have been hearing for weeks.

Senator Conroy—No, you did interrupt me in the middle of my answer. I am happy to let you finish, but then I will go back to finishing my answer. We have pointed to a raft of studies, from the very recent IBM Access Economics study, which I am hoping you have seen. I have a copy that I am more than happy to table if you have not seen it. It goes through the benefits of intelligent technologies. There is the Telstra Access Economics study. There is a European Commission study. There is OECD work on this, and there is the CIE. They have all done studies which demonstrate the crying need for broadband in this country. The fact that you remained oblivious to this for 11½ years is an indictment on the former government.

Senator MINCHIN—You are not doing a cost-benefit analysis of this proposal and the cabinet did not have before it a cost-benefit analysis of this proposal when it commissioned a \$43 billion investment. Is that the position?

Senator Conroy—I am just wondering if I could finish. I am not aware of any cost-benefit analysis that was done on OPEL, what you described earlier was a \$2 billion project. I am not aware of any cost-benefit analysis that was done on any of your previous 17 broadband plans. For you to now suddenly seek to delay and now demand to slow down introducing broadband to this country with a bogus productivity report—

Senator BIRMINGHAM—Bogus?

Senator Conroy—suggestion which is simply designed to achieve your political aim of denying Australians access to the best available technology in the world. We are not going to fall for it. The research by Access Economics which I have just referred to does not fall for it. It found a net present value benefit of between \$9.5 billion and \$21 billion over a 12-year period. It found benefits are realised in the form of higher employment corresponding to approximately 31,000 full-time equivalent jobs in 2010. Research conducted by the European Commission on the impacts of broadband—

Senator MINCHIN—We all know the benefits of broadband. You do not have to remind us of the general benefits of broadband.

Senator Conroy—You do not know, actually. You think the only benefit to broadband is being able to—

Senator MINCHIN—We all support broadband.

Senator Conroy—You think the only benefit to a National Broadband Network is faster download of movies. I know the Leader of the Opposition, Mr Turnbull, invented the internet in Australia.

Senator MINCHIN—No, Al Gore did.

Senator Conroy—He repeatedly tells us how he invented the internet in Australia. The Centre for International Economics found that it could lift national economic output by 1.4 per cent after five to six years. That is the equivalent of \$15 billion in terms of GDP in today's dollars. I do not know how many more reports you need to convince you that this is not about faster downloads for movies or to convince Mr Turnbull this is not about faster downloads for movies. This is about a transformation in the Australian economy.

Senator MINCHIN—Do not bore us with this.

Senator Conroy—It is about a transformation in the Australian economy.

Senator MINCHIN—The point is cheap political no cost-benefit analysis of this proposal.

Senator Conroy—There is no walking both sides of the street, on the one hand pretending that you support better broadband but then trying to put it off into the never-never with more Productivity Commission reports. It is simply to be seen for what it is: walking both sides of the street. Broadband is great, but just not yet for Australians.

Senator MINCHIN—You cited the Access Economics report prepared for IBM, who obviously are not entirely disinterested. The director of that was Dr Ric Simes. He is quoted here as saying—

Senator Conroy—Did you say IBM are not disinterested? Are you suggesting that they biased this report?

Senator MINCHIN—I said they are not disinterested. He said:

It was incredibly difficult to form an economy wide framework view on how it would affect economy growth and jobs.

He said:

Future applications for the 100 megabyte speed FTTP could not be reliably anticipated.

He also notes:

The consultancy decided to deliver figures based on a fibre-to-the-node network.

Are you aware of that?

Senator Conroy—I was not trying to avoid the fact that they actually modelled the lesser technology.

Senator MINCHIN—He did not do an analysis of a \$43 billion fibre-to-the-premise.

Senator Conroy—Fibre-to-the-node is a lesser technology outcome than fibre-to-the-home.

Senator MINCHIN—It only cost \$10 billion.

Senator Conroy—Let us be clear. They also note that this is a conservative estimate, if you extrapolate a fibre-to-the-home on top of the fibre-to-the-node suggestions—and I am not trying to put any figures out there—but clearly this is a conservative figure on the benefits to Australia's economy.

Senator MINCHIN—You obviously do not understand cost-benefit analysis.

Senator Conroy—Actually, I studied it at university.

Senator MINCHIN—It does not sound like it. Dr Simes also said, ‘The figures could still be very wrong and this one is blue skies stuff,’ so do not quote that report to us. Did the cabinet formally decide not to follow your government’s own principles for infrastructure investment, which you set out in your first budget at paper No. 1, statement 4, pages 4 to 15, which commits your government to, among other things, ‘decision making based on rigorous cost-benefit analysis’? Those are your principles for your infrastructure investment. This is your biggest, by far, proposed infrastructure investment, as you never stop telling us. Did you formally decide not to submit this proposal to your own government’s principles?

Senator Conroy—The election commitment to deliver a National Broadband Network has been voted on by the Australian public.

Senator MINCHIN—This was never put before the Australian people. You have never asked if they wanted to spend \$43 billion of borrowed money.

Senator Conroy—The Australian public are crying out for faster and better broadband.

Senator MINCHIN—You abandoned your own principles. We note that.

Senator Conroy—Your party has stood in the way of it for the last 13 and almost a half years.

Senator MINCHIN—You have abandoned your own. You have come to tell us about all your great principles, rigorous cost-benefit analysis, and you have abandoned it.

Senator Conroy—You would have thought that some degree of shame would have entered your political approach.

Senator MINCHIN—The shame rests on your head today, Senator Conroy, for abandoning your government’s principles.

Senator Conroy—This is a nation building piece of investment. I will quote from Infrastructure Australia in one of its reports. Infrastructure Australia identified broadband as a national infrastructure priority. In its May 2009 report Infrastructure Australia stated that it, and I quote:

... supports an investment from the Building Australia Fund to develop the National Broadband Network.

Sir Rod Eddington, chair of Infrastructure Australia, has said, and I quote:

The broadband project is clearly an essential part of a national infrastructure piece. I think we recognise that.

Senator MINCHIN—Why will you not allow Infrastructure Australia to do a cost-benefit analysis of it like they did for every other project?

Senator Conroy—Having drawn your attention to those quotes, we made it quite clear at the outset that this project was an election commitment.

Senator MINCHIN—It is not an election commitment.

Senator Conroy—You are right. It exceeds our election commitment. I appreciate you continually correcting me on that.

Senator MINCHIN—Your election commitment was to spend \$4.7 billion from the proceeds of Telstra on fibre-to-the-node. Now you want to borrow up to \$43 billion.

Senator BIRMINGHAM—All you have done is moved the decimal place one spot.

Senator Conroy—That is completely misleading the Australian people, and you know that, Senator Minchin.

Senator MINCHIN—You will not get away with that, Senator Conroy. You earlier referred to the OECD report just released. I would draw you to clause 50 of that report which says, and I quote:

Policy makers must evaluate the costs and benefits of any government investment in communications infrastructure.

Do you understand that to be the clause in that report?

Senator Conroy—I have not seen that exact clause. I am a little concerned because I know that you have misrepresented the OECD's position.

Senator MINCHIN—That is what the report says.

Senator Conroy—Let me quote from your own press release today:

The OECD report also says government should make any information in relation to broadband proposals "public in a transparent way to ensure that funds are distributed in an efficient and publicly acceptable manner."

It does not say that, does it? I will read to you what it actually says. It is quite disingenuous of you to put out a press release containing such a gross misleading and misrepresentation of the OECD. It says transparency.

Government transparency is an essential component of appropriate public governance which helps prevent abuses arising from information asymmetry...

Senator MINCHIN—Which you completely disregard.

Senator Conroy—It goes on to say:

Information regarding government stimulus spending should be ...

And miraculously here is where the words morph:

made public in a transparent way to ensure that funds are distributed in an efficient and publicly acceptable manner.

It does not say any information in relation to broadband proposals and then that quote. It actually says 'government stimulus spending'. You are grossly misleading the Australian public in this way. I am quoting from page 36.

Senator MINCHIN—Give me a break. You are citing the OECD. The OECD says that 'governments must evaluate the costs and benefits of their proposals'. You cannot cite that support and then treat it with contempt.

Senator Conroy—The word 'transparency' and this press release are an oxymoron because you have quite deliberately misquoted. This is not the first time. Mr Tucker was a victim of it last week.

Senator MINCHIN—No. I quoted him correctly.

Senator Conroy—This week it is the OECD where you have cut and pasted a sentence and taken the words ‘government stimulus spending should be’ and inserted ‘any information in relation to broadband proposals public in a transparent way’. You have actually inserted words that are not there.

Senator MINCHIN—You are the one that is relying on the OECD report. Is it not the case that the OECD says policy must evaluate the cost of—

Senator Conroy—With your reputation you should not be allowing junior staff to do a cut and paste like this and embarrass you in such a manner.

Senator MINCHIN—You are the one who should be embarrassed because the OECD report that you cite says:

Policy makers must evaluate the costs and benefits of any government investment in communications infrastructure.

This is a \$43 billion investment in communications infrastructure and you are not doing any cost-benefit analysis of it. That is unbelievable!

Senator Conroy—Would you like to retract your press release or apologise for it?

Senator MINCHIN—No.

Senator Conroy—You accept you completely misrepresented and selectively misquoted the report?

Senator MINCHIN—Before the cabinet made its momentous decision, was it presented with any evidence of private sector investor interest in this project?

Senator Conroy—Again, you are asking me to reveal the content of discussions.

Senator MINCHIN—Can you table to this committee evidence of private sector investor interest in this project?

Senator Conroy—If you look at some public commentary since the announcement you will notice that Paul O’Sullivan very recently announced they would consider vending in.

Senator MINCHIN—And NextGen announced that they will not.

Senator Conroy—I will get to that in a second. TransACT have indicated that they are publicly interested in vending in and, as with all players in the telco sector—and I know you are familiar with most of them, if not all of them, and have dealt with many of them for many years—they play hard and tough and they pursue their commercial interests, as they rightfully should. I expect to see much more robust discussion around this issue. I look forward to discussions with all interested parties. I am aware of a number of private conversations with myself, my office and my departmental officers which I am not at liberty to discuss. I look forward to ongoing vibrant discussions, both privately and publicly, about the private equity vending in.

Senator MINCHIN—The cabinet apparently had no evidence of any private sector investor interest in this project?

Senator Conroy—You are seeking to put words into my mouth.

Senator MINCHIN—You have not been able to give us any evidence.

Senator Conroy—I am quite clearly not going to reveal to you the discussions inside cabinet.

Senator MINCHIN—Why did you mislead the parliament in March in respect of this situation? For example, on 12 March in answer to one of your own backbenchers you said:

The NBN will deliver high speed broadband services to 98 per cent of Australian homes and businesses, significant numbers in regional Australia.

That is quite contrary to the current position. Then on 18 March you said to Senator Ian Macdonald:

Labor's plan to deliver faster broadband to 100 per cent of Australians includes the latest satellite technologies. They are for the two per cent outside the reach of the fibre-to-the-node network.

You had already abandoned that policy. You did so when you met with the Prime Minister and set up the gang of four that you were part of to find some escape clause, and yet you continued to mislead the parliament by referring to a now defunct, dead, deceased policy.

Senator Conroy—I do want to respond to Senator Minchin's comments because they are quite serious. To charge that a minister has misled the parliament is quite a serious charge.

Senator MINCHIN—I understand why you have to obfuscate.

Senator Conroy—As much as I am laughing, I am laughing about Senator Minchin's capacity to try and suggest that he is in any way involved in the inner workings of Malcolm Turnbull's opposition, which everybody knows is not true. To try to cover your own embarrassment by attacking me—

Senator MINCHIN—I am sorry, you are not attacking me, but you do not need to do that.

Senator Conroy—I do not think you will be in a gang of 20 inside the opposition. Unfortunately, that is bad news for them because, as you know, I do have a high regard for your political skills, as well as political debating abilities. It is to the detriment that you are not inside the gang of 20 inside the opposition. It is important that I rebut your suggestion that I misled parliament. The question was asked prior to the termination of the RFP. For probity reasons and to ensure that the probity was not breached, I was in a position to reiterate the existing position, and it was the existing position. The RFP process was not terminated until 7 April. If you want to talk about people having different positions, I am happy to draw your attention to the Senate Select Committee on NBN on 3 March 2009, when you said:

What you are really saying is what the rest of us have always thought, that it is not going to be commercially feasible. We are talking about 98 per cent fibre coverage in Australia. Fibre-to-the-node may be 80 to 90 per cent, but some form of wireless or satellite solution will be required for let us say for the sake of the argument, the final eight per cent.

That is you, Senator Minchin. Then on 13 November 2008 you state:

The coalition fully recognise that in a continent as vast as Australia a mix of technologies must be utilised to ensure equitable and reliable nationwide broadband coverage.

But after the NBN announcement with the new 90-10 split, you went on to say on 14 April:

Now this promise of 98 per cent fibre-to-the-node has been wound back to 90 per cent, so it is people in the bush who are going to miss out again because the government really does not care about them.

And in the *Herald Sun* you went on to say:

The plan would widen the gulf between the city and the country. I think for a proposed taxpayer spend of this magnitude people living outside major centres quite rightly expect a degree of parity, but instead we are seeing disappointments ...

Senator MINCHIN—Senator Conroy—

Senator Conroy—I am almost finished. I do appreciate that you have been very patient. I have almost finished. You continued:

... the smaller communities learn that they will get speeds of 12Mb, while people in the city will get 100Mb comparatively. Instead of bridging the digital divide Labor wants to send billions of dollars to widen it.

You cannot have it both ways. You cannot, in your own words in the Senate select committee in March, say that it is not commercially feasible to go past 90 per cent or 92 per cent, which perhaps you were suggesting, but I will allow you to correct me on 90 or 92, and then attack this government for a 90-10 solution. It really is walking both sides of the street.

Senator MINCHIN—That is quite irrelevant. This is a complete misrepresentation of what I was saying and you know our concern is the relative position that you will leave the rural Australians in as a result of your policy.

Senator Conroy—The OPEL project delivered a backwater, non-upgradeable six megs to a vast majority—40 per cent—of Australians. That was not upgradeable.

Senator BIRMINGHAM—You keep wanting to go off on tangents. I am delighted when you highlight the fact that Senator Minchin clearly would have made a better communications minister than you because he was highlighting—

Senator LUNDY—This arguing across the table is really not adding anything to the proceedings this afternoon.

Senator BIRMINGHAM—He was highlighting the fact that your NBN project could not be delivered well before you conceded that was the case. But the question originally from Senator Minchin went to whether you were misleading the parliament. Now you—

Senator Conroy—I repeat: I totally reject—

Senator BIRMINGHAM—You have responded essentially arguing that you could not come clean for reasons of probity. Is that some type of justification for quite transparently having received, as you had, the expert panel report and the secret letter from Ms Scott and then deliberately misleading parliament, the ATUG conference and the Communications and Media Law Association? So speech after speech after speech you kept repeating the same policy when you knew it was a dead policy.

Senator Conroy—I expected Senator Minchin's staff to misunderstand and misconstrue; you do not have the same excuse. What you are trying to suggest is that, if a minister stood up one day and said, 'This is our position on tax', and the budget came down the next day and the minister had been involved in the deliberations and there was a new position on tax, you would claim that the day before the minister had misled parliament. This is a patent nonsense.

Senator BIRMINGHAM—You knew it was a dead policy. You knew it could not be delivered. Your expert panel had told you by then that the policy you kept reinforcing to the Australian Senate in speech after speech and to industry groups around the country could not be delivered—

Senator Conroy—You are wilfully misleading this committee with these suggestions. You are not a rookie; you are an experienced senator now and you are wilfully misleading the committee, suggesting that I have misled. That is a very serious charge, and that is why I take such umbrage at it.

Senator BIRMINGHAM—Take all the umbrage you like—

Senator Conroy—You are wilfully misleading and misrepresenting my position and you should know better.

Senator BIRMINGHAM—I assume, of course, that when you received the expert panel report on 21 January you looked at it pretty swiftly because you were on the plane with the Prime Minister pretty swiftly thereafter and talking about the contents of it. Surely by that stage you knew that the 98 per cent fibre-to-the-node policy was not deliverable?

Senator Conroy—The RFP was terminated on 7 April. It was part of probity, part of the government's position until the government terminated it—I am sorry, I terminated it on behalf of the government.

Senator BIRMINGHAM—There are many forms of words that you could have used, or indeed more importantly probably did not use, in the period of time between 21 January and 7 April that would not have been as misleading as the words you chose to use time and time again reinforcing a policy that was not achievable.

Senator Conroy—I utterly reject your suggestion. You were not privy to the discussions that took place. You are not in a position to make that assertion at any stage. You are simply looking for a cheap political headline. You were not involved in the discussions, you were not aware of all the information the government was considering and it is patently wrong to make such a serious allegation based on no evidence whatsoever.

Senator BIRMINGHAM—When did you decide that your election policy was unachievable?

Senator Conroy—I terminated the RFP after careful and lengthy consideration on 7 April this year.

Senator BIRMINGHAM—You will not acknowledge that, with your 893-page expert panel report and your several pages of a secret letter from 21 January, some time thereafter in your flights with the Prime Minister north, south, east and west across the country you could actually have made a determination that the policy was not—

CHAIR—Senators and minister, we have been on this topic now since 2.35 this afternoon. I know, Senator Minchin, that you wish to do this in chronological order. We do not seem to be getting far along the time line, I have to say. There are other senators who want to ask questions about the National Broadband Network before we finish proceedings. Can we make some progress or else I will give the call to another senator.

Senator MINCHIN—We have been very tolerant of government questions. I think this is the biggest issue and I think it is appropriate for opposition senators to question the government in particular on what they assert is the biggest infrastructure investment ever made in this country. There are a lot of taxpayers' dollars involved.

CHAIR—I am just making the point that at the beginning of proceedings I said I would share the time around and we have been with coalition senators since 2.35 on this matter.

Senator MINCHIN—We have mostly had Senator Conroy talking, frankly.

Senator LUNDY—I would just like to foreshadow that I have some questions that I would like to ask on this issue before dinner time and also to throw in the comment that we are clearly not progressing anywhere. The questions are not revealing anything, so I would like to urge opposition senators to—

Senator BIRMINGHAM—That is not our fault.

Senator MINCHIN—This does go to process. I think there are critical issues that need to be answered in relation to process for the parliament to be satisfied with what is occurring here. I think these are proper questions of process and decision making as to how a government does decide to spend \$44 billion.

Senator LUNDY—Sure. But I do not think the continual abuse and incorrect allegations about the minister misleading is progressing the issue. I just want to say that you are not going anywhere.

Senator MINCHIN—I am happy to move on to the next subject.

CHAIR—Thank you. I would just point out that it is very difficult for Hansard to transcribe banter across the chamber when people are talking over the top of each other.

Senator Conroy—I think it has been largely good natured.

CHAIR—Minister, if we could all stick to questions and answers that would be very helpful for everybody.

Senator MINCHIN—It would be helpful if the minister would just give straight answers.

Ms Scott—In response to Senator Minchin, earlier I did not mention Defence Signals Directorate in the list of the organisations that provided commentary on fibre-to-the-premise and fibre-to-the-node.

Senator MINCHIN—It is appropriate to have those sorts of agencies involved. Can I turn to the fact that you have decided to set up a new government business enterprise in relation to this matter, which is a significant decision? I understand that company has been registered with ASIC. There was some commentary about the fact that the government appeared very reluctant to make any announcement about that registration. Is there anything to that? I am not asserting it, but I wonder if there was any reason why you did not announce that you had registered that company?

Senator Conroy—Ms King might like to update you on that.

Mr Lyons—The company has been established. It was incorporated on 9 April 2009 following the government's announcement on 7 April 2009. It was incorporated as a wholly

owned public company limited by shares under the normal process for incorporating companies with the Australian Securities and Investments Commission, ASIC. The company is currently registered with ASIC.

Senator MINCHIN—And there are three—

Mr Lyons—They appointed three senior public servants as representatives to undertake the early activity on establishing the corporate functions of the company.

Senator MINCHIN—Has the company been given a name?

Mr Lyons—The company is currently registered with its CAN, as it is known.

Senator MINCHIN—You just call it NBN company, do you?

Senator Conroy—It is collectively referred to as NBN.

Senator MINCHIN—Could you advise the committee on the process by which this company will acquire a board and a chief executive?

Mr Lyons—The government is moving to engage an executive search agency to assist in the appointment of the ongoing board.

Senator MINCHIN—Is it clear that the board, once appointed, will choose a CEO for this company in accordance with normal practice?

Senator Conroy—Yes, the board will have that responsibility.

Senator MINCHIN—Do you have a time line for the (a) appointment of a board and (b)—

Senator Conroy—Free trade agreement requirements, as I am sure you are conscious of, always require a rigorous process and an open and transparent process, so we are bound by the guidelines of the trade agreements we have entered into. Perhaps Ms King or Mr Lyons may be able to update that.

Senator MINCHIN—When should we anticipate the announcement of a—

Senator Conroy—We will engage the firm first.

Mr Lyons—Once we have engaged the firm it will then be a matter for government to make that decision and make an announcement.

Senator MINCHIN—This is probably some months down the track?

Ms Scott—As to the selection of the executive firm, we hope that we can move reasonably quickly to that. Then it will just be a matter of time after that for government deliberations.

Senator BIRMINGHAM—Have those firms been shortlisted?

Ms Scott—We are going to go to select tender and we have identified a number of suitable firms that we will approach.

Senator MINCHIN—There is a budget allocation to this company of \$1.1 million. Does that cover the costs of the executive search firm and, if not, what is the \$1.1 million for?

Ms Scott—We are paying for the executive search firm.

Senator MINCHIN—Could you just tell me what the \$1.1 million is for? Is that in anticipation of board fees?

Ms Scott—I have got a number of pages marked with NBN, so if you can give me a hint I will try to help you with the explanation.

Senator MINCHIN—I have not got—

Senator Conroy—You are going to have to get a computer there. Come into the 21st century. You will find that you can use it for more than faster downloads of movies.

Senator MINCHIN—Thanks. You cannot tell us which page the \$1.1 million is on, but I assure you that it is in there and I thought you would know what you have allocated \$1.1 million for without having to go back to the PBS.

Ms Scott—I will see if our CFO can find the \$1.1 million.

Senator MINCHIN—Presumably no decision has been made about board fees or where this company will be located; they are all decisions yet to be made.

Ms Scott—No—they are all decisions to be made.

Senator MINCHIN—But you will be introducing legislation to establish this company?

Ms Scott—Not to establish the company. I think Mr Lyons indicated that we have established the company—

Senator MINCHIN—Are you registered with ASIC?

Ms Scott—Yes, we are registered with ASIC. In terms of the legislative arrangements on which it will operate, the government has indicated that we will be introducing legislation in terms of the regulatory regime that will function. I think we referred earlier in testimony to the discussion paper and commentary due by 3 June for some of the regulatory matters that we have gone to the public domain with.

Mr Lyons—The distinction is, I suppose, that the company has been established under company law. It will be regulated. The government has announced the intention for investor confidence and public certainty that the company should be regulated in such issues as ACCC oversight and retail ownership caps.

Senator MINCHIN—The government has indicated a minimum shareholding of 51 per cent. Has the government indicated a maximum shareholding in this company? Currently it owns all the shares.

Mr Lyons—The government has indicated that there will be retail ownership caps yet to be determined. Other issues relating to the structure of the company will be finally determined after the implementation study.

Senator MINCHIN—But is it correct to say that the government will retain a minimum of 51 per cent?

Mr Lyons—Yes.

Senator MINCHIN—But there is no maximum put on that. That could theoretically be 100 per cent.

Mr Lyons—The government has not announced any particular maximum, but there is an implementation study that is being undertaken.

Ms Scott—The government has indicated its interest in having—

Senator MINCHIN—But if nobody wants to buy it—

Senator Conroy—We said we would be the 100 per cent if necessary.

Senator MINCHIN—Presumably the ministers for communications and finance are the shareholder ministers; are they?

Senator Conroy—They are.

Senator MINCHIN—Been there; done that. Could I just turn to the funding of this matter. Please correct me if I am wrong, but you have indicated that the \$4.7 billion that has been much spoken of and which is the residue of the communications fund of what is now \$2.4 billion and the proceeds of the last tranche of T3, which is \$2.3 billion, from the equity that the Commonwealth intends to provide for this company; is that correct?

Ms King—The \$4.7 billion will be funded by \$2.4 billion from the Building Australia Fund and \$2.3 billion which will be raised from Aussie Infrastructure Bonds to be issued by Treasury.

Senator MINCHIN—Would you say that again?

Ms King—There is \$2.3 billion to be raised from Aussie Infrastructure Bonds.

Senator MINCHIN—Is the only equity going in actually \$2.4 billion?

Ms King—The \$4.7 billion will be an equity injection into the company—

Senator Conroy—It is being put in.

Ms King—Yes.

Senator Conroy—If you are asking about the source of the \$4.7 billion, it is as Ms King has just explained.

Ms King—Two point four billion—

Senator Conroy—Two point seven and 2.3 equals 4.7.

Senator MINCHIN—I am asking you the source of the \$4.7 billion. What you are now telling me is that the \$4.7 billion no longer comprises capital the government has possession of and which you publicly said would be put into NBN1—

Senator Conroy—I had hoped that you had watched our press conference, but it is disappointing to find that you did not, when the Prime Minister outlined that it would be a combination of money from BAF and Aussie Infrastructure Bonds. He did actually make this point in the press conference when we first held it, but perhaps you were not able to—

Senator MINCHIN—I did watch the press conference. It was agony. The government had up until that point repeatedly made the claim—

Senator Conroy—They are out there hugging those—

Senator MINCHIN—that the first bit of \$7 billion, which was to be originally injected into the first NBN exercise—and I think Senator Conroy and certainly Mr Tanner confirmed this—would come from the communications fund, which was the \$2.4 billion which you have now transferred to the BAF and which I presume is the \$2.4 billion you just referred to, Ms King, but that the other \$2.3 billion—and I have Mr Tanner’s statement somewhere to this effect—would come from I think the last tranche of the proceeds of the sale of T3; is that correct?

Senator Conroy—That was the original fibre-to-the-node proposal. At the press conference this matter was canvassed and the Prime Minister and the Treasurer, and I think perhaps the finance minister himself, canvassed this issue, and it was in their press release, I think, that there would be two sources. I am happy to be corrected but I am fairly certain that was the fact.

Senator MINCHIN—Now the government has decided that in fact this \$4.7 billion equity injection will not be comprised of capital at hand entirely as was the case with NBN1 but that it will comprise now essentially nearly 50 per cent of borrowings? That is what I understand from what you have just told us. At some point you had to make a decision that you would not put \$4.7 billion of capital at hand into this company but that, instead, you would only put \$2.4 billion of capital at hand into this company and you would borrow the remainder. When was that thinking done?

Senator Conroy—You are correctly identifying that we did make that decision. I am just checking the press release. The press release says we will make an initial investment to the network of \$4.7 billion, but I am fairly certain my memory is right on this that there was discussion that it be made up of different components.

Senator MINCHIN—I am not sure that is right. There was press speculation to that effect after the announcement, but I am not sure you actually made it clear.

Senator Conroy—I do not know that the individual amounts were identified, which have now been identified, but I think they may have been identified in the budget papers. I think the issue was canvassed at the press conference. I could be wrong. I am not sure it was canvassed, which is what led to the speculation. I am not sure if a specific amount was identified in the press conference.

Senator MINCHIN—There has been speculation that you would be borrowing part of this initial equity injection but, to be frank, this is the first that I have heard it confirmed. But what you are actually telling us is that when your policy was a \$10 billion to \$15 billion fibre-to-the-node project the government was going to inject \$4.7 billion of equity which it had at hand; now that it has become a \$43 billion project you are only going to inject \$2.4 billion of equity.

Senator Conroy—No. We are injecting \$4.7 billion in equity comprising—

Senator MINCHIN—You might as well be up front—

Senator Conroy—Four point seven billion dollars will be injected into the company. Cash in the bank will be \$4.7 billion. You cannot actually deny that. If you want to—

Senator MINCHIN—Can you not obfuscate on this? Just be straight with us.

Senator Conroy—correctly identify that the funding source of the \$4.7 billion has changed, we plead guilty as charged.

Senator MINCHIN—The point I just want to confirm is that—

Senator Conroy—That \$4.7 billion—

Senator MINCHIN—when this was a \$10 billion to \$15 billion fibre-to-the-node project there would be \$4.7 billion injected, which was cash at hand in effect—none of it borrowed. Now that it is a \$43 billion exercise, \$2.3 billion of the \$4.7 billion will be borrowed—

Senator Conroy—To confirm what I was saying earlier, here is a quote from the press conference:

We, in order to establish the initial equity stake on the part of the government will be contributing \$4.7 billion, which is, of course, the figure that was committed from our election commitment, and will be drawn essentially from the Building Australia Fund.

The additional equity that will be required will be financed by Aussie infrastructure bonds that we are indicating.

We flagged that quite clearly there, and we both know what a danger that is.

Senator MINCHIN—It is quite clear—

Senator Conroy—That then led to—and I said this a little earlier—some of that speculation. We have now absolutely confirmed in black and white that the equity injection of \$4.7 billion will consist of two components, if you want to use the word ‘component’ to describe it.

Senator MINCHIN—One is borrowed and one is not.

Senator Conroy—\$2.3 billion from BAF, I think, and—

Senator MINCHIN—\$2.4 billion from BAF.

Senator Conroy—\$2.4 billion from BAF and \$2.3 billion from Aussie Infrastructure Bonds.

Senator MINCHIN—I am not accusing you of deliberately misleading the public at the time of the press conference. The words you just used have led the gallery and us to believe—because you said ‘essentially drawn from the BAF’—that the \$4.7 billion was coming from the BAF, as had been the policy for NBN mark 1, and that the remainder of the equity, which you said today will have to be at least the difference between \$11 billion and \$4.7 billion—\$6.3 billion—will be borrowed. That was the conclusion that everybody drew from the remarks made at the press conference. I am not accusing you of deliberately seeking to mislead people, but that was the logical conclusion drawn by just about everybody at the time. I thank you for confirming that in fact only, effectively, 50 per cent of the initial \$4.7 billion will come from BAF; the rest will be borrowed. A pertinent question is: what happened to the \$2.3 billion that was meant to go into this company and now will not but will be borrowed instead? But that is not your responsibility.

Senator Conroy—I invite you to ask that to Finance, which is in charge of BAF.

Senator MINCHIN—I accept that is not your responsibility. That has gone off into the ether somewhere. We are facing a situation where, to get your \$11 billion in equity, at least \$8.6 billion will need to be borrowed, as I understand it.

Senator Conroy—Sorry?

Senator MINCHIN—Now that only \$2.4 billion of actual cash at hand is going into this equity and given that you said the company will require at least \$11 billion of actual equity from the government, if there is a fifty-fifty debt-to-equity ratio for this company, you have to borrow \$8.6 billion simply to provide the government's share of the equity in this company; is that correct?

Senator Conroy—That is based over an eight-year period.

Senator MINCHIN—Yes.

Senator Conroy—I am making sure that you cannot misrepresent the context and try and lump it all in together.

Senator MINCHIN—I would not do that.

Senator Conroy—I know that, but others around you may. I want to make sure that people understand that is over an eight-year period. You cannot take it all and lump it into one year and try to pretend that somehow it is all catalogued in one year.

Senator MINCHIN—I appreciate that you are going to span it out. I am just trying to get a handle on the extent of the borrowings required.

Senator Conroy—I think your assumption at this stage is a reasonable one. But government finances do change. I think it is a reasonable proposition that you are putting forward.

Senator MINCHIN—Thank you. I turn to the costing. We did touch on this \$43 billion and the basis on which you came to that costing. Are you able to give the committee at least some breakdown of that \$43 billion in terms of wages, equipment, capital and expenditure?

Senator Conroy—The implementation study is examining most of those issues.

Senator MINCHIN—You must have built the \$43 billion from the ground up by looking at all of the components and what they would each cost.

Ms Scott—I think that last time I got to the stage of explaining that we draw on information available from within the department and from sources including our advisors. They are preliminary estimates. Given the highly confidential nature of the initiative, we were unable to approach all of the sources we would have liked to in developing the preliminary estimates. The government was aware of that limitation and took that into account. There is a contingency built into the estimates.

The three significant elements of the project are the fibre rollout, the wireless rollout and the satellite element. On fibre, advice was provided by our advisors and we also obtained information from public sources and from specific projects the department has been engaged in. As to wireless, the department has a body of recent knowledge on wireless projects and costings. The department was also able to draw on advice from our technical advisors.

Senator MINCHIN—So overall it was of some use to you. I am pleased to hear it.

Ms Scott—With regard to satellite, our advisors had recent experience in large satellite projects overseas and were able to draw on this international experience. We also analysed the cost components that we had. We were very familiar with and had analysed recently the cost components of the proposals submitted for the NBN. On that basis we drew up the estimates and we worked with our colleagues in the Department of Finance and Deregulation.

Senator MINCHIN—Did you start from the proposition that the government wanted to deliver 90 per cent fibre and the rest wireless or satellite and then determine how much that cost? Or did you start with, ‘How much can we afford and what will that buy us’? Did you look, for example, at the cost of 95 per cent fibre to the premises and reject it then as being far too expensive?

Ms Scott—I feel uncomfortable going into that level of detail, because that goes to the advice provided to government. But I did want to give you information about the information sources we draw on because you had asked that earlier question.

Senator MINCHIN—Is this estimate based on a particular architecture? As I understand it, there are basically two—point to point or GPRN? Was this based on one or the other?

Ms Scott—We did look at—and the government’s announcement refers to—next generation technology. So the emphasis was on fibre to the premises and next generation technology.

Senator Conroy—As I indicated in a recent speech, that is one of the issues that we have invited views on and the implementation study is looking at that.

Senator MINCHIN—I understand there are quite significant differences in rollout costs.

Senator Conroy—Yes.

Senator MINCHIN—So, presumably, the \$43 billion was based on one or the other, because there would be—

Senator Conroy—As I said, there is a cost estimate. You continue to draw on just one figure—\$43 billion. There is a cost estimate of between \$38 billion and \$43 billion. I am relaxed about people using only the \$43 billion. Within that, as has been indicated, there is a significant contingency figure. Other than that I am not prepared to second-guess—

Senator MINCHIN—So, you cannot tell us whether the \$43 billion is based on one or the other?

Senator Conroy—I said there is a significant contingency. There is a cost estimate of between \$38 billion and \$43 billion.

Senator MINCHIN—So you are suggesting that—

Senator Conroy—But I draw your attention to a report, which I think I quoted a little earlier, by Ian Martin, who has taken the initiative of speaking to people who build fibre to the home proposals. I might even invite you to take the same initiative. He calculated it as somewhere between \$20 billion and \$30 billion. He has made a range of assumptions in there and he has made a range of assumptions about technology.

Senator MINCHIN—There are others significantly more expensive.

Senator Conroy—It would not be hard for you to get together a few assumptions, bounce it off a few companies and get your own cost estimates. But I repeat to you what I have repeated consistently: nobody has suggested that this is an underestimate to achieve our objective—not even you.

Senator MINCHIN—Does this \$43 billion include all costs of connections to premises? Is the presumption that this will be right to the wall?

Senator Conroy—To the wall.

Senator MINCHIN—Is this \$43 billion a figure in 2009 dollars or is it an estimate of what the final project cost will be in 2018 dollars?

Senator Conroy—You are welcome. You are one of few people in the world who understands what an out-year price is.

Senator MINCHIN—Regrettably.

Senator Conroy—Yes, regrettably. I have been learning about that recently myself.

Senator MINCHIN—It is not something I go around boasting about.

Senator Conroy—Yes, it is an out-year figure.

Senator MINCHIN—Out-year dollars—I am pleased to hear that. Finance is doing its work.

Senator Conroy—As you would hope, Finance is continuing to do fine work.

Senator MINCHIN—I am delighted to hear that.

Senator Conroy—I am sure that helps you understand that some of the calculations, estimates and claims about various aspects of this are quite comical.

Senator MINCHIN—I am still alarmed at the \$43 billion figure but I am becoming more reassured that it may not be \$63 billion, but we will wait and see. My experience of government is that all projects come in over time and over budget.

Senator Conroy—The Department of Finance is well trained by yourself.

Senator MINCHIN—Just go down to the defence department and you will learn all about project management. I am happy to defer to others at this point.

Senator WORTLEY—I have questions specifically on the Regional Backbone Black Spots Program. I would like to start by asking the department to provide a brief outline about what is meant by the backbone infrastructure and why it is so important to the delivery of broadband services.

Mr Lyons—Backbone is basically the infrastructure that transports telecommunications signals—and they could be voice, data or video—between the customer network, back through the telephone exchange and then back through to centralised points in the network where the service provider's core infrastructure is located. Often that core infrastructure is located in state capital cities. If your customers are located in a regional centre this can mean that the communications need to travel between infrastructure that can be hundreds of

kilometres apart. To get the full benefits of high-speed broadband customer access technologies such as fibre to the premises, backbone links to the core infrastructure need to have capacity otherwise they become bottlenecks that will limit speed and service speeds available to end users and, from the customer's perception, they will end up with slower downloads, lower resolution on their video and poor quality internet telephony services.

Senator WORTLEY—What companies currently own significant backbone infrastructure in Australia?

Mr Lyons—Telstra certainly owns significant backbone infrastructure. The other next tier carriers such as Optus, NextGen, AAPT and Soul will own backbone infrastructure. There is also infrastructure that is owned by utilities and rail companies that can sometimes be used to provide telecommunications services. People such as Powerlink, Queensland Rail and VicTrack—those sorts of people—will have backbone infrastructure that could be used to provide telecommunications services.

Senator WORTLEY—Does the department consider that there is a lack of competitive backbone infrastructure in regional areas?

Mr Lyons—The ACCC's regulatory decision making probably provides a bit of a guide to that, because under the telecommunications access regime in the Trade Practices Act it is a matter for the ACCC to declare access to what it considers to be bottleneck services where there is not sufficient competition. So, in the case of backbone or transmission routes, the ACCC has decided to exempt those areas where it thinks there is sufficient competition but to keep the declaration alive for those areas where they do not think that there is sufficient competition and where they believe that there needs to be an ability for access seekers to go to the ACCC and notify a dispute if they cannot get commercial resolution from what might be a monopoly provider.

It has exempted a number of capital city to regional backbone links in New South Wales, Victoria, Queensland and South Australia. For example, Sydney to Albury might be exempt or Melbourne to Ballarat or Brisbane to Toowoomba. But for all the other capital city regional backbone links that have not been actually exempted the ACCC has kept access obligations in place on Telstra, because there is a lack of competitive infrastructure. Basically, where there is competing infrastructure the ACCC has tended to exempt; where there is only one set of infrastructure that people can get access to, the ACCC has decided that there should be a right of regulated access. Where there is not competitive pressure on the supplier of a back-haul transmission service to offer low prices or high-quality services, it means that providers, if they cannot get a competitive price, may not be able to offer competitive retail and wholesale service in regional areas.

Senator WORTLEY—Is that the impact, then, on consumers and businesses in regional areas?

Mr Lyons—Yes. The Glasson review, the regional telecommunications inquiry, found that that was a specific concern. It found that the availability of adequate back-haul had an impact on the price, the availability, the type and the quality of telecommunications service that could be delivered to many regional communities. It also found that service providers that want to get in to access those communities can be deterred from doing so because the back-haul price

is too high. That is not to say there is not a regulated right of access, but there is a fairly slow, cumbersome process to get that access, and that is one of the issues that is also addressed in the government's regulatory discussion paper.

Senator WORTLEY—Does the department have information on the cost differentials between areas that have competing backbone infrastructure and areas that do not?

Mr Lyons—There is some caution in trying to compare the cost of delivering services to different locations, because it probably depends on the volume of data that is flowing along the transmission link and the length of the run. There are anecdotal examples where, for example, the cost of back-haul in a key regional town, say, Bunbury or Port Hedland, might be 250 per cent to 700 per cent higher than from Perth to Sydney. That is an example—you probably need to be careful drawing exact comparisons between different locations. In our consultations we are aware that there are examples of where someone comes in and provides competitive back-haul and back-haul prices suddenly falling. For example, we understand that in Mildura, where there were competitive backbone services offered, the prices fell by 40 per cent in 2006.

Senator WORTLEY—What is the strategy to fix the backbone problem in Australia?

Mr Lyons—This really goes to the Backbone Black Spots Program. It is not attempting to address all back-haul problems throughout Australia, because partly that will be done through the establishment of the National Broadband Network and the national broadband company. But it will address priority black spot locations and put in place key infrastructure for the National Broadband Network at the same time. At the same time, we are running a program. We are in the middle of a consultation process on shaping that process. A consultation paper and a discussion paper have gone out. We will certainly be going through a request for proposals for specific locations shortly.

The strategy is threefold. There is the priority black spots program. Then there is the National Broadband Network, which will give impetus to the National Broadband Network company to acquire back-haul transmission services and in doing that it will often be building new routes and providing competitive pressure where there are existing backbone networks. As I said before, the government's discussion paper has asked whether there are better ways of people getting access to back-haul, and not only to back-haul transmission but other declared services. Is there a more streamlined process? One of the options that was floated was to have a more certain set of prices for people when they get access to bottleneck services. Backhaul is a good example. If companies know they can get a certain price, that gives them certainty in conducting their business planning.

Senator WORTLEY—Is the \$250 million announced by the government the only money that will be spent on upgrading and extending back-haul in Australia?

Mr Lyons—No. As I said before, the government's investment in the National Broadband Network will include an investment in the back-haul infrastructure necessary for that network to provide high-speed broadband to communities within the reach of the network for both the fibre and the wireless components of the network. That investment by the company of \$43 billion will include an investment in back-haul as well.

Senator WORTLEY—In relation to the consultation papers, how many submissions have you received?

Mr Lyons—I think we have received about 67 submissions from industry and from state, territory and local government bodies. I think we have received 38 from industry and three from private individuals. The majority of those are public submissions and they will be available on the website shortly.

Senator WORTLEY—They will be on the website?

Mr Lyons—Yes.

Senator WORTLEY—When do you expect construction of these links to begin?

Mr Lyons—I mentioned earlier that we want to release a request for tender shortly—within the next few weeks—and commence construction activities in September of this year.

Senator WORTLEY—I understand that OPEL was going to deliver 15,000 kilometres of back-haul infrastructure. Had the contract been met?

Mr Lyons—I suppose the first thing about the OPEL funding agreement was that the funding agreement was terminated because OPEL did not meet the condition precedents of the funding agreement. I think it has been publicly stated that OPEL did include a back-haul component of 15,000 kilometres. I think the thing to note about that was that only about 16 per cent of that proposal would have been for new back-haul infrastructure. I think the other thing is that the priority areas that are being identified for this program may not necessarily have been aligned with what was in the OPEL proposal. But the exact locations of the backbone infrastructure with this program will be worked through when the request for proposals is issued.

Senator NASH—With respect to the consultation process underway at the moment—and obviously there is a lot to be worked through about where the most appropriate places are going to be—

Mr Lyons—Yes.

Senator NASH—how did you arrive at the figure of \$250 million if you do not yet know where it is going to go?

Senator Conroy—Can I indicate that the \$250 million is just the beginning. It is not actually a cap. As you understand, to reach 90 per cent of Australians with fibre-to-the-home we are going to potentially need backbone all over the country.

Senator NASH—So, this is a bit of a patch-up job for where it is really falling down at the moment?

Senator Conroy—The ACCC identified a range of areas that were, as it described them, back-haul black spots, where there is only the one piece of fibre that exists at the moment.

Senator NASH—Has there not been a range of issues from potential carriers that simply have not had the might or the wherewithal to potentially take on other companies through the ACCC process?

Senator Conroy—That is exactly what is driving this. As I said, \$250 million is not the cap, it is the beginning. To reach out to 90 per cent we are potentially, depending on vending-ins, going to need a lot more than \$250 million. I would not want you to leave with the impression that this was the end of the process. This is very much a beginning. It is just to identify the really grotesque outcomes that have happened in a whole range of regional centres, such as Mildura in Victoria, Mount Isa, Mount Gambier, Geraldton, Broken Hill and Darwin, just to name a number of major centres where people automatically assume reasonable broadband would be available and it just is not.

Senator NASH—Thank you for your indulgence.

Senator WORTLEY—Is the NBN likely to deliver more or less back-haul than OPEL?

Mr Lyons—As I said before, the OPEL project was delivering 16 per cent, as I understand it, new back-haul. As the minister has said, this \$250 million is simply the priority areas. The OPEL project was not capable of delivering on its condition precedents for its funding agreement, and we would expect the National Broadband Network to be delivering significant back-haul.

Senator WORTLEY—Why was Tasmania selected to be the first place for the NBN to be rolled out?

Mr Lyons—I think the expert panel did suggest that there was merit in further consideration of Tasmania. It noted that Tasmania had particular broadband bottlenecks. It has 39 per cent broadband penetration compared with the national average of 52 per cent. There is less competition in Tasmania or fewer competitive services in Tasmania than the other states. It was also announced in relation to Tasmania that it will be using fibre-to-the home technology, which is consistent with the government's policy.

Senator WORTLEY—What about available speeds in Tasmania compared with other states and territories?

Mr Lyons—I would have to take on notice the question of speeds. There is also the question of the peak speeds that might be available to some people in Tasmania, but it is also the access that they have to broadband services. I would have to take that question on notice.

Senator WORTLEY—Can the Tasmanian proposals be progressed without legislative or regulatory changes?

Mr Lyons—The Tasmanian proposal is being progressed without legislative or regulatory changes. There are negotiations currently underway with Tasmania. The National Broadband Network company, as I mentioned before, will be subject to regulation, but the negotiations on the rollout are proceeding without the need for legislation.

Senator WORTLEY—Minister, are you aware of any coalition members calling for Tasmania to be prioritised in the broadband rollout?

Senator Conroy—Thank you for that question. As a matter of fact, I am.

Senator MINCHIN—What a surprise!

Senator Conroy—In his former guise as shadow minister for broadband, Mr Bruce Billson said, ‘I’m calling on Senator Conroy to guarantee the people of Tasmania that they will be among the first in the nation ...’

Senator BIRMINGHAM—Senator Wortley was asking about Tasmanian members.

Senator WORTLEY—No, I said coalition members.

Senator BIRMINGHAM—Mr Billson is one of your fellow Victorians.

Senator WORTLEY—No—coalition members.

Senator Conroy—‘... to gain affordable new broadband services.’ I can assume that, even in Mr Billson’s new role, this will be the case.

Senator WORTLEY—What has been the reaction of the Tasmanian opposition to the NBN announcement?

Senator Conroy—Senator Guy Barnett stated on 30 April—it may come as a surprise—that the opposition ‘welcomes Tasmania being the first state to access the network’. And Mr Will Hodgman, the Tasmanian opposition leader, stated in the *Australian* on 8 April, ‘I’m worried about the best interests of Tasmanians and we are supportive of the federal government investment.’ Senator Minchin, I was just pointing out Senator Guy Barnett’s support for the Tasmanian broadband rollout and the support of Will Hodgman, the Tasmanian opposition leader, for the federal government’s investment. I did not want you to miss that, because I know you follow these matters closely.

Senator MINCHIN—I know all about state government—

Senator NASH—Just on—

Senator Conroy—If you provoke me I may have to go for advice.

Senator NASH—No. I have a very genuine question. I just want to know why there is not any legislation required to start the rollout in Tasmania.

Senator MINCHIN—The NBN company does not exist.

Senator Conroy—There is a registered company. I am glad to see you are eagerly awaiting the outcome of the negotiations with the Tasmanian government.

Senator NASH—I am eagerly awaiting the answer to the question.

Senator Conroy—Senator Nash would like you to stop interjecting so we can answer her question.

Senator NASH—Do you want me to ask it again? Why was there no need for legislation to start the rollout as you indicated in Tasmania?

Ms Scott—I might go back to the expert panel process. A number of proponents had proposals that required overbuild protection or regulatory change that was significant in its own right. The Tasmanian proposal was close to unique in that it did not require overbuild protection and substantial regulatory change in order to move ahead.

Senator NASH—You were not going to tread on anyone’s toes by rolling it out down there?

Ms Scott—Basically it could proceed without other things being required.

Senator NASH—Without any hurdles. I am mindful this is Senator Wortley's time and I am happy for you to take this on notice. Could we perhaps have provided for the committee the amount of existing back-haul and the amount of existing services. I know you mentioned penetration. But in 2003 there was \$230 million for 450 kilometres of back-haul. I think that, since then, 2005, there have been another 100 kilometres of underground. I would be interested in knowing how much is already existing and that the government is not going to do before it comes out and claims that it has done the whole thing. Thank you.

CHAIR—Senator Wortley has finished her line of questioning.

Senator MINCHIN—Have you indicated publicly the size of the federal government contribution to this rollout in Tasmania?

Ms Scott—No.

Senator MINCHIN—When will we know that?

Senator Conroy—We are in negotiations with them. I am sure you would not want us to reveal the extent of—

Senator MINCHIN—I hope you get the best deal for the federal taxpayers.

Senator Conroy—Absolutely. That is why we are not going to tell you this.

Senator MINCHIN—Presumably this is essentially the Tasmanian government's proposal to the RFP process?

Ms Scott—No. Obviously I do not want to reveal everything about the negotiations, but the panel suggested that the government consider the Tasmanian proposal because of the factors that Mr Lyons outlined earlier. But we are not starting on the basis that what they initially put in was where we want to finish. There have been intense discussions on what we consider to be a superior proposal in terms of meeting the federal government's objectives for outcomes.

Senator MINCHIN—I would expect you would not be ripped off by the rapacious Tasmanian government and you would seek to get the best deal for the federal taxpayers. I do not suppose you are even going to put a ballpark on what might be the federal government—

Senator Conroy—No, for the very reasons that you are alluding to, though I would not describe my colleagues in any state government as rapacious as you did.

Senator MINCHIN—You would not? Gosh, you have not been around. Can I at least ask the source—

Senator BIRMINGHAM—It looks like Ms Scott might.

CHAIR—Can we get this line of questioning finished?

Senator MINCHIN—I would like to know the source of whatever funding is provided to Tasmania for the enhancement of their broadband services. What is the source of the funding, the figure to be revealed at a later date?

Ms Scott—That is part of the \$4.7 billion.

Senator MINCHIN—So that comes out of that as well?

Ms Scott—Yes.

Senator MINCHIN—So, the \$250 million for the back-haul comes out of that and then whatever you give to Tasmania comes out of that, correct?

Ms Scott—Yes. Basically they are all part of the \$43 billion.

Senator Conroy—Just to be clear, Tasmania is part of the country of Australia and is part of the National Broadband Network.

Senator MINCHIN—I am pleased you recognised that. We certainly recognised that in government. As you may recall, when Senator Harradine was in parliament you used to attack us for putting so much investment into Tasmania.

Senator Conroy—I am just concerned about the implication in that throwaway line.

Senator MINCHIN—You used to attack us for investing in Tasmania.

Ms Scott—I did try to look quickly through the papers again. I just cannot quite find a reference to that. I have asked the CFO and he cannot find it either.

Senator MINCHIN—That is all right.

Ms Scott—It is eluding us.

CHAIR—Senator Fisher, do you have a question on Tasmania?

Senator FISHER—Yes. On the day that the government announced its very good plans for Tasmania, the Prime Minister essentially said that what the government is doing in Tasmania in terms of fibre to the home is not necessarily possible in the rest of the country. Does ‘not necessarily possible’ mean that it is possible in some places for some people?

Senator Conroy—Sorry, could you just clarify your comment?

Senator FISHER—The Tasmanian plan is fibre-to-the-home. Not everybody in the rest of Australia is being promised fibre-to-the-premises.

Senator Conroy—No, we are not suggesting that Tasmania is getting 100 per cent fibre-to-the-home.

Senator FISHER—What did the Prime Minister mean when he said what is being promised to Tasmanians is not necessarily possible in the rest of Australia? And does that mean it is possible in some other places for some other people and, if so, where is the government’s plan to assess who else in Australia, and particularly in rural and regional Australia, can be afforded the same services and the same access as Tasmanians are blessed enough to be getting?

Senator Conroy—I am not familiar with the particular quote, so I am hoping that you can—

Senator FISHER—It was reported in the *Australian*.

Senator Conroy—I am not denying it; I am just saying I hope you have it handy. I am sure you do. Unlike Senator Minchin, you have joined the 21st century over here.

Senator FISHER—The Prime Minister says it is feasible to link up a whole bunch of quite small communities in Tasmania—

Senator Conroy—That is what I thought.

Senator FISHER—but that it would not necessarily be possible elsewhere. Does ‘not necessarily possible’ mean that it could be possible elsewhere?

Senator Conroy—I will go through it piece by piece, if I could. What we have said is that in order to achieve 90 per cent coverage it is expected that the FTTP network will extend to towns with a population of around a thousand or more. However, towns with a population of a thousand figure are not a cut-off. That figure has been stated purely to give an idea about how far the FTTP element of the NBN will extend. It may be that because of the configuration of the trunk part of the network—this goes to the point that you are trying to get some clarification on—it will be simple to connect homes and businesses in towns much smaller than 1,000 people. I note that on 8 April the Premier of Tasmania noted that the state broadband network would reach towns with a population as low as 50 people. The government will shortly commence its implementation study, which will, among other things, work through the detailed network design and rollout schedule for the NBN. It will also investigate the extent of coverage that will be achieved by FTTP, next generation wireless broadband and satellite elements. That implementation study is due for completion in early 2010. What I can assure you is that the town of Whitehaven will not be covered, because that is in the UK.

Senator FISHER—Will the study have a map of who will be covered, where and why?

Senator Conroy—The implementation study is designed to generate the configuration of the network. I think even Nextgen in today’s newspapers indicated that—and I do not have it handy in front of me but I am sure it will be available very shortly—it runs within five kilometres of 350 towns of fewer than a thousand people. The direction of the backbone of the network will determine whether towns of fewer than a thousand receive it or not. The configuration of the network is critical to be able to establish that. I hope that addresses some of your concerns.

Senator FISHER—That means it is possible in some other places in Australia, but where and when will the government be assessing where else it is possible and to whom else it is possible, and when will you be showing that to people?

Senator Conroy—I am not sure that I can be any clearer than explaining to you that the implementation study is considering those matters and that that is the purpose of the implementation study. The implementation study, as I indicated, will be available in early—

Senator FISHER—Will it have maps or just broad guidelines, like towns of a thousand or thereabouts? Minister, will you continue to talk about minimums you can reach rather than maximums we can deliver, hinting that there is more yet not wanting to be held accountable for the more that you seem to be hinting at or promising?

Senator Conroy—Let us be clear—

CHAIR—Senator Fisher, we allowed you to ask a question about Tasmania. We seem to have strayed a little.

Senator Conroy—Thank you. Let me be clear. There is a deliberate misinformation campaign being run to suggest that 10 per cent of Australians will miss out completely on the government's National Broadband Network. Let me be clear because you did miss unfortunately—I am sure you were in another committee—

Senator FISHER—Indeed.

Senator Conroy—I am not suggesting anything other than that. We had a healthy, robust debate and Senator Minchin kept reminding me that in actual fact we were exceeding our election commitment. I am grateful to Senator Minchin for his interjections regularly on that point. We have said that we will reach 100 per cent of Australians with the National Broadband Network; 90 per cent will receive the fibre-to-the-home, and the remaining 10 per cent will receive the next generation satellite or wireless proposals—a number of them are being actively considered—and they will deliver the government's election commitment of 12 megabytes. We are more than confident. We have indicated as part of the package that we were prepared to establish a wireless network for the 10 per cent and we were also prepared to put up, if necessary, two new satellites with next generation technologies. All Australians will benefit from improved broadband due to the National Broadband Network, and the issue of allegations and suggestions that continue to be made by some that some Australians will miss out are just blatantly and deliberately misleading Australians about the government's plan.

Senator FISHER—You did not show us your nodes with NBN round 1, so we look forward to seeing the maps that Senator Minchin has been asking you for with NBN round 2.

Senator Conroy—I am beginning to think you have an unhealthy interest in my nodes.

Senator FISHER—I think it is very healthy actually, and shared by many Australians.

Senator Conroy—Perhaps some of your colleagues think that as well.

Senator FIELDING—Going back to the issue of the company that has been set up, I notice there were also some statements that it would generate 33,000 jobs. I think they were from Access Economics. Roughly how many staff will there be in the NBN company? I am not going to hold you to a figure, but is it hundreds or thousands? Do you expect it to be in the top 100 companies or the top 1,000 companies in Australia? Just give us a ballpark feel.

Senator Conroy—What we have talked about is the ongoing construction phase—I think 27,000 each year over the eight years and peaking at 35,000. It might be 25,000 peaking at 37,000. I sometimes transpose those numbers.

Ms Scott—Thirty-five thousand peaking at 37,000.

Senator Conroy—But that is the construction of the network.

Mr Lyons—I think it is going to be a matter for the company to employ people, to put people on contracts and deliver services. It is going to be a mix of direct employees and contractors and many of those are going to be involved in the construction of the network.

Senator FIELDING—Have any discussions taken place about where the head office may be for such a company?

Senator Conroy—There has been extensive discussion across the country about this. I think Premier Bligh wrote to the Prime Minister within 48 hours of the announcement on it. I

was with Premier Rees just recently at a function where he announced he had formed a task force to cooperate with and assist the government in its preparations to base it in New South Wales. I am aware of Victoria already, within a couple of days, are certainly holding a press conference, as well as being involved in an ongoing campaign to argue the case that Victoria should be the base of the NBN. I am also aware, I think, of interest from the ACT.

Senator FIELDING—Has your department started to consider possible locations for head office?

Senator Conroy—That is ultimately a matter in consultation with the board.

Senator FIELDING—Is there any criterion that you are using at all in that regard?

Senator Conroy—You are probably just jumping ahead of us a little bit at this stage. I think you may have been here earlier when we discussed the establishment of the board or the process to establish the board so you are probably a step ahead of us at this stage.

Senator FIELDING—I notice—probably with a bit of sour grapes—that, even though we had a treasurer based in Victoria, we lost the shipbuilding to South Australia, which was a big disappointment I think to most Victorians.

Senator Conroy—As you know, I live in Williamstown, so I certainly understand the impact that losing that contract will have on my local community. But, yes, we are very conscious of a whole range of factors. As I said, there is a very lively and worthwhile debate taking place.

Senator FIELDING—The reason I am asking is that Victoria, and Melbourne in particular, is very much a hub for a head office for telecommunications. With the Treasurer and the Prime Minister being based in Queensland, I am wondering if there is any move to see it move to Queensland.

Senator Conroy—As I said, Premier Bligh has been campaigning since within 48 if not 24 hours, calling for it to be based in Queensland. I am sure that the decision will be made on the basis of what is the best venue for the NBN to be based in, rather than any parochial considerations, but I am certainly fully aware of the hub that you are referring to.

Senator FIELDING—I do not know what criteria would be used, but there is certainly a very strong hub in Victoria so—

Senator Conroy—I can only agree with your commentary.

Senator FIELDING—When will that decision be made, do you think? Who will it be made by?

Senator Conroy—As I indicated, the board will make that in consultation.

Senator FIELDING—In consultation with whom?

Senator Conroy—It will keep us informed of a whole variety of matters. Mr Tanner and I are the shareholder ministers, but fundamentally it is a position for the board to decide. As I said, you are a couple of steps ahead of us on criteria because we have actually got to establish a board and then move on to the—

Senator FIELDING—I am just thinking ahead. I would not like to see it overlooked in Victoria.

Senator Conroy—I would not want to prejudice my position but I am very familiar with your arguments.

Senator FIELDING—When is that decision likely to be made? Assuming that you have got a time frame, you have selection for finding a CEO. This has been planned quite well—

Senator Conroy—We have got to find a CEO and all of these are very good questions which we are turning our minds to at the moment and we are working through them as fast as probity, as far as free trade agreement requirements, particularly on selection processes and that sort of thing, are able to be met. We are working to speedily resolve these issues but I would not mean ‘speedily’ as in next week.

Senator FIELDING—Roughly what do you think?

Senator Conroy—A month or two. For all of those decisions you are talking about, a month or two. Possibly the final decision on the home base might be a little bit longer, but there may be a range of factors that the board members will want to consider before they decide that. I am sure that there other considerations that might be higher on their list than that. Certainly I would understand if it is high on your list. I am certainly maintaining a very keen interest in it.

Senator FIELDING—It is very high on my list.

Senator NASH—My apologies that I was not here this afternoon. If I do ask anything that has been asked please just say so. There is a long way to go before we actually end up with a configuration that this NBN is going to operate in—I appreciate that. But, regardless of the configuration that the NBN ends up in, will you commit to starting the rollout in regional Australia first?

Senator Conroy—Most of us—and I believe even your previous government—probably define Tasmania as a region.

Senator NASH—I shall rephrase the question! Very well said.

Senator Conroy—I am not sure if you have just cut Tasmania off the map—

Senator NASH—No, not at all. I was considering matters having already been done given you have already committed to that being done. I shall preface my question with: when you come to the mainland after you leave the good state of Tasmania will you commit to starting the rollout in regional Australia first?

Senator Conroy—We have already indicated that we are going to spend \$250 million of backbone infrastructure in regional Australia—

Senator NASH—No, I understand that.

Senator Conroy—As I said, I am not trying to be cute with my answer; I am just working my way through the different measures. We are going to be having those discussions with the board, but ultimately it will be based on the board’s decision. The point that many miss in this debate is that you can start in many different places at the same time. It is not a function of having to start in one place like a piece of road if you are building Pacific Highway No. 1.

You do not start in one spot. Nowadays you do not even do this. You do not just keep going around the country adding on to the end. You are actually able to start the broadband rollout all over the country at the same time, regional as well as rural as well as metropolitan.

Senator NASH—That is a very big ask, though, to simply go plonk, ‘We are going to start everywhere at once.’ I understand what you are saying—

Senator Conroy—I do not mean literally everywhere all at once, and I know that is not what you are trying to say.

Senator NASH—I understand what you are saying. What I am getting at is: when we are talking about getting those 12 megabits out to those regional areas, at no stage will a non-regional area requiring 12 megabits have precedence over it rolling out in the 12 megabit regional areas. What I am saying is: when you said everything can perhaps start at the same time—though I doubt that very much—the priority for regional Australia is obviously quite huge given that they are predominantly in the underserved areas.

Senator Conroy—Absolutely.

Senator NASH—So—while I accept you saying some of it can start—similarly, will not starting in some of the more urban areas preclude further rolling out in the regional areas?

Senator Conroy—As I said, some of this comes down ultimately to decisions made by the company, so I cannot absolutely speak on the company’s behalf. Obviously the government is a shareholder, so we are very conscious of wanting to ensure that there is an equitable approach to this. If you are saying that you should only start in regional and rural areas, I would probably say to you that, while regional and rural Australia have clearly been left behind—and there is a genuine digital divide, which I know that you have talked about in the past—there are many areas in metropolitan Australia that are equally as starved of broadband as regional Australia.

I did see some commentary at a recent speech where Senator Minchin again incorrectly alleged that 80 per cent of Australia can get, I think, 12 meg—the exact quote will come to me shortly—but any suggestion that 80 per cent of Australians have access to fast broadband at the moment is just laughable. I think in Telstra’s own words, they recently confessed publicly that it is something like only 33 per cent of Australians. There is a confusion I think in Senator Minchin’s mind between a footprint and actual delivery because, as you know well, there is a whole range of Australians who have been disadvantaged not just because of their geography and distance but because there has been technology put in place which is essentially broadband inhibiting.

That quote of Senator Minchin’s just last week at the ATUG conference where he said 80 per cent of Australians already have access to 24 meg—I was being far too generous to Senator Minchin—is just not true and I am sure you would agree. It is only an overstatement by around 250 per cent. It just shows some understanding of the nature of fixed-line telecommunications networks and the factors that work to limit the availability of ADSL and ADSL2+ services across Australia, including line distance, which is very relevant, degraded copper, pair gains and rims. A number of those are directly relevant to regional and rural Australia. Telstra’s Kate McKenzie indicated last year that around 33 per cent of people

currently have access to speeds of 12 megs or more. In other words, 66 per cent of people do not.

Senator NASH—Even I can do that maths.

Senator Conroy—I just thought I had better help Senator Minchin—

Senator NASH—You are not quite right. You are absolutely right.

Senator Conroy—given that he made a claim of 80 per cent.

Senator NASH—Does that add up to 100? I am not sure it does.

Senator Conroy—In an interview with Alan Kohler on 16 July, Kate McKenzie of Telstra Wholesale stated, pre our announcement:

I guess one of the important motivators for the building of the FTTN (fibre-to-the-node) network is that at that at the moment only about 20 per cent of customers can actually get 20 megabytes of speed.

Only 20 per cent!

The other two thirds in metropolitan regions can't even get 12 megabytes and more than 50 per cent of people in the country can't get 12 megabytes.

Senator NASH—That is true, but can I just say that is coming from Telstra and they have been a monopoly provider in a lot of areas—

Senator Conroy—Just very quickly, an Access Economics report commissioned by Telstra on the economic impact of high-speed broadband found that 38 per cent of the population have access to speeds of 12 meg, so even an independent body hired by them confirmed roughly that Australians are absolutely being left behind in the digital world.

Senator NASH—I do not disagree—

Senator Conroy—When you suggest that those with the greatest need are in regional and rural areas, what I would say to you is, if you travel around Australia, tragically this is not just a regional and rural problem. There are an overwhelming majority of Australians who are not able to get access. We want to be equitable about this. Certainly we would be interested in your perspective on this and we are more than willing to consider a whole range of issues in the implementation study when it comes to this matter.

Senator NASH—That is very good to hear. Perhaps the department could provide for the committee those areas of black spots that I know do exist, as the minister has just pointed out, particularly in the outer metropolitan areas; what access they have, if any; and up to what speed. I could then get a very clear picture, comparative to regional areas, how many underserved areas exist in metro and outer-metro areas. You were talking about satellite and wireless for that last 10 per cent. Correct me if I am wrong but I think you even indicated that you were considering an extra couple of satellites if those were needed to do that job.

Senator Conroy—Yes.

Senator NASH—Given the nature of wireless and satellite, given that they appear to be what is going to be predominantly used for those areas—if this does indeed go ahead—and given the speed at which they can be implemented as compared to fibre to the premises, would you not be able to commit to regional Australia coming first?

Senator Conroy—I think that is a very worthy matter you raise and it should be given very serious consideration.

CHAIR—We will adjourn for the dinner break and Senator Nash can continue when we reconvene.

Proceedings suspended from 5.59 pm to 7.05 pm

CHAIR—We will resume proceedings. Senator Minchin, I understand you have a point of clarification.

Senator MINCHIN—I just wanted to clarify with Ms Scott that the \$1.1 million to which I referred is moneys being appropriated to the department of finance in 2008-09 and 2009-10 to assist in the implementation and establishment of the NBN company. Even for Finance, it does seem a bit rich, but we can pursue that with Finance as to why they would need \$1.1 million for this company.

Ms Scott—You also spoke about it, but I could not find it in our press release.

CHAIR—Senator Nash.

Senator NASH—Before I resume my questions that I was asking, we do not understand where the issue of the proposed broadband network being able to deliver exhibition quality digital content to remote rural and regional cinemas and exhibition venues fits.

Senator Conroy—That could be an arts program. I am just guessing. I am familiar with an initiative that had digitised some cinemas. I am not sure that it is funded in my department. I am guessing that it could be an arts issue.

Senator NASH—It may well be. It was just that I was specifically asked in context, ‘Will the new NBN be able to deliver the same platform to these cinemas?’

Senator Conroy—It is planned to go to homes and premises. We could take that on notice.

Senator NASH—That would be great. There are some questions around compatibility and whether or not the systems that they currently have in place, which are obviously carried on the network in a particular way, will be compliant with the proposed new network. I will get you to take those on notice and I will actually give you some more detailed questions on notice that might assist.

Senator Conroy—Thank you.

Senator NASH—Just back to the issue of the NBN, recently at the ATUG conference Mr Samuel was talking about competition and saying that, in his view, the NBN was an ideal opportunity to readdress competition policy in the telecommunications industry. Minister, what is your understanding of what he meant by that?

Senator Conroy—I would probably have to read his entire speech. I am sure you may wish to ask him what he meant by that. I should not put words in his mouth, and I have tried to avoid doing that. He will be at Senate estimates not this week but the following week or the week after.

Senator NASH—I hope we are not here for a month.

Senator Conroy—I have made the point on a number of occasions that I believe that this decision not only has its value in the ability to transform the economy in a direct sense, but that it is addressing a policy failing over the past two governments, which was the decision not to deal with this structural issue. I suspect he could be leading to that, but I would not want to put words in his mouth. I have made that comment publicly on a number of occasions.

Senator NASH—With this network you are obviously confident that those competition issues are going to be addressed?

Senator Conroy—Very confident. We will legislate to create a wholesale-only open access network and we believe that will address those structural issues that the previous government failed to address and the previous government before that helped create.

Senator NASH—If this has already been covered, please just tell me and I will stop talking. Does that mean that if there was not a change in the current arrangements, in terms of the infrastructure, you are quite prepared to overbuild? I will put it another way: you will be prepared to have a second infrastructure network in place?

Senator Conroy—That is exactly what we are doing with this back-haul black spots program. We are building where there is only one pipe to these centres. That is exactly what we are doing. We are offering the opportunity for any incumbent telco, whether it be Telstra, Optus, NextGen or any of the other companies that have their own fibre networks to vend their asset in, but they will not own and control the company.

Senator NASH—If I am straying to areas that you cannot talk about, I understand, but in the event of one of those companies perhaps owning 49 per cent, if you eventually sell down, as you say is possible from five years time, are you then creating a scenario where perhaps an owner of the infrastructure will potentially own nearly half of it immediately and we will be right back where we started with the monopoly?

Senator Conroy—I note that you are possibly referring to an article that appeared in the papers a little while ago, which unfortunately was wrong in a couple of aspects.

Senator NASH—I actually was not referring to an article. I am just talking about the general principle of any carrier. I am not even being specific about carriers.

Senator Conroy—Let me reassure you that we will not re-create the old problem. If we have our network competing with any of the incumbent networks, by definition, there is still competition. If one company, let us call it XYZ Proprietary Limited, decide they want to vend in their assets, the maximum stake that we have indicated that a collective of companies can take is 49 per cent. If the company was a vertically integrated supplier there would be a cap on the amount of shares that they would be entitled to if they vended their assets in. There have been figures quoted, though there is no final decision and the implementation study is examining these very issues. Let us say the sort of figure that is being kicked around is 15 to 20 per cent. If XYZ company was a vertically integrated monopoly or former monopoly and it wanted to vend in, in its current structure, then it would be allowed 15 to 20 per cent. If, in the future, any company changed its structure then it is possible that we could consider a changed set of circumstances—possible. All of this is subject to ongoing discussion and an

implementation study. What would not be allowed to happen in the future is that a retail arm would be allowed to buy into the company when we sold the other 51 per cent.

Senator NASH—How do you stop that happening?

Senator Conroy—It is a legislated wholesale only.

Senator NASH—That is my point. You can have legislation changing—

Senator Conroy—I appreciate that is always a danger. All we can do is say, ‘If you re-elect a Labor government and the National Party have the balance of power then that cannot change.’

Senator NASH—That is a little presumptive.

Senator Conroy—We intend to legislate it quite seriously. If a future parliament chooses to change that, then, as has been said, if you do not learn from your past mistakes then you will do them over and over again. Certainly, from our perspective, this is absolutely specifically going to be designed to not re-create former mistakes. We do not want to revisit what we believe has been a policy failure, and we believe the market bears that out at the moment.

Senator NASH—In terms of the general shareholding, how the company is going to run and obviously the creation of the infrastructure, which will then need ongoing maintenance and indeed ongoing upgrading, will it be like a highway where over the years you will have to upgrade?

Senator Conroy—Absolutely.

Senator NASH—At that point when you potentially, hypothetically, will need some sort of upgrade or there are new applications which are going to be required, how do you then marry up the competing interests of what will then be the shareholding component with the need to actually improve the infrastructure, which has been an issue in the past with telecommunications?

Senator Conroy—As it is a wholesale-only network it will not be driven by the sorts of things that have stymied serious development in this country under the existing regime. The regulatory structure has actually worked against the upgrade. Let us be clear about this. We have not got decent broadband in this country, because of a failing of the existing regulatory structure. That is why we believe we need to fundamentally reform the regulatory structure, which is part of the paper that accompanied the NBN proposal. We believe that we need to fundamentally change the regulatory structure. We believe that the proposal that we are putting forward, in terms of vending assets in, can potentially create that structural change in the marketplace, and we intend to legislate as strongly as we can. We welcome any suggestions about how we can ensure that it stays in the current structure.

The failure to address the structure of the existing market is what has driven us to the paucity of broadband that we have. It is because we have had this constant problem where the wholesale arm has been dictated to by the retail arm, so it has not been an incentive of the wholesale arm. In fact, if you look at the current structure, the wholesale division of the incumbent has been gutted over the last few years. It will be in the wholesale arm’s own interests to continue to expand and upgrade. That separation means they are operating in a

commercially sensible manner, so they will have no conflicting board on top of them and no conflicting retail arm saying, 'No, we don't want you to wholesale. We don't want you to provide innovation. We don't want you to do these things. We're going to squeeze every last cent out of the existing copper.'

Senator NASH—You are not saying that has happened, are you?

Senator LUNDY—I have some questions on this issue as well.

Senator NASH—You can hop in and then I have just got a couple more on different issues.

Senator MINCHIN—Mine are on the same issue.

Senator NASH—I said, 'Please do.'

Senator MINCHIN—Senator Nash quite rightly identifies this issue which bedevils all infrastructure and incentive to invest in upgrading and maintaining the quality of the network. That is largely a function of the regulated return on the asset. I do not want to get into it, but one of the arguments in relation to Telstra is that there is insufficient incentive to invest in the infrastructure because of the regulated return. Presumably, you will have a regulated rate of return on this and the trick will be to ensure that it is sufficient to give this company the incentive to continue to invest in its network.

Senator Conroy—Absolutely. This company has to make a commercial rate of return for its shareholders. In all infrastructure sectors there is always a robust debate between the regulator and the regulated entity, whether it is electricity, gas or water. Despite the many long and loud public pronouncements, we have managed to see upgrading and ongoing improvements in those sectors. The twin effect of that debate, combined with the current structure, has pushed it in the wrong direction and we have not seen those upgrades turn up at all. After many years of arguing backwards and forwards with claim and counterclaim, we have actually seen no serious progress.

I think it is that change in the market structure that will bring us into alignment with the other utility style arguments, which ultimately get resolved, as opposed to this structure which has not been resolved until this government has decided to take the steps that it has taken. The regulated rate of return argument is a legitimate argument. It will always be the case between a regulated entity and the regulator, but what has gone wrong in the current structure is that there has been an added incentive to actually not want to upgrade, even if you could get a reasonable rate. I think economic texts would probably lean in to make that argument to us. There is a double whammy effect, if you like. You will always get that argument between a regulator and the regulated entity.

Senator NASH—I have a couple of quick questions.

CHAIR—On the same issue?

Senator NASH—No, on a different issue.

CHAIR—Senator Lundy has questions on the regulatory thing as well.

Senator LUNDY—Do you need to go to another committee?

Senator NASH—Yes, I do. I have two really quick ones.

Senator LUNDY—Sure.

Senator NASH—One is around the issue of wireless and the rollout for that last 10 per cent. What work or what modelling has been done to ensure that the spectrum will be there to support it?

Senator Conroy—You correctly identified the major flaw in previous government policy. It is not for me to say how. I think the sector has learnt from that mistake. I think that there is a lot more thought being put in within the actual sector about how to approach the government on this issue. If you were to go and talk with a variety of wireless producers you would find that they are taking a different approach than they perhaps did previously. Ultimately, if I was in Austar's position I would be pretty happy at the moment.

Senator NASH—Purely from the delivery point of view—not necessarily the carriers and what they are going to do—in whatever form and however it is going to be rolled out, is there enough spectrum there that is going to be able to support the amount of wireless capacity that you are talking about rolling out?

Senator Conroy—I believe that a number of attractive proposals will be put to government. I think there is some information in the regulatory paper that might be relevant here as well.

Ms Scott—On page 26 of the regulatory paper, the blue book, there is a section on spectrum allocation. It states that over the coming years the government is going to be considering the allocation of spectrum, and it goes on to comment about the need for spectrum to be available for the purposes of next generation and the long-term evolution phase.

Senator NASH—Is it in 2013 that you have to make a determination about reissuing the spectrum?

Senator Conroy—In terms of the digital switchover, 2013 is when the final metro areas are switched over.

Senator NASH—No. I am probably not using the right terminology here.

Senator Conroy—On individual existing telco spectrum?

Senator NASH—On the existing telco—

Senator Conroy—There is a range of them. They start in 2013 and go through to 2015, but I think both lots are coming to the table.

Senator NASH—I am very happy for them to take that on notice.

Senator Conroy—They could very quickly tell you the answer to that question.

Mr Thomas—There is a series of licences due between 2013 and 2017. They include the major 2G and 3G licences for Telstra, Optus and Vodafone. They are all coming up for renewal. The department has recently issued a discussion paper seeking views on how the renewal or reissue process might occur. The government will be considering the responses to that discussion paper and will then provide some advice to the minister later in the year.

Senator NASH—How do you determine the criteria of public good, in terms of the minister making a determination?

Mr Thomas—That is a very important question. As you are probably aware, the legislation allows for renewal of licences either by ACMA or by the minister in the public interest. There is very little indication in the legislation as to how that public interest might be structured. We have gone out with a discussion paper raising five potential public interest criteria and we will be seeking comments on each of those five criteria. The criteria go to issues such as competition, disruption to consumers, highest value use for the spectrum, and one of the other criteria is an appropriate rate of return to the community for the actual spectrum itself.

Ms Scott—On page 27 of this report there is a question to the public and stakeholders:

- Given the changes to the telecommunications industry resulting from the roll-out of the National Broadband Network, are competition restrictions necessary to limit access to valuable spectrum?

The issue that you are effectively canvassing of how to ensure the public good gets protected, when clearly the government is also interested in maximising productivity and value from spectrum use and sometimes protecting the industry, and how you can match all those roles, is canvassed in the paper and we are expecting people to reply to that by 3 June.

Senator NASH—I have one last question, which I am happy for you to take on notice. Mrs Smith, in her house, has 100 megabits under the new system and Mrs Jones in her house has 12. What are the differences in what they are going to get? What will they get? What will they not get? What can they do? What can they not do? What are the limitations?

Senator Conroy—As I am sure you are aware, our election commitment was to deliver 12 meg to 98 per cent of Australians. We are now going to be able to meet that for 100 per cent of Australians. I am not sure if you were here, Senator Nash, when I was talking with Senator Fisher. The Tasmanian Premier indicated that because of the configuration of the network he believed we would be able to reach communities of down to as low as 50 people. Tasmania is a smaller state, obviously. The configuration of the network is critical. In terms of fibre-to-the-home, one of the key issues is the distance from a splitter.

Senator NASH—You are probably giving me far too much information.

Senator Conroy—This is important so you understand the thinking of the government.

Senator NASH—It is going to take more than a few minutes.

Senator Conroy—It will not, I promise. Most splitters that are on the market can transmit 20 kilometres, so you do it to a point, put a splitter down and it can go to 32 or 64 homes. At the moment you can be 20 kilometres from that splitter. The latest generation of splitters, which will be available later this year, reach 60 kilometres from the splitter to a home. I think that will transform a lot of the debate.

Senator NASH—Absolutely, and I understand. Living in a regional area, I know there are simply places where you cannot get fibre-to-the-premise.

Senator Conroy—I appreciate you never actually suggested otherwise.

Senator NASH—I have never suggested otherwise. I am just simply trying to get an understanding. People are asking me what is the difference if they have got 100 or if they have got 12. It is just a very simple list that could be provided for the committee.

Senator Conroy—We have targeted the minimum sort of capacity that we believe needs to be delivered for high-definition video conferencing. That is the base application that we want. We believe that is what is going to be an overwhelming part of the net in the future.

Senator MINCHIN—Which Mrs Smith will be using a lot, I am sure!

Senator Conroy—I have a bit of faith in Mrs Smith.

Senator NASH—I have a bit of faith in Mrs Smith, too.

Senator Conroy—She will want to do more than download movies. Senator Nash, I am sure you would agree. We are designing the system to try to ensure that future applications can work. You are asking us to predict the future, in terms of the question about what the individual applications are, which I am not sure that the department or I will actually be able to do.

Senator NASH—No, I am not asking that at all.

Senator Conroy—We believe the sort of medical and educational applications that are available at the moment will be able to be delivered over this network. It is important that you also understand—and Mary-Jo was having a bit of fun with me earlier talking about only preaching about the minimums—that one of the requirements from our perspective is an upgrade pathway. This is not a permanent outcome. I was somewhat critical of the OPEL project on the basis that it was an old technology that had no upgrade pathway. It also had no spectrum, which we all understand. It was an old technology where you could not use this laptop. It was D-standard; this is E-standard and there is a new M-standard coming. What I am saying to wireless operators and to satellite operators is, ‘Show me your future upgrade paths because it isn’t good enough.’ Ultimately, long-term down the track, despite Senator Minchin’s scepticism, it will leave people on 12 megs. We are building in upgrade paths. These can be done now. This is where the next generation satellites will absolutely be able to do this, but even existing satellites can do this. You can upgrade the software in the box via a download. You can buy the box to receive your satellite transmission at the moment and you can download software that actually transforms the capacity of the box.

We are talking to satellite and wireless producers about that upgrade pathway. Ultimately, 12 megs will not be enough. I have never, ever tried to suggest it would be. We have always said this is the minimum. The sort of upgrade pathways that satellite are talking about are 30 megs and the upgrade pathway for some of the wireless technologies are 50 and 70, long-term evolution, or 4G. WiMAX has adopted the title 4G. Even though you think 3G actually goes into 4G, that is not the case. It is 3G to LTE, E1 AXE becoming 4G, M1 AXE. Those upgrade pathways are critical because no-one should be left on 12 megs long-term. I hope that gives you an idea of the thinking behind the government’s strategy.

Senator NASH—It does. Ms Scott, I do hope I will still get my list.

Senator LUNDY—I just want to go back to some of the fundamentals about the regulatory structure and ask what it was that led the government to deciding that the NBN needed to be a wholesale-only network.

Senator Conroy—As I mentioned earlier, the roll-out of the NBN is a wholesale-only access network that we believe will fundamentally transform the competitive dynamics of

Australia's telco sector. However, during the roll-out, the existing regulatory regime will remain important for delivering services in the interests of sustaining consumers and businesses.

Senator LUNDY—That was one of my other questions. I know with the regulatory paper you have out there that you are not waiting for the NBN to do that.

Senator Conroy—That is right. Last year we publicly consulted industry and key stakeholders on the effectiveness of the existing regulatory regime. We got 82 submissions in response. Every single one of them was unhappy with the existing regime, but they overwhelmingly argued that the current regime does not work effectively to achieve its goals. That is why a core element of our historic NBN announcement involves reform of the existing regime to make it work more effectively.

Senator LUNDY—With the existing operational separation regime what is the view about its capacity for promoting the delivery equivalence?

Senator Conroy—Nobody believes that the existing regime works satisfactorily—that is the total regulatory regime. In terms of operational separation—as you know Senator Lundy; I think you sat with me when we voted against the existing operational separation regime—it is a monumental waste of money for both Telstra as well as the broader community. We have said consistently that we would need a tougher regime if we did not get a satisfactory result out of our RFP process. While we have moved to a satisfactory result, in terms of government policy, the RFP ultimately resolved nothing. That is why we believe we need both the NBN proposal by the government and to change the existing regulatory structure.

Senator LUNDY—Remind me of when was the last time parts 11B and 11C of the Trade Practices Act were actually reformed?

Senator Conroy—Mr Lyons will be able to answer that.

Mr Lyons—There have been no fundamental changes. It was introduced in 1997. There was a review of part 11B and part 11C undertaken by the Productivity Commission, which reported in 2001. As a result of that, under the previous government there was some streamlining of the processes under the access regime in 2001 and there have been changes to accounting separation and operational separation arrangements in 2002 and 2005. The last big review was by the Productivity Commission. The substance of the current regime has been in place since 1997. There have been refinements. The regulatory discussion paper that has been released has probably floated much more significant options for reform.

Senator LUNDY—It has essentially been 11 years since it has been put in place, with no major change.

Mr Lyons—I think that would be correct.

Senator LUNDY—Minister, are you aware of the ACCC's views in relation to the proposed regulatory structure on the NBN?

Senator Conroy—We had a little bit of a discussion about that. I know Senator Minchin is particularly keen to hear the ACCC's views. On the proposed structure of the NBN as a wholesale only network, Mr Samuel emphasised the important opportunities that the

announcement provided to address longstanding structural issues in the sector. He said at the recent ATUG conference:

Structural separation will mean the NBN operator has a clear incentive to treat access seekers on an equivalent basis. Therefore, the government's announcement provides an opportunity to deal head-on with the difficulties arising from the vertical integration of the incumbent.

On the existing regime, Mr Samuel has made it very clear that arrangements that are put in place in the transition to the NBN will be fundamental to enhancing competition in the Australian telco industry in the short to medium term. The ACCC has noted that since 1997 it has been notified of a total of 157 telco access disputes. This is in stark contrast to the three access disputes that have been notified to the ACCC across all other sectors of the economy.

Senator LUNDY—I will ask the next obvious question. What is your understanding of the views of the coalition in relation to vertical integration?

Senator Conroy—Interestingly, the previous government privatised Telstra without ever effectively resolving the inherent conflict of the network owner also competing against customers in downstream retail markets. They were very big at talking about the conflict between the government regulating and owning, but they completely ignored this inherent conflict. To be fair, the opposition did appear to have a brief epiphany on the issue last year when previous Shadow Minister Billson was quoted in CommsDay calling for the NBN to be structurally separated so that it could not remonopolise the telco industry. Of course, this position was shut down when Senator Minchin took over the shadow portfolio. Senator Minchin appears to be one of the few people left in the debate who oppose a wholesale-only network to drive genuine competitive pressure in the Australian telco sector. It is very disappointing.

Senator LUNDY—So I hear. Thank you for that explanation. I think it helps put this whole debate in the appropriate political context.

Senator MINCHIN—I just wanted to touch on the commercial issues surrounding the NBN company. I presume it will be required to operate commercially.

Ms Scott—That is correct.

Senator MINCHIN—Can you tell me whether the department has collected evidence as to whether this government owned NBN company will be able to operate commercially?

Ms Scott—We have done some preliminary analysis on that issue. The implementation study will look at all of those issues. As you know, we have already gone out for the lead adviser for the implementation study.

Senator MINCHIN—I have in front of me the issues to be examined by the implementation study. Perhaps you could point it out to me, but I cannot see any of these dot points on page 43. I am sorry, I am using the Select Committee on the National Broadband Network as my source. It refers to the issues to be examined in the implementation study and then lists them. I am using this for convenience. It does not list anywhere, on the basis of the document in front of me, the issue of commercial viability. I stand to be corrected. There is mention of the legislation, the regulatory regime, ownership restrictions, funding

requirements, developments to maximise private ownership, and capital structure. Which one of those would be the head that would go to the commercial viability of the company?

Ms Scott—It does refer to government objectives. The government has made it clear that it is required to be commercial. Also, in clause 34.3 it states ‘development of strategies to maximise the scope for private sector investment in the network company’. We anticipate that, in order to attract private investment, it would need to be commercial.

Senator MINCHIN—You think it is implicit in that, do you?

Senator Conroy—All of those go implicitly to it. Also, in the next clause, it states that the list outlined in clause 36.3 is not exhaustive, but indicative. Is it 36.3? Is that a typo? I am assuming that is a typo.

Ms Scott—It is 34.3.

Senator Conroy—Yes, that should be 34.3; that it is not exhaustive, but indicative of the breadth. I think there is a typo there that may have added to your confusion.

Ms Scott—I will just see if I can find you another part of the paper. There is a section that refers to the government’s statements in the public domain. Certainly the government has been clear from the outset about its desire for the project to be commercial and for the project ultimately to be privatised.

Senator MINCHIN—I will believe that when I see it. You are satisfied that at least implicitly in the elements of the implementation study is the issue of commercial viability?

Ms Scott—Yes.

Senator MINCHIN—Does that mean the implementation study will be the one that, rather than the department itself, will do work on what prices to consumers will be required to ensure this is viable?

Ms Scott—That is correct.

Senator MINCHIN—I am not going to the prices, but someone has to examine whether it is going to be viable.

Senator Conroy—We will try to go back a step. Unfortunately you made the same error that Mr Turnbull made. This is a wholesale company. It does not go to retail consumers. It prices for the ISPs. They are its customers and not retail consumers. The wholesale price will ultimately impact on the retail price.

Senator MINCHIN—Of course.

Senator Conroy—But it is not designing prices for retail customers. It designs its pricing structure for wholesale ISPs. This is something that I do not think I have heard you say before, which is why I am wanting to make sure that I correct you early. Mr Turnbull has been talking about it, as has a whole range of analysts. It is just frankly incoherent.

Senator MINCHIN—It is not incoherent.

Senator Conroy—It is incoherent to say that the NBN will be setting retail prices. It will not be. It will have an influence through a wholesale pricing structure.

Senator MINCHIN—The retail price will be a function of the wholesale price it charges.

Senator Conroy—Yes. The ultimate price to consumers will be a function of the competitive dynamics that are created by having a wholesale-only open access network. The competitive pressures that will exist in the future by definition are greater than happen today.

Senator MINCHIN—That depends on whether the retailers want to migrate their customers on to it. That will depend on the wholesale price. Will this implementation study be doing the work on the sort of wholesale pricing that will be required to ensure a commercial return and that you satisfy the government's objectives for commerciality?

Senator Conroy—Yes.

Ms Scott—Yes.

Senator Conroy—Not a retail price.

Senator MINCHIN—Is it a premise of this exercise that the wholesale fixed line prices will be uniform across the network, cities and country?

Senator Conroy—There will be equivalent offerings. As to how a retailer then chooses to take the offering, the point I am trying to make is that there could be differing retail prices.

Senator MINCHIN—Based on that wholesale pricing.

Senator Conroy—Yes.

Senator MINCHIN—It was one of your stipulations for your—

Senator Conroy—The intention, as with ATM bank fees and Australia Post stamps, is that there be a uniform wholesale price. There will be the usual commercial volume discounts. All of those sorts of issues will come into play. Certainly the government will be seeking to ensure that Australians who live in regional and rural Australia receive a fair and equivalent price. Those matters are matters for the implementation study, with a view to the government's perspective.

Senator MINCHIN—It is open for the government to stipulate that the basis of operation of this will be a wholesale price that is uniform across anywhere. I accept that there will be differences in retail.

Senator Conroy—Banks manage to operate a uniform price for ATMs across the country despite their geographic location. It costs the same to use the network.

Senator MINCHIN—I am asking you: is that the mandate that the company will have, and will the implementation study be based on uniform wholesale prices across the network—city and country?

Senator Conroy—That is certainly the government's view.

Senator MINCHIN—Certainly the government's view?

Senator Conroy—Yes.

Senator BIRMINGHAM—But is that a commitment?

Senator MINCHIN—That sound a little vague.

Senator Conroy—No, there is nothing vague about it. The NBN FTTN had that as an objective and we believe that we are being consistent with that.

Senator MINCHIN—We take it that that is the mandate of the company. That is fine. Thank you. Can you guarantee that the wholesale fixed line prices will be no higher than they currently are?

Senator Conroy—That is why we are having an implementation study. International as well as domestic evidence shows that it is possible. Currently Internode offers 100 meg at \$100 for fibre-to-the-home here in Australia today. You may say that the Singapore market compared with ours is different, but that is not the relevant comparison. It is the Singapore fibre-to-the-home versus the Singaporean existing network that you make a comparison on. There is a \$15 reduction in wholesale prices based on the new network against the old network. If you look around the world you will find the offerings that are being made in France and the US are all very competitive under the new fibre-to-the-home proposals that exist. As you have twigged to—and I am sure you may help inform some of the debate in future—there are calculations that say you need five million customers to service \$43 billion; therefore, you need \$215 at a 15 per cent rate of return, plus a series of other dodgy assumptions. Can I say I am pleased that you have terminated Mr Ergas from doing your tax review. That is such a sensible decision.

Senator MINCHIN—I am not sure that is correct. But I would not use this to cast slurs upon one of Australia's most eminent economists over your differences of opinion.

Senator Conroy—Mr Hockey has indicated that the project is not going ahead that he was hired for. I am just congratulating you on that wise decision.

Senator MINCHIN—I would cast aspersions upon Mr Ergas in that way.

Senator Conroy—Mr Ergas made a string of completely questionable assumptions. He assumed a 15 per cent rate of return. Neither Telstra nor the G9 proposal was shooting in that ballpark. He then made an assumption about the—

Senator MINCHIN—I do not want to spend all night talking about what various people say will be the retail price. I asked you about—

Senator Conroy—No. These things need to be made clear. I know you are interested in making sure that information is accurately represented. He then made an assumption about a 20-year lifespan. Telstra has a 30- and sometimes a 35-year lifespan calculation based into its assumptions. Why Mr Ergas, who is very familiar with Telstra's network architecture and assumptions, wanted to make such conservative assumptions I can only invite you to ask him. The sort of retail price that he came up with was based on a string of very incorrect assumptions.

Senator MINCHIN—He is not the only one who thinks that inevitably broadband pricing must increase. That is what intrigues me.

Senator Conroy—Practically around the world that has not been the case. Mr Ergas was able to construct a fiction that got him there.

Senator MINCHIN—How is it possible that you could spend \$43 billion and have to get a commercial rate of return on it and not expect price increases?

Senator Conroy—I think the problem with your line of questions is that it is ignoring the evidence that you received earlier about the \$43 billion figure.

Senator MINCHIN—No. You are still investing \$43 billion by the time this thing is fully operational and you need to get a return on it.

Senator Conroy—That is not the case. You can make that assertion, but you know it not to be the case.

Senator MINCHIN—No, I do not.

Senator Conroy—We have also indicated and we believe that there is genuine private sector interest in investing in this company. I am not talking about merchant banks.

Senator BIRMINGHAM—They will all want a commercial rate of return.

Senator MINCHIN—That is irrelevant to the rate of return the company has to earn.

Senator Conroy—Those numbers are based on the total build cost of \$43 billion. What I am saying is total build is not necessarily—and we do not believe it will be—\$43 billion. We believe there is genuine interest. It is a rate of return based on a \$43 billion figure that does not exist.

Senator MINCHIN—Even if people vend in assets, they would need a return on those assets.

Senator Conroy—They will get a return on those assets. This is a calculation based on a dollar figure of \$43 billion.

Senator MINCHIN—So, you do not think the wholesale prices will be higher or lower, but we will find out as a result of the implementation study?

Senator Conroy—International experience and experience in Australia is that they will be lower.

Senator MINCHIN—You have absolutely no evidence for that whatsoever.

Senator Conroy—I can quote to you from Matt Healy of Macquarie Telecom, who has made it clear that he believes prices will be lower.

Senator MINCHIN—At least half a dozen people think prices will be a lot higher and unaffordable.

Senator Conroy—I can quote to you from Optus spokespeople who believe that competition will drive prices down lower than they currently are. I prefer to believe the practitioners in the market who know something about it.

Senator MINCHIN—Of course you do, including AAPT, who think it is going to be \$200 a month as well?

Senator Conroy—It was not based on any calculations. Mr Broad just made up a number in the first 24 hours. It could not have been based on anything other than the \$43 billion figure.

Senator MINCHIN—That is good slurring. Mr Ergas, Mr Broad—are there any more you would like to have a go at, or is that enough for now?

Senator Conroy—I am happy to keep going.

Senator MINCHIN—Is it assumed that the company will be profitable immediately or is it going to be assumed that it will be making losses in the first few years of its operation?

Senator Conroy—I missed that question. Can you repeat it?

Senator MINCHIN—As to your investment in and establishment of this company, have you got to the point of knowing whether you are assuming it will be profitable from the outset or are you building into all your assumptions that at least in the first few years—

Senator Conroy—That will be a matter that will be considered by the implementation study.

Senator MINCHIN—I do not see that there, but I take your word for it. You talked about vending in, shareholders and construction. You have referred very favourably to your panel tonight. I would be interested in your reaction to a statement by one of your panel members, Professor Coutts, who stated:

I think you have to say that it's the hypothetical fool's experiment to imagine that this—

that is, the NBN—

is going to happen without Telstra somehow being involved.

Telstra is part of the Australian infrastructure... and they have to be part of the solution.

Is that a statement with which you would agree?

Senator Conroy—It is certainly a statement you have advocated already tonight, notwithstanding that you ran your own competitive process in the face of it.

Senator MINCHIN—I probably would agree with Professor Coutts. I am wondering whether you do.

Senator Conroy—I am sure you would. Professor Coutts is one of Australia's foremost wireless experts.

Senator MINCHIN—He is very wise.

Senator Conroy—I value his views and the role that he played in the expert panel. Mr Coutts also said, which you do not want to quote:

I'm keen to essentially do whatever we can to explain to people that finally we have a vision going forward of how this country is going to get a broadband infrastructure that positions us for the 21st century.

As I said, we have invited—

Senator MINCHIN—I accept that he supports what you are doing. You quote him favourably. I want to know whether you agree with him on the issue of the essentiality of taking it on.

Senator Conroy—Unlike you, who apparently engaged in a scam on the Australian public in your last role in government—

Senator MINCHIN—A scam on the Australian public?

Senator Conroy—Yes. You actually engaged in an expert panel reviewing fibre-to-the-node proposals, as I quoted earlier, but you remained convinced there was no need to do that

because only one country could. We believe it is possible to build this network and we have said we are prepared to invest up to \$43 billion to ensure it happens.

Senator MINCHIN—Do you disagree with Professor Coutts?

Senator Conroy—No.

Senator MINCHIN—Let me get this right. You disagree with him? You do not think it requires Telstra's involvement?

Senator Conroy—We did not engage in a scam like you did in the previous government.

Senator MINCHIN—I just want to know whether you agree or disagree with Professor Coutts?

Senator Conroy—We have invited private sector participation, including from Telstra, and we would welcome it from Telstra as we would welcome it from all the other private sector operators.

Senator MINCHIN—Do you agree or disagree with Professor Coutts?

Senator Conroy—I think I have made it clear that I do not agree with Professor Coutts on this one.

Senator MINCHIN—Senator Lundy touched on the regulatory framework. As I understand it, you are developing a regulatory framework for the NBN itself as a separate exercise.

Senator Conroy—I am sorry, I am trying to understand what you are talking about?

Senator MINCHIN—Just remind me. You are developing, as a separate exercise, a proposed regulatory framework for the NBN. Can you assure the parliament, the community and the industry that essentially this is going to be bound by the same competition and regulatory framework as other infrastructure providers? I assume you are not contemplating that this will be a monopoly provider, which it will not be. One of the big questions is what happens to the existing infrastructure. I do not know that either you or anybody else has an answer to that particularly. You do contemplate, I assume, that there will be infrastructure competition. I would just like an assurance—and this is why I personally do not agree with government owned companies, because you get into this problem—that there will be, in a sense, regulatory neutrality surrounding this company? Will it be treated exactly the same way from a regulatory competition point of view as any other broadband infrastructure provider?

Ms Scott—There is a fulsome explanation of the government's proposition on the regulatory regime set out in the discussion paper. I do not think that I can summarise it effectively, but I can draw your attention to it.

Senator MINCHIN—Which page is it?

Ms Scott—Chapter 1 and then the chapter going on to chapter 2.

Senator MINCHIN—I am just asking for a confirmation that this whole exercise is premised on regulatory neutrality.

Senator Conroy—Our position is set out in the discussion paper.

Senator MINCHIN—That is a real bureaucratic nonanswer. You can do better than that.

Senator Conroy—Our position is set out quite clearly.

Senator MINCHIN—Why don't you summarise it in one sentence for me?

Senator Conroy—I can start reading it to you.

Senator MINCHIN—No. Just give me an answer to that question—yes or no to regulatory neutrality?

Senator Conroy—Our position is set out in the regulatory paper.

Senator MINCHIN—Can you assure us that other infrastructure providers will not be restricted in any way from upgrading or improving their services to customers in competition with this NBN?

Senator Conroy—The government's position is set out quite clearly in the regulatory paper. We are considering a range of issues that will arise from the responses to the regulatory paper.

Senator MINCHIN—You are hiding behind a 57-page document.

Senator BIRMINGHAM—At least last year and in the estimates since then up till now when we have hit these sorts of points where you are wishing to refer us to documents—and usually it was the RFP process at that stage—you kindly or almost mind-numbingly had officers read extracts of the RFP to us.

Senator Conroy—He is here and we are prepared to invite him to the table to read you the regulatory paper if you would like.

Senator BIRMINGHAM—What would be useful, I am sure, if you are going simply to refer to the regulatory paper, would be to refer more precisely to the regulatory paper than you are doing.

Senator MINCHIN—Can you just point out the one sentence?

Senator Conroy—I thought Ms Scott had actually made a genuine effort and she actually suggested that it would not be possible easily to summarise the first two chapters of the paper. I thought she actually made that point to you. Your response is, 'Well, give it to us in one sentence.'

Senator MINCHIN—I am not asking for a summary of the first two chapters.

Senator Conroy—Senator Birmingham just asked for it to be given in one sentence or to point to it.

Senator MINCHIN—My simple question was on guaranteeing regulatory neutrality with other infrastructure providers. It is a simple question.

Senator Conroy—We will see if there is any further information in the paper that we can give you.

Mr Lyons—Chapter 2 talks about the regulatory environment for the National Broadband Network. It refers to the Australian government announcement to establish a company that will invest up to \$43 billion over eight years to build and operate the network. It talks about the technologies used to deliver it. It states that the government's National Broadband Network initiative has been informed by reports of the Panel of Experts and the ACCC on

proposals received, and also assessments conducted by the Attorney-General's Department and other departments. Importantly, it has been informed by stakeholder views. It then goes on to state that to facilitate the rollout of the National Broadband Network the government will establish a company to build and operate the network on a commercial basis. The government will introduce legislation for the National Broadband Network company that establishes governance, ownership and operating arrangements for the wholesale-only company.

Senator MINCHIN—I am sorry to interrupt you, Mr Lyons. I have read all of that. I know all of that. What worries me is that it is written as though this is the only infrastructure provider. I have read this a couple of times. There seems to be no reference to a clear statement of the government's objective of ensuring regulatory neutrality between this infrastructure provider and other infrastructure providers. I put it to you that is an omission. You can take it on notice, but I, and I think the community and the industry, would like an assurance that that is the case.

Mr Lyons—I will take that on notice.

Senator MINCHIN—With respect, I do think this is a deficiency. It is written as though this is a new monopoly. Maybe that is the government's objective. I would hope not. The minister is out of the room, but you may be able to help me. I would also like an assurance that this new company will compete on a level playing field with other infrastructure providers for government business. Again, my concern is that this is regrettably another government company where the government has a vested interest in its profitability and in acquiring customers, including the government. I would like that assurance. You can take that on notice.

Mr Lyons—It has indicated that it will operate on a commercial basis. I will take on notice the rest of what you said.

Senator MINCHIN—I was making the point, Senator Conroy, that I appreciate your government has a different view and I am pleased that you have at least set the objective of privatising this in the year 2023, which is going to be quite a year for Australia with the big sale of NBN Co. and you and I getting the pension.

Senator Conroy—Speak for yourself.

Senator MINCHIN—You look just as old as I do. I am sorry, Senator Conroy. I did not realise you were so much younger.

Senator TROETH—I will be getting a telegram from the Queen.

Senator Conroy—You won't be, I'm afraid, because we will be a republic by then.

Senator MINCHIN—You will quickly find that you have a conflict of interest inherent in your responsibilities and that of your joint shareholder, the Minister for Finance, who will be wanting to maximise the profits of this business while you act as the regulator for this and other providers.

Senator LUNDY—So you are now admitting that after denying it for all of those years in government.

Senator MINCHIN—No. It was the main reason I went around the country, in the face of a Labor storm, advocating the sale of Telstra. It was because of that dreadful conflict of interest. To be frank, it is the problem when you part-sell an entity.

Senator Conroy—Why did you not sell Australia Post?

Senator MINCHIN—I will talk to you about that some other time.

Senator Conroy—When Senator Nash is not listening.

Senator MINCHIN—No. It is not coalition policy to sell Australia Post. I will place that on the record.

Senator Conroy—It sounds like you want it to be, though.

Senator MINCHIN—It is not coalition policy to sell Australia Post.

Senator Conroy—These damned agrarian socialists!

Senator MINCHIN—I make the point that the worst period for the ownership of Telstra was when we had 51 per cent of it in government hands and 49 per cent in private hands. You are setting out to have a structure of that kind. I think that is risky. I just sought an assurance in your absence that this company will operate on a level playing field when it comes to other providers and government business. Can you assure us that the government, in buying access to a wholesale provider, will show no favouritism whatsoever? I just want a guarantee of a level playing field.

Senator Conroy—We will take that one on notice.

Senator MINCHIN—In this context, what analysis have you done on the impact on private investment in telecommunications infrastructure? It is something that does concern me and I know it is being commented upon. Now that you have announced that you are going to spend \$43 billion on rolling out optical fibre, why would anyone invest anything in the existing copper network? Why would ISPs spend anything on—depending on what you do and where it ends up—what could be redundant assets? We all acknowledge there is a problem with FTTN. I would like to know, without getting into a debate over whether or not, if you are doing analysis of the potential for impact on private investment?

Senator Conroy—In terms of the copper, it is well known that Telstra's maintenance alone of its CAN is somewhere between \$800 million and \$1 billion a year. It has collapsing copper infrastructure across the country. It drowned 12 months ago, it drowned about four months ago, and it certainly drowned in the last couple of weeks in South-East Queensland in particular and in northern New South Wales. The extent of the corrosion of the copper in the ground is dramatic and dire. That is why that billion-dollar figure has been around for a while. I think the problem has been that the regulatory structure has actually stopped moving from copper to the next generation network. That is the nub where your government considered it was at and we certainly believe that is why we need to make the move. Putting aside the argument that it does not have the technological capacity to deliver the next generation of applications that are coming down the track, the existing infrastructure is physically collapsing. I think there are valid reasons not to chain myself to the copper in the ground as—

Senator MINCHIN—I do not think that was my question. What work has been—

Senator Conroy—It sounded like it.

Senator MINCHIN—I am asking what work has been done on analysing the risks of essentially a private investment freeze in existing infrastructure for the eight years in which you are spending \$43 billion to roll this out?

Senator Conroy—I will not name the company but one company has said to me already that, when our back-haul gets rolled out to a particular place, X, they will be investing in DSLAMs which will be put into the exchanges of those towns that they have not been able to afford to do because of the price of back-haul due to just the one pipe going into those towns. I have had the exact opposite response from providers who are saying that over the next eight years they believe they can make a return even for a short period of time with the DSLAM going into the new areas that we are planning on building a backbone for in the short term.

Senator MINCHIN—That is a nice anecdote but I am asking you—

Senator Conroy—It is not an anecdote. It is a factual conversation.

Senator MINCHIN—I am asking whether the department or the implementation study or anybody is doing any detailed analysis of the risks of private investment freeze or a dramatic reduction in private investment in telecommunications infrastructure during the period in which you take to roll this out, which will be at least eight years. It will be 2018 before we see this thing. That must be one of the risks to be assessed. I want to know who is analysing that risk?

Senator Conroy—We have essentially had a five-year capital strike in Telstra. They announced this, so let us be clear—

Senator MINCHIN—So you are not doing an analysis of that risk?

Senator Conroy—The problems with the existing regime such as protracted processes under part 11C deter genuine competition from carriers and ISPs expanding their presence in the market. That is actually what is happening today.

Senator MINCHIN—Just say no. If you are not doing any analysis of that risk, say so.

Senator Conroy—I am happy to take that on notice.

Senator MINCHIN—There is no analysis.

Senator Conroy—I am happy to that on notice.

Senator MINCHIN—The back-haul was touched on and I do not want to go back over that. I may have missed it because I was a bit distracted. We know that the \$250 million you are investing comes out of the \$4.7 billion, half of which is being borrowed, so I assume that is NBN Co. money. Presumably the ownership of this back-haul infrastructure will vest in NBN Co., will it?

Senator Conroy—Ultimately, yes.

Senator MINCHIN—Ultimately? Do you mean once it is constructed that it will be?

Senator Conroy—Yes. I was lost on what you were contemplating there.

Senator MINCHIN—It will vest in the company?

Senator Conroy—Yes.

Senator MINCHIN—Depreciation is always a tricky area, as you know. The budget actually provides as an expense commencing in 2010-11 the \$6¼ million for depreciation associated with this regional backbone, black spots program. Can you just explain that to me? I do not think Senator Conroy can but I am hoping Ms Scott can. There are always internal debates, I know—

Senator Conroy—I am resting my voice at this stage.

Senator MINCHIN—Do not worry, it confused our government too but I am interested in the requirement for you to expense that amount on depreciation starting in 2010-11.

Senator Conroy—I know that you came up with this question.

Ms King—The figure that you are referring to relates to the depreciation of the backbone assets.

Senator MINCHIN—Yes, that is what I said to you. I am asking: why is your department required to expense \$6¼ million on depreciation? Is that an accounting standard thing applied to you? What is it based on?

Ms King—That is my understanding. As it is shown in the budget, the \$250 million is investment that the Commonwealth will own, and we have gone out consulting in the consultation paper on future ownership structure and the intention is that ultimately it will vend in, but in the event that that does not happen in the immediate, we need to expense the depreciation. So it is an assumption made for the purposes of this particular—

Senator MINCHIN—There may be an adjustment as and when it vests in the company?

Ms King—That is right.

Senator MINCHIN—Can I touch on this issue of aerial and underground which I do not think we have touched on yet. The rollout does contemplate aerial cabling, doesn't it? I think it is specifically set out somewhere that it will involve aerial cabling. Certainly I have seen reference to that.

Ms Scott—There will be aerial and underground.

Senator MINCHIN—For the purposes of the \$43 billion was there a presumption about proportionality as between underground and aerial, because I understand the cost difference is substantial? I do not know if you can give me information on the cost differential on a per kilometre basis but I assume it is quite substantial.

Senator Conroy—As you know we are involved in Tasmania with some commercial negotiations and I would probably prefer to take that on notice at this stage to see if there is any information I can provide for you. We are actually involved in a negotiation at the moment about the rollout in Tasmania.

Senator MINCHIN—I am asking a factual question about the differential on a per kilometre basis between aerial and underground; can you give me that? Also, to come up with your \$43 billion figure, you must have had to make a presumption about how much would be aerial and how much would be underground.

Senator Conroy—As you know from your former days as a finance minister, what we did was build a large contingency into this and that—

Senator MINCHIN—You have expressed that before—the great escape clause.

Senator Conroy—The old contingency—

Senator MINCHIN—It does sound like Finance.

Senator Conroy—Exactly, I am sounding like somebody who spends too much time around Finance officials, even if they are good Collingwood fans.

Senator MINCHIN—I would say so.

Senator Conroy—A contingency has been built in that covers a number of different issues.

Senator MINCHIN—Including the extent to which you have aerial and the extent to which you have underground. Is that what you are confirming to me?

Senator Conroy—No, I am not confirming that. What I am saying is I would like to seek further advice so I will take that on notice.

Senator MINCHIN—Are you able to answer the question on the cost differential?

Senator Conroy—I would have to take that on notice.

Senator MINCHIN—I notice in the best spin imaginable the regulatory reform discussion paper says that ‘the government is going to introduce streamlined arrangements for uniform rollout to ensure consumers do not have to wait unnecessarily for services’, that is, everybody else must get out of the way—

Senator Conroy—I forgot you were hugging those nodes a couple of days before the announcement.

Senator MINCHIN—We will be very interested when we see that legislation but I presume that means that the contractors rolling this out will be granted legislative rights to override the rights of private landholders, councils et cetera, in order to effect this rollout. The flipside of saying you are going to get it out to consumers very quickly is that somebody’s rights are abrogated.

Ms Scott—We are already in discussions with local government and are very pleased to say that they have a strong appreciation of the benefits of broadband. The government is working cooperatively with them, looking at the issue of how to streamline arrangements. Clearly we do not want a national project unnecessarily held up by inconsistent approaches to local rules and regulations. At the moment there are certain powers and immunities. We will be looking at those to see how we can not only protect amenity but ensure the fastest rollout possible.

Senator MINCHIN—It is the case, is it, that the Commonwealth under the telecommunications power can legislate in this fashion to override all state and local planning laws?

Mr Lyons—The Commonwealth has constitutional power—

Senator MINCHIN—That is the key presumption there—under what? The telecommunications power?

Mr Lyons—I am just saying it has regulatory powers—

Senator MINCHIN—The advice to you is that you have the requisite constitutional heads of power to override—

Mr Lyons—For the issues in the discussion paper, yes.

Ms Scott—There are powers and immunities now.

Senator MINCHIN—I am sorry?

Ms Scott—There are powers and immunities now. This is the longstanding regime.

Senator MINCHIN—Yes. But this seems to be suggesting you are going to go considerably further than the existing regime.

Ms Scott—I do not think I would characterise it as you have as some sort of drastic or radical change. We are in discussions with local government about this matter.

Senator MINCHIN—I note the reference to ‘uniform’ but Australia is not uniform. There are many local communities that will be violently opposed to aerial cabling. If a community clearly is violently opposed to such aerial cabling, will they be able to have their wishes granted? Is it your proposition that—

Senator Conroy—You are asking us to speculate on a hypothetical situation.

Senator MINCHIN—If aerial cabling is what has to be, it has to be?

Senator Conroy—That is a hypothetical question you are asking. We are currently engaged in very positive and constructive dialogue with the Local Government Association—

Senator MINCHIN—I want to know if a local community wants to be able to reject aerial cabling if they do not want it will they be able to?

Senator Conroy—As I said you are asking us to speculate at this stage.

Senator MINCHIN—I am asking a simple question. This policy seems increasingly undeveloped, I must say. If you cannot answer a basic question like that clearly this thing was done entirely on the run. I would appreciate an answer to that question even if you do take it on notice, but I am amazed that you cannot answer it. Local communities all over Australia will be eagerly awaiting your answer. One of your interesting propositions is to mandate fibre in greenfields estates. I note that you propose legislation to that effect. Again I presume you are satisfied of the Commonwealth’s head of power to do that. It will be an interesting debate that we have on that. Who will that obligation actually fall upon? Will it fall on the developer?

Mr Lyons—The department shortly will be issuing a discussion paper on greenfields estates where it will outline options and issues, and that paper is currently being finalised.

Senator MINCHIN—Are you saying that you do not know at this stage who the obligation will fall upon?

Mr Lyons—The paper sets out—

Senator MINCHIN—Who would it be if it were not the developer? Who are the possible victims of this mandating?

Mr Lyons—First of all, the discussion paper will have a focus on working with state and local government bodies to work through cooperative arrangements in relation to greenfields estates. The other regulatory issues could relate to obligations on carriers in terms of connection to those estates of telecommunications networks.

Senator MINCHIN—It might not just be the developers who have a legal obligation? It could be carriers as well?

Mr Lyons—They are the sort of options that are discussed. We will be—

Senator MINCHIN—If you mandate fibre, someone is going to be forced to install fibre.

Mr Lyons—I think I would prefer for you to wait until we have released the discussion paper and then you can see when it is finalised.

Senator MINCHIN—Do you have any idea at this stage what the estimated additional cost per home will be for mandated fibre?

Mr Lyons—I think there could be seen to be a cost issue but there also could be seen to be a value issue in terms of homes. Also we would expect there to be a small proportion of the overall building costs and considerably less than the cost of having to retrofit fibre into a home after copper has been introduced. There is a cost issue but there is a value issue for consumers to make sure they have got next generation broadband—

Senator MINCHIN—The point is they are not going to get a choice anymore. It is going to come with the cost of this. You cannot give me any basis upon which—

Mr Lyons—I would have to take the question on notice—

Senator MINCHIN—Presumably before you decided to mandate fibre you came to a view about the estimated additional cost per home for the 25-year-old first time buyer out in the suburbs buying their own home.

Mr Lyons—So that I can give you accurate information—we do have some information but to make sure that it is accurate I will take that question on notice.

Senator MINCHIN—Has the government decided that it will compensate whoever it is that is obliged to install this fibre for the cost of that installation?

Mr Lyons—There is no proposal at the moment related to that sort of compensation, no. I am not sure what compensation you are referring to.

Senator MINCHIN—Someone has got to—

Senator Conroy—We have a discussion paper which we are about to issue inviting all interested parties—I know personally that we have invited developers to submit to this to put their views forward. I am aware of a wide range of propositions that will be put forward from discussions I have had. Once again, you are jumping ahead of the process. We are going to be engaged in detailed discussions with all sectors involved in the greenfields proposal and we look forward to that and we welcome that.

Senator MINCHIN—I am sure you do but you must be alive to the issue that this raises, and that is that you are leaving open the possibility that, in the case of the greenfields estates where you are mandating fibre, ultimately the home buyer, who in most cases of these

greenfields estates are first home buyers, will bear the cost of the fibre, whereas you said earlier in evidence to us that your assumption about the \$43 billion cost of this thing is that in relation to established housing there will be no cost. It includes the cost right up to the box on the side of the house. That is a very major issue. We are not only getting the evidence as to what it will actually cost—

Senator Conroy—You are making a number of assumptions.

Senator MINCHIN—It is open to you to rule out that possibility now by saying that the government will pay for all the fibre in greenfield estates.

Senator Conroy—You are making a number of assumptions.

Senator MINCHIN—No, I am asking a question as to whether this differential will occur.

Senator Conroy—You are making a number of assumptions that will be teased out and debated through in this discussion paper.

Senator MINCHIN—But in evidence to this committee you are leaving open the possibility that someone living in an established house, you or me in our suburbs of Adelaide and Melbourne, will have the government or NBN Co. provide us free of charge with this fibre right up to the wall to our houses but, in greenfields estates occupied by young first home buyers, by and large, they will bear the cost which, on the figures I have seen, could be thousands of dollars. You can eliminate that now by saying, ‘No, we the government through NBN Co. will be paying for all of this fibre.’

Senator Conroy—Unlike your government, we are in a position where we are going to engage in consultations with the sector about the best way to achieve our objectives.

Senator MINCHIN—You have no idea who is going to pay for the fibre that you will be mandating and you are leaving open whether young home buyers will be paying for it. I find that extraordinary.

Senator Conroy—You are very good at putting words in my mouth.

Senator MINCHIN—You can end the speculation right here and now.

Senator FISHER—You said the discussion paper would tease it out. When will the teasing stop and answers be given? You accuse Senator Minchin of pure speculation. When will the government stop speculating and start showing Australians what the government is going to do as to when, where, how and at what price?

Senator Conroy—Just to give you an example, you have got Mr Geoff Booth—

Senator FISHER—A bit more teasing.

Senator Conroy—from Telstra Countrywide and he said just recently:

There is a real appetite in new estates for fibre and the developers quite rightly see fibre as being a future-proof technology, so they can use that to add value to their developments and they are keen to put it in there.

Senator MINCHIN—He also made it clear that the industry is seeking clarification about whether the government will pay for it as part of its \$43 billion or whether the developers have to continue to pay for it—

Senator Conroy—That is exactly why we are engaged in the discussion paper—

Senator MINCHIN—You are leaving open the possibility that new home buyers will be discriminated against vis-à-vis buyers of existing homes.

Senator Conroy—That is exactly why we are going through the process of the discussion paper—

Senator MINCHIN—It is just another area you have not thought through. This whole thing was done on the run in February and March, as is increasingly evident. I think that is all I have for the moment.

Senator BIRMINGHAM—Just to clarify the sale arrangements and the position you took the other day in comments about the sale arrangements, can you be clear with us today as to what the threshold for selling the government's stake will be and when that will occur?

Senator Conroy—I think what we have indicated is that it is targeted at five years after the build is completed, subject prevailing economic circumstances. You would not sell it if you were in the middle of a worldwide recession because you would not necessarily be getting value for taxpayers' money from selling at that point when there was no need.

Senator BIRMINGHAM—In an interview with Mr Hudson where you discussed various matters that Mr Hudson has reported upon today, you appear to have indicated that the sale down would be legislated and would be part of the legislative package; is that correct?

Senator Conroy—I think the sale legislation will be included in the package.

Senator BIRMINGHAM—The sale legislation—

Senator Conroy—The trigger will be contained in the package, as I said, subject to prevailing economic circumstances. You do not just say, 'Right, we will sell it that day no matter what.'

Senator BIRMINGHAM—Which makes it a fairly flimsy kind of trigger if it is subject to completion of the project five years thereafter, subject to certain economic circumstances and so on.

Senator Conroy—I do not accept your proposition that it is a flimsy trigger. I think it is anything but flimsy. I do not consider legislation passed through parliament as flimsy, frankly.

Senator BIRMINGHAM—What process will that sale occur by?

Senator Conroy—That is probably getting a little ahead of—

Senator MINCHIN—This is 2023 we are talking about.

Senator BIRMINGHAM—I know it is 2023, but apparently we are legislating for it this year.

Senator Conroy—Senator Birmingham will still be in parliament then, Senator Minchin. You and I will have long have retired.

Senator MINCHIN—I can assure you I will not be here then. You will have to handle that sale all on your own.

Senator BIRMINGHAM—Whilst I may not wish to be here in 2023, I hope Hansard got Senator Minchin's assurance that I would be.

Senator Conroy—Senator Minchin has taken that down and noted it for the future right-wing voters in the South Australian Liberal Party when you try to say the one more term line.

Senator BIRMINGHAM—I am hoping Senator Minchin will. I am sure he will. It was noted.

Senator MINCHIN—I will come and help you, Simon, when you are minister for communications.

Senator Conroy—He will be waiting for you even then.

Senator BIRMINGHAM—Thank you, Senator Minchin. That would always be very welcome. You are not sure what the sale process will be. Would it be in different tranches?

Senator Conroy—Frankly, this is a beyond preposterous question.

Senator BIRMINGHAM—You have set a date. You have plucked a date, five years after—

Senator Conroy—At the earliest in 2023. In the lead-up to that I am sure the minister will have some very worthwhile opinions about the best way to do this and I am sure, when he consults the *Hansard* for the year 2009, he is really not going to care what I thought.

Senator BIRMINGHAM—At the latest?

Senator Conroy—At the earliest?

Senator BIRMINGHAM—Yes, and I am now asking at the latest.

Senator Conroy—Even your own senators are amused.

Senator TROETH—That is a hypothetical question.

Senator Conroy—Thank you. I appreciate that Senator Birmingham did deliver it with a straight face, but decorum was not able to be maintained.

Senator BIRMINGHAM—I am amused by your 2023 target, so I am wondering if you are going to set when it can happen. Is there actually a date by which it must happen? Obviously not!

Senator Conroy—Only after the build is complete, subject to prevailing economic circumstances. That is not a get-out clause.

Senator MINCHIN—I assume from what you just said—

Senator Conroy—The Crows will not have won another premiership.

Senator BIRMINGHAM—On that grossly offensive statement—

Senator MINCHIN—Try to keep it together a little bit longer. The legislation you just said that we are to be presented with later this year with respect to NBN Co. will include a trigger for sale; will it? Will this legislation that you will present later this year give the government of the day the legislative authority to sell its shares or will legislation specifically be required for that?

Senator Conroy—I think the intent is to not require further legislation. That is the intent.

Senator MINCHIN—I would recommend that, myself, but I would love to be present when you bring that to the caucus, however. Good luck.

Senator BIRMINGHAM—The tenders for the implementation study have now—

Senator Conroy—Lead advisers.

Senator BIRMINGHAM—Lead advisers, sorry, for the implementation study have now closed.

Ms Scott—The expressions of interest.

Senator BIRMINGHAM—I apologise. When can we expect progress on that time line there?

Ms Scott—Examination of the expressions of interest has been occurring and we will be proposing to go to the next stage shortly. I do not think we can be too much more definitive than that.

Ms King—The lead advisers are expected to be appointed by early July.

Senator BIRMINGHAM—Are any of the advisers or consultants from NBN1 being carried over into this process?

Ms Scott—Could I just ask you to clarify that question. I just want to know what you mean by that.

Senator Conroy—Are they automatically rolled over or do they all have to reapply?

Senator BIRMINGHAM—Are any of them being rolled over?

Senator Conroy—I am sure Ms Scott will correct me if I am wrong, but the previous advisers worked for the department. These are the lead advisers for the implementation study, so they are two different projects. They have not automatically transferred across. Everybody is seeking to establish—

Ms Scott—Is that what you mean?

Senator BIRMINGHAM—In terms of your legal advisers, financial advisers and others who advised the expert panel I assume during the process that we just went through around the RFP, will any of those companies—KPMG, Corrs Chambers Westgarth; there is quite a list of them—be carried over as advisers for this project?

Ms Scott—Those special contracts are now finished and we will be engaging some new advisers and will be going through selection processes for those. Obviously the most important at the present is the lead adviser, and it will be subject to strict tendering procurement arrangements. You would not want to say that the person who was successful at project A would be ruled out from project B, but they are separate processes. The first has finished, ceased; the second has now commenced. I will not be surprised if some people seek to be involved again, but it goes through a selection process a second time.

Senator BIRMINGHAM—The funding for implementation and establishment that included the mysterious \$1.1 million for the department of finance that has \$53.2 million—

Senator Conroy—Senator Birmingham—

Senator BIRMINGHAM—I am sure you would recognise—

Ms Scott—Someone has mentioned the \$53.2 million. I am so pleased you asked me about that.

Senator BIRMINGHAM—The \$53.2 million I am sure you recognised instantly.

Ms Scott—Yes, that is right. Would you like an explanation for that?

Senator BIRMINGHAM—If you could break down \$53.2 million a little that would be helpful.

Ms Scott—The government has provided the department funding of \$53.2 million in 2009-10 for the implementation and establishment of a national broadband network, in particular to conduct the implementation study, the early implementation of a network in Tasmania, implementation of a regional backbone black spots program and the development of legislation and the regulatory framework.

Senator BIRMINGHAM—You can take this question on notice. Are you able to provide breakdowns within that \$53.2 million?

Ms Scott—We will be able to do that historically but because we are actually now in the process of getting a lead adviser and getting some of this other work done and obtaining advisers for some of this work, if we actually itemised it now we would be effectively telling them how much we are prepared to pay, so I would probably prefer to do that historically. Maybe in future estimates you would like to ask us that question.

Senator BIRMINGHAM—Will any of that be paid into the NBN company?

Ms Scott—Some of it could be. I think the answer is going to be no. Could I just have the question again, to be certain?

Senator BIRMINGHAM—Yes. Will any of the budgeted \$53.2 million for the next financial year be paid into or through the NBN company?

Ms Scott—We do not anticipate that being the case, no.

Senator BIRMINGHAM—Of course, I was not around in the Telstra days when it was still 51 per cent or more government owned, but I assume that the NBN company will be appearing at future Senate estimates, much to their joy.

Senator Conroy—This may hinder their ability to recruit a good chief executive. I will happily take that on notice and come back to you. Just for the record, I do remember consistently asking for the CEO of Telstra to turn up and they never wanted to appear, no matter how many invitations the committee made to them.

Senator BIRMINGHAM—That sounds like the managing director of Australia Post at present. I do not need you to go through them all now, but you undertook at the beginning on notice to give Senator Minchin the final costs associated with the RFP process and NBN stage one.

Ms Scott—I said I would take it on notice.

Senator BIRMINGHAM—Senator Minchin asked for those final total costs. Could I also ask for them to be broken down for where external consultants were engaged and the final total costs for those consultants?

Ms Scott—We have provided that sort of information in the past. I think it goes up to March, so I understand where you are heading.

Senator BIRMINGHAM—31 March, in fact, would be pretty close to final.

Ms Scott—Yes, that is right. That is the sort of level of detail you are after?

Senator BIRMINGHAM—It was very good last time.

Senator MINCHIN—You had an interesting discussion with Senator Lundy about the six degrees of separation that may or may not—

Senator Conroy—That you failed to notice the six degrees of separation that Telstra's wholesale and retail clients did not have.

Senator MINCHIN—That is right. I note in your discussion paper in summarising the sorts of issue that are being considered you say that the government has not decided to proceed with any particular option at this time. I take that to mean that the government is not necessarily committed to any further separation and that you have an open mind on this whole issue of separation—

Senator Conroy—That is why we have a regulatory paper.

Senator MINCHIN—I am just confirming—

Senator Conroy—I have repeatedly stated that we believe that the existing operational separation regime, as we demonstrated when we voted against it, was not a satisfactory outcome. That is why we got the regulatory paper out to discuss alternatives. But no-one should be under an illusion: we voted against the operational separation regime that currently exists. We clearly demonstrated we did not believe it could satisfactorily achieve the objectives of even your government's policy at the time.

Senator MINCHIN—The government is not formally resolved to implement some greater degree of separation; it is simply a question of how much? That is not the position. You are saying—

Senator Conroy—We believe in a range of options but, no, we do not have a final decision.

Senator MINCHIN—You have an open mind—

Senator Conroy—We certainly believe—

Senator MINCHIN—Presumably the status quo—

Senator Conroy—We do not believe the status quo has worked. We voted against it—

Senator MINCHIN—So it is not an option?

Senator Conroy—We have made clear we believe the status quo has failed. The ACCC indicated that they believed there were better options than the previous operational separation regime. I think they sat in one of these rooms and outlined—

Senator MINCHIN—I do not want to know their view; I want to know where the government stands.

Senator Conroy—The point I am making is that we did not support the operational separation regime that exists today; we voted against it in parliament. I have repeatedly said that we believe that the existing set of regulatory frameworks has failed. I would probably say, yes, that the status quo is not something that anybody supported in the regulatory discussion process that we—

Senator MINCHIN—Apart from Telstra, presumably?

Senator Conroy—I am just quoting from the document:

Maintaining the current separation arrangements will not deal with the issues concerning Telstra's use of its vertical integration. In light of this, there are a number of options the Government is considering.

Senator MINCHIN—I am just drawing your attention to your statement that the government has not decided to proceed with any particular option at this time. We take it to mean that you will proceed with one of the options in there but you are not sure which one at this stage. Is that how we should take it?

Senator Conroy—That is why we have a discussion paper. We have an open mind based on the discussion paper. We will be determining our position. I quite clearly state: the government does not have a predetermined view on these matters and we have an open mind about the reforms that should be pursued. That is stated on page four, under my name even.

Senator MINCHIN—That is what I am trying to clarify—the extent of the openness of your mind. I think what I glean from your comments is that you have not decided to proceed with any particular option in relation to separation where you have set out two options—option 1, strengthening the current operational separation regime; option 2, functional separation. I think they are the two options you are looking at; is that correct?

Ms Scott—That is correct.

Senator MINCHIN—We take it that the status quo is not one of the options you will be considering; is that correct?

Senator Conroy—I just read a paragraph which said:

Maintaining the current separation arrangements will not deal with the issues concerning Telstra's use of its vertical integration. In light of this, there are a number of options the Government is considering.

Senator MINCHIN—Then you set out two options, so I assume you are considering those two options?

Senator Conroy—The purpose of the discussion paper is to see if there are any other options that might be generated.

Senator MINCHIN—You are not prepared to rule out structural separation?

Ms Scott—It is not in the paper.

Senator Conroy—It is not in the paper. I do not believe I have ever advocated it. Telstra may volunteer it. Who knows? There is a new regime in town. Can I say the newspaper article was suggesting that they may contemplate it, so who knows what the new future will look

like. It is one of the reasons we have got a discussion paper. I am not saying I believe the newspaper article—

Senator MINCHIN—I am asking you whether you would rule out forced structural separation.

Senator Conroy—I am not advocating it. I have never advocated it. I think I can say that but—

Senator MINCHIN—Interestingly you have never actually advocated separation, as far as I can tell.

Senator Conroy—I have certainly never advocated structural separation, I do not believe. I think that is a true statement. What I have said, though, is that the existing regime is not satisfactory. That probably leaves you a spectrum from there to there, but if for instance the incumbent came forward and said, ‘Hey look, this is what we think now,’—

Senator MINCHIN—The ALP did not go to the last election with a formal policy on this, did it?

Senator CONROY—No—with the NBN?

Senator MINCHIN—Yes.

Senator Conroy—And we are delivering and exceeding on it.

Senator MINCHIN—It is called denial.

Senator Conroy—We can stop asking questions at any time you like. One of two things will happen: either my voice will completely give up on me or we will change the topic.

Senator MINCHIN—I am sorry if we are keeping you up. I think after spending seven hours on the NBN I have had enough.

Senator LUNDY—I want to ask some questions about the Digital Regions Initiative. It does relate back to the NBN. Can you tell us how this initiative works?

Ms Scott—I do not have an officer.

Senator LUNDY—I am happy to put them on notice.

Senator Conroy—You are now officially my favourite senator.

Senator LUNDY—Thank you very much. I will put my questions on notice.

Senator BIRMINGHAM—We will not be too long.

Senator Conroy—Now I know why Senator Minchin doesn’t like you.

Senator BIRMINGHAM—I want to touch briefly on some of the regulatory stuff. Minister, in terms of the regulatory framework, you are pursuing now, as we discussed, a further review given the new context following the review from last year that looked into options for the regulatory framework. You were quite scathing in your comments of how the current system works. Are there any interim changes that you are considering?

Senator Conroy—Interim between now and 3 June? No.

Senator BIRMINGHAM—Between now and when you actually get your new regime in place?

Senator Conroy—Our intention is to bring forward legislation in the second half of this year and we look forward to your support and its speedy passage.

Senator BIRMINGHAM—Will that legislation deal with what will be an existing framework in the rest of Australia—

Senator Conroy—It will be the outcome arising from the discussion paper. We look forward to your speedy support.

Senator BIRMINGHAM—In terms of your damning assessment of how things currently work, are there any areas of success you can recognise in the Australian communications landscape where you think things may have worked reasonably well?

Senator Conroy—That is why we have a discussion paper. If you look at the 82 submissions last time, not one submission recommended the status quo. Some of them recommended different directions, but no-one recommended the status quo. Clearly the unanimous view of the sector was that the existing structure was not working.

Ms Scott—Including the Glasson review.

Senator Conroy—The Glasson review was also scathing.

Senator BIRMINGHAM—Most people can come up with some levels of suggestions for change and some will suggest more than others. My question is: in terms of unbundling rates, for example, do you think Australia has actually progressed well in that regard?

Senator Conroy—We have set out the areas that we are considering in the discussion paper. I do not know how much more transparent we can be than that.

Ms Scott—The paper does canvass options that have been suggested at various times to the government and there is commentary throughout the paper drawing on the submissions we received in the process quoting any number of people who want to change in one direction and people who want to change in the other direction. It then asks a series of questions. We are suggesting to all sorts of groups that they focus their analysis on the merits or otherwise that they see of the relative options in there. It is quite a focused, deliberative process. If you see the 82 submissions received from the government as telling us everything they want to change, and then this as a funnelling exercise, we are expecting that by 3 June we will get very concrete commentary on proposals or alternative suggestions so that we can present options to the government. The government will consider them and then proceed forward with the legislation.

This is meant to be the arrangements that would be in place as we roll out the NBN. We know at the end of the process when NBN is fully effective and is a wholesale-only company that will radically alter the competitive environment. But in the meantime, people have been hankering for reform for a very long time. Even Telstra, as Mr Lyons points out to me, has said on record that the regime at present is beset with conflict, long-running disputes, gaming and inefficiencies. You would not be able to find too many people that think that reform is not a good idea in some shape or form.

Senator BIRMINGHAM—I am not arguing that reform is not a good idea in some shape or form. As you said, they are part way through. You, of course, get positions from one perspective and the other perspective that are often from total contrary positions.

Ms Scott—Yes, that is right.

Senator BIRMINGHAM—You are trying to funnel them down. I am sure at the end we will see that, whilst there will be some valuable forms there, I trust, and hopefully some reforms that we can all agree on, which would be good, there will equally be a lot of parts of the existing regime that will continue in some way, shape or form where they have worked.

Ms Scott—That is right.

Senator BIRMINGHAM—Listening to the minister, you would think the whole lot was being shredded.

Ms Scott—In some ways you can look at it such that if someone had the opportunity to read the 53 or so pages they would have a good insight into the areas that the 82 submissions—the Glasson report and numerous inquiries—have highlighted to governments as areas requiring reform. In some ways it answers it by its omission.

Senator BIRMINGHAM—Thank you.

CHAIR—There being no further questions for program 1.1—

Senator MINCHIN—Just on 1.1—

Senator Conroy—I think Senator Troeth is just about to do some very serious damage to anyone who asks another question, Senator Minchin, and you are closest. I think you have just made a grave mistake.

Senator TROETH—I always have heaps of questions to be asked—always.

Senator MINCHIN—I have a very quick question. Pardon my ignorance and relative newness to this portfolio, but I notice that you provide the rather princely sum of \$6.335 million per annum for international organisations contributions. Could you enlighten me on why in such straitened times with the massive deficit we are still spending \$6.3 million when there are things I am sure Senator Conroy would rather spend it on domestically?

Ms Scott—Mr Besgrove can help you. This is a longstanding contribution to international organisations. I will get Mr Besgrove to comment.

Senator MINCHIN—You can be brief. I am just interested in where that goes.

Ms Scott—We also cover it in the annual report. I will get a reference to the annual report while Mr Besgrove goes through that.

Mr Besgrove—The reference in the PBS is a combined figure. It has two components. It is Australia's annual membership fees for the International Telecommunications Union. I do not have the figures in front of me, but it is of the order of \$5 million of the \$6 million. That is an annual fee. That was determined under the previous government that we would contribute what are known as 13 membership units. Countries who are members of the ITU determine their level of contribution. The last time this was reviewed was under the previous

government about seven or eight years ago. It was determined that we would pay 13 membership units.

Senator Conroy—Does that mean we get 13 votes?

Mr Besgrove—Sadly, no, it does not. For example, countries such as the United States—

Senator BIRMINGHAM—That is not the way you would run a faction.

Mr Besgrove—Countries such as the United States contribute about 30 or 40 membership units, from memory. The membership units are denoted in Swiss Francs and, depending upon the exchange rate, the Australian contribution varies up and down. As I said, about \$5 million of the \$6 million is our contribution to the ITU, the International Telecommunications Union, and the remainder of the money is our membership of the Asia-Pacific Telecommunity. Both of those organisations are treaty based organisations and this portfolio has carriage of Australia's membership. We participate in both of those organisations. That is what the money goes to. It is consolidated in the PBS, which is why it is a little more cryptic than it might have been.

Senator MINCHIN—Are all OECD countries members of this ITU? Does it have a wide membership base?

Mr Besgrove—The ITU is the oldest United Nations body. It was originally set up in the time of the Telegraph, so it is more than 150 years old. I would have to take this on notice, but I believe it has about 180 member countries. The Asia-Pacific Telecommunity is somewhat smaller. The ITU is an important body. Because it is a treaty-level organisation every four years it has a plenipotentiary meeting, which makes decisions about telecommunications standards that are binding on the member countries.

Ms Scott—And the particular allocation of spectrum for particular purposes.

Senator Conroy—It is important to participate.

Ms Scott—As we are an equipment buyer, we would like to have some say in how valuable spectrum ends up being used. We can go it alone, but that will be very difficult in terms of equipment purchase. The annual report has a nice summary on pages 62 and 63 just quickly setting out how much we contribute to those organisations and measurements of quality, effectiveness and quantity. There are a very short two or three paragraphs on that.

Senator MINCHIN—I will look that up. Thank you.

CHAIR—Thank you. That concludes questions about program 1.1. We will now move to program 1.3: Broadcasting and Digital Television. We will have a short suspension while that is being organised.

Proceedings suspended from 8.56 pm to 9.00 pm

CHAIR—Thank you everybody. We are looking at program 1.3, Broadcasting and digital television.

Senator FIELDING—I think I started here somewhere else, didn't I?, on another part, so you know what my questions are going to be on. On the antisiphoning stuff, can you let me know where the review is at and what is happening there?

Senator Conroy—I think I said yesterday at some stage, possibly to you or to someone else, Senator Fielding, that I believe we are trying to expedite the release of the paper which will begin that formal consultation process.

Senator FIELDING—I think there was some commitment made about when it was going to be done by.

Senator Conroy—There is a legal requirement for it to be completed by the end of this year.

Senator FIELDING—The end of this year?

Senator Conroy—Yes, so we hope to release that paper very shortly.

Senator FIELDING—Can you just go through the process if you can?

Senator Conroy—Certainly, I am sure Mr Pelling would love to take you through it.

Mr Pelling—As the minister said, there is a statutory requirement in the Broadcasting Services Act 1992 to conduct a review of the antisiphoning scheme. The act sets up a range of things that have to be considered in the scope of the review. The review has to be conducted by the end of this year and then a report has to be produced, which is tabled by the minister within 15 sitting days of that report's production. The process which we are proposing to engage in is the release of a public discussion paper with a period for public submissions, following which we will look at the submissions, prepare advice to the minister and prepare a report for his consideration.

Senator FIELDING—Do you have a timeline on that yet at all—other than that the end point has to be done by a certain date?

Mr Pelling—No. As the minister said, the process is being expedited as quickly as possible. It has to be conducted by the end of this year. It will take place over the next few months.

Senator FIELDING—The recommendation is from the department but obviously in the end it is the minister and the government's determination as to what is on that list and what is off the list?

Mr Pelling—Yes. Fundamentally the list is a matter over which the minister has control, so at the end of the day should the minister, as a result of the outcomes of this review, choose to make any changes to the list—or indeed at any other time should he choose to make any changes to the list—he has the power to do that under the legislation.

Senator FIELDING—At this stage do you see any major changes or is it steady as she goes?

Mr Pelling—That is a matter for the review and ultimately a matter for government policy.

Senator FIELDING—The government is keen to promote digital television take-up and there are already more digital boxes out there than pay television. Are there some restrictions on free television and their allowance to play listed sports on their second channel when pay TV can play it on whatever channel they want?

Mr Pelling—There are restrictions in the legislation on the use of sports on the antisiphoning list on digital and multichannels. Those restrictions essentially provide that events on the antisiphoning list can be shown on multichannels only if they have already been shown or are simultaneously shown on the main channel—that is, the channel which is simulcasting the analogue service.

Senator FIELDING—Is that something that is going to go through the consultation process for change as well or is that legislation that you cannot look at as part of the review?

Mr Pelling—That will be looked at in the review.

Senator FIELDING—Obviously if you are trying to promote digital television, the whole idea is to have multichannels. Otherwise you are driving it all back to just having a single channel.

Mr Pelling—That will be an issue which is canvassed in the review

Senator FIELDING—I will probably follow it up next time I think and just see how it is really going. I am pretty keen to see where this ends up.

Senator MINCHIN—Regarding antisiphoning, are you able, for the benefit of this committee, to at this stage identify objectively the three or four key issues that are being raised or that you expect to be raised that will essentially be the focus of the review?

Mr Pelling—I do not have the precise words in front of me but broadly the legislation has to consider: the operation of the antisiphoning scheme and whether it should be amended or appealed; the operation of the license condition on subscription television broadcasters restricting access to listed events and whether it should be amended or appealed; and the operation of the restrictions on commercial television broadcasters in relation to multichannel events and whether they should be amended or appealed.

Senator MINCHIN—The issue that is constantly raised with me is multichannelling—being able to show events on multichannels. So that will be very much a focus, will it?

Mr Pelling—Yes. The broad terms of reference are set in the legislation. They are very broad. They essentially allow a broad review of the scheme.

Senator BIRMINGHAM—I apologise as I was outside when Senator Fielding started these questions. The timing and process of the review is to be announced shortly, I think was a response—

Senator Conroy—Very shortly. I could not remember if it was you or Senator Fielding who I answered that question for—it seemed so long ago.

Senator BIRMINGHAM—It was a question I had on notice and it said ‘shortly’ then, so I am assuming it is very shortly now.

Senator Conroy—Very shortly.

Ms Scott—Imminent.

Senator Conroy—Imminent even.

Senator BIRMINGHAM—Staying on antisiphoning, you of course made some comments previously about antisiphoning—back when you were had the horror of sitting on the opposition benches—and certain things that may be added to the antisiphoning list.

Senator Conroy—Yes, the Socceroos matches; we have an election commitment on that.

Senator BIRMINGHAM—The Socceroos qualifiers?

Senator Conroy—The Socceroos World Cup qualifiers.

Senator BIRMINGHAM—So, it was not just a Minister Conroy commitment, or a Shadow Minister Conroy commitment; it was an official Labor Party election commitment?

Senator Conroy—No, it was an election commitment, a bona fide election commitment; and that will be rolled into the final outcome of the antisiphoning list conversations.

Senator BIRMINGHAM—Will that be a footnote to whomever is conducting the review that—

Senator Conroy—We have an election commitment, as you know, Senator Birmingham—

Senator BIRMINGHAM—it was an election commitment made by the government and it will not matter what the merits of the argument are.

Senator Conroy—I have debated the merits of this at considerable length and, like many Australians, I consider that the Socceroos are now—

Senator BIRMINGHAM—From your very unbiased position.

Senator Conroy—of the iconic status of the Wallabies, the Kangaroos, our cricket team, our netball team and a whole range of other sports. Where there is an Australian team playing in an international competition that is of that level of significance, then we believe it should be on the list. I am happy to re-debate that any day of the week. Senator Coonan once likened the Socceroos to the Tour de France but I think she will live to regret that.

Senator BIRMINGHAM—Is there anything else that you are willing to give a personal guarantee to put on the antisiphoning list?

Senator Conroy—That is the only election commitment we have on that. Other than that we go into the review with an open mind.

Senator BIRMINGHAM—So it starts and ends with the Socceroos World Cup qualifiers. Everything else is on the table?

Senator Conroy—No, everything else is subject to the review.

Senator BIRMINGHAM—Which, with an open mind, means everything else is on the table. Will the findings of the review be made public? Is that a requirement of the act?

Mr Pelling—There is a requirement that a report from the review be tabled in parliament.

Senator Conroy—Just for the record, Senator Birmingham, as far back as 2001 the previous government was informed by the Australian Broadcasting Authority that ‘soccer is a sport with a growing following amongst Australian audiences generally and it matches Rugby Union in level of interest in television viewing’ and that ‘consideration should be given to listing international soccer matches involving the senior Australian representative team’.

Notwithstanding that, your previous government failed to, and I would probably say that since 2001 the Socceroos have had a much greater following than even Rugby Union.

Senator BIRMINGHAM—Thank you, Minister, I was just checking that you were still standing by your commitment. I will look forward of course to seeing how everything else is treated in that regard. That is all on antisiphoning for me.

Senator Conroy—I am sure that Senator Fielding has a strong view on the Socceroos as well, depending on—

Senator FIELDING—I should probably declare an interest here—I do play soccer still so I am very aware of the government's commitment to make sure the World Cup matches are played on free to air. For the record I am boycotting pay television, I do not have it; and I like free-to-air television, like a lot of Australians.

CHAIR—If there are no further questions on antisiphoning, then we will go to digital television.

Senator WORTLEY—Can the department tell us something about the digital TV campaign that has just been run recently?

Ms Scott—I will ask Mr Townend to answer that question.

Senator WORTLEY—In doing so, can you tell us why it was necessary?

Mr Townend—The campaign was designed to raise awareness of the switchover to digital television. The campaign aired between 5 April and 2 May. There were two separate campaigns on the TV: a 45-second infomercial and a 30-second one. The first 45-second one was actually talking about awareness of digital switchover and raising a number of issues. It was basically designed to make sure that people were aware that switchover was coming and that they needed to do something. The second, shorter advertisement was 30 seconds and was designed to point people towards labels which had also been introduced at the same time in retail environments and on equipment. Those labels were designed to help people make informed choices about digital television equipment.

The campaign was designed, in the first instance, to be seen by something like 80 per cent of people at least three times and by 94 per cent of people at least once. It was thought important to run this campaign because whilst a number of people have converted to digital television there are still a large number who have not. It is important that people make that switch in plenty of time before the actual switchover in their region. You will recall the switchover is taking place between the first half of next year and the end of 2013. It is therefore important to make sure that people are aware of it, start to take action in plenty of time and that they know where they can get information to help them make the decisions they need to do.

Senator WORTLEY—Did the government draw on any international experience in preparing its information for the campaign?

Mr Townend—Yes, we did. We looked very closely in particular at the United Kingdom and the United States. The United Kingdom has adopted a very similar program to that which we are running—where there is a phased switchover with switchover happening on a series of dates over a period of time and with an information campaign designed to raise awareness of

switchover, build understanding and actually provide people with information about what to do. That appears to be progressing reasonably successfully. We also looked carefully at the United States of America, where things have not progressed quite as smoothly. They had a single date on which they were going to switchover, which was originally February this year but was delayed almost immediately after President Obama took office. They have now deferred that switch until 12 June. In fact, the latest Nielsen research suggests that over three million households are still unprepared for that switch. The information campaign that we have been running is designed to pick up on the best of what has been taking place in other countries and try and avoid some of the mistakes that other countries have experienced.

Senator WORTLEY—In relation to monitoring how successful that campaign has been, and I know you said it only finished on 2 May, is there any indication on that?

Mr Townend—One of the things that we have just published, on Friday 22 May, was a Digital Tracker. That is now available on our website and I do have a copy of it here which I would be quite happy to provide. That measures six different critical success factors: awareness of the switchover, understanding of the switchover, people's attitudes towards the switchover, their intentions to switch, actual conversion and then satisfaction with that whole process. Those first tracker results deal with the period ended 31 March so they do not actually reflect what would have happened in that information campaign but the next version of the tracker, which will be published in three months, will show, one hopes, the improvement over that period of time.

Ms Scott—That is a Newspoll survey we have procured so that we know what customers are doing, what is motivating them to change and what is not motivating them to change so we can take remedial action if necessary and change the messages as we go through the campaign process.

Senator WORTLEY—So sale of digital set top boxes would be an indication of—

Ms Scott—Things working well.

Senator WORTLEY—I know that I went to buy my mother one in the lead-up to Mother's Day for her second television in her bedroom and I could not get one anywhere.

Mr Townend—Anecdotal evidence we have got from stakeholders is that there has certainly been an uptake during the period of the campaign, and obviously once we get the next version of the Digital Tracker—

Senator MINCHIN—All of those \$900 cheques.

Senator Conroy—It just shows that stimulus package working, Senator.

CHAIR—That is right.

Senator MINCHIN—Where are those set-top boxes made, Senator Conroy?

Senator Conroy—The retail workers in those shops certainly appreciate them.

Senator MINCHIN—So do the Chinese who are making them no doubt. That is your global stimulus package.

Senator Conroy—You are not suddenly becoming a protectionist are you, Senator Minchin?

Senator WORTLEY—It sounds that way, doesn't it?, Senator Conroy?

Senator MINCHIN—I was just interested in your desire to stimulate the Chinese economy.

Senator WORTLEY—The government recently convened a Consumer Expert Group. Can you tell me why this group was convened?

Mr Townend—Yes. It is very important that we make sure that everybody receives the message about the switchover. The campaign that we have been running is designed to raise awareness across the general population. Again, based on evidence from overseas, particularly the UK and the USA but also other European countries that have completed switchover, it is very important that we work through communities. Some people will find it quite hard to receive or understand the message and therefore we felt it was important to work with a number of consumer organisations to both receive information from them and feedback on whether or not our communications were cutting through—and if they are not, what can we do about it? Many of those organisations have means of communicating with their constituents and a number of them have already offered to help us get that message across. The first meeting was held on 7 May and 11 organisations were represented—for example, Vision Australian, Country Women's Association, Australian Seniors Computer Clubs Association, St Vincent de Paul, the Salvation Army and a number of organisations of that type.

Ms Scott—It is particularly for people who might be frightened about technological change—people who are feeling unfamiliar with technology and who might worry about this. That is why we want to particularly engage those community groups that have got good contacts with and a good understanding of vulnerable groups.

Senator WORTLEY—Can you tell me something about the role the community liaison officers will be playing in the switchover areas?

Mr Townend—Again, based on evidence from overseas and also talking to many of these consumer groups, it is going to be really important that our messages actually do get out into the communities so that the people who live in particular communities know that there is someone to whom they can turn to ask questions and who can be our eyes and ears on the ground. In many ways, they are needed to help us mobilise voluntary effort on the ground in particular areas. We do have a program to appoint community liaison officers in each switchover area to help us get the message across in a very practical way.

Senator WORTLEY—What is the government doing to monitor how the message about switchover is getting out? I know we just touched on that a moment ago but can you go into it in a bit more detail?

Mr Townend—That is partially the Digital Tracker report that is looking at those six critical success measures. Equally, our Consumer Expert Group will also provide feedback, because we will be meeting them on a regular basis. We will be sharing the tracker reports with them and they will also be giving us, together with the community liaisons officers, very important feedback on what is actually happening on the ground. They will also give us particular insight into those vulnerable groups who may be actually finding the process

difficult or who may be finding it difficult to understand what is going on. They will help us shape our communications work going forward.

Senator WORTLEY—Can you tell me about the assistance packages for pensioners and others that the government announced in relation to the switchover?

Mr Townend—The government is providing a household assistance scheme to households where at least one person is in receipt of the maximum rate of the age pension, the disability support pension, carer's payment and Department of Veterans' Affairs service or income support supplement payments. The help that will be provided to those households will be in the form of a high-definition digital set-top box which will be delivered to the home and installed. Any work that is necessary on cabling in the home to make sure they can receive the signal will also be carried out. That will be carried out free of charge. People in those households will also be given some instruction on how to use their set-top box.

Senator WORTLEY—Can you tell us of the experiences in other countries in relation to the elderly and others when they switched over to digital, and also about the alternative approaches?

Mr Townend—Again, there are two quite useful examples: one is the USA and the other is the UK. In the USA, a scheme was put in place whereby each household was able to apply for two vouchers, each worth US\$40, to contribute towards the purchase of a set-top box. That scheme was not targeted; it was available, and continues to be, available on a first come, first served basis.

It has not been entirely successful in that a number of homes that required help were not getting that help. In fact, the only help that people were getting was financial, through that voucher. Most of the research that has been done in this field suggests that the difficulties that more vulnerable groups have is understanding what is happening in the first place and the practical ability either to go and select the equipment or to bring it home and install it. The US scheme really does not deal with any of those issues.

Another scheme which is similar to ours is that which has been deployed in the United Kingdom. That is based on a very similar premise, that people require practical in-home assistance. There they have targeted the scheme towards older people and those with disabilities, and that involves the provision of a set-top box and practical help also. That seems to be working reasonably well in the areas that have switched over so far.

CHAIR—Does a household, for the purposes of providing a set-top box for people who receive pensions, include persons living in aged care facilities?

Mr Townend—Yes it will. If someone is living in an aged care facility where there are a number of people living, then each person who requires that assistance, providing they constitute a household, that is, they are living on their own but are in a building with lots of other similar people, are entitled to the assistance for the set-top box.

CHAIR—Each of them?

Mr Townend—Yes, each of them, if they are dependent on a television that is solely for their use; in other words, if their living circumstances replicate that which they would if they were living on their own or with their family. What the scheme will not do in those cases is

provide the assistance with cabling and antenna systems, because in that case, those are the responsibility of the care home and the people who are managing that particular establishment.

CHAIR—For example, in an aged care facility when people are living in a bedroom, effectively, with an ensuite—and in my experience they all have a television in their room—the individual people will get a set-top box, but the cabling and associated requirements, which may include things like an additional power point, will have to be provided by the aged care facility owner?

Mr Townend—If the television is owned by the individual, the particular elderly person, then they will receive the assistance through the scheme. If the television is actually owned by the establishment, then they will not receive the help. If the elderly person was living in their own home, owned their television and were also responsible for the antenna and cabling, they would receive assistance to upgrade that part of the deal as well. Where they are living in an establishment where the television belongs to them, the television will be upgraded with a set-top box, but the antenna and cabling will remain the responsibility of the owner of the establishment. We are conducting separate research into the multiple unit dwelling sector to identify those cases where those kinds of establishments may have a problem, and to provide some guidance on how to deal with that. Our communications work is also designed to raise awareness of that particular problem to ensure that owners of such establishments take action in plenty of time so that when we go there with the set-top box, the antenna work has been done in advance.

CHAIR—Thank you. Are there further questions on this issue?

Senator WORTLEY—It is about television black spots.

Senator MINCHIN—I just wanted to keep going on the assistance program.

Senator WORTLEY—Okay.

Senator MINCHIN—Who is going to run this assistance program.?

Mr Townend—We are currently putting together tender documents for the roll-out of the assistance program in Mildura, where we believe there are about 3,500 eligible households.

Senator MINCHIN—Just remind me, who is eligible? Is it any pensioner?

Mr Townend—It is the maximum rate pensioners, people on disability support pension and so on. I outlined the various groups before.

Ms Scott—Senator, I just want to be clear and I do not want any confusion. Those people on those benefits have to be on the maximum rate of those benefits, so it is not everyone on those benefits.

Mr Townend—The household has to have at least one person who is in receipt of the maximum rate of the age pension, disability support pension, carers payment, or a DVA service or income support supplement. At least one person has to be in receipt of the maximum rate under each of those.

Senator MINCHIN—Not the single parent pension?

Mr Townend—No, just the groups that I have listed.

Senator MINCHIN—You are letting a contract in Mildura?

Mr Townend—That is right. We are currently working on the tender documents for a service to be provided by an external party to source the set-top boxes, to deliver them to the home and to install them. That will be an external party, I would expect, with some logistics experience and so on.

Senator MINCHIN—Who are we talking about? What sort of business would that be, a retailer of set top boxes or installers?

Mr Townend—That will depend on the tender. It needs to be someone who has experience with providing this kind of service in-home and it will need someone with particular sensitivities towards the target groups.

Senator MINCHIN—That is what I am asking: do such organisations or businesses actually exist to any great degree?

Ms Scott—We are being coy about naming any firms—

Senator MINCHIN—I do not want to name any firms, but I am asking what types of companies could do this; are they in existence?

Ms Scott—There are companies now that service vulnerable groups in their homes, such as the HACC service providers, and so on.

Senator MINCHIN—They have to be able to buy, obtain and install this gear, haven't they?

Mr Townend—They will need to be able to source the equipment. They will need to be able to manage the logistics of that, they will need to be able to contact those particular individuals, they will need to be experienced in providing services to the more vulnerable people we are talking about. I anticipate there are a number of organisations who will feel they are capable of doing that. We will also be working with Centrelink, who will be assisting us in identifying the particular individuals and managing some of the initial communications.

Senator MINCHIN—I was going to ask you who has to take the action to identify households: is that the eligible household itself?

Ms Scott—Centrelink.

Senator MINCHIN—Centrelink will tell you?

Ms Scott—Centrelink will know who they are because they are currently customers of Centrelink.

Senator MINCHIN—You will have an arrangement with them where they will advise you who you have to offer the service to.

Mr Townend—That is correct.

Senator MINCHIN—I notice there is \$15 million for Centrelink to provide support to you; is that what that is for?

Mr Townend—That is what that is for, yes. In fact, legislation was passed in the House of Representatives yesterday to amend some social security legislation which will allow Centrelink to identify those people, write to them and facilitate what we need to do.

Senator MINCHIN—I understand why Mildura is a pilot, so at this stage you are piloting this proposition that external providers perform this work, you will see how that goes in Mildura and then roll that out?

Mr Townend—Yes, and our intention is to procure on a regional basis. Another advantage of having a regional switchover is that it allows us to do these things to pilot each stage.

Ms Scott—The advantage of Mildura, Senator, was that they already had a relatively high acceptance of digital TV. We are not expecting it to go perfectly, in fact we would not learn anything if it did.

Senator MINCHIN—There will be glitches no doubt, but I support the way you are approaching it. That is all I had on assistance.

CHAIR—Going back to the aged care facilities, for people who live in independent living units for which they may or may not have paid a bond to live in, what is the situation for them?

Ms Scott—Like a retirement village, like it might have two villas next to each other.

CHAIR—The independent living person as opposed to the hostel or the high-care person.

Mr Townend—The basic principle is that the assistance is being provided to the person with responsibility. If the home in which the elderly person lives is their home, they own the television and they are responsible for the antenna system then they will receive the assistance. If the television does not belong to them or if the antenna system and so on is maintained by somebody else, then they will not receive that assistance because they will be reliant on somebody else to do that.

CHAIR—So, in this instance, the television will be owned by the elderly person but the antenna would be owned by the aged care facility, so the person would just get the set-top box?

Mr Townend—They would just get the set-top box, yes.

Senator MINCHIN—The ownership of the set-top box will vest in the eligible household?

Mr Townend—The eligible household, that is correct.

Senator MINCHIN—So they could just go and flog it an hour after you install if they wanted to. I am not suggesting they are likely to.

Mr Townend—Not if they wanted to carry on watching television.

Senator MINCHIN—I am sure this is a better way than vouchers, but there are risks associated with it.

Senator Conroy—Only if they do not want to see digital television.

Senator BIRMINGHAM—Or if they had already bought a digital enabled TV. It would simply hide that fact. But people can always—

Senator MINCHIN—Will they have to establish that they do not have a set-top box—

Senator BIRMINGHAM—People can always find a way of roting something.

Senator MINCHIN—or will every eligible household simply get a set-top box whether they have one already or not?

Mr Townend—The eligible households will be contacted and invited to join the scheme. The issue of whether or not they have a set-top box is a very delicate one because, of course, the question of proof is extremely difficult. When the UK government wrestled with this particular issue it concluded that there was very little sense in requiring people to prove whether or not they already had digital television, because it would be excessively difficult to do that.

Senator MINCHIN—They could simply sign to that effect, swear to that effect, couldn't they?

Mr Townend—They could indeed do that. We are still working on the final details of the tender, but the scheme as it is currently approved is such that any household that has someone who qualifies is entitled to that assistance. In the UK the scheme was partly free and there was partly a co-payment for certain groups. Only 50 per cent of homes eligible to receive the service free of charge took up the assistance, and there has not been any significant evidence that those who have already converted are taking advantage of the scheme.

Senator MINCHIN—One of the potential traps for you is the extent to which the *Daily Telegraph* discovers that free set-top boxes are turning up at the homes of pensioners who already have them and things like that.

CHAIR—Senators, we are scheduled to go for a tea break. I take it we have enough questions to continue afterwards?

Senator MINCHIN—How long do you reckon you will be, Simon? I only have questions on black spots, and I know Senator Wortley has as well.

Senator BIRMINGHAM—I have a few general ones around the switchover, but not heaps.

Senator MINCHIN—And Senator Ludlam has—

Senator LUDLAM—It could be five or 10 minutes.

CHAIR—Do people want to continue? Minister, shall we continue?

Senator Conroy—If we think we can be finished by 10 o'clock, I am happy to keep going.

Senator MINCHIN—Yes, I would rather continue and try to finish at 10.

CHAIR—Let us go, then.

Senator MINCHIN—I was handing it back to Senator Wortley, on black spots, I think.

Senator WORTLEY—Thank you. There are signal-deficiency television black spots in Australia. Why do these signal-deficient areas exist? Also, why aren't broadcasters made to service their licensed areas to fix these areas of signal deficiency?

Senator BIRMINGHAM—On another question, the broadcasting act does not require broadcasters to broadcast comprehensively across their licence areas?

Mr Townend—It is worth going back to a section of the Broadcasting Services Act, subsection 6(3)(f) of schedule 4, which deals with the concept of same coverage. The law says

that, as soon as practicable after the start of the simulcast period for a licence area—so when digital starts alongside analog—and throughout the remainder of that period, the transmission of a commercial television broadcasting service in standard definition digital mode should achieve the same level of coverage and potential reception quality as is achieved by the transmission of the service in analog mode. So the law is essentially saying that the coverage and reception of digital should be the same as analog.

Senator WORTLEY—But we already have many areas of signal deficiency.

Mr Townend—That is kind of what the law says. The way in which that is regulated is that the ACMA agree conversion schemes both with the commercial broadcasters and the national broadcasters, which is the attempt to meet that obligation. Enforcing those conversion schemes is obviously a matter for the ACMA. The reality is that the way in which analog television signals are propagated through the airwaves is somewhat different from digital. One of the issues is that the way in which analog signals are broadcast means that when they start to fail that happens gracefully. So, if you are watching an analog signal, as it starts to deteriorate the picture becomes snowy and blurred but you can carry on watching it and listening. A number of people are watching analog television who are probably not counted as having a television signal available to them because it is of such poor quality.

In the same circumstances, a digital signal will fail in a completely different way. For a considerable period of time the picture is absolutely perfect, but as it starts to fail it freezes or you get pixilation or the sound starts snapping and popping and crackling. That can mean that people's experience of digital is somewhat different from analog. That in itself can create new black spots, so where people are currently watching an analog signal that they are comfortable with but perhaps the broadcasters do not treat as being covered may not be able to receive a digital signal. That is essentially why black spots exist. They are very high on the government's priorities for finding a solution. That is why in Mildura, for example, we have announced a pilot which is looking at the use of satellite broadcasting to provide a signal into areas where otherwise there would be a black spot.

Senator WORTLEY—That was the reason that satellite was chosen for Mildura?

Mr Townend—That is correct, to pilot the use of satellite to reach homes where a terrestrial digital signal may be quite difficult. That is often because of terrain issues and so on.

Senator WORTLEY—It is important that we get it right. Some countries that have already made the switch over to digital and have obviously resolved these issues of signal deficiency and black spots. How have they managed to resolve them?

Mr Townend—That is a combination of factors. In some countries, particularly in Europe and the United Kingdom, there is already an existing free-to-air satellite service which provides the terrestrial analog free-to-air signals in digital form on satellite. That provides essentially a back-up for anybody who cannot receive the terrestrial signal. Some of the other countries that have switched over, particularly the Netherlands, Luxembourg and so on, are relatively small and relatively flat and do not experience the kinds of black spots that we suffer in Australia with our particularly challenging terrain. Canada has a similar issue to Australia in that a large number of people live along the border of the United States and a

relatively smaller number of people live across vast areas of wilderness. There is an increasing reliance on satellite services to provide those signals to people who live in Canada. Satellite is an established technology. It has been around for a number of years, it is quite reliable, and several countries are using it as a back-up to make sure that everyone has access to a digital signal.

Senator WORTLEY—Don't Foxtel and Austar use satellite?

Mr Townend—That is correct.

Senator MINCHIN—The problem with satellite, though, is that it does not discriminate. You can basically only have one signal. You will not get anything that is local. It will only have, presumably, a national—

Senator Conroy—I am not sure that in the modern technology age that is a quite accurate statement, Senator Minchin.

Senator MINCHIN—I would love to believe that it were not accurate. I thought that was the big issue with satellite.

Senator BIRMINGHAM—When I attended the Mildura trial I recall Mr Townend last time indicating that it was a national broadcast, in a sense, that was going in there, not a—

Mr Townend—No.

Senator Conroy—I am not sure that is what Andy was saying.

Senator BIRMINGHAM—Can Mr Townend clear that up for us?

Mr Townend—There will be ABC and SBS services, which are national services, but there will be the relevant regional service, so it will be the same ABC and SBS that people are currently receiving in that area. There will also be a service from three commercial networks, and that will be a local service now. We are currently working with the broadcasters on precisely what that is. But to go to the nub of the question, it is perfectly possible to have a range of different services on satellite targeted at particular areas. Physically, that signal is across the whole of Australia, but by use of smart card technology, which sits in the box, you are able to govern which particular service a given household receives. If you live in Mildura, or in Victoria, and you have a card which basically has your address embedded, that can go into your set-top box and that then presents to you the services which are relevant to you. And that again is technology which is used across the world.

Senator Conroy—I think Senator Minchin was thinking about it from the other perspective, not at the smart card encryption level, more that you are only broadcasting on one signal from the satellite. I think that was—

Senator MINCHIN—Yes.

Senator Conroy—the perspective from which Senator Minchin was asking the question.

Mr Townend—But, in fact, it is perfectly possible to broadcast more than one signal on a satellite. There is plenty of space—

Senator MINCHIN—It can discriminate, in effect.

Mr Townend—It can discriminate and you can broadcast more than one—

Senator Conroy—You have 15 signals coming down.

Senator MINCHIN—Yes, I understand that.

Senator Conroy—And then the smart card can decode it.

Senator BIRMINGHAM—What are the cost implications of broadcasting multiple signals by satellite?

Senator MINCHIN—Yes, that is right: whose satellite and who pays for it?

Mr Townend—There is a trade-off, of course, because there are cost implications for building towers across Australia and there are cost implications for the renting of transponder space. That is why we are currently in extensive consultation with the broadcasting industry to determine what is the most cost-effective way of actually reaching people in more remote areas and, indeed, many regional areas. There is a balance between the number of services people receive and the way in which you deliver them to them.

Senator BIRMINGHAM—I understand there is a trade-off between the options. I was just relating it to Senator Minchin's question. Is there a significant cost difference between broadcasting one signal from a satellite versus broadcasting two dozen signals from a satellite?

Senator Conroy—Each one requires you to reserve a slot.

Mr Townend—Each channel that you are broadcasting uses a certain amount of capacity on the satellite and it costs the same as any other, so there is obviously a multiple. The other issue to bear in mind—

Senator BIRMINGHAM—So it is one of those things that is technically possible, but if you were talking about every regional area across Australia and every regional television station across Australia it may be technically possible but cost prohibitive?

Mr Townend—There is a trade between doing it in that particular way and building an ever-expanding series of towers, which also has a cost issue. You cannot build a single tower that broadcasts to everybody, so you have to have lots of towers. But also the use of satellite is spectrum efficient in that it is not using scarce broadcasting spectrum, whereas there is a risk if you start building towers and using terrestrial spectrum that you start eating into spectrum that could be used for other purposes.

Senator Conroy—The digital dividend we were talking about at some stage a long time ago.

Senator MINCHIN—If you use satellite, does the recipient have to have a dish?

Mr Townend—Yes, that is correct. They would need a set-top box capable of receiving that signal and they would need a dish on their house as well.

Senator BIRMINGHAM—In the Mildura trial how many dishes have been provided or taken up? I understand from checking back over the *Hansard* it was a cost to the consumer of \$666 and a Commonwealth subsidy of \$300 per satellite dish.

Senator Conroy—I do not think we have rolled out any yet, have we?

Mr Townend—We have not started rolling any out yet. We know that in Underbool, which is an area that has a self-help transmitter, 89 households would be reliant on the satellite. Also in Ouyen, which is a little bit further along the road, there are about 500 households. As I think I mentioned last time, these are people who built 20- or 30-metre towers to receive a terrestrial signal and are struggling to do so.

Senator MINCHIN—I drive through there often. I can vouch for that.

Mr Townend—They have spent a great deal of money on trying to receive a terrestrial signal. Whilst there is an incremental cost with a dish and a set-top box, you also get much more certainty of a signal and you do not have to have a huge tower on top of your house.

Senator BIRMINGHAM—Has the cost in the budget for the Mildura trial been settled? I think I asked you about this last time, and you were still negotiating or tendering as to the satellite broadcast and so on.

Mr Townend—We are still in discussions with the broadcasters and other infrastructure providers about the exact way in which that service will be delivered.

Senator BIRMINGHAM—I take it that the discussions are still of commercial sensitivity such that you would not wish to be giving—

Mr Townend—That is correct.

Senator BIRMINGHAM—budgeted prices.

Senator MINCHIN—Just on the satellite issue, you have been repeatedly asked, I think, at estimates about a discussion paper you are intending to issue on this issue of satellites. It was last due in March, and I gather it is still not out, which suggests not your inefficiency but that you are having some difficulty resolving the issues to go into this discussion paper with the broadcasters. Is that the problem? Are you are still committed to a discussion paper?

Mr Townend—That is correct. The matter we were discussing earlier, which is that trade-off—between the number of services you require on the satellite, the cost of those, the number of towers you might need to build, the impact on spectrum that might otherwise be able to be used in another way—is actually quite a complex issue, and we are trying to look at how we might resolve that across the whole of Australia. It makes sense to progress discussions with the broadcasters to a certain point before we issue a discussion paper more broadly.

Senator MINCHIN—We are all getting quite a bit of correspondence and traffic from these local communities expressing considerable concern about this. The expression you use, I think, is a ‘clear transition path’, but I think this is becoming urgent. I am not quite sure what you are doing to pacify these regions around Australia so they will be patient. Even the district of Yankalilla, which we all know well, featured in Mark Day’s column in the *Australian*, I saw.

Senator Conroy—And he said, ‘Just abandon them.’ Can you believe it!

Senator MINCHIN—And, of course, we four South Australian senators are very keen to look after Yankalilla. That is just an example of many districts that are getting quite concerned. The problem is they are starting to employ lobbyists and do all sorts of things they should not have to or want to do.

Mr Townend—There are three sets of discussions going on at the moment with the broadcasters on this very subject. One is as to detailed planning for Mildura. The other is looking at a solution for Australia as a whole but we have also now started talking to the regional broadcasters in South Australia, which is the second region to switch in the second half of next year, in looking at the detailed planning for that. This is absolutely top of our agenda, and there is a great deal of time and work being invested in it.

Senator Conroy—You should certainly assure those people they are wasting their money on lobbyists.

Senator MINCHIN—I would be happy to. Senator Macdonald has particularly asked me to also raise the concern of the residents of Gladstone about this issue. I am not sure where Central Queensland features in your timetable.

Mr Townend—That is in the second half of 2011.

Senator MINCHIN—Then they have a little bit more time than the South Australians have, but I just wanted to register for Senator Macdonald's sake that it is an issue in Central Queensland.

CHAIR—Senator Minchin, I might see if Senator Ludlam would like to ask a few questions.

Senator LUDLAM—Yes, I have a few along these lines.

CHAIR—Away you go.

Senator LUDLAM—Thanks, Chair. I am just wondering whether you are able to estimate for us, on the balance of what you are discovering in Mildura, the proportions, because there is a push-pull process going on, I suppose. On the one hand you are trying to educate people to buy into the technology themselves and, on the other hand, you are trying to extend the coverage of the signals so that people can receive them. What do you think the balance is going to be between terrestrial transmission infill from the new terrestrial towers and from satellite in terms of the number of customers?

Mr Townend—That really comes back to the debate we have just been having.

Senator LUDLAM—Do you have any sense yet, given that it is getting pretty close, what Mildura is going to look like?

Mr Townend—No. If you look at the situation across Australia as a whole, already nine out of 10 homes can access all the digital services terrestrially. In fact, I think about 97 per cent of homes can receive ABC terrestrial. So the vast majority of homes across Australia can already receive terrestrial signals.

Senator LUDLAM—That is just signal strength? That is not whether they have a set-top box and so on?

Mr Townend—The signal is basically passing over their roof. So if they got a set top box and connected it to their aerial—

Senator LUDLAM—They can pick it up.

Mr Townend—they should be able to receive that. The end result will depend on the discussion that we have just been having. In Mildura, for example, seven out of 10 homes have already got digital television right now, and we know from the work that the ACMA have done that the problem areas are those which we already know about. They have done signal strength tests in Mildura. We know that the problem areas are those that we have just discussed, which are the 89 homes in Underbool, the just over 500 homes in Ouyen and perhaps a few very small number of others scattered. We already know that we are planning to deliver a signal to them by satellite means, and a similar situation almost certainly exists across Australia.

Senator LUDLAM—In discussions earlier in the evening, we also heard that satellites will play a role in picking up the 10 per cent of the population that will not be reached by the fibre to the premises of the National Broadband Network. Is the equipment that people will be installing and is the dish that will go onto the roof for the TV rollout likely be compatible with the infill services that are being proposed for the NBN rollout or are people going to have two separate dishes set in different directions at different satellites?

Senator Conroy—We probably should take that on notice just so we can get—

Senator LUDLAM—I am presuming I am not the first person to—

Senator Conroy—No, we will have to get the right technical answer. I would not want to take a lash outside the off-stump and mislead you, so we will take that one on notice.

Senator LUDLAM—I would greatly appreciate that. Just getting back to the Digital Tracker survey and the survey work that you are doing on the domestic aerial systems in Mildura, did you ask in the survey just released what aerials respondents are using in Mildura?

Mr Townend—Sorry, you are talking about work that was carried out on domestic aerials. I think, therefore, you must be referring to the survey that was carried out by the ACMA because ours was not designed to ask those kinds of questions.

Senator LUDLAM—So the tracker survey did not go into the kinds of aerials that people have currently installed?

Mr Townend—I would have to check. We will check that.

Senator Conroy—There are a number of surveys being done at the moment. Unfortunately, the ACMA representatives have already gone, and you assumed it was Mr Townend's area of responsibility.

Senator LUDLAM—That is okay.

Mr Townend—The tracker was certainly not designed to ask detailed questions about the quality of antenna installations. There may well be questions that contribute to that, but that was not its primary purpose. I believe what you are talking about is the work that the ACMA carried out in Mildura.

Senator LUDLAM—You are taking your information on the quality of aerials and antennas that people are using from that separate source?

Mr Townend—That is principally the source.

Senator LUDLAM—In answer to my questions on notice Nos 65, 67, 68 and 69—I do not have a date for you, but I will see if I can track that down—there was the proposal for that discussion paper on the need for the infill transmission sites. Do you have an estimate of when that will be provided?

Mr Townend—No, again, sorry, that refers back to the conversation we had earlier. We are in intensive discussions with the broadcasters about the trade between the various elements of the two different ways of reaching people.

Senator LUDLAM—It sounds like this is all more or less still up in the air. What is your level of confidence that you are going to be able to hit the benchmarks that have been set for the first region to switch off next year? Are you generally happy with how things are tracking along?

Mr Townend—The timetable provides for Mildura to switch in the first half of next year. There is no question at the moment that that is what we are working towards. There is a lot of work to be done, but the work we are doing is designed to ensure that we can switch off during the first half of next year.

Senator LUDLAM—And you think you are going to hit that target?

Mr Townend—That is what we are working towards, yes.

Senator LUDLAM—I will take that as a qualified yes.

CHAIR—Senator Birmingham.

Senator BIRMINGHAM—Just finishing off on things like the satellite service and so on, this is a trial, as we have established, for Mildura, and you will put out your discussion paper to try to assess how the problems associated with people who are operating off self-help transmitters and all of those sorts of problems that we have canvassed previously might be fixed through this process. Is there any funding allocated for the remainder of the switch-over for any of these types of services?

Mr Townend—No.

Senator BIRMINGHAM—So we have the \$138.7 million that was allocated in this year's budget. That does not cover any of those types of services; it relates purely to an information and communications campaign.

Mr Townend—It actually relates to the information and communications campaign, which will provide continued national awareness building but also specific tailored advertising in the next three regions, regional South Australia, regional Victoria and regional Queensland. It also provides for the household assistance scheme that we talked about earlier—that is the maximum rate recipients of the age pension and so on—in regional South Australia, regional Victoria and regional Queensland. That will extend the number of eligible households to somewhere in the region of 250,000.

Senator BIRMINGHAM—Firstly, in relation to that allocation, why is there nothing allocated for regional New South Wales, regional Western Australia, the Northern Territory or, indeed, any of the metropolitan areas?

Senator Conroy—This is a pilot program that will inform us on the future funding allocations that we will need. It is to allow us to learn what works and, importantly, what does not work. It is a pilot program.

Senator BIRMINGHAM—All of South Australia, Victoria and Queensland in regional areas are the pilot program for the communications? It is half of regional Australia.

Ms Scott—Effectively, because of the lead times we need to get ahead with our planning. We cannot do Mildura and completely stop. We do want to give people some certainty about the process and the timetable. But it is also true that we generally do want to look at the lessons learned out of Mildura and, if necessary, go back to the government and suggest changes. I think this is a considered way to achieve both objectives. I know that sounds somewhat contradictory. We do want to provide certainty, but we also want to make adjustments where there is significant learning.

Senator BIRMINGHAM—You are not going to be able to switch over regional New South Wales, regional Western Australia, the Northern Territory or whatever without some sort of information and communications campaign, are you?

Mr Townend—I think I mentioned the money that we have for communications is not solely directed towards those three areas. There is also funding for continued national communication. For example, this year we already have plans for two further bursts of national communications. One will be three or four weeks in September around about Father's Day and then a further two to three weeks during November-December in the run-up to Christmas. That is what we are planning for this year. There will be more planned for next year and in subsequent periods. That is designed to continue to raise awareness across the whole country. The funding that we have for the next couple of years is focused on those first three regions, because they are the regions that are converting earlier, but also there is money there for us to communicate to the country as a whole. The way the funding has been released is designed to follow that timetable. There is plenty of time to learn from what we are doing and to return to government for funding for the remainder of the program. It is not actually stopping us doing anything that we would want to be doing.

Senator BIRMINGHAM—I understand Ms Scott's desire, your desire, Mr Townend, and the minister's desire, I am sure, to proceed with certainty as to what you are going to be doing in the back-end of the program. The concern I have—and it is not the first time it has come up in these estimates—is that for something that is quite transparently going to be an expenditure for government in the out years, and in this instance we know that unless the timetable is varied everywhere is switching over by the end of 2013, there is nothing allocated in this funding package for any expenditure in 2012-13 in the lead-up to those final other regions switching over. Obviously there is a significant further tranche for the forward estimates that is meant to be reflected in the budget papers that has not been reflected at this stage.

Senator Conroy—As I said, this is a pilot program to give us guidance to ensure that we get it right. I would assume that you would have thought that that was a far more prudent way to do it.

Senator BIRMINGHAM—I think running a pilot program is quite prudent, but I would have thought that budget estimates would, indeed, reflect the estimate of the costs that you

might be incurring in the future, noting that those costs need to be adjusted as you learn lessons from the pilot program in future budgets.

Senator Conroy—Far North Queensland is the last half of 2011. New South Wales is 2012. Remote Australia and Western Australia is 2013. I think that is an accurate description. Mr Townend, has funding for regional Victoria, Queensland and South Australia been announced?

Mr Townend—Yes, Senator.

Senator BIRMINGHAM—That is what this is.

Senator Conroy—No, that was what I was just trying to work out.

Senator BIRMINGHAM—That is what this is. It is that forward estimates go out to 2013 and your switch-off concludes in 2013, but half the country is missing from the funding that is budgeted so far.

Senator Conroy—Half the geography might be; I am not sure half the country is in terms of people.

Senator BIRMINGHAM—Half of regional Australia. We can split hairs arguing over whether that is half the people or half the geography when we come to that. In terms of assistance and support, where do community broadcasters sit at present in terms of support for the switchover?

Senator Conroy—It would be fair to say that community broadcasters were hopeful that they would have had an immediate path revealed in the budget. It would be fair to say that they are disappointed that was not the case. We are going to be engaging with them in the near future as part of our ongoing dialogue to continue to work through some complex issues to ensure that they are not left behind.

Senator MINCHIN—What is complex about it?

Senator Conroy—There are a range of technical issues around spectrum allocations. There have been arguments about just moving them unilaterally out of what has been referred to in the past as the channel A spectrum. We have been in discussions but have not had the opportunity since the budget, as it was only a few weeks ago, but we are working on a number of proposals to engage them in discussions over the next few weeks. I am just not quite sure when the appointment has been made for, but we are certainly keen to maintain an ongoing dialogue with them.

Senator MINCHIN—I think it is becoming a matter of urgency that something be done. To the extent you are successful in getting people to convert, and I commend you on that, it is becoming a massive problem for them because people cannot get Channel 31.

Senator Conroy—It would have been helpful when the new legislation was introduced if that path had been put in place, I absolutely agree with you, Senator Minchin. It would have been helpful if, around the cabinet table and the ERC table in the past, you had bitten the bullet on it and given them a pathway.

Senator MINCHIN—It is our fault now, is it?

Senator Conroy—Actually for setting up the program without giving them a pathway, I think it would be possible to suggest that perhaps you were a little lax. We are working through—

Senator MINCHIN—You have been here 18 months.

Senator Conroy—The previous government had no plans for six years. Your words for six years were, ‘We’ll just explore your options.’ So, after 18 months, we are working through—

Senator MINCHIN—You are still working on plans?

Senator Conroy—our inheritance from you. While I understand the disappointment of the community TV section that their pathway was not outlined in the budget, we are committed to continued discussions with them.

Senator BIRMINGHAM—Can you give them any guarantees as to timelines?

Senator Conroy—We would like to have that conversation with them directly, but we have assured them they will not be left behind.

Senator BIRMINGHAM—I think they already feel that they are being left behind.

Senator Conroy—That is probably because they did not get a pathway in the six years of your former government.

Senator BIRMINGHAM—They also did not get a pathway in this budget and they did not get a pathway when you announced the timetable.

Senator Conroy—No, that is true.

Senator BIRMINGHAM—They did not get a pathway in last year’s budget.

Senator Conroy—And the six before that.

Senator BIRMINGHAM—That is fine. You can talk about the six before that, but they are pretty interested in the here and now, as the take-up rate, which we have heard from Mr Townsend and indeed yourself today, Minister, has escalated significantly.

Senator MINCHIN—That is the point. When take-up was low it did not really matter, but as take-up levels rise—

Senator Conroy—We plan to convert them well before switchover. They are almost all in capital cities, so a Mildura 2010 deadline does not impact on them, I do not believe. We are committed to converting them well before switchover.

Senator BIRMINGHAM—The switchover would not matter if they were simulcasting, but of course they are not simulcasting.

Senator MINCHIN—That is right.

Senator Conroy—Really, did you not give them any spectrum for six years?

Senator BIRMINGHAM—They do not want to hear you playing those sorts of games anymore at five past ten tonight; they want to know what you are going to do.

Senator Conroy—I appreciate that you have some embarrassment on it.

Senator MINCHIN—They want to know what you are going to do, Senator Conroy.

Senator Conroy—Our position is to advocate on this, but your position is minimal when it comes to credibility on this particular issue

Senator BIRMINGHAM—If Senator Ludlam can get more sensible answers from you, he is welcome to ask some of the questions.

Senator Conroy—He will get the same answers that I have given you on this issue. We are continuing to work with them to solve what is a difficult situation, and we are committed to converting them well before switchover. I would add that I think the freeview box have reached an agreement to include community TV. Sorry, they have not reached an agreement. We are hopeful that they will be able to reach an agreement.

Senator BIRMINGHAM—Not much good news for them.

Senator MINCHIN—They need to be able to be broadcast in digital; that is the problem. You need to give them spectrum, as I understand; is that right?

Senator Conroy—That is one of the issues which we are struggling to overcome from the legacy that you were not able to give them any spectrum in that six-year period that you were in charge of the process.

Senator MINCHIN—The community broadcasters will not be impressed with that line of argument, Senator Conroy. You will not do yourself any favours with that. They want you to fix the problem.

Senator Conroy—I have spoken to them more times than you have in your entire life, Senator Minchin. I assure you I am very familiar with their perspectives.

Senator MINCHIN—I was just with Channel 31 in Melbourne and their vitriol was—

Senator Conroy—They are good people.

Senator MINCHIN—They are very good people, they are great.

Senator Conroy—I am glad you finally met them after how many years as the minister?

CHAIR—Senators, order.

Senator MINCHIN—No, I have not been in this portfolio for that long, but I was delighted with the enthusiasm of Channel 31 and I would urge you to solve the problem as soon as possible.

Senator Conroy—They are excellent. As a Melbourne resident I do not need to go far to see Greg Dee and the team; they are doing an excellent job on the smell of an oily rag and we are committed to resolving their difficulties.

CHAIR—Thank you, Minister. I think Ms Scott has something to say.

Ms Scott—Yes, Madam Chair. Before time slips away, we just have one small correction to an answer that was given previously to Senator Minchin from Mr Besgrove about the payments to international organisations. Could we just read it into the record? It will only take 30 seconds, and then it will just mean we do not have to write complicated letters and people recall weeks later what it was about. Could I have the indulgence of the committee?

CHAIR—Yes, away you go.

Mr Ash—The answer to the question I think was concerning the estimate for \$6.335 million. It is made up of \$6.079 million, which is Australia's contribution to the International Telecommunications Union. That is fully recovered through the Telecommunications (Carrier Licence Charges) Act 1997. And there is \$256,000 to the Asia-Pacific telecommunity. I think Mr Besgrove may have said 181 member states but it should have read 191 member states.

Senator MINCHIN—Thank you for that.

CHAIR—Thank you, Mr Ash, thank you, Ms Scott. Are there any further questions?

Senator MINCHIN—I would like to congratulate you on this first report on digital television transmission and reception as required by the Senate. I think it is an outstanding amendment by the Senate to the minister's legislation and I thank you for a good report in response to it.

CHAIR—Thank you. Senator Ludlam.

Senator LUDLAM—With as few references to the previous government as you are able to manage, there are a couple of separate issues. The cost of transmission equipment, training, installation of gear and so on is one issue for the capital city community TV stations, those of them still standing, and the regional broadcasters like National Indigenous Television, NITV. Capital equipment is on the one hand and spectrum allocation is on the other. Can we address the two separately? First of all, for capital city community broadcasters, how much do they need to make the transition?

Senator Conroy—A figure of \$2 million rings a bell. I am sure I will get some further information on that shortly.

Senator LUDLAM—Okay.

Senator Conroy—But I suspect, if we can get an update on that figure, that is the sort of figure I think has been kicked around.

Senator LUDLAM—How does that compare with what you have needed to appropriate for the digital pathway for the ABC and SBS, the public broadcasters, for example? The figure I have got here, so correct me if I am wrong, spread across three years is \$795 million. Does that sound about right?

Senator Conroy—I am sorry, I did not quite catch that, Senator Ludlam.

Senator LUDLAM—For the upgrade path for ABC and SBS over three years, does that sound roughly right?

Senator Conroy—We might have to take that on notice. We do not have it handy.

Senator LUDLAM—That is all right. What I am getting to is that it is a vastly larger sum of money. I make the observation at the outset that if it is indeed of the order of \$2 million, I would have thought, relative to the size of the appropriation that public broadcasters have just secured, which obviously nobody in this room would begrudge, I do not think, it is a tiny fraction of money. I am just wondering why the decision was not to simply include them at this stage, given that the first region is switching off in 12 months.

Senator Conroy—The first region I do not think covers—

Senator LUDLAM—The capital cities will not cover it, but I guess it would be a very—

Senator Conroy—Are there any community TV stations you are aware of in Mildura?

Senator LUDLAM—I am wondering whether NITV would broadcast into that area?

Senator Conroy—I think they are—

Senator LUDLAM—That is a question, not a statement.

Mr Pelling—NITV is not in a community broadcaster.

Mr Townend—NITV broadcast on—

Mr Pelling—They are primarily broadcast on satellite.

Ms Scott—Yes, they are a satellite.

Senator LUDLAM—Maybe we will come to them separately. What are the public policy reasons for leaving the capital city community TV stations out at this stage?

Senator Conroy—Just to save you time, NITV is actually not in this portfolio; it is in Mr Garrett's portfolio.

Senator LUDLAM—It is in the arts portfolio.

Senator Conroy—It is an historical anomaly. That was just so where you knew where to address your questions on NITV. Excuse me—what were you asking about?

Senator LUDLAM—Can we just hold that point for just a moment, because I raised a question earlier this year or late last year on that anomaly.

Senator Conroy—The Prime Minister determines the portfolio allocations. You are welcome to raise the matter with him. The argument in the past has been on whether it is a cultural issue or an arts issue rather than a broadcasting issue. The allocation and the portfolio distribution is entirely the province of the Prime Minister.

Senator LUDLAM—Does these sorts of issues cause you some difficulties in regulating the broadcast industry?

Senator Conroy—Not substantially.

Senator LUDLAM—Does the agency have to work with Minister Garrett's office?

Senator Conroy—I am sure they enjoy thoroughly working with Minister Garrett's office. He is a pleasure to work with.

Senator LUDLAM—I mean the officers sitting next to you.

Ms Scott—No, Senator.

Senator LUDLAM—With regard to NITV, is there a separate unit somewhere trying to figure out the rules?

Ms Scott—The administrative arrangements are not problematic.

Senator LUDLAM—Let us just stay with the capital city community TV stations then. They will not be affected by the Mildura switch-over coming down the line and also they are losing audience share as people are switching over to digital.

Senator Conroy—I very much accept the point you are making about the audience share. That is the reason that the sooner that they are able to transition the better.

Senator LUDLAM—How soon will that be?

Senator Conroy—I will be engaging with them again, as I have been, in the not too distant future. I hope to have a number of constructive suggestions to discuss with them, but I am sure they would rather I discussed with them directly than via—

Senator LUDLAM—Rather than reading about it in *Hansard* first?

Senator Conroy—Yes.

Senator LUDLAM—Is it safe to make the assumption that there is nothing budgeted for it, so they will be looking to next year's budget?

Senator Conroy—There is nothing budgeted for it.

Senator LUDLAM—They will be looking to next year's budget for security?

Senator Conroy—Yes.

Senator LUDLAM—That goes to the funding. In terms of allocation of spectrum, that is not necessarily budget related?

Senator Conroy—No, that is not necessarily a funding issue.

Senator LUDLAM—Can you describe for us what your intentions are in that regard?

Senator Conroy—To engage them in a number of discussions in the near future and to tell them my intentions to their face.

Senator LUDLAM—But if those decisions are not tied to the budget, to funding?

Senator Conroy—No, I am just indicating I would rather reveal my intentions to them directly rather than through a third party.

Senator LUDLAM—Okay.

Senator Conroy—I am sure you would rather, if I was discussing things with you, I talked to you directly than broadcast it. No puns intended.

Senator LUDLAM—I do not think I have got any further then. Thank you, Minister.

CHAIR—There being no further questions, that concludes examination of Program 1.3. On behalf of the committee I would like to thank all of the officers of the Department of Broadband, Communications and the Digital Economy for your co-operation and assistance over the past two days. Thank you also to Hansard, broadcasting and the secretariat. Senators, a reminder that written questions on notice should be provided to the Secretariat by Friday of next week. The committee will commence its examination of the Environment, Water, Heritage and the Arts portfolios tomorrow morning at 9 am.

Senator Conroy—Thank you, Madam Chair, for your patience.

Committee adjourned at 10.14 pm