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SENATE

ENVIRONMENT, COMMUNICATIONS AND THE ARTS
LEGISLATION COMMITTEE

ESTIMATES

(Supplementary Budget Estimates)

MONDAY, 19 OCTOBER 2009

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SENATE ENVIRONMENT, COMMUNICATIONS AND THE ARTS**LEGISLATION COMMITTEE****Monday, 19 October 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 Abetz, Birmingham, Bushby, Eggleston, Fielding, Lundy, Ludlam, McDonald, McEwen, Minchin, Parry and Wortley

Committee met at 9.03 am

BROADBAND, COMMUNICATIONS AND THE DIGITAL ECONOMY PORTFOLIO**In Attendance**

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

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

Mr Peter Harris, 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 Services

Finance and Budgets

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

Digital Economy Services

Mr Keith Besgrove, First Assistant Secretary, Digital Economy Services

Mr Simon Bryant, Acting First Assistant Secretary, Australian Broadband Guarantee Branch

Mr Andrew Maurer, Assistant Secretary, Regional and Indigenous Communications Branch

Infrastructure Group

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

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

Mr Brian Kelleher, Assistant Secretary, Regional Backbone Blackspots Branch, National Broadband Network

Mr Danny McCarthy, Assistant Secretary, Tasmanian Network Implementation Branch, National Broadband Network Implementation Division

Mr Brenton Thomas, Assistant Secretary, Spectrum and Wireless Services Branch, Networks Policy and Regulation Division

Mr Philip Mason, Assistant Secretary, National Broadband Network and Fibre Rollout Regulation Branch, Networks Policy and Regulation Division

Mr Mark Heazlett, Assistant Secretary, Implementation Study

Digital Economy Strategy

Mr Richard Windeyer, First Assistant Secretary, Digital Economy Strategy

Mr Simon Cordina, Assistant Secretary, Cyber-Safety and Trade Branch

Mr Lachlann Paterson, Assistant Secretary, Content Programs Branch

Broadcasting And Digital Switchover

Dr Simon Pelling, First Assistant Secretary, Broadcasting and Digital Switchover

Ms Karen McCormick, Acting Assistant Secretary, Communications and Media

Mr Jason Dickie, Acting Assistant Secretary, Household Assistance

Mr Gavin Bowman, Acting Assistant Secretary, Program Management and Coordination

Ms Ann Campton, Assistant Secretary, Broadcasting and Switchover Policy

Mr Greg Cox, Assistant Secretary, National Community and Radio Broadcasting

Australia Post

Mr Jim Marshall, Chief Operating Officer

Mr Michael McCloskey, Corporate Secretary

Mr Michael Tenace, Group Financial Controller

Mr Stephen Walter, Group Manager, Corporate Public Affairs

Mr Andrew Wiseman, Group Manager, Financial and Agency Services

Mr Don Newman, Acting Group Manager, National Logistics

Ms Catherine Walsh, Manager Employee Relations

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

Australian Communications and Media Authority (ACMA)

Mr Chris Chapman, Chair, Australian Communications and Media Authority

Mr Chris Cheah, Member and Acting ACMA Deputy Chair

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

Mr Giles Tanner, General Manager, Inputs to Industry Division

Mr Brendan Byrne, General Manager, Legal Services Division

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

Ms Dianne Carlos, General Manager, Corporate Services Division

Mr Andrew Kerans, Executive Manager, Spectrum Planning Branch

Ms Jonquil Ritter, Executive Manager, National Licensing and Allocations Branch

Ms Kathleen Silleri, Executive Manager, Content and Code Compliance Branch

Mr Paul White, Executive Manager, Industry Performance Branch

Ms Andree Wright, Executive Manager, Codes, Content and Education Branch

Mr Vince Humphries, Manager, Education and Telephone Content Section

Australian Broadcasting Corporation (ABC)

Mr Mark Scott, Managing Director

Mr David Pendleton, Chief Operating Officer

Mr Michael Millett, Director Communications

Special Broadcasting Service Corporation (SBS)

Mr Shaun Brown, Managing Director

Mr Jon Torpy, Chief Financial Officer

Mr Paul Broderick, Director Technology and Distribution

NBN Co

Mr Michael Quigley, Executive Chair and Chief Executive Officer

Ms Christy Boyce, Manager, Industry Engagement

Mr Kevin Brown, Head of Corporate Services

Mr Ian McAuley, Senior Adviser

CHAIR (Senator McEwen)—I declare open this public hearing of the Senate Environment, Communications and the Arts Legislation Committee. These are supplementary budget estimates and the agencies heard during these estimates are only those which have been nominated by various senators. The Senate has referred to the committee the particulars of proposed expenditure for 2009-10 for the portfolios of Broadband, Communications and the Digital Economy, and Environment, Water, Heritage and the Arts and other related documents.

The committee may also examine the annual reports of the departments and agencies appearing before it. The committee has set Friday, 11 December 2009 as the date by which answers to questions on notice are to be returned. Senators are reminded that written questions on notice to those agencies or programs nominated to appear at this round of supplementary estimates should be provided by close of business this Friday.

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 and if anybody needs assistance with those rules, the secretariat has copies.

I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying a process by which a claim of public interest immunity should be raised and which I now incorporate in *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

- (a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;
- (b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;
- (c) orders that the following operate as an order of continuing effect:

- (1) If:
 - (a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and
 - (b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.
 - (2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.
 - (3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.
 - (4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.
 - (5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.
 - (6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.
 - (7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).
 - (8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).
- (Extract, Senate Standing Orders, pp 124-125)

Witnesses should speak clearly and into the microphones. Mobile phones should be switched off or silenced. The committee will begin proceedings with the examination of the broadband, communications and the digital economy portfolio commencing with Australia Post and will then follow the order as set out in the circulated program unless it is varied by the committee during the course of the day.

[9.05 am]

Australia Post

CHAIR—I would like to 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—No, thank you.

CHAIR—Mr Marshall, do you wish to make an opening statement?

Mr Marshall—No, thank you.

CHAIR—We will go to questions then.

Senator BIRMINGHAM—Good morning, thank you for joining us today. You handed down the annual report last week, which had some good news in there. If we can start initially with your dividend to government, could you take us through the amount of that dividend and the structure of it, please?

Mr Tenace—Our dividends for the year, in terms of dividends paid, were 186 million in the final dividend from the prior year, and 91.2 dividend paid which was the interim dividend for 2008-09, plus 150 million dividends paid in a special dividend for a total of 427.8 million.

Senator BIRMINGHAM—As I understand it, these special dividends paid were ‘hangovers’, shall we say, from—

Mr Tenace—Dividends declared from the prior year, from 2007-08.

Senator BIRMINGHAM—And there is a special dividend within this financial year, the 2008-09 result.

Mr Tenace—Yes, there was, and that was 38.4 million.

Mr McCloskey—A special dividend of 150 million was one that was part of the 2008 budget and it was paid in the course of the 2008-09 financial year. It was \$150 million, but it was made up of a portion of the final dividend of the 2007-08 year and an interim dividend in the 2008-09 year.

Senator BIRMINGHAM—Okay. And with regard to the recently declared dividend of 38.4—

Mr McCloskey—That is part of the 150 million: it was 111 million from the final dividend of 2007-08 and 38.4 is the residue of the \$150 million. That was paid as part of an interim dividend in the last financial year, in the 2008-09 financial year.

Senator BIRMINGHAM—So that is a previously declared and announced 150 million special dividend, not an additional 38.4?

Mr Tenace—No.

Mr McCloskey—It is not an additional 38 million, no.

Senator BIRMINGHAM—Thank you, that clarifies that. You recorded, as was publicly released, a decline in the number of mailed items. That was a 4.1 per cent decrease I understand. Is that correct?

Mr McCloskey—That is correct.

Mr Tenace—Yes, that is for letters.

Senator BIRMINGHAM—Is that something that Post believes to be a trend?

Mr Marshall—We believe, and we have in fact forecast, that we expect there to be further declines in letter volumes in coming years. We obviously keep in touch with our global counterparts and they are seeing similar trends going forward and similar trends, if not far worse trends, in their current performance. We expect that what we are seeing is the letter product or the letter service starting to go through some structural change in response to the increasing use of digital communication, the internet and so on.

Senator BIRMINGHAM—Do you have any estimates as to the likely rate of decline? You partly cited economic conditions for the 4.1 per cent decline. Do you expect that to recover at all, or do you think that is currently lost?

Mr Marshall—Our current forecast is for a decline in letter volumes of about 2.3 per cent per annum over the next three years on average.

Senator BIRMINGHAM—A 2.3 per cent decline in letter volumes business. I want to look at the agency services side of the business at present. My understanding is you have had a 3.2 per cent growth there. What is the outlook for that side of the business?

Mr Wiseman—In relation to your question, the agency services business consists of four basic streams of business around bill payments, identity services, banking services—over the counter banking services, that is—and money transfer services. Our outlook therefore—would you like figures, Senator, or would you like where the growth is coming from generally?

Senator BIRMINGHAM—Growth directions would be probably easier than figures.

Mr Wiseman—Fine. One of the key areas of growth we are seeing at the moment is around identity services, and this is in the provision of identity checking and that type of activity.

Senator BIRMINGHAM—Identity services? Can you explain that briefly please?

Mr Wiseman—Sure. One key component of that is our passport activity, so we handle about 92.7 per cent of Australian applications for those passports. We also handle now passport activity for the United Kingdom. In addition to that, we do working with children checks, high-risk workers checks, various types of licences, such as drivers licences. And in addition to that we do various types of anti-money laundering, 100-point ID CTF type checks as well.

Senator BIRMINGHAM—In terms of the overall agency service's business line, how much do those identity services contribute as a proportion?

Mr Wiseman—It is about 53.7 million of about 370 million.

Senator BIRMINGHAM—So as a proportion of your agency services, I assume that is fairly small.

Mr Wiseman—In revenue terms, yes. In terms of contribution, it is a significantly higher percentage. My recollection is that something closer to one-third of the portfolio contribution is from identity services.

Senator BIRMINGHAM—Okay, so it is a very high profitability service.

Mr Wiseman—That is right.

Senator BIRMINGHAM—In regards to the bill payments side of the business, what are the expectations and forecasts on that side?

Mr Wiseman—We are seeing a decline in the bill payment business, which has been ongoing for some time as customers move from over-the-counter bill payments to online channels. We see that continuing.

Mr Tenace—We did see a little bit of an improvement this year with the demise of Bill Express, which was taking some market share from us. However, that has recovered and we have seen a bit of an improvement there.

Senator BIRMINGHAM—And decisions such as those of Telstra to further penalise customers for over-the-counter payments obviously would continue to drive a decline in that business?

Mr Wiseman—That is correct. That is a Telstra charge on Telstra customers, but it certainly does impact on our volumes.

Senator BIRMINGHAM—In the negotiations of your agency service arrangements, has Australia Post expressed concerns or attempted to suggest alternative formulas or arrangements to companies like Telstra?

Mr Wiseman—Ultimately, that is a Telstra charge on Telstra customers. It is, perhaps, a question better directed to Telstra. In terms of our discussions with Telstra, we do whatever we can to provide services according to the policies, procedures and business rules that they set for us.

Senator BIRMINGHAM—Do you have any estimate, in the case of business generated by Telstra, as to what impact these fees will have on how much business Australia Post handles?

Mr Wiseman—We have a number of different scenarios that we have forecast. Our estimate in terms of the impact on our volumes is around 20 per cent of Telstra business volumes. That is simply one scenario we are looking at. It is a very difficult number to predict, of course.

Senator BIRMINGHAM—I understand it is difficult and it is simply modelling work, but 20 per cent would be a fairly significant decline, I imagine?

Mr Wiseman—Yes, that is correct.

Senator BIRMINGHAM—What type of turnover are we talking about in the Telstra agency service arrangements?

Mr Wiseman—In terms of transactions, we do about 35 million transactions with Telstra in a year.

Senator BIRMINGHAM—35 million transactions?

Mr Wiseman—Yes.

Senator BIRMINGHAM—I assume that 20 per cent average is broadly applicable to the number of transactions as it is to the revenue?

Mr Wiseman—Yes, you can make that assumption.

Senator BIRMINGHAM—Is that many millions fewer transactions for Australia Post agencies and Australia Post Corporation as a result of Telstra's fee slap?

Mr Wiseman—That is correct.

Senator BIRMINGHAM—Jumping back to mail, despite the decrease of some 4.1 per cent in mail volume, I understand the overall revenue from the letters business increased in the last year?

Mr Marshall—That is correct.

Senator BIRMINGHAM—Do you have an estimate for what the result would have been had the fee increases not come through in that year?

Mr Tenace—That is about \$100 million, Senator.

Senator BIRMINGHAM—As a \$100 million net difference to the bottom line, what sort of decrease in percentage in revenue would that have contributed to in the letters business?

Mr Tenace—I am not sure there is a direct relationship there that we have been able to measure.

Senator BIRMINGHAM—If the revenue from the letters business increased by seven per cent, what would it have increased or decreased by if there was \$100 million less?

Mr Tenace—\$100 million was about five per cent.

Senator BIRMINGHAM—So it would have equated, essentially, to around the same 4.1 per cent drop in revenue without that fee increase. Post, I gather, has lodged a further request for a fee increase with the ACCC; is that correct?

Mr Marshall—That is correct.

Senator BIRMINGHAM—When was that lodged?

Mr McCloskey—It was lodged on 20 July.

Senator BIRMINGHAM—For what amount is that fee increase?

Mr McCloskey—The basic proposal is to increase the basic postage rate by 5c to 60c, and an average 2.9c increase across small bulk mail products—small bulk letters.

Senator BIRMINGHAM—Can you remind me of when the last increase came into effect?

Mr McCloskey—September 2008.

Senator BIRMINGHAM—So in September 2008 you got a 5c increase in the basic price, commensurate to flow-ons to other products, and then by July 2009 you have applied for a further 5c increase. Have you requested a start date for that?

Mr McCloskey—It is to start in January 2010.

Senator BIRMINGHAM—So it is less than 18 months between two 5c increases. It would be quite a significant increase at some frequency. Why has Post sought the second increase so soon after the first increase?

Mr McCloskey—The letter business, or the domestic reserved letter service, is actually losing money at the moment. It lost money last year. It lost around \$67 million in the 2008-09 year. It is in that context that the application has been lodged. We have increasing costs because the size of the network that we have to service is growing by around two per cent a year, 200,000 extra delivery points a year, and the volumes are declining.

We held our price for an extraordinary period of time. It was 45c in 1992. The first rise post-1992 came in 2003. That in effect gave Post back the GST that we had been required to absorb on the basic letter rate when the GST was introduced in 2000. So the first increase was in 2003, the second one was in 2008 and now we are applying for a third one because of the commercial reality of the situation of the service for 2010. It is an application that is before the ACCC and of course will be subject to the full rigours of the ACCC's analysis of the justification or otherwise of an increase.

Senator BIRMINGHAM—You report volume wise a four per cent drop in the letters business last year. You are expecting a further two per cent drop over the next year, and this is an ongoing trend. That means there is obviously going to be ongoing cost pressures on that letters business. You have a fair degree of fixed costs I assume in that business in terms of posties going up and down every street and those aspects of the delivery that are not negotiable. How frequently can Australians expect these price increases if volumes are going to keep declining but your cost base is fixed?

Mr McCloskey—That is something we clearly have to keep under constant review and it really depends on how circumstances develop as to when the point might be reached where we feel we need to put in a further application to the ACCC.

Senator BIRMINGHAM—The last cost increase of 5c you say made about \$100 million difference to the bottom line.

Mr McCloskey—That was a combination of the basic postage rate and bulk or business rates.

Senator BIRMINGHAM—Yes, and this application includes all the above as well?

Mr McCloskey—It does.

Senator BIRMINGHAM—So the last price increase made a difference of about \$100 million to the bottom line. You say that the letters side of the business lost about \$80 million?

Mr McCloskey—\$67 million in the last financial year—the domestic reserved service, so that part of the letters business that is reserved to Australia Post.

Senator BIRMINGHAM—Which does not include those business and parcel—

Mr McCloskey—It does not include parcels, packets, express post and items of that sort.

Senator BIRMINGHAM—Do we have an estimate for what the last price increase generated in the domestic reserved service?

Mr Tenace—The numbers quoted relate to a nine-month period. The price increase was during September, so a full-year impact of the price increase is closer to \$140 million not just the \$100 million. So that price increase came in throughout the 2007-08 year.

Senator BIRMINGHAM—Sorry, is that for the domestic reserved service, as Mr McCloskey just explained it?

Mr Tenace—Yes.

Senator BIRMINGHAM—So that does not include the further increases on parcels or packages.

Mr Tenace—That is correct.

Senator BIRMINGHAM—So a full-year benefit would be \$140 million of the increase on the business that lost about \$60 million last year?

Mr Tenace—The letters portfolio made \$52 million in profit last year. It is the reserved services component of that that Mr McCloskey has been referring to.

Senator BIRMINGHAM—I am just trying to compare apples with apples here. The domestic reserve service lost about \$60 million last year.

Mr Tenace—Correct.

Senator BIRMINGHAM—What is the result of a full-year increase in revenue for the 5c increase on the base postal rate and whatever other products are encompassed within the domestic reserve service?

Mr McCloskey—I have a figure here that suggests about \$142 million is the full-year effect. That is what it would be in the 2010-11 financial year based on the volumes that are projected as part of the application we have put in to the ACCC.

Senator BIRMINGHAM—So for your projections for the 2010-11 year—and that is a full-year figure—it is \$142 million, noting that this increase is only meant to come in in January 2010. You are saying there will be a \$142 million increase in revenue over that year purely on the domestic reserved service?

Mr McCloskey—That is correct.

Senator BIRMINGHAM—That is to offset a \$60 million deficit on that service in the 2008-09 year, and I assume you expect that deficit to grow.

Mr McCloskey—And costs, of course, will continue to increase.

Senator BIRMINGHAM—What deficits are you budgeting for that service over the next couple of financial years?

Mr Tenace—In our estimates for this year it is around \$142 million.

Senator BIRMINGHAM—So in the full year 2009-10 you expect to lose around \$140 million on the reserved service, the basic postal delivery?

Mr Tenace—That is correct.

Senator BIRMINGHAM—So this 5c increase will purely catch you up essentially back to a status quo level?

Mr McCloskey—I think that figure that Mr Tenace quoted includes the part-year benefit that would flow in this current financial year from a rise, if it is approved for January 2010.

Senator BIRMINGHAM—So it still will not quite catch you up in a full year?

Mr McCloskey—That is correct.

Senator BIRMINGHAM—So, if you get this 5c plus increase by January 2010 approved by the ACCC, Australia Post will still find itself in an ongoing position of losing money on the domestic reserved service?

Mr McCloskey—That is correct.

Senator BIRMINGHAM—Does the board have a policy in regards to that service that it needs to be, if not a profit-making centre, then a non-loss centre?

Mr McCloskey—That would be the ideal situation. There is a very fine balance here to be taken into consideration between seeking additional revenue and not taking pricing action that might accelerate a structural decline in volume that is already there. It is a very fine balance that has to be taken and weighed up.

Senator BIRMINGHAM—There certainly is, and I appreciate that. It is also a fine balance in terms of when those types of postal services start to lose their equity and accessibility to the population. I guess this is partly a policy question for government, the Minister might like to comment on it, as to where the ongoing sense of commitment and policy around a universally priced universally accessed postal service is that is a fair and reasonable cost price. We saw a 5c increase in September last year, we will see a 5c increase in January next year, and Post is still running at a loss on that business. It is a board policy that, at least in part, it tries not to run at a loss, so we seem to see the potential for ongoing increases, especially given that trend line of the number of letters decreasing and that, obviously, at some stage gets to the point where we are looking at the cost of posting a letter having doubled in a fairly short period of time.

Mr Marshall—Any international comparison shows us very favourably on price, even with the increases that are being contemplated, so we need to take into account the very long period where we had no price increase in a market sense. The issues that we face are, as you point out, complex because if we experience ongoing decline in volume then our challenge is how to improve the variability of cost in what is a relatively fixed cost network. As you pointed out, people need to go to every address every day in the nation. That does create the characteristic of a fixed cost and, as one of my colleagues pointed out, that requirement is increasing year by year at about two per cent in terms of the number of delivery points that need to be visited. So that is the requirement on the one hand. On the other hand, if the volume is going to decrease over time, as it has over the past 12 months, the combination of price and productivity improvement that we can achieve need to be able to back up that product, along with the approach that Australia Post takes to its other businesses.

Senator BIRMINGHAM—Consumers would rightly have some concerns, not just about the prospect of continued price pressures—the story you outlined, Mr Marshall, writes very clear that there is a structural problem in this area of the business ongoing. At some point it becomes a more significant policy question for government that if you have an annual two per

cent increase in delivery points to homes and businesses and an annual decrease in volume of between two and four per cent in the number of letters carried, then the only way for you to continue to break even is to push up prices. As Mr McCloskey indicated, that could risk further increasing the decline in letter volumes. But consumers I imagine would be concerned as well to see hundreds of millions of dollars in dividends being paid to government at the same time as this basic service is facing fee increases. Is that an issue that the board considers?

Mr Marshall—We need to separate the two issues: the dividends are being paid out of profits that are not being made in the reserved service.

Senator BIRMINGHAM—Indeed, I recognise that obviously if the letter delivery service is losing money, the dividends clearly are not being paid out of that. Even if it is just breaking even, but if it is being partly cross-subsidised by other profit making areas of Australia Post, then isn't it reasonable for consumers to think that given Australia Post is given that ability to compete in a corporate sense and have profit centres that somewhat offset that basic letter delivery business, it should offset it more effectively rather than seeing these significant dividends being paid year on year to government?

Mr Marshall—As I said, you need to separate the dividend issue from the ongoing business. The dividends are payments out of profits from non-reserved business. It is normal business practice that any business would do that. If the dividends were not paid, it would make no difference to the profit or loss of the reserved service.

Senator BIRMINGHAM—It may not make any difference to the profit or loss of that particular service, but it may make a difference to Australia Post's capacity to absorb the loss of that service and not have to so frequently pass on cost increases to pensioners and small businesses and everybody else in the Australian community who post letters.

Mr Marshall—Senator, I am having a little difficulty in explaining the issue of dividends and the relationship between that and the ongoing business at Post. I can only say to you again that the issue of payment of dividends is not relevant to the profitability of Post and it is not relevant to the profitability of the reserved service, except that it draws from the profit made across the business to pay a dividend to its shareholder.

Senator BIRMINGHAM—Does Post, in its submission or in other work, have any estimates of how a further 5c increase, raising another \$140 million out of a smaller number of letters posted, will impact ongoing on the volume of letters? Will it, to paraphrase Mr McCloskey before, further exacerbate the decline in the letters business?

Mr Marshall—We do not believe that the impact is material.

Senator BIRMINGHAM—Okay, so you do not believe that that increase—what will be a 10c increase over 18 months that will have raised some \$240 million or thereabouts—would have a material impact?

Mr Marshall—No, we do not.

Senator BIRMINGHAM—Some of my colleagues have talked about liking to see Mr John, but I note that he is now departing. When does he finish?

Mr Marshall—On 31 December this year.

Senator BIRMINGHAM—Is there any payout eligible to Mr John at the conclusion of his contract?

Mr McCloskey—Mr John will be eligible to have the value of any accrued recreational leave or long service leave paid to him.

Senator BIRMINGHAM—So just the standard entitlements. What about any other benefits as part of his contract? Will he be paid a performance bonus for the six months of this year?

Mr McCloskey—That would be a matter for the board to determine.

Senator BIRMINGHAM—He was paid a performance bonus last year, was he not?

Mr McCloskey—He was. That is correct.

Senator BIRMINGHAM—And the value of that was?

Mr McCloskey—It was \$604,000 based on performance through the 2008-09 financial year. It was down from \$1.064 million the previous year.

Senator BIRMINGHAM—It contributed to a total package for 2008-09 of \$2.58 million. Is that correct?

Mr McCloskey—If that is what it says in the annual report then that would be correct.

Senator BIRMINGHAM—What process is in place to select Mr John's replacement?

Mr McCloskey—There is a board subcommittee that has been appointed to undertake that process, and that subcommittee has engaged executive search firm Spencer Stuart to assist in the process.

Senator BIRMINGHAM—And what instructions have been given with regard to salary negotiations for that search process?

Mr McCloskey—The chairman is in consultation with the Remuneration Tribunal with regard to what might be available as a remuneration package for an incoming managing director.

Senator IAN MACDONALD—Not the minister's office?

Mr McCloskey—No, the Remuneration Tribunal is the requirement that the board has to consult with in regard to the managing director's remuneration.

Senator BIRMINGHAM—Does the minister have the capacity to give instructions to the board on these matters?

Mr McCloskey—I do not believe that he does, Senator.

Senator BIRMINGHAM—Is the board mindful of the many comments by the Prime Minister and others about executive remuneration and salaries and conditions?

Mr McCloskey—The board would be fully aware of the sensitivity of remuneration issues at present, yes.

Senator BIRMINGHAM—Mr John's package, however, was equally approved by the Remuneration Tribunal, was it not?

Mr McCloskey—Mr John's package is determined by the board within parameters that have been approved by the Remuneration Tribunal.

Senator ABETZ—Was he the highest person in charge of a public Commonwealth agency?

Senator Conroy—Until recently.

Senator BIRMINGHAM—Sorry, Minister, was that 'not until recently'? Until recently.

Mr McCloskey—I am not certain—

Senator BIRMINGHAM—Until your portfolio picked up an even higher paid one, Minister! There is competition in the portfolio, Minister; it is good to see! I gather we are seeing Mr Quigley later?

Senator Conroy—We are.

Senator ABETZ—So you do not know how it relates to other salary packages within the government agencies section, Mr McCloskey?

Mr McCloskey—I am not specifically aware. My impression is that it is certainly one of the higher ones, without question.

Senator BIRMINGHAM—I think the minister's 'until recently' comment meant that until Mr Quigley was appointed it was the highest-paid government agency position. Is that correct?

Mr Marshall—I cannot comment on that, Senator. I do not know.

Senator BIRMINGHAM—Minister?

Senator Conroy—What was the question?

Senator BIRMINGHAM—Just to clarify your 'until recently' comment, until Mr Quigley was appointed it was your understanding that Mr John was the highest-paid government—

Senator Conroy—I think that was the case but I am not an expert on the range of government agencies and what they are paid. They are outside my portfolio. I could not confirm to you that Mr John's was the absolute—

Senator ABETZ—But I am sure you are given comparisons, Minister, as to what the CEO of the ABC is paid in relation to—

Senator Conroy—Given that I have no role in the setting of Mr John's salary other than reading it in the annual report each year, no. I do not read all the annual reports of all the government agencies. I am hoping you do.

Senator ABETZ—So you bash up the private sector, but when you guys appoint people to these top executive positions it is okay when they have the multimillion-dollar salaries and packages. You do comment on the private sector yet you remain incapable of commenting on the public sector.

Senator Conroy—I would not want to suggest that you are perhaps verballing the Prime Minister, Senator Abetz, but I think, if you look at his comments in particular, he has talked about performance based bonuses. I am not sure that Australia Post has fallen into the same

problems as the financial services sector, which managed to pay itself extensive bonuses while going out backwards. Australia Post has performed exceptionally over a long period of years and I would hesitate to guess that the current package that Mr John was on was probably set under your government.

Senator ABETZ—I am just pointing out the interesting, duplicitous approaches to the private sector and the public sector, that is all.

Senator Conroy—The point I am making is that I think you verbalised the Prime Minister slightly or possibly more than slightly, Senator Abetz.

Senator ABETZ—That would be impossible!

Senator BIRMINGHAM—We will obviously explore the appointment more fully after it is made and we look forward to meeting the new managing director.

Senator ABETZ—Will he or she be appearing?

Senator Conroy—Mike Quigley will be appearing.

Senator BIRMINGHAM—No, the managing director of Australia Post.

Senator Conroy—Sorry.

Senator BIRMINGHAM—Unless you are already shutting down the NBN and Mr Quigley is parachuting in to take this job as well!

Senator Conroy—He has enough spare time and is prepared to take this job on as well—I do not think so!

Senator BIRMINGHAM—We hope that the new managing director of Australia Post does appear. If I can flag that when Mr John departs—of course, this will be reported in your annual report—I would appreciate this committee being provided, as an answer to a question on notice or in next year's February estimates, with details of his separation payments, please.

Mr McCloskey—We will certainly do that.

Senator BIRMINGHAM—Thank you.

Senator FIELDING—I would like to focus on the injuryNET network. Australia Post has a team of GPs otherwise known as facility nominated doctors, or FNDs. When was the tender for that? Can you just give us a bit of background.

Ms Walsh—InjuryNET has been used by Australia Post for some seven years now. It started in Victoria and then went through to other states. It was only last year that it became a fully national program. It will be put out to tender in the future. It has not actually been put out to tender yet.

Senator FIELDING—What is going to trigger it coming up for tender?

Ms Walsh—Now that it is a national system—

Senator FIELDING—It is already national, so what would trigger it going to tender?

Ms Walsh—Our contracting out process would trigger it, but I can take on notice as to when it would be put out to tender.

Senator Conroy—I would think you would want to consult the new managing director, wouldn't you?

Senator FIELDING—But why—

Senator Conroy—That was a question. You can feel free to answer.

Senator FIELDING—But why would you put it out for tender now that you have already got it up and running? I am trying to work out why you would tender it now when you have not before.

Ms Walsh—Once we have contracts that reach a certain size and have a certain amount of money associated with them, we would generally tender them on a regular basis.

Senator Conroy—So when do you intend to tender it?

Ms Walsh—I would have to take that on notice, because that tendering process would be done by our corporate sourcing area.

Senator Conroy—And will you be consulting the new managing director?

Senator FIELDING—It does not bother me whether you do or not.

Ms Walsh—I do not run the sourcing service, but I imagine that that would be an issue that could be raised with the managing director.

Senator FIELDING—That will hold it off until next estimates anyway. I am interested in focusing on the facility nominated doctors who are part of injuryNET. What sort of training are they required to undergo in addition to being a normal GP?

Ms Walsh—Obviously they are trained medical professionals appointed by injuryNET. InjuryNET are a separate company. They source the doctors who provide those services. InjuryNET provide them with training on the Australia Post policies and procedures that apply to their operation under that contract and then they arrange appropriate visits to the work sites that they are likely to be seeing employees from. They then undertake site visits. It depends on the number of sites and the complexity of the sites that they are visiting as to the length of time that that takes.

Senator FIELDING—Is there a formal training process or is it just ad hoc?

Ms Walsh—There is, through injuryNET.

Senator FIELDING—Is that something Australia Post has approved?

Ms Walsh—When we contracted out to injuryNET, part of that contract would have been the provision of that training.

Senator FIELDING—Do you have a copy of that training?

Ms Walsh—I do not have a copy of that training here with me, no.

Senator FIELDING—Could you provide the committee with a copy of that training?

Ms Walsh—I could take it on notice that we would provide details of that training.

Senator FIELDING—Details, or the training itself? I would not mind seeing the package of training. You said it was formal, so there must be a formal document.

Ms Walsh—Yes. I can undertake to provide the training to you.

Senator FIELDING—Are you aware of the case—and it has been raised before publicly—of Scott Lynch, a truck driver who works night shifts in the Sydney west transport facility who hurt his left forearm at work and was given a medical certificate from his own GP to stay at home and rest for two days? He told this to his manager and was told by him that he needed to see a facility nominated doctor or someone from injuryNET or all his claim for workers compensation might be refused. When he saw the facility nominated doctor, the doctor agreed with the original diagnosis but told him:

I agree with what your doctor said, but I can't put that on a medical certificate. I have to find out what they expect me to do with you.

The facility nominated doctor spoke to Mr Lynch's manager and was told that there was meaningful work for Mr Lynch and told the facility nominated doctor to send him back to work, despite the fact that Mr Lynch could not lift more than 1 kg with his left arm and no more than 7 kg with his right arm. He was a truck driver yet was so injured he could not even drive his car to work. When a union official asked Mr Lynch's manager what meaningful work Mr Lynch could possibly do, the manager told him that Mr Lynch could come in to work and watch television. Mr Lynch did not come in to work and as a result his claim for workers compensation was rejected. Are you aware of those claims in this case?

Ms Walsh—I am not aware of the Lynch case and I am not aware that that has been aired publicly. I am happy to take on notice the details of that case. What I would say is that it is certainly not the intention of the injuryNET or the facility nominated doctor service to send people back to work to roles such as watching television.

Senator Conroy—It just happens a lot!

Ms Walsh—I would suggest that it is something that does not happen a lot and it is certainly not the intention of the program.

Senator Conroy—I thought I had asked extensive questions about this previously.

Ms Walsh—I would bring to your attention, as this is an issue that we have questions on at times through this committee, that Comcare has undertaken an investigation following a request by the CEPU, the union that covers the Australia Post workplace. Comcare states in a letter to the union, a copy of which has been provided to Australia Post, that in their view, where there is a report of injury in the workplace:

Such a proactive approach would involve assisting an injured employee to obtain early and expert medical diagnosis and treatment. Best practice employers would offer the provision of this medical attention without cost to their employees and from local and readily available doctors who have been inducted into the local workplace and have a good knowledge of the range of alternative or suitable duties should the employee be immediately unfit to return to his or her normal duties. In this way there would be a seamless transition from acute care to primary rehabilitation, being recovery, to tertiary rehabilitation, being maintenance at work or return to work or a smooth transition from injury management to occupational rehabilitation. Comcare also encourages scheme employers to adopt a model of occupational rehabilitation by developing rehabilitation management systems which seek to either maintain injured employees at the workplace on suitable duties or to return injured employees to the workplace quickly but in a safe and durable manner. There are positive gains for both the employee and the employer in such an approval and one which is consistent with the aims of the SRC Act.

It was recognised by Comcare that the program we have with the FND system through injuryNET meets that best practice aim.

Senator FIELDING—There are many claims—and I will not go into them all here. Your ability to provide what you have just given there may make it sound like it is not an issue. This is an issue that is going to be explored further and I am hoping that there may even be further Senate inquiries into it, but I will not go there. I have been made aware of advice—

Senator Conroy—It is the ALP national platform position to hold a Senate inquiry into that.

Senator FIELDING—It may be.

Senator Conroy—I voted for that at national conference. I am sure it is.

Senator FIELDING—The issue that I have been made aware of is that Comcare has issued advice in relation to fitness for duty assessments. I would like to quote one particular sentence from that advice:

If information regarding an employee's medical condition is collected for an employment related purpose (for example, to record absences from work or to assess their fitness for duty) it should not in principle be used for a compensation related purpose (for example, to support a decision to continue or cease liability).

How is it that Australia Post can continue to use doctors to make fitness for duty assessments that then get passed on to your workers compensation section, who make decisions to deny compensation the way that Comcare frowns upon?

Ms Walsh—I understand that you are quoting from a policy direction issued by Comcare back in 2000. Comcare have audited Australia Post on an annual basis and, of course, our licence review happens every four years. There is a full investigation of our processes and systems through that auditing process, and at no stage has Australia Post been found to be in breach of that policy. We comply with that policy through our system. We have never been found to be in breach of it.

Senator Conroy—I am sorry, I do not agree with you at all. I have had a number of lengthy discussions at previous estimates when I was on the other side of the chamber. I cannot agree with that statement at all.

Senator FIELDING—Is it true that the facility-nominated doctors contact managers at work before they give the sick leave?

Ms Walsh—Not in every case.

Senator FIELDING—Not in every case, but in a lot of cases?

Ms Walsh—I am not even sure that I would say they do it in a lot of cases. What I can say is that facility-nominated doctors, because, as I said before, they will be inducted and trained in what occurs in a particular workplace, may ring a manager to inquire as to what alternative duties are available at that time for the employee to ensure their return to work in a safe role. It is certainly not to be a discussion around the person's health or treatment.

Senator FIELDING—So there is no breach in privacy laws at all in contacting a manager about someone seeing their local GP? In this case, they are seeing one of your doctors and they seem to be forced to see one of yours.

Ms Walsh—Under the injury management and prevention program they can choose to see their own doctor.

Senator FIELDING—That is not what lot of staff at Australia Post believe, and it is not what is being portrayed through Australia Post. I think this specific area is worthy of a more in-depth inquiry by the Senate. I will be calling for it, and I am hoping to get backing for it, because there are huge concerns about people's basic rights being trampled on—a genuine person who has got some injury feeling as if even their privacy has been breached, and they are being forced back to work when clearly it is not in the best interests of their own health. Their local GPs are saying it is not right, but, all of a sudden, the facility-nominated doctors are saying that they should be back at work. There is something wrong here, and I certainly will be picking it up further.

Senator Conroy—As I mentioned, Senator Fielding, it is ALP policy to hold an inquiry like that. I voted for it, and I have raised extensively at previous estimates—you were probably not in the room at the time—the conduct of post-management and the FND network. I am looking forward to the outcome of that Senate inquiry.

Senator FIELDING—I will also be interested to see what the parameters of the tender are when it does get to set up. Thanks, Chair.

Senator ABETZ—Let me add my disappointment at Mr John's failure to appear. I have come to these estimates time and time again hoping to catch a glimpse of Mr John. Thank goodness for the 200-year celebration document—I turn the cover, and I get a picture of Mr John. So at least I now know what he looks like. I wish him well in retirement, but it is a pity that he never delivered to Senate estimates. I wonder whether you could pass on to the board—

Senator Conroy—A perfect record!

Senator ABETZ—I beg your pardon?

Senator Conroy—A perfect record—and all the time he was in charge under your government and this one!

Senator ABETZ—Yes. It seems to me that there should be a requirement—a directive by the board—that the person who is at the helm should appear at these Senate estimates. This is a great document—*Australia Post celebrates 200 years*. Thank you for mailing it out. There were a lot of celebrities in it, and I was wondering whether celebrities paid for being part of this or they all provided their visages and commentaries free of charge.

Mr Walter—No celebrities were paid any money to participate in the bicentenary, so I do not even need to know the names because I can tell you that unequivocally.

Senator ABETZ—Well done. For what it is worth, I have got a pretty good document. How much did it cost all up?

Mr Walter—May I see the document?

Senator ABETZ—Yes.

Mr Walter—That is our magazine—

Senator ABETZ—For Hansard, it is ‘Australia Post celebrates 200 years’.

Mr Walter—That is actually not the bicentenary magazine as such; it is our magazine that goes out to business customers, I think four times a year. It featured the bicentenary in that issue, but in fact it has a circulation of 20,000 to our major and small business customers.

Senator ABETZ—I thought I was special but I am sharing this with 19,999 other people! But thank you for that.

Mr Walter—It goes out to all members of parliament, and we hope to keep you informed of our range of activities, just as we do our customers.

Senator ABETZ—We get a lot of this sort of mail across our desks but, for what it is worth, I did enjoy flicking through it. I would like to follow up on Senator Birmingham’s questioning and, in the event that I cover areas that he has already raised, Chair and Minister, please feel free to let me know. In relation to the future plans of Australia Post for price increases et cetera, do you have any strategies underway to improve productivity to minimise the need for price increases; and, if so, can you point to something specifically?

Mr Marshall—We have an ongoing cost management program in post and we have an ongoing cost management program in productivity improvement, specifically in the letter business. As I responded in earlier questions, however, the issue we face is that the letter business has a relatively fixed cost network that does not respond easily to declining volume. Posties need to go to every address every day, and that requirement does not change if there is a change in the volume of letters, relatively, at the margin. We have had a very long and deep process of productivity improvement, not just now but over the last nine years—

Senator ABETZ—Fine, but can you point to something specific?

Mr Marshall—Over the last nine years, in the division that I came from, through our initiatives we have removed in excess of \$300 million from the letters network and—

Senator ABETZ—Right. That is in the past, but what about the future?

Mr Marshall—that process is ongoing. We—

Senator ABETZ—Yes, but what are you specifically looking at to help reduce your costs in the future? I would have thought, for example, that optical character recognition was something you might be working on.

Mr Marshall—We have a range of projects that we are working on to continue that record. We have—

Senator ABETZ—Yes, but can you nominate the project—

Mr Marshall—Senator, I am coming to that.

Senator ABETZ—Good.

Mr Marshall—The recent upgrade of our optical character recognition equipment was the first part of a phased approach to deeper automation in our delivery network, and that entails moving from improving the ability of our machines to read more of the letters accurately

through to the automated sorting of letters to sequence level for the postie's round. That is a process that has been in play for a couple of years and will take a number of years to roll out across the network.

Senator ABETZ—What capital has been set aside to undertake these initiatives? Have you set aside capital amounts for these processes; and, if so, how much?

Mr Marshall—We certainly have.

Senator ABETZ—If you do not have it handy, take it on notice.

Mr Marshall—Yes, I might take that detail on notice.

Senator ABETZ—Yes, of course. I understand that. Could you then indicate to us what the estimated impact of those initiatives will be in relation to cost savings or greater efficiencies and also the scheduled timing of their introduction. If you are more comfortable taking that on notice, with the whole package of questions—

Mr Marshall—Perhaps I can address the general question and take the specifics on notice.

Senator ABETZ—Yes, of course.

Mr Marshall—We have already completed the OCR upgrade and that has been implemented across the mail centre network. That has resulted in an improvement or a reduction in our workforce of some 106 people, but the flow-on of that is a more gradual process. We do have estimates of what the impact will be, and I will take that on notice and get you the details.

Senator ABETZ—Thank you, Mr Marshall. Are there any industrial issues, either past or current, preventing Australia Post from pursuing these initiatives?

Mr Marshall—We have an ongoing process of consultation with our staff and their representatives. We work through those issues. We do not necessarily reach agreement on everything, but we all understand the need for us to move on and to improve the cost base of what is a business that needs to balance price and productivity going forward if it is to survive.

Senator ABETZ—Yes, but the question is whether or not there have been any industrial issues preventing you from pursuing these initiatives at the rate that you might hope for. To say that you negotiate these things would suggest that you have an optimal plan from which you have to step back because you have negotiated, because of industrial pressure. Am I reading that correctly or not? I hope I am not.

Mr Marshall—I would regard what we do as a normal business process in that we need to engage people in a change process—

Senator ABETZ—Whether it is normal or abnormal is of no interest to me. I want an answer to the question, which is whether or not there are industrial issues preventing you from implementing as expeditiously as you would want some of the initiatives that you have previously outlined.

Ms Walsh—Australia Post is covered by an enterprise agreement that has a requirement to consult over major and significant change in the workplace. That is a fairly normal provision to have in an enterprise agreement.

Senator ABETZ—Of course.

Ms Walsh—We undertake that consultation diligently and we take that obligation seriously. So, while, yes, there is a requirement to meet and consult and negotiate with the relevant unions affected by any significant change, we are certainly not of the view that it slows down the change process. It is something that we need to build into any plan that we have to undertake change in our workplaces, and I think we do that well.

Senator ABETZ—Consultation is a good thing, and if that is being undertaken I welcome that and I applaud Australia Post for undertaking it. But if, as a result of the consultations, Australia Post is hampered in developing some of these initiatives then at the end of the day it is the Australian consumer that pays the higher price. That is why I am inquiring about these issues. I will move on to another issue. First of all, has Australia Post pursued a range of new businesses by acquiring a partnership with Qantas parcel and logistics businesses Star Track Express and Australian air Express?

Mr Marshall—We have had a joint venture with Qantas called Australian air Express since 1992. We have been in a joint venture with them in relation to Star Track Express since 2003.

Senator ABETZ—Have they been enhanced or developed further in recent times?

Mr Marshall—The Australian air Express business has been, over that period of time, a growth business for both parties. It has had some automation investment in the last couple of years. I do not know whether that is what you are referring to.

Senator ABETZ—And Australia Post has invested in that as a partner of it?

Mr Marshall—No, it has been funded out of the joint venture.

Senator ABETZ—And Australia Post is part of the joint venture?

Mr Marshall—Correct.

Senator ABETZ—And where does the joint venturer get its money from—the joint venturers?

Mr Marshall—Out of its earnings.

Senator ABETZ—And those earnings would be going back to the joint venturers?

Mr Marshall—This is a form of investment after profit, if I can put it that way.

Senator ABETZ—Yes. So if the joint venturer had not invested in a particular year then one would assume that Australia Post would have got a higher dividend because the dividend from the joint venturer to Australia Post would have been higher. That is pretty straightforward, isn't it?

Mr Tenace—The joint venture companies operate as separate entities so they are responsible for their own funding and for their own dividends. Australia Post receives dividends from these two entities.

Senator ABETZ—Does Australia Post have representatives on the board of the joint venturer?

Mr Tenace—Yes, it does.

Senator ABETZ—And do those people look after the interests of Australia Post as well?

Mr Tenace—They look after the best interests of the joint venture vehicle. It is a 50-50 joint venture vehicle with Qantas. As directors, that is their responsibility.

Senator ABETZ—Have these acquisitions returned a profit each year since they have been undertaken?

Mr Tenace—Australian air Express was not an acquisition; it was built up from scratch. It was never acquired. It was an investment company that was built up from assets that were put in by Australia Post and a joint venture agreement with Qantas for the supply of belly space.

Senator ABETZ—Thank you for all of that, but has it returned a profit each year?

Mr Tenace—Australian air Express has returned a profit in most years of operation.

Senator ABETZ—Which years hasn't it?

Mr Tenace—There would be a couple of years earlier on where it was a building company and there were establishment costs.

Senator ABETZ—So for the last four or five years you have been getting a dividend?

Mr Tenace—We have received a dividend in every year of the joint venture. The last year, the 2008-09 year, was a year when Australian air Express did struggle. However, it has recovered from that now.

Senator ABETZ—You said 'struggle'. Tell us the figures. Are they publicly available somewhere? By 'struggle' I daresay you mean it made a loss.

Mr Tenace—It made a small loss last year, yes.

Senator ABETZ—And what do we call a 'small loss'?

Mr Tenace—Less than \$5 million.

Senator ABETZ—So just a fraction more than what the CEO of Australia Post earned in 2007-08, which I understand was about \$3 million. As a percentage of turnover, what did that represent?

Mr Tenace—The turnover of Australian air Express is around \$565 million.

Senator ABETZ—So about a one per cent loss on turnover?

Mr Tenace—Yes, very small.

Senator ABETZ—Of course, you would be hoping for a dividend. Normally with a business like that you would want a minimum of five to 10 per cent dividend to get a return on your capital investment?

Mr Tenace—Depending on the strategies of the business at the time, yes.

Senator ABETZ—What is the strategy of the business? I would have thought it would be to return a positive dividend.

Mr Tenace—In the last 12 months there was a significant impact from the global financial crisis that did impact the business. It was quite an abnormal year for many transport companies.

Senator ABETZ—So what is your profit target for this financial year? Given that you are about one per cent down, what are you looking at for this financial year?

Mr Tenace—We are looking at getting close to \$20 million.

Senator ABETZ—Profit?

Mr Tenace—Yes.

Senator ABETZ—I will do the maths later, but that would be a substantial turnaround from last financial year?

Mr Tenace—That is correct.

Senator ABETZ—So the difficulty with Australian air Express last year had nothing to do with your approaches to the ACCC for your price increases?

Mr Tenace—Not from an Australia Post perspective, no.

Senator ABETZ—Is Australia Post going to continue its sponsorship of the Sydney Hobart Yacht Race?

Mr Walter—I am not aware that we do sponsor the Sydney Hobart Yacht Race, but I could take that on notice.

Senator ABETZ—All right. I might be under a misapprehension about that.

Mr Walter—If we do, it is certainly not on a national basis, but I am not aware that we do.

Senator ABETZ—Is there any integration between Star Track Express and Australia Post's delivery network?

Mr Marshall—There is not integration, Senator. There is—

Senator ABETZ—What other word should I be using?

Mr Marshall—There is a capability for us to offer a customer a complete set of services that would use both networks but the networks are not integrated.

Senator ABETZ—So if somebody has an over-sized parcel, Australia Post would be suggesting to them that they might like to use Star Track Express, for example?

Mr Marshall—If I could just give you an example: people may want overnight interstate capability for some of their business and not for other parts of their business. As an example they would use Star Track Express for the express part of their business and Australia Post for the non-express part of the business.

Senator ABETZ—Is there a position such as managing director in Australia Post, or is that the CEO position?

Mr Marshall—That is the same position.

Senator ABETZ—Right, the same position. At the last estimates I asked whether you guys were searching for a new managing director and I was told no; of course now you are searching for a new CEO.

Senator Conroy—There was no vacancy last time, Senator Abetz.

Senator ABETZ—There was not necessarily a vacancy, but I am wondering whether last time around it was already anticipated that there would be a vacancy occurring, although it had not been publicly announced, and the mechanisms for a search for a new MD may have already been discussed at least at board level and pursued.

Mr McCloskey—I clearly recall you asking that question. I think it might even have been the first question that you asked but I think it was at the February estimates and not the May estimates. I think you asked the question, ‘Are you in the market for a new managing director?’ and the answer was ‘No’. That was the case at that stage. Indeed that would have been the case even in May, had you asked the question again, which you did not do.

Senator ABETZ—Be very careful, Minister, in case I ever ask, ‘Is the Prime Minister looking for a new communications minister?’ because it might happen six months later.

Senator Conroy—He is not in the market.

Senator ABETZ—He is not in the market; that is good to hear, at least from your point of view.

Senator Conroy—Unlike your party, which is in the market.

Senator ABETZ—Can I ask about Australia Post’s intention—correct me if it is not right—to move into the general insurance industry. Is that correct? I daresay somebody is coming to the table not just to tell me ‘no’. The answer is ‘yes’; thank you for that, Minister. How does Australia Post propose to undertake this strategy when ASIC recently warned about the risk of selling financial service products? How is Australia Post going to ensure that it provides good financial service advice? Mr Wiseman has all his cards there with the answers on them. I like that. Minister, you should try that, instead of your laptop, at question time. It might be more helpful.

Senator Conroy—I have moved into the digital age, Senator Abetz. It is the 21st Century now.

Senator ABETZ—I am more comfortable with the cards, I must admit, Mr Wiseman.

Senator Conroy—I can believe that. I have moved into the digital age, just like you have Senator Macdonald. I note you have a computer there. It looks like everybody at the table has a computer but you, Senator Abetz.

Senator ABETZ—No, I have my emails on this!

Senator Conroy—You can’t work a laptop?

Senator ABETZ—Yes.

Mr Wiseman—Yes, you are correct—we have announced that we are looking to move into the general insurance market. There are a range of legislative and code of conduct requirements that we have factored into our approach. We have, as part of our approach, done a review of the legislative requirements both of the environment under APRA, which is around prudential and solvency requirements—around underwriting; and also the requirements that ASIC looks after in terms of the distribution of insurance products. So our policies and procedures that we are putting into place take account of all of those. It is, as you know, a well-regulated market.

Senator ABETZ—All right. Thank you for that. Are you currently selling the products?

Mr Wiseman—Yes, we are currently selling car insurance products.

Senator ABETZ—But you are still getting certain mechanisms in place?

Mr Wiseman—Sorry, no, those mechanisms are in place—those policies and procedures are in place.

Senator ABETZ—Right, they are in place. Thank you for that. I move on to the issue of the increase in some LPO commissions that were supposed to come into effect on 1 July. Is that correct?

Ms Corbett—I represent commercial strategy. Are there particular details with regard to our LPO commissions you are referring to?

Senator ABETZ—First of all can you tell me were some LPO commissions to be increased as of 1 July this year?

Ms Corbett—We have regular consultative meetings with POAAL with the licensee agreements that we have in place in our bill payments. The commission structures are often reviewed on an annual basis.

Senator ABETZ—So, to date, have the increases that were due on 1 July been paid?

Ms Corbett—Some of those increases have been paid and some of them have been reviewed, and we have other ones which are underway with regard to some of the different stages with parcels and some of the other ones that come up from licensees.

Senator ABETZ—Well, an increase in the actual commissions I thought was supposed come into effect for some of them on 1 July—

Ms Corbett—Yes.

Senator ABETZ—and they had not, because of whatever reason. Are you saying that—

Ms Corbett—I am not aware that they had not come in, but I am happy to take that on notice and get that back to you.

Senator ABETZ—All right, if you could get that on notice and then advise if it did occur then why it occurred and what mechanisms have been put in place to ensure that that does not happen again?

Ms Corbett—Sure.

Senator ABETZ—Can I finally ask: do any contractors hold indefinite term mail contracts?

Mr Newman—We have currently 43 what we used to call ‘indefinite-term’; we now call them ‘non-specified’ now. There are 43 nationally.

Senator ABETZ—Do you intend to phase them out? Do you intend to provide them with a greater degree—well, not greater degree, I suppose less certainty, by making them renewable every three or five years?

Mr Newman—There is no impediment from us in transferring those to a specified-term contract. I think what you will find is that there will be a range of these that have remained so

for a variety of reasons. For example, some I know were on a ferry boats that have been there forever and little oddities around the country.

Senator ABETZ—But is it Australia Post's intention to phase them out?

Mr Newman—We would prefer to operate with the maximum number of specified-term contracts, but we recognise there will always be examples of needs for non-specified, short-term arrangements—putting a contractor with a large company on a ferry boat, for example. They will still be there for those specific needs. That is the best way to summarise that, I think.

Senator ABETZ—All right. Thank you very much. Can you please tell Mr John that it is nothing personal. I think that he did, if I might say, overall very good job in his role as the CEO of Australia Post. I am just disappointed he never wanted to meet up with us. Other than that, wish him well, please, from us, and thank him for his services.

Senator Conroy—I can only conclude you should take it personally!

Senator WORTLEY—Ms Walsh, you would be aware that at the previous estimates I asked questions regarding Australia Post's controversial medical policy involving the facility nominated doctors performing so-called fitness for duty assessments when a sick and/or injured employee notifies them of a work related injury.

Senator ABETZ—I think Senator Fielding beat her to the punch.

Senator WORTLEY—I note that Senator Fielding picked up on that today. I also said at that time that I understood the Australian Industrial Relations Commission had been called to resolve a number of disputes about the policy between 2006 and the May budget estimates this year. Would you be able to provide us with information as to where that currently stands?

Ms Walsh—There have been a number of conferences held under the auspices of the Industrial Relations Commission—or Fair Work Australia, as it is now known—and the parties have continued to work through the issues between them on a conference basis. There has been no formal decision or finding from the commission. The commission has simply been working with the parties to work through their issues.

Senator WORTLEY—So it is an ongoing issue?

Ms Walsh—It is. Having said that, obviously there are differences that remain between the parties about the specific cases that have been raised. Australia Post's proposal has been to reissue guidelines to management around the operation to try and meet some of the concerns that have been raised by the union in that specific case, but I am not sure that the union will necessarily be entirely satisfied with that process. But there has been no further finding or decision from the commission about the individual cases.

Senator WORTLEY—The union was the CEPU. Is that correct?

Ms Walsh—Yes, that is correct.

Senator WORTLEY—Another issue that had been raised quite publicly by the CEPU was the issue regarding the safety of the new vans. Could you tell us where that is at, please?

Ms Walsh—Certainly. The Mercedes van issue was raised at the last Senate estimates. A provisional improvement notice had been issued. Australia Post was working with Comcare

around the arrangements for meeting the needs or the requirements under that provisional improvement notice. The matter had been appealed both by us and by the CEPU to the Australian Industrial Relations Commission.

Prior to that appeal proceeding, Australia Post agreed to meet the requirements under the provisional improvement notice. Australia Post was given 30 days to comply with that. A meeting was held on 29 September with both Comcare and the CEPU to explain what we had done to ensure that we had complied with that improvement notice. An extension beyond that 30 days was given, due to a need to take some further time to fully implement the arrangements that had been discussed at that 29 September meeting.

We have been continuing to work with Comcare, continuing to seek input from the CEPU around their thoughts on the program of work that we would undertake to implement those improvements and undertake safety checks on those vans. As late as Friday of last week we received a letter from the CEPU outlining some of their thoughts on how that process should work and their involvement. We will obviously be continuing to work with them to, hopefully, have the best outcome. Basically, what we will be doing now is assessing individual transport driver routes and any concerns they might have about their safety, with regard to the particular route they travel for the collection of mail from postal boxes. We will try to resolve those concerns and issues on an individual basis. That is in line with the improvement notice that has been issued by Comcare.

Senator WORTLEY—So there is genuine consultation regarding the concerns raised by the CEPU of behalf its members?

Ms Walsh—Certainly, Senator. Most definitely.

CHAIR—Are there any further questions for Australia Post? If not, thank you very much, officers of Australia Post, for appearing before the committee this morning.

[10.32 am]

Australian Broadcasting Corporation

CHAIR—Thank you for joining us, Mr Scott and Mr Pendleton. Does anyone wish to make an opening statement?

Mr Scott—Yes. Thank you. Earlier this year I briefed the committee on the aftermath of the Victorian bushfires and on the ABC's effort to act as a vital community link before, during and after the tragic events. Unfortunately, tragedy on a large scale has again forced the ABC into action, this time in our own neighbourhood, the Asia-Pacific region. The Samoan tsunami that rolled through the low-lying islands to our east, followed shortly after by the Sumatran earthquake to our north, have left a trail of devastation, shattering buildings and lives. The ABC has thrown resources and energy into the massive task of bringing news of the disasters and recovery efforts to the region and to the rest of the world utilising our two international arms, Radio Australia and the government owned Australia Network, as well as our cross-platform and language prowess.

With many local news services immobilised, the ABC's Asia Pacific News Centre, which has some 60 journalists focused solely on the region, produced additional live bulletins for Australia Network to broadcast to the Pacific. For many, this live rolling coverage served as a

crucial information lifeline. The ABC was able to quickly deploy its regional bureau in New Zealand and to send senior journalists with firsthand knowledge of the area, such as the foreign affairs editor, Peter Cave, and Kerri Ritchie from Auckland.

Without the ABC, the impact on Tonga would have received little international coverage. From Indonesia, Australia Network's Jakarta correspondent, Gavin Fang, crossed live into bulletins as the tragedy of the earthquake in Sumatra began to unfold, whilst the ABC's Indonesia correspondent, Geoff Thompson, was making his way to the hard-hit city of Padang, from where he began filing immediately.

The Australia Network featured key interviews with relevant Australian ministers outlining Australia's response to the crises, while Radio Australia, utilising its extensive Pacific FM transmitters and short-wave network, provided rolling updates, live crosses and extensive interviews through its specialist programs such as *Pacific Beat*, *Connect Asia* and *Asia Pacific*. Importantly, the morning program *Radio Australia Today* and the afternoon program *In the Loop* gave audiences in Asia and the Pacific many hours of rolling live coverage as news of the Pacific tsunami first broke.

One of Radio Australia's strengths is its foreign language services, and the Indonesian service provided detailed coverage of the Sumatran quake, including Australia's aid efforts, in its daily news and current affairs programs as well as its Bahasa website. The service also engaged freelanced Indonesian journalists to report from the quake zone. Meanwhile, the pidgin or Tok Pisin service kept concerned listeners informed in PNG, the Solomon Islands and Vanuatu, where people were on high alert.

I finish by stressing that the ABC remains deeply committed to its legislative and charter obligations to provide a quality, effective international service. Our international work is not as visible to Australians as our domestic work on radio, television and online, but it plays a vital role in presenting Australia across the region and providing high-quality independent news and information, building on 70 years of experience. I want to thank our news teams and all in our international divisions for their committed work in servicing our region, particularly in recent weeks.

Senator IAN MACDONALD—Congratulations on that, Mr Scott. That is one place where the ABC does very good work, as it does often in regional Australia, but I stop there. I want to quickly ask you about the saga of the two Kerry O'Briens. We know Senator Kerry O'Brien: we know what his salary is, what allowance he gets as a whip, what allowance he gets as a committee chairman or deputy chairman and what his TA is when he goes away. Can you tell us what your Kerry O'Brien receives in salary and allowances?

Mr Scott—I do not have that detail here, but let me tell you why we have not released that information and I am minded not to release that information. The ABC gets money from the taxpayers to run our broadcasting divisions domestically and internationally. We need to be good stewards of that money and part of being good stewards of that money is ensuring that we are in a competitive position to pay and attract the staff that we need to run the stories that we operate. I can assure you that our on-air talent by and large across the board, from what I have seen and from my experience in the public sector and the private sector, get paid significantly less than their counterparts in the private sector. We have been minded not to put

out in the public domain their salaries and thereby possibly put ourselves at a competitive disadvantage to—

Senator IAN MACDONALD—Do you think your competitors might snap him up?

Senator Conroy—Absolutely.

Mr Scott—We have great talent across radio and television. I can tell you that the salaries of the people who are doing commercial radio and commercial television are not widely available and not transparent on the public record. It would put the ABC at a singular disadvantage if the salaries of our on-air talent were made available. I can tell you though, from what I have seen and from what I understand, we are not paying the full private sector rate at all.

Senator IAN MACDONALD—Mr Scott, you cannot be serious about this. People in the industry would know what is being paid. If somebody thinks Kerry O'Brien is so good, they would make him a better offer and off he would go. You publishing his salary is not going to make one iota of difference to that.

Mr Scott—That is the view we have taken about our on-air talent salaries. There is significant insight into the salary and remuneration packages for me, directors and senior executives at the ABC that come through the annual report.

Senator IAN MACDONALD—I appreciate that we know what you get, but you are not one of those on television who freely criticise what Minister Conroy receives and what TA he gets—and I am not saying that Kerry O'Brien does, but his ilk does. It would be just interesting to see how journalists generally across Australia compare with Minister Conroy. I do not have a high regard for Minister Conroy, but I think he is worth far more than Kerry O'Brien, for example. That is just a personal opinion.

Senator Conroy—The good news is that Kerry O'Brien will long outlast you.

Senator IAN MACDONALD—I am not sure that is—

Senator LUNDY—I am just trying to find out whether Senator Macdonald is trying to construct a personal attack on Kerry O'Brien or—

Senator Conroy—And me at the same time.

Senator LUNDY—whether he is raising a point of principle about the disclosure of ABC employees' salaries. If he could make that clear to the committee, it would be helpful.

Senator IAN MACDONALD—I have never met Kerry O'Brien. I am not making a personal attack on him.

Senator Conroy—Now you know why. He has never invited you on, has he?

Senator IAN MACDONALD—The ABC is paying for their people with taxpayer funds. As with all people on taxpayer funds—you included, Mr Scott—we are entitled to know where the money is spent. To answer Senator Lundy, I would like to ask a lot of other journalists this, but unfortunately we do not have the opportunity. We do in this area because the taxpayer is paying Kerry O'Brien's salary. I use the example of Kerry O'Brien because his name is the same as that of a Senate colleague. I would be interested in what your Kerry O'Brien gets paid.

Senator Conroy—I think, Senator Macdonald, you make a number of excellent points. It is taxpayers' money. What I think Mr Scott is indicating is that you would place the ABC under undue commercial pressure if you were to press for an answer to your question. I think Mr Scott is asking you, quite reasonably, not to press your question—not for reasons of wanting to hide from you or the committee or the Australian taxpayer but for a perfectly valid reason. These things are commercial-in-confidence within both the ABC and the industry at large, and it is not unreasonable. I accept the point you make, that you are entitled to ask. Many people have asked questions of a similar nature in the past, including me, and in the past we have been prepared not to press the point following the sort of discussion we have just had. I accept entirely that it is within your purview to ask. I would ask you to consider Mr Scott's statement in deciding whether to press your question.

Senator IAN MACDONALD—Well, thank you, Minister, but I insist on the answer, in fact. These sorts of niceties that you talk about are not reciprocated, and we are entitled to know. With respect to Mr Scott—

Senator LUNDY—Oh, it is a personal attack.

Senator IAN MACDONALD—whom I have a lot of respect for, I do not accept the argument that this is a commercial-in-confidence thing. If Kerry O'Brien or any of your journalists—let us not pick on Kerry O'Brien—are that good, they will get an offer from someone else, and if you cannot match it then so be it. The worth of those sorts of journalists to your organisation is perhaps overstated by you and the minister; others have different views. But we are entitled to know, and indeed I insist that we get the information.

Mr Scott—Senator, the only thing I would say is that I am accountable to an independent board that is appointed—

Senator IAN MACDONALD—You are here, Mr Scott, today—

Mr Scott—I absolutely understand that, Senator, but—

Senator IAN MACDONALD—for a reason.

Mr Scott—I understand that, Senator, but I am saying to you that, in my reporting to the board, questions of remuneration may well emerge. There have been a number of high-profile cases of remuneration at the BBC that have generated some comment. Absolutely nothing like that is the case at the ABC. But in my accountability to the board we can discuss issues of remuneration. The thing about that conversation, though, in the confidentiality of the boardroom, is that it does not put us at any form of competitive disadvantage where our journalists would be the only journalists and our on-air talent would be the only on-air talent in the country whose remuneration was publicly disclosed, thereby allowing our competitors to come and cherry-pick the talent as they see fit. That is why we have not done that to this point. But, if there is further information you are seeking, Senator, I am happy to take that on notice.

Senator IAN MACDONALD—Well, I—

CHAIR—Senator Macdonald, I would just point out that it is properly the responsibility of the committee to determine whether or not a question should be answered by a witness, and

that needs to be decided by a private meeting of the committee if you wish to pursue this question along these lines.

Senator IAN MACDONALD—Mr Scott said—

CHAIR—I am just saying it is not up to an individual senator, Senator Macdonald—it is not up to any of us here—to insist on an answer from a witness. It is properly the role of the committee to determine whether or not it insists on an answer.

Senator IAN MACDONALD—I see. That is very, very interesting.

CHAIR—I am reading the standing orders.

Senator IAN MACDONALD—So we cannot get anything answered unless the Labor majority on this committee give us approval to ask it.

CHAIR—Senator Macdonald, I am merely reflecting what the standing orders note, which you, I am sure, well understand.

Senator IAN MACDONALD—Mr Scott has said he does not have the information with him and he would take it on notice. I would be hopeful that this agency, spending taxpayer money, like every other agency is, will give the information we seek. I am after the extras, the class of travel—

Senator Conroy—Anybody else who has ever asked a question that has upset you? Are you looking for information about the salary of anybody else who has upset you? Any other journalists?

Senator IAN MACDONALD—I am sorry; I do not understand you.

Senator LUNDY—It is just a silly attack on Kerry O'Brien.

Senator IAN MACDONALD—It is not an attack.

Senator LUNDY—It is impossible to interpret it any other way.

Senator IAN MACDONALD—I used 'Kerry O'Brien' because there is a Senator Kerry O'Brien. Sorry, Senator Lundy—my subtlety has been lost on you, obviously.

Senator LUNDY—Completely. And everyone else, I suspect.

Senator IAN MACDONALD—But ask any of your on-air journalists—those who take great delight in attacking parliamentarians and even ministers on the measly pay that Minister Conroy gets—and let us just see what they are getting. As I said, if I could ask all the print journalists I would, but, unfortunately, they are paid for by shareholders, not by taxpayers. Your crew are paid for by taxpayers. Let me not personalise to Kerry O'Brien; that was done for a purpose, because there is a Senator Kerry O'Brien. But let me ask all of your top on-air presenters on television, on the current affairs shows, what they are paid. I hear what you say. I do not accept that it is commercial in confidence, because if they are so good they will be poached by the private media. And I am sure you are not underpaying them, or you would have the unions onto you. So thank you for taking that on notice.

Senator Conroy—I think he has agreed to take it on notice and see if there is any further information that he would like to supply. And then it will be up to the committee to press it,

depending on what the answer is. Those are the rules. That is how it applied to me for 11½ years in opposition.

Senator LUNDY—I think you would know, Minister!

CHAIR—Senators, thank you. Mr Scott has taken the question on notice. We are scheduled now to go to a morning tea break.

Senator IAN MACDONALD—This information should not take long to ascertain.

Senator Conroy—Consideration of whether or not they want to provide the information may take longer than a day.

Senator IAN MACDONALD—They do not want to provide it. They have already said that. But as a parliamentarian in charge of the taxpayers' money, I would like to know that.

Senator Conroy—A date has been set for the provision of answers to questions on notice.

Proceedings suspended from 10.48 am to 11.03 am

CHAIR—Before we go back to questions for the ABC, I just would like to advise everyone that during at a short private meeting in the break it was agreed to reorder the program a bit for today. We will continue with the ABC, followed by the SBS, Then we will go to NBN Co and, at the same time, do program 1.1 Broadband and communications infrastructure to facilitate questioning of that area. Then we will return to general questions of the department. There will be tea break at four pm and then we will do ACMA—the Australian Communications and Media Authority—and then we will return to programs 1.2 and 1.3.

Senator PARRY—I want to revisit a matter that was raised by my colleague Senator Colbeck at the February 2008 Senate estimates hearings. It is to do with the reception of ABC radio in northern Tasmania and particularly in north-west Tasmania. The issue that was raised was that reception issues in Devonport had been resolved but there were still some unresolved issues which the estimates hearing was led to believe would be resolved by now. There were concerns in the Wynyard-Somerset part of north-west Tasmania. We are not just talking about just a handful of people. It is some 12,000 people in that area. Both Senator Colbeck and I—and I am sure other Tasmanian Senate colleagues—receive numerous complaints about the lack of a decent reception. It has been exacerbated by the fact that reception was very good when it was on the old system with 711 NT and since it has been moved over to the FM frequency the reception has been very poor—in fact, non-attainable in some areas. I have a series of questions in relation to that. Firstly, why has the problem still not been fixed?

Mr Pendleton—We have not had any complaints from up in that region since we have upgraded the transmitter to 1,200 watts—1.2 kilowatts.

Senator PARRY—From the Somerset-Wynyard area?

Mr Pendleton—Yes.

Senator PARRY—In fact as recent as last week on ABC radio there were complaints—to the Tim Cox show.

Mr Pendleton—I would have to take that on notice.

Senator PARRY—The complaints are coming in on a regular basis. I do frequent that area. In fact I have a residence that cannot receive ABC signals. I am in a similar situation. Apparently the problem can be fixed by installing an infill transmitter. Is that correct?

Mr Pendleton—Yes, it would be.

Senator PARRY—Could I ask that you do take that on notice, if you need to. I understand that the town of Waratah, which has 230 people, has there own infill transmitter and King Island, with a population of approximately 2,500, has two infill transmitters.

Mr Pendleton—That is correct.

Senator PARRY—Yet 12,000 people in the Wynyard-Somerset area do not have an infill transmitter. If you cannot make any further comment, can you take that on notice. This matter was raised over 12 months ago for the entire region. One portion has been fixed but another serious portion with a significant population has not. Unless there is any further comment, I will leave those questions on notice.

Mr Pendleton—Thank you, Senator Parry.

Senator ABETZ—If I can just move south little to the west coast of Tasmania. Indeed, I received a letter from a constituent that suggested that I ask you into how many countries do you broadcast internationally?

Mr Scott—44 countries on Australia Network for television.

Senator ABETZ—Right—44 countries. The people of the West coast of Tasmania want to know: if you can broadcast into 44 countries internationally, why can't you broadcast into the west coast of Tasmania—and Somerset?

Senator Conroy—That is almost your cleverest line in years.

Senator ABETZ—That is what you say each time, Senator Conroy.

Senator Conroy—But you keep outdoing yourself.

Senator ABETZ—That is what you say each time.

Senator Conroy—It is a low bar, but you are outdoing yourself each time.

Senator FIELDING—That is so funny.

Senator ABETZ—We know why the Prime Minister visits to Tasmania: because he thinks it is an overseas country! Can we come back more seriously to the ABC and digital radio broadcasts. What is the situation with the west coast of Tasmania? I am told that there is a refusal by the national broadcaster because of cost to extend digital radio broadcasts to Tasmania.

Mr Scott—No, it is a little separate to that. Digital radio was rolled out this year for the first time. Funding has been allocated for the transmission costs of digital radio in Brisbane, Sydney, Melbourne, Adelaide and Perth. That is the first instalment. It is not unusual for services to be rolled out. Some of our leading services were done like this. Triple J was originally JJJ and it was only broadcast in Sydney. So it is not unusual. Even digital television has been rolled out across the country over time. We have made a start on digital radio and we are pleased with the start. Finally, it will be an issue for government to determine at what

speed they continue to roll out digital radio transmission. We are broadcasting where we can, but at the moment that is only Brisbane, Melbourne, Sydney, Adelaide and Perth.

Senator ABETZ—Yes, but Australia in fact has six capital cities, and one of them is Hobart. Not only is the West Coast missing out in Tasmania, where I got this letter from, but of course Hobart is missing out as well.

Mr Scott—Yes.

Senator ABETZ—When is Hobart going to be scheduled?

Senator Conroy—Hobart was not included—it was, in fact, removed—from the digital rollout plan at the request of the commercial broadcasters in Hobart, Senator Abetz. You may not actually know that.

Senator ABETZ—So you respond to the tune of the commercial broadcasters as opposed to the citizens of Tasmania. That is an interesting Labor Party approach. Thank you for that, Minister. I am very interested.

Senator Conroy—It was industry consultation, and the industry requested that it be postponed because they were not quite ready for it.

Senator ABETZ—But does the ABC broadcast for the convenience of the commercial operators or for the benefit of the consumers and the citizens of our country?

Senator Conroy—As I said, the requirement by law to commence the broadcast in Hobart was removed at the request of commercial broadcasters.

Senator ABETZ—And the citizens of Tasmania got no say in that decision. When are the commercial operators going to give you permission to allow digital radio to hit Hobart?

Mr Scott—We are running national broadcasting on this, so we are not doing an Adelaide program or a Perth program. When the transmission capacity is there, we are in a position to roll this out.

Senator ABETZ—Yes, but the transmission capacity as I understand it is there but it is just not being rolled out because of certain concerns by commercial operators.

Mr Scott—The other thing I would add though is that we are of course providing online all the content that we are offering on digital radio. It is all streamed, so the citizens of Tasmania if they want to—

Senator ABETZ—If they are online, they can get it.

Mr Scott—Yes, they can. Otherwise—

Senator ABETZ—They miss out.

Mr Scott—If you are in those other capitals, you need to buy a new radio set in order to hear it. We are attempting to make it available all around the country through online prior to transmission funding being available.

Senator ABETZ—No. As I understood it, Mr Scott, the minister's answer was not that there was not funding available for it; it was that the commercial broadcasters did not want digital in Tasmania because they were not ready and that was the stumbling block. Now

which is it: there is not enough funding to do it or the commercial broadcasters do not want it at this stage?

Senator Conroy—No, the commercial broadcasters asked for it to be postponed. ACMA are liaising with industry on similar sized geographic areas about when they are ready to move into the next phase. When we are ready to move into the next phase then a range of other considerations, including ABC funding, will be dealt with. Until the industry—and I thought, Senator Abetz, you were a big fan of industry consultation—

Senator ABETZ—I am indeed, but never beholden to it.

Senator Conroy—We are not beholden to it.

Senator ABETZ—You are. You are saying that commercial interests were not ready for digital and that is why Tasmania is not getting ABC digital. The *Hansard* record will disclose that. I think the people of Tasmania are entitled to a digital service irrespective of whether the commercial sector is ready to embrace it or not.

Senator Conroy—The rolling out of the ABC without all of the commercials at the same time would be probably an unreasonable impost on the ABC at this stage.

Senator ABETZ—There would be small change out of the \$43 billion—

Senator Conroy—That is the Broadband Network figure. It has not got a lot of relevance for funding for the ABC.

Senator ABETZ—But it is for the government—

Senator Conroy—The point we were making is that we responded to industry consultations from Tasmania, who made the point to us that they were not in a position to proceed. We accepted their representations and in that circumstance it is unreasonable to force the ABC in a tight funding situation, even though they have now received substantial extra funding. They will be readying their preparations in the same way as the commercials will be.

Senator ABETZ—Mr Scott, is the ABC ready to go digital in Tasmania?

Mr Scott—Our experience with the launch of digital radio is that it is great to go together. We did a big joint launch around the country with our colleagues at Commercial Radio Australia. We worked extensively with Joan Warner and that organisation to have a critical mass of stations available, both public and commercial, in those markets where we are going and to be able communicate that as a group.

Senator ABETZ—Of course that is ideal.

Mr Scott—And that also says to retailers who have to stock the commercial radio sets that there is a critical mass of stations available. So it is best that we go together. We would have been concerned if commercial radio had gone into digital radio without us. We do not actually want to be ahead of commercial radio but we are keen to expand digital radio as best we can.

Senator ABETZ—Did I hear you right? Did you say that ABC does not want to be ahead of commercial radio?

Mr Scott—If you look back, and there has been some discussion about this in recent days, to the start of radio and television, you will find that we have always done it jointly with the

commercials. There was commercial radio at the same time as public broadcasting radio started. There was one ABC on television at the same as there were two commercial networks. We have a mixed model in Australia that has worked very well and very successfully, and I suspect that that is how digital radio will work best. Not that the ABC is only one but that the ABC is there as part of suite of offerings that is available to the audience.

Senator ABETZ—Is there any digital radio in Tasmania?

Mr Scott—No because it cannot be transmitted. What is available is the content that we are offering, and that is available online.

Senator ABETZ—Right. I understand there is a Flinders Island question to be interposed, if that is okay, Chair?

Senator Conroy—I thought we had dealt with Flinders Island.

Mr Scott—That was King Island.

Senator Conroy—My apologies.

Senator ABETZ—No. You do not know Tasmania very well.

Senator Conroy—Not as well as you, Senator Abetz.

Senator BUSHBY—You would upset Flinders Islanders greatly if you label them as King Islanders.

Senator Conroy—We will leave ‘Boony Island’ out of then, okay?

Senator BUSHBY—‘Boony Island’—exactly. Thank you for that publicity. That got me all over the place.

Senator Conroy—I am here to help.

Senator BUSHBY—I heard questions asked a while ago about radio transmission in various parts of Tasmania. I was on Flinders Island last Friday and a number of people raised with me the poor transmission of ABC radio on that island. Have you received any complaints about that?

Mr Pendleton—We have not received any complaints that I know of, but I can certainly check for you.

Senator BUSHBY—Okay. The point was made to me that, being islanders, they live in a fairly remote situation and being able to rely on ABC radio to know what is going on in mainland Tasmania and mainland Australia is very important to them. They find it very frustrating that they do not have access to decent coverage.

Mr Pendleton—Let me take that question on notice, Senator, and I will check the records. But, as I said, I am not aware of any complaints that have been made through our providers.

Senator BUSHBY—Thank you.

Senator ABETZ—I would like to quickly revisit the situation of Mr Lloyd, which we have discussed.

Mr Scott—Yes.

Senator ABETZ—Has he been re-employed by the ABC?

Mr Scott—Not at this point.

Senator ABETZ—Is it the intention that he will be?

Mr Scott—No. There is nothing further to add to our conversation of last time.

Senator ABETZ—Thank you. Where are we at with *The Chaser*, after their sick child stunt?

Senator Conroy—The show has been completed. The series is complete.

Senator ABETZ—Yes. Are we going to look at a new series or anything like that?

Mr Scott—We indicated, and it had been discussed even prior to the series going to air, that we thought—and I understand that *The Chaser* team also thought this—this was probably going to be the last series of *The Chaser* troupe doing *The Chaser's War on Everything*.

Senator ABETZ—Probably?

Mr Scott—That was our thinking, and I think that is still our thinking. However, there are a number of different members of *The Chaser* group who are developing a series of different projects and initiatives, and we deal with those on a case-by-case basis. As I understand it, there is no ongoing contractual relationship with them. It depends on the programs and it depends on the ideas.

Senator ABETZ—Who was in charge of allowing this particular sick child episode to go to air?

Mr Scott—This was all well covered at the time.

Senator ABETZ—But not at estimates.

Mr Scott—No, I appreciate that.

Senator ABETZ—No, so I want it on the estimates record.

Mr Scott—I appreciate that. The skit was developed by *The Chaser* team. It went through some approval processes in television. It was not finally referred up to the head of television.

Senator ABETZ—It was not?

Mr Scott—It was not finally referred up to the head of television.

Senator ABETZ—So where was the last port of call before it was finally allowed to be aired.

Mr Scott—I believe it was the Head of Comedy, Arts and Entertainment—a title like that, an executive member.

Senator ABETZ—Has that person been counselled, disciplined, spoken to?

Mr Scott—Yes. The comedy part of their duties was moved to another member of the executive.

Senator ABETZ—Thank you.

Senator FIELDING—I have more on *The Chaser*.

Senator ABETZ—Go for it.

Senator FIELDING—At the anniversary held here in one of the Senate alcoves a while ago I actually chased one of the ‘chasers’ and took a video clip. I was asked by the President to remove it from my website. Was that a complaint from you or the ABC?

Mr Scott—I am not aware of that; I would have to take that on notice. That is the first I have heard of it, Senator.

Senator FIELDING—I found it outrageous that I was asked to take it off my website.

Mr Scott—I have not heard of it.

Senator FIELDING—It was done in fun—chasers chase politicians, so as a politician I thought I would chase them with my video camera, and the President forced me to take it off my own website.

Senator Conroy—Was this inside the corridors?

Senator FIELDING—It was in the public forum, there were cameras running around and I did not think that they had approval. I was asked to take it off my website because it was apparently not allowed to be taken. I thought maybe the ABC complained about it.

Mr Scott—I do not expect it was a complaint from us, but if it was—

Senator Conroy—Those chaser guys are very sensitive I have always thought.

Mr Scott—I would be surprised if it was them.

Senator FIELDING—I thought it must have come from you.

Mr Scott—Not that I am aware of, Senator.

Senator ABETZ—You will recall that, at the last Senate estimates, Senator Troeth asked you a few questions about the ABC broadcasting of UN allegations that Israel had targeted and hit a UN school.

Mr Scott—Yes.

Senator ABETZ—You indicated to Senator Troeth that ‘an investigation is being led by our Audience and Consumer Affairs division. We will be releasing detail on that shortly’. Has that occurred?

Mr Scott—I believe so, Senator.

Senator ABETZ—Could you take that on notice and let me know the date?

Mr Scott—Yes.

Senator ABETZ—I assume that it is still on your website somewhere.

Mr Scott—I think we may have added an editor’s note to that at the time. We have responded to the question on notice from Senator Troeth.

Senator ABETZ—The UN’s false allegation, which was made on 6 January 2009, was reported, as advised to me, by the ABC 28 separate times. When the UN finally admitted that the allegation was false in what was euphemistically described as a ‘clarification’ by the United Nations—they never get anything wrong—there were only two reports of that clarification in comparison to 28 reports of the false allegation. I would have thought that, to right the wrong, you would have had to at least have the same number of corrections. Having

said that, I fully accept that the ABC did the first lot of broadcasts in good faith, relying on the United Nations.

Mr Scott—I am not sure that you can quite put it on a scale like that. This was a major news story at the time. The facts were reported, as they were understood to be at the time, by a range of our programs via news outlets around the world.

Senator ABETZ—Is it not a more major story that such an anti Israel story was so wrong, and was got so wrong by the United Nations? I would have thought that that would be something that would excite a journalist who is independent on these things to ask how a big world organisation like the UN gets it so wrong against a very small country like Israel.

Mr Scott—I understand that view. I believe a lot of their reporting that was originally taking place was in the heat of the conflict and was part of the coverage of the conflict. When this came to light we did run some stories, although I appreciate not the same number of stories. We also corrected our website and set the record straight there.

Senator ABETZ—Yes—but two in comparison with 28? In this case I accept that it was done completely unwittingly. I personally have been the recipient of false information so I do not want to be too high and mighty on this. We can all fall into that sort of situation. I would have thought that making a full apology and ensuring that it is broadcast just as widely and just as often might have been an appropriate course of action.

Mr Scott—Okay.

Senator ABETZ—I will leave that with you. You indicated to us that the ABC did correct that immediately on the record.

Mr Scott—Yes. It was on our online site, I think.

Senator ABETZ—In answer to a question from Senator Troeth during the estimates hearing of 25 May 2009 you also said: ‘When the UN retracted that we did report it. It did come in our news cycles here. Tragically, it was just about the time of the bushfires.’

Mr Scott—Yes.

Senator ABETZ—The United Nations admitted on 4 February 2009 that this allegation was false. Can you tell me when the ABC first broadcast any news of the Victorian bushfires?

Mr Scott—I do not have all those dates in front of me.

Senator ABETZ—Can I suggest to you that it was 7 February 2009. That is three full days later and, quite frankly, for the ABC to hide behind the tragedy of the Victorian bushfires as an excuse for the three previous days is, to my way of thinking, completely unacceptable.

Mr Scott—I do not have the material in front of me or the chronology. I accept the chronology you have outlined. What I was saying was that the media focus in the days of January and early February were very strongly around what was happening in the Middle East. There was a lot of coverage, and the very fact that the number of stories that you identified, that we discussed, in which this allegation was raised is a reflection that a disproportionate amount of our news and current affairs programs was focused on what was happening in the Middle East. There was a significant volume. What happened in February was that the focus of that inevitably moved to the coverage of the bushfires.

Senator ABETZ—No, Mr Scott. With great respect, the ABC was told on 4 February 2009 that the allegation was false. The Victorian bushfires were first broadcast by the ABC on 7 February 2009. You had three days in which to run that correction but you chose to run it on only two occasions, whereas the actual false allegation was given a pretty good run on 28 separate occasions. To right the wrong, to correct the public record, you would imagine that you would have given it more than two slots.

Mr Scott—I appreciate that view.

Senator ABETZ—To then hide behind the bushfires that happened three days after the correction is, I must say, using a tragedy for a convenient purpose, which I personally find quite distasteful.

Mr Scott—Senator, I am concerned at the position you take on this. What I was indicating was that the news focus of the country inevitably moved in January and early February from events in the Middle East to the bushfires. Therefore, we were not covering—

Senator ABETZ—It had not changed at the time of the UN admitting that this was a false report. The Victorian bushfires started a three full days later. So what is the explanation for not broadcasting the correction on 5 and 6 February? You cannot hide behind the convenience of the Victorian bushfires.

Mr Scott—We corrected it online, Senator. The question is whether we did stories about it. You said earlier—**Senator ABETZ**—We have had this discussion, Mr Scott, and when you are finally taken to a tribunal—and people get sick and tired of taking the ABC to tribunals—you correct things online. The last time we had a discussion you were dragged kicking and screaming to make an on air apology. The report at the time suggested that an appropriate apology is in fact on air. If you say something on TV, the apology should in fact be on TV.

Mr Scott—That is not what that finding was, Senator, with respect. The ABC's track record at tribunals reviewing our findings around Audience and Consumer Affairs is really quite strong. I appreciate that on that occasion we were asked to do a correction on air and we did, but by no means do errors identified all have a recommendation that we correct them on air. We have created a website where we do correct. We have had a review of our self-regulatory policies and regimes which will enable more corrections to be made quickly, and we are keen to do that when the record needs to be corrected.

Senator ABETZ—Mr Scott, if I am driving along in my car listening to an ABC news bulletin, what alerts me to the fact that that ABC news bulletin is false? Every time I go home, should I quickly log onto the ABC website to see if there are any corrections? The average punter would not do that; they would expect a broadcast telling them that it was wrong. As I have indicated, there were only two in comparison to 28 making false accusations. Because of the fact that it is only online rather than publicly broadcast, the chances are that your own journalists do not become aware of the falsehoods. On 6 May 2009, the ABC repeated that false allegation in a segment on AM, after the correction had been made on the website. So even your own staff are not aware of what is on the ABC website. If your own staff are not aware of it, why should the average punter be aware of it?

Mr Scott—We do put file notes on stories. We do correct the record on our website. If there is a repeat of it, then that is an error that we identify and quickly correct.

Senator ABETZ—We are told that it was corrected immediately. You told us that the ABC did correct that immediately, on the record.

Mr Scott—We corrected it on 5 February.

Senator ABETZ—No. I am now moving on to 6 May.

Senator BIRMINGHAM—Mr Scott, in relation to 6 May, about which Senator Troeth asked questions, you took a question on notice, No. 137—Senator Abetz you are obviously going in the same direction. Mr Scott, your response as to what was posted on the website highlights and acknowledges that ‘PM presented a statement on 7 January—blah, blah, blah.’ Your response to Senator Troeth in an answer to a question on notice taken in this place is that you corrected the record on 7 January about something that occurred on 6 May. That is amazing foresight, Mr Scott, or you have somehow answered another question.

Mr Scott—Let me go back and look specifically at the follow-up to the 6 May issue. Senator Abetz asked a question about whether our own staff are aware. When an error like this is created there is a series of file notes and internal mechanisms that take place. In the case of an issue like this, there is much coverage, as you have pointed out, of the first report and there is a lot of that material still out there online and in reports from credible organisations. That is no excuse, Senator. You are asking me whether our staff are alerted to errors that occur. We attempt internally to limit the further communication of that false information; there are absolutely processes in place on that.

Senator ABETZ—You said, ‘We did correct that immediately on the record’, but it was not on air, was it? The next AM program, for example the next day, did not say, ‘By the way those allegations were false, and we knew them to be false three months ago.’

Mr Scott—I would have to look at what happened in the follow-up to the May report.

Senator ABETZ—Just check for us as well whether we did correct that immediately on the record: (1) that it was not on air and; (2) that the correction was made as an editor’s note on 22 May, some full 16 days after the rebroadcasting of false information.

Mr Scott—Let me check that. I do not have details about that.

Senator FIELDING—This goes to the heart of credibility, sometimes, on these issues. Seriously, to fob it off and say, ‘Go to a website and find it’, when they have clearly heard it broadcasted out loud, is outrageous. It insults our intelligence to say, ‘It’s okay because we’ve corrected it online.’ It really does. This is bigger than you think. It goes to the credibility of the ABC.

Mr Scott—I understand that. We have done extensive work around our self-regulation framework. There are difficulties. To take the example Senator Abetz referred to earlier, you might listen in the car to a news report one day. The senator seemed to be suggesting that the next day there should be a correction on that. It is not like a newspaper where, if you buy an edition of that paper every day, you are getting all that. People listen and consume our media with different programs at different times. There is no one way of ensuring that somebody who heard a broadcast one day is listening the next day. The one thing we can do and that we will promote is the fact that we are setting the record straight. We are doing more of this than we ever have before. There is an ongoing debate as to how much you should do on air. I

appreciate that. I understand that. But we are in a process where we are continuing to review and finetune our approach to this over time.

Senator ABETZ—Never is it corrected. That is why the ABC—undoubtedly unwittingly again—three months after the event rebroadcasted the false information. You corrected the record so well that your own staff did not even know about the correction.

Senator FIELDING—You would acknowledge, though, that there is a big difference between hearing a broadcast—in, I think, a major way—and then saying that the correction is on the website. That would insult most people's sense of credibility.

Mr Scott—We do do on-air corrections, and we are doing more of them, I think. Which ones you do and what the rules and guidance are around those are things that we have looked at as part of our self-regulatory review. There will be debate and there will be divergence of opinions about what should be corrected on air and what should not.

Senator ABETZ—Can you take on notice for us, please, how many on-air corrections you have undertaken in the last three years, by the years.

Mr Scott—I am not sure. It will be interesting to see if we can pull that together.

Senator ABETZ—Let us say 2006, 2007 and 2008.

Mr Scott—I will see what material we have got. I am not sure what material we have held centrally on that. Of course we have programs everywhere.

Senator ABETZ—And what the issues were.

Mr Scott—Let us see what we can come up with on that.

Senator ABETZ—And what the issues were, especially when it comes to the state of Israel. I do not know what it is with national broadcasters, but there seems to be an element that gives those people a very rough trot, as witnessed by not the ABC but the BBC. When they put up a list of all Nobel prizewinners all the people of Arabic origin were listed but, surprisingly, those of Jewish origin were just accidentally left off. The BBC then said, 'We got it from the Nobel website.' Of course all the Jewish Israelis were on that website but not on the BBC website, which means it was not a direct transfer but a deliberate removal. I know that is not your problem.

Senator Conroy—Maybe they just used the BBC website.

Senator ABETZ—The ABC, do you mean? Let us move on. I return to the *Lord of the Forest*. I think that we are now agreed, are we not, that the backdating by three months of the so-called correction did occur. Are we agreed?

Mr Scott—I must say the last I focused on this was when you last asked questions on it. It did go to air in 2004—

Senator ABETZ—That is right, and—

Mr Scott—two years prior to my appointment.

Senator Conroy—Were you even in charge then?

Mr Scott—No. It was two years prior to my appointment. Mr Pendleton was in primary school! What specifically is the issue?

Senator ABETZ—It is a pity that these things keep going for so long.

Senator Conroy—Oh, yes.

Senator ABETZ—Mr ML Johnstone has continually been writing to the ABC about this. What action, if any, was taken by the ABC for the—if I might say—dishonesty of the person who put the correction on the website that put the date three months back to make it look like a timely correction? It is known to have been a false date?

Mr Scott—I will have to take that on notice.

Senator ABETZ—Just for your reference, there is in fact a letter to Mr Johnstone dated 21 April, where the ABC acknowledges that ‘the date has now been corrected to 11 May 2004 to accurately show when the errata was posted online’. What action is taken against—one would imagine—journalists, people that are in charge of presenting current affairs to the people of Australia in an unbiased way, who have basically lied to the people of Australia by saying, ‘We put this apology up three months ago?’ In fact they were brought kicking and screaming to put on an apology and then to try to make it look good they just postdated by three months.

Mr Scott—Yes.

Senator ABETZ—What action has been taken by the ABC to discipline that person? Would you be willing to tell us who the actual person was? It would be concerning if people that behaved in this sort of dishonest way got promoted through the system without having been very strongly counselled and advised. I would have thought they would not have needed to have been counselled. Anybody would know that that is making a false representation to the public.

Mr Scott—I will take that on notice. Thanks, Senator.

Senator ABETZ—Could you tell us what action was taken and who was responsible for it?

Mr Scott—Yes.

Senator ABETZ—I suppose the false dates issue is a very good segue into the next issue I want to raise—that is, the issue of Michael Brissenden and the Peter Costello dinner. What action, if any, has the ABC taken in relation to the *7.30 Report* segments that purported to report on what was an off-the-record discussion?

Mr Scott—Senator, I believe we have discussed this previously.

Senator ABETZ—We have indeed, and I want to revisit it.

Mr Scott—Okay. That is fine.

Senator ABETZ—Good.

Mr Scott—I can see you have a copy of a magazine that has full and detailed correspondence that—

Senator ABETZ—I am more than happy to put it on the record. You, Mr Scott, I understand are part of the coalition for—

Mr Scott—I think the phrase is ‘the right to know’.

Senator ABETZ—Yes, the Right to Know Coalition. Do you know what? I would have thought you would have therefore welcomed the publication by the Sydney Institute in the *Sydney Institute Quarterly*, issue 35 of June 2009, of correspondence between you and Mr Costello. I must say it surprisingly never made its way to *Media Watch*, did it? But, anyway, I will get onto that later. First of all, tell me: did the ABC actually need to change its guidelines to tell its journalists that ‘off the record’ meant ‘off the record’?

Mr Scott—I remember having an extensive conversation here with your former colleague Senator Kemp on this matter a few years ago. There are conflicting responsibilities of a journalist. One, of course, is to protect off-the-record sources.

Senator ABETZ—Some are even prepared to go to jail for it and others broadcast it to make a name for themselves.

Mr Scott—The other one, of course, is the responsibility to tell the truth. What we did after *The 7.30 Report*—and the debate that went on around that—was to revise our editorial policies to provide more advice for our reporters in dealing with off-the-record sources. That is now part of our editorial policy. I am happy to provide the senator with a copy of that material.

Senator ABETZ—Are you honestly saying to us that journalists on the ABC were not aware of this? I go upstairs to the gallery from time to time and when ABC journalists—and those from commercial networks—want to talk to me off-the-record I say, ‘Is this an off-the-record discussion that Michael Brissenden and Kerry O’Brien then report, or is this genuine?’ They are embarrassed at the way the ABC has handled this and say that the broadcasting of that off-the-record information was completely reprehensible.

Mr Scott—I understand that view.

Senator ABETZ—But these are ABC journalists who were working with the ABC at the time and who needed no such guidelines.

Mr Scott—I am happy to provide you with the advice that has been provided to our staff on this matter.

Senator ABETZ—The fact that the ABC thinks it needs such a guideline—when every other person in the gallery seems to be of a different view—once again suggests that the ABC is always in denial when confronted with these things. I did pick-up that there is sometimes conflict for journalists; off-the-record is off-the-record but there is also a requirement to tell the truth. What was truthful about Mr Brissenden waving notes that had a false date and a false month?

Mr Scott—He admitted that was wrong, Senator.

Senator ABETZ—It was more than just wrong. I have some experience in dealing with these things but not having fabricated the document myself, only faithfully repeating it—

Senator Conroy—This is a gutsy line of questioning, Senator Abetz. They have got to give you 10 out of 10 for fronting more front than Myers!

Senator ABETZ—Mr Brissenden fabricated that and then made it part of the story.

Senator Conroy—Thank goodness he did not give it to you to use, then.

Mr Scott—Senator, you can put your own interpretation on it.

Senator ABETZ—Minister, I would have thought you as well would find it abhorrent that a journalist would fabricate notes, fabricate a date and a month and then purport them to be true. I would have thought we would all be on a unity ticket that that is completely reprehensible and unacceptable. What did the ABC do in relation to Mr Brissenden?

Mr Scott—Senator, the issue you raise and your interpretation of that—that the document was, in fact, a fabrication—is your own interpretation.

Senator ABETZ—So he took notes at the dinner, accidentally getting the date wrong and the month wrong? Sounds like a good reporter to me!

Mr Scott—I am not in a position to revisit those events from that dinner. I think it also goes back to 2004 or 2005. I appreciate you may want to put that interpretation on it.

Senator ABETZ—It was just an honest mistake as far as the ABC is concerned?

Mr Scott—That is your prerogative. We made it clear at the time that the date on that material was incorrect.

Senator ABETZ—Did the ABC investigate as to how an incorrect date—and even an incorrect month—found its way onto those notes?

Mr Scott—As I recall—and again it was a while ago—I think there was something about a header from a fax machine or something like that. I do not entirely recall, Senator.

Senator ABETZ—Would you take it on notice?

Mr Scott—I am happy to.

Senator ABETZ—Tell us what the ABC did to verify or check up on Mr Brissenden in relation to what is now agreed between us an incorrect date.

Mr Scott—I appreciate that there is debate around off-the-record sources and the right to truth-telling. There were three journalists at that dinner. I do not believe a different view emerged from the three journalists from three different media organisations—from PBL, Fairfax and the ABC—around the substance of the note. There was debate around the date on the note; I appreciate that. If there is further information to provide I am happy to do that.

Senator ABETZ—One of the journalists was honest enough to say that his recollection was not all that clear because of some of the beverage that he may have consumed. That is fair enough. It just seems to me that the ABC, once again confronted with a situation where a very serious allegation is made, just says, ‘Yeah, we accept there’s debate about it.’ But putting a false date on a document is either terribly sloppy or straight-out dishonest. I want to know whether the ABC actually undertook a full investigation to determine whether it was just sloppiness—and it is very hard to know how someone sitting at a dinner table making notes would accidentally put the wrong date, let alone the wrong month, on top of the document.

Mr Scott—I will take that on notice.

Senator ABETZ—Thank you very much. I would like to know what action or counselling was undertaken against, with or for Mr Brissenden in relation to this episode. It has put the ABC in a very poor light.

Mr Scott—Okay.

Senator ABETZ—So you will take that on notice as well. All right. Are we able to get a copy of Mr Brissenden's notes?

Senator Conroy—I think that would probably be an unreasonable request, Senator Abetz.

Senator ABETZ—I am asking whether we can get a copy of his notes.

Mr Scott—I will take that on notice.

Senator ABETZ—Thank you very much. Does the ABC often allow the major player—as in, Mr Brissenden—to report his own story with his own notes?

Mr Scott—I agree. That was an issue that, again, we looked at afterwards. We have guidelines now around that. A decision was made by the production team at *The 7.30 Report* at the time that he could report that story. I think we have subsequently reviewed some of that. There are, clearly, difficulties where people are participants in the story and reporting on the story. So our new guidelines reflect that.

Senator ABETZ—So that has now been corrected. Did *Media Watch* ever run a segment on this disastrous report?

Mr Scott—I would have to check.

Senator ABETZ—Please take it on notice, but I think we both know what the answer is: it did not.

Mr Scott—In my experience *Media Watch* is not backward in coming forward in offering criticism of the ABC's programs.

Senator ABETZ—Of some ABC programs.

Mr Scott—It seems pretty broad to me.

Senator ABETZ—But *The 7.30 Report* and one Mr O'Brien, who did not cover himself in glory in relation to all this, seem to be somewhat sacrosanct, which is of interest.

Senator ABETZ—You are telling us, are you not, that in relation to how this segment came to be it was not a breach of your editorial—

Mr Scott—Yes. As they were then constructed, that is true.

Senator ABETZ—I find that somewhat unbelievable but so be it and I have to accept that answer. So the ABC is saying—and I do not mind letting you know that I am reading from Mr Costello's letter—that this matter was in 2004 or 2005—

Mr Scott—The dinner was.

Senator ABETZ—and that it is way in the past, but you were still writing to Mr Costello about this matter in late 2008. Mr Costello asked you, 'Can the ABC be serious when it says it was legitimate to falsely broadcast an off-the-record conversation because ABC policies were silent on the matter?'

Mr Scott—We have, more than any other media outlet in the country, detailed editorial policies and guidelines that govern our broadcasting and our journalism.

Senator ABETZ—But none of the other outlets have any difficulty with 'off the record'.

Mr Scott—Without getting into a detailed discussion with you, our director who was involved in reviewing ‘off the record’ had discussions with organisations like the *New York Times*, the *Washington Post*, *The Economist* and other major public broadcasters around the world. There are complexities in dealing with ‘off the record’ and ‘on the record’ and truth telling. It would be wrong to be simplistic about it, but we subsequently reviewed our policies to provide more detailed advice to our staff for dealing with these matters. Yes, we have editorial policies that govern our journalistic decision making. They were largely silent around this matter but they are no longer as silent as they once were.

Senator ABETZ—So you are seriously suggesting—and, once again, quoting from Mr Costello’s letter to you—that up until the development of these policies ABC journalists were unaware that off-the-record conversations should not be broadcast on national television?

Mr Scott—No. I think if you look at the broad context of it, of course our journalists understand ‘off the record’. Of course that is the convention under which things operate here all day every day. Part of the problem is that there are other pressures that come to bear. We can go through a series of hypothetical examples around that.

Senator ABETZ—We have a specific example here. The pressure to bear was that somebody wanted to make a name for himself in breach of well-understood ethics as explained in the *Weekend Australian*’s editorial of 15 November 2008.

Mr Scott—I can refer you to another article in the *Australian* written by its media commentator, Mark Day.

Senator ABETZ—Yes, I know, and you have referred to that in the letter.

Mr Scott—Mark Day defended the actions of *The 7.30 Report* on Michael Brissenden, thereby simply illustrating that there can be debate around these things.

Senator ABETZ—There can be a debate around everything, I am sure, but have you now tightened up your guidelines to not allow it?

Mr Scott—We have tightened up our guidelines to provide clearer advice to our staff for dealing with circumstances like this.

Senator ABETZ—So that this situation would not occur again?

Mr Scott—It would provide advice to staff for working through issues like this.

Senator ABETZ—To ensure that this situation would not occur again?

Mr Scott—One thing that would absolutely not happen again is this decision being made without upward referral to senior members of the news executive. That did not take place in this case.

Senator ABETZ—Above the Kerry O’Brien level?

Mr Scott—Yes. There was a breach in editorial policies, I recall—I am a little vague on it. But now, upward referral would be mandatory in circumstances like this.

Senator ABETZ—Has the ABC ever published the actual date of the dinner?

Mr Scott—I do not recall.

Senator ABETZ—Can you take that on notice?

Mr Scott—Yes.

Senator WORTLEY—Mr Scott, the ABC has acknowledged that it received the largest increase in funding since incorporation in this year's budget—\$136.4 million over the next three years. I understand that this new funding will be used, in part, to commission and produce new Australian drama programs for ABC television. Can you tell us if you have commenced commissioning new productions and, if so, what productions might be on the slate?

Mr Scott—The ABC now has over 100 hours of quality drama in development. Some of this is being filmed but some is in script development and casting, and the ABC is pulling together other funding that is required to make it happen. We have got a series of projects underway. We have high-end event dramas of national and historical significance and adaptations of award-winning Australian novels including *The Slap*, which we announced last week. It is a much awarded novel that we will be making into a major drama miniseries. We have announced the new Chris Lilley program, *Angry Boys*, which is going into production early next year. We have got a range of programs we are developing and these will be filmed around the country. We are in negotiations with state and territory local production houses as well. As we have indicated in the past, we will be leveraging our money on this. We will begin to see some of these programs on screen later on this year and early next year.

As I said, *Bran Nue Dae* will be adapted into an eight-part miniseries, which we are very excited about. We have put money into the Rachel Perkins musical *Bran Nue Dae*, which is getting cinema release later this year and then it will be broadcast on ABC sometime down the track. *Sisters of War* is a new program we are making as well, which I am told is the true story of a young nun and a young nurse who form an unlikely friendship in order to survive as POWs during World War II. We are doing that with financing partners including Screen Australia. There is a lot of activity that is now underway on the drama slate. We are working with the finest writers, producers and actors in the country and working closely with the independent production sector to give a significant lift to our drama available on ABC television.

Senator WORTLEY—Another key initiative to be supported by the increased funding in the budget was the delivery of a dedicated children's television channel, ABC3. When is ABC3 going to commence?

Mr Scott—ABC3 will go live on 4 December at 6 pm. We will be previewing that with a one-hour live program for a kids-only audience at 5 pm on ABC1 and then at six o'clock we will flick the switch and start the children's channel. We have done a lot of work to promote the channel. We had a national competition for the new faces of ABC3. We received 6,000 entries and six have been chosen to represent ABC3. Information on who they are will be revealed very soon. School children have been creating on-air and online promotions spelling out what they want ABC3 to be.

We have got some landmark drama for children that is being developed, including the filming of *My Place*, which is a very famous Australian children's book that we are making into a drama series that we will show on ABC3 as well. Work is extensively underway now. Our children's television team is working very hard to make that deadline of 4 December. As I

have said previously, I think this is going to be so welcome in Australian homes. To have a commercial-free children's channel with strong levels of Australian content available free of charge to every home will be a real lift. It is going to be a real driver of the take-up of digital television as well. It is going to give families that are going to need to upgrade their television sets a reason for doing so. We have talked about it as a Christmas gift to the country and we think that the timing of 4 December is going to be a terrific thing for Australian families.

Senator WORTLEY—Mr Scott, can you tell us how much of the content on ABC3 will be original Australian children's programs?

Mr Scott—Our target is 50 per cent Australian content. That is what we are working towards over the first few years. We are now commissioning drama, news, factual programs. We are going to be extending the work of *BTN—Behind the News*—which happens out of South Australia, to provide nightly news bulletins for young people, explaining to them the events of the day. We will increase factual programming as well as drama, as I have said. Some pretty good drama has been created and shown for children on commercial TV under the current quota arrangements. We will be taking some of that. It has not been seen by a broad audience and so we will be taking it to a significant audience by showing some of that again on ABC3.

Senator WORTLEY—Is there a specific age group that ABC3 is targeting?

Mr Scott—We think we are covering preschool children well on ABC1 and ABC2. In fact, the slate of children's programming shown in the middle of the day, targeting preschoolers on ABC2, has got tremendous audiences for us. The real focus of this channel is going to be primary school children, children in the younger years of high school and their families. We are going to try and create programming that families can sit and watch together. We have identified the opportunity. We think there is a real opportunity, particularly for primary school kids, and that is where the focus of the channel will be.

Senator WORTLEY—Talking about the issue of preschool, I heard with interest this morning that the BBC is changing the last line of the Humpty Dumpty rhyme to make it more suitable. I do not know if others have heard that, but I would assume the ABC is not going down that line.

Mr Scott—I did not hear that, Senator, but we are not rewriting any children's classics.

Senator WORTLEY—That is good to hear.

Senator BIRMINGHAM—I will pick up where Senator Wortley finished on ABC3. Indeed, it is a welcome addition. Will *Bananas in Pyjamas* be broadcast on ABC3?

Mr Scott—Probably not, I will probably keep them on ABC1 and ABC2 at this stage. We have wrestled this down a bit. Our research suggests that primary school children are more likely to watch the channel if they do not feel it has a lot of the preschool content on it as well, that it is more for them. So we have good opportunities to show that preschool content on ABC1 and ABC2. We recognise on some of that preschool content as well that not every family has digital television at this point, so we are keen to keep a strong staple of children's programming on ABC1 until we get analog switched off, and then we can think about it again. So the *Bananas* will be on ABC1 and ABC2, not ABC3.

Senator BIRMINGHAM—What production changes are coming to the way *Bananas* are produced?

Mr Scott—You are probably referring to the new joint venture that we have for the new animated *Bananas in Pyjamas* production that we are doing.

Senator BIRMINGHAM—There is a lot of sniggering around here. It is a serious topic.

Mr Scott—It is a very serious topic.

Senator Conroy—This is a national icon that we are talking about here.

Mr Scott—We are doing a new animated series of the *Bananas*. We will still be showing the series we have been showing for years as well. But the advice of our children's television division was that this was the best way to create new content that will attract new and younger audiences. I understand some of that is in 3-D, which is a real growth area of production as well. We are doing that as a joint venture.

Senator Conroy—I wonder what B1 looks like in 3-D.

Mr Scott—More realistic than ever, I suspect.

Senator BIRMINGHAM—I have seen him at the ABC showcase.

Mr Scott—As we said at the time, we are looking for a fresh, contemporary format which allows us to broaden the environment that we have created this programming in. We are doing this as a joint venture. Animation is very expensive, and so we are doing this as a joint venture. That is how we can fund doing an ambitious animation program like this without taking all of the money that we need for other programming as well. We retain ownership of the original *Bananas* programs. This one will only be broadcast in Australia on the ABC. We have strong editorial control and input on it. But in a sense we are migrating this program in the same way we have migrated a lot of our drama and documentary programs: keeping editorial control but working with the independent production sector.

Senator BIRMINGHAM—When you say you will continue to broadcast the traditional *Bananas in Pyjamas*, that will just be file footage? They will not continue to be produced in that format anymore?

Mr Scott—I think we did about three series, and we have not done any for a number of years. It is not as though we have been continuing to make it, in contrast to *Playschool*. Every year we have been recording new episodes of *Playschool*. When you come to ABC Ultimo, some of the happiest days are when *Playschool* is in production. But the *Bananas* have not been like that. We have filmed a number of *Bananas* series over the years, but it has now been several years since we filmed that style. And, no, we are not going to make any more of those; we are planning on doing animation.

Senator BIRMINGHAM—I have visions of you, Mr Scott, there in Ultimo during the filming of *Playschool*.

Mr Scott—You are all welcome. Let us know when you are in town.

Senator BIRMINGHAM—I do not know whether you are on the chair, or the bear or what you may be.

Senator Conroy—We have finally discovered your avatar—B1!

Mr Scott—Let us move on.

Senator BIRMINGHAM—The animation requires some offshore outsourcing. Is that correct?

Mr Scott—Yes, the animation will take place offshore, but a lot of animation is taking place offshore now. And that is partly where expertise is and that is also on—when we put our money in, we want to generate the best return for our audiences and spend our money wisely. That is where our advice has been on where the animation should take place.

Senator BIRMINGHAM—Is that purely a commercial decision in terms of cost, or are those technical skills not available in Australia?

Mr Scott—I am not sure. If you want more details on that, I can try to get something on notice. My understanding is that less animation is taking place in Australia now than a decade or two ago, and more and more of it is happening overseas. I was recently in China with the chairman, and China has identified animation as an area where they plan to develop their expertise as well. There would be other programs as well, I believe, on ABC television children's programming that the ABC is a financial stakeholder in that are animation based and that that animation will have been created overseas as well.

Senator BIRMINGHAM—Is this a single new series being produced, or are there several series of *Bananas* being produced?

Mr Scott—We are committed to one series at this point, and then we will see how it goes.

Senator BIRMINGHAM—And what is the production cost for one series?

Mr Scott—I will have to come back to you, but it is in the millions of dollars to put this out to air.

Senator BIRMINGHAM—If you could also in that response at least indicate those components of the cost that are related to the offshore production versus those components that are related to onshore activities.

Mr Scott—There might be some contractual disclosure. We will let you know what we can tell you.

Senator BIRMINGHAM—What is reasonable to disclose around there would be welcome.

Senator FIELDING—I am not sure you can tender all of these things, but when it comes to that animation, is there a way of allowing—Australia has some pretty good areas of animation and developing software. How do we make sure that something like the ABC, which is government owned, puts the right emphasis on being an Australian production? Could we know the reason why you have not chosen someone in Australia in that area, because it is quite a significant sum of money?

Mr Scott—Let me answer that question on notice. We can give some background to what is the decision-making process around it.

Senator FIELDING—It is important, because there is an industry around that does have Australia pretty well at the forefront of some of this stuff as well.

Senator BIRMINGHAM—It becomes a chicken and egg scenario. You tell us, Mr Scott, that there is less animation work being undertaken in Australia, but as more contracts are placed offshore, then naturally the Australian industry and capacity for that animation work will diminish. Mr Scott, will the *Bananas* still meet to your definition, the ABC's definition of Australian content?

Mr Scott—Yes, we believe they will.

Senator BIRMINGHAM—You believe they will?

Mr Scott—Yes, because in a sense we are commissioning this. We are editorially controlling it, in a sense. There is no new *Bananas* series unless the ABC is financially making its commitment, and its commitment to air time around this. And we are dealing with an Australian production house to create it.

Senator Conroy—And it is physically being produced in Australia.

Senator FIELDING—We hope so: that is what we are trying to get at.

Senator BIRMINGHAM—Physical production seems an interesting question. If the animation is occurring offshore, and it is an animated series, then it strikes me that the physical creation is occurring offshore, Minister.

Mr Scott—I can take that detail as part of the broader answer on the *Bananas*.

Senator BIRMINGHAM—If you could, and whether that would equally meet ACMA's Australian content requirements for commercial broadcasters.

Mr Scott—Sure.

Senator BIRMINGHAM—Thank you. In relation to question on notice No. 163, I just want to clarify something. You prepared a table of Australian content first-run hours. In children's and education, can I confirm that for your 2009-10 estimate—I am assuming that the dollar figure given, \$26.7 million, is inclusive of production costs for ABC2, seeing as it has gone up from \$8.1 million in 2008-09—

Mr Scott—ABC3, yes.

Senator BIRMINGHAM—ABC3, sorry—but the Australian content first-run hours, which has decreased from 150 hours to 135 hours, is for ABC1 only.

Mr Scott—I believe that is right.

Senator BIRMINGHAM—Again, if you could take that on notice and check that and perhaps, given the table format is presented in the context of being ABC1 content hours, give production volumes or total cost as it is presented specific only to ABC1. That would be useful for comparison rather than netted up figures.

Mr Scott—Okay.

Senator BIRMINGHAM—I assume that was a fairly obvious mistake there.

Mr Scott—Yes.

Senator BIRMINGHAM—In relation to the drama hours for which you estimate an increase to 25.5 hours, how does that compare with the requirements placed on commercial broadcasters?

Mr Scott—I do not have those in front of me. It is less. We are working up from a low base, as I have said. A number of years ago now it got down to as low as three original hours of new Australian drama on ABC television. That figure was far too low, and I think it was recognised by everybody. That is why we are grateful for this injection of drama funding. Now we have over 100 hours of quality drama in development. One thing I would say about drama is that there are pretty long lead times. We announced the new Chris Lilley series a few weeks ago. That is now in preproduction. It will not start filming until 2010 and probably will not be on screen until 2011. It takes a long time to plan it, film it, edit it and then get it into shape ready to go. We are aggressively ramping up our drama slate, and we will see that in the years to come.

Senator BIRMINGHAM—The ACMA requirements on commercial broadcasters measure drama on a points basis.

Mr Scott—Yes, it is a pretty convoluted point system.

Senator BIRMINGHAM—It is a complex system, and I am not going to pretend to understand it. Perhaps you could again take on notice to provide us with some apples for apples comparison there.

Mr Scott—There are a few differences in how we are approaching this. There would be ways of taking this funding and hitting that target but by making programming that we do not think is in the interests of the ABC or our audiences. The bias and the focus of our drama work is going to be around high-quality drama, which is more expensive drama of course, miniseries, telemovies and putting some key funding into feature films that are going to get an early window on the ABC. We will try some innovative approaches to drama which will premiere on ABC2 as well, and certainly there will be drama that starts on ABC3.

The easiest way of getting drama numbers up is by doing long-running drama—drama that runs for two hours a week for 40 weeks a year. You will get your numbers up. Those things have quite high start-up costs, but once they have started their running costs week in and week out are lower. We are in a sense calibrating what our mix should be and partly that is what is on offer to us and what programs can we develop with the independent production sector. I talked about *The Slap* earlier. That is one we are doing with the independent production sector, as is the Chris Lilley program. We need to calibrate, and that will finally drive the numbers. We are going to see a big increase in the levels of Australian drama in coming years as a consequence of this money.

Senator BIRMINGHAM—I understand what you have just outlined there—that not all drama is drama in terms of the cost and quality and how it can add to—

Mr Scott—And nor is all drama Australian content as per the ACMA guidelines. There are complexities.

Senator BIRMINGHAM—Yes. The government, nonetheless, stated in the budget papers that this funding that you received was to increase the level of Australian drama content to match the requirements placed on commercial television broadcasters.

Mr Scott—Yes.

Senator BIRMINGHAM—Is that a definition and a target that the broadcaster is—

Mr Scott—That is what we are shooting for, but the final numbers in the outlying years will depend on the package of programs that we put together.

Senator BIRMINGHAM—And you would see that as being a target likely to be reached in the third year of the triennial funding agreement or even thereafter?

Mr Scott—It is certainly not going to be reached before the third year because the funding ramps up over time. As the funding ramps up, it allows you to commission more and get more into preproduction that you may not see on screen until after that. As I have said, some of the first year funding that is coming through now is going to be spent on things that are going to be seen on screen in 2011. There is a pipeline effect here, and we will see the benefits of it down the track.

Senator BIRMINGHAM—Mr Scott, how are you going with distribution and transmission efficiencies?

Mr Scott—That work is underway. We have held some discussions with SBS around that and there is nothing further we can announce at this point. We do believe that there are opportunities around distribution and transmission and we are continuing to pursue them.

Senator BIRMINGHAM—So there is no agreement—

Mr Scott—Nothing we can talk about at this point. These are very major contracts for both of the public broadcasters. They are very commercially sensitive and there is nothing further I can add at this point.

Senator BIRMINGHAM—Are there particular opportunities to achieve those efficiencies within the transition to digital broadcasting and the switch off of analog?

Mr Pendleton—Within the measures in the budget in anticipation of a reduction of analog transmission—

Senator BIRMINGHAM—There are certainly some funds returned as a result of the switch off of analog.

Mr Pendleton—But whether there are further efficiencies to be gained as a result of analog switch off within the digital contracts, you will still have quite substantial analog radio contracts into the future and you will have the new digital television contracts. It is a matter of looking across all of the transmission and distribution contracts that sit between both broadcasters to see whether there are opportunities to be pursued.

Senator BIRMINGHAM—How many transmission points are there for ABC1?

Mr Pendleton—TV? Analog?

Senator BIRMINGHAM—Yes.

Mr Pendleton—About 440.

Senator BIRMINGHAM—And digital?

Mr Pendleton—There will be around 440 when the rollout is complete. There will be equivalent coverage.

Senator BIRMINGHAM—Where is that at present?

Mr Scott—It is well into the 90s.

Mr Pendleton—Certainly the coverage is within one or two per cent of the analog. I will have to take on notice the exact number of transmitters.

Senator BIRMINGHAM—But did you say it is about 97 per cent?

Mr Scott—Reach.

Senator BIRMINGHAM—By population reach?

Mr Pendleton—By population. I think we are down to the last 80 to 100 sites, but I will check the number.

Mr Scott—I remember seeing the statistic pretty soon after I started at the ABC that 50 per cent of the transmission had been rolled out and it had reached 92 per cent of the audience. It is the tyranny of the nation, of course.

Senator BIRMINGHAM—Yes.

Mr Scott—So really we have very strong penetration now of digital television, but the final towers are still to roll out.

Senator BIRMINGHAM—Do all of those digital transmission points also transmit ABC2?

Mr Scott—Yes.

Senator BIRMINGHAM—And they will all transmit ABC3?

Mr Scott—And they will transmit ABC3.

Mr Pendleton—Sorry, Senator, I do have it. There are 327 digital television services at the moment. The digital television coverage is at 97.7 per cent against an analog coverage of 98.3 per cent.

Senator BIRMINGHAM—When would you expect to have replaced all 440 transmission points?

Mr Pendleton—Definitely before 2013.

Senator BIRMINGHAM—Thank you, Mr Pendleton. That is at least reassuring, but do you have any targets that would see it completed sooner than that?

Mr Pendleton—We are certainly moving through it as quickly as we can.

Senator BIRMINGHAM—Especially, I am assuming that, with 97.7 per cent population coverage, the 113 transmission points still outstanding are all in regional Australia?

Mr Pendleton—They would be.

Senator BIRMINGHAM—Regional Australia, of course, has a switch off before 2013, so you can be confident that they will all be replaced before the switch off in each of those regions?

Mr Scott—Absolutely.

Mr Pendleton—Definitely.

Senator BIRMINGHAM—And there is a program in place to see the replacement of those according to that switchover schedule as released by the government or before that?

Mr Pendleton—Yes.

Senator BIRMINGHAM—Are there any other explorations of savings with the other national broadcaster, aside from those transmission and distribution efficiencies?

Mr Scott—The focus of our discussions with them has been around the criteria that were set out in the budget.

Senator BIRMINGHAM—And no other work either with them or internally has been undertaken?

Mr Scott—No.

Senator BIRMINGHAM—Project W continues to gather mothballs. One day you will tell me how Project W came to be called Project W.

Mr Scott—One day I will find out, Senator.

Senator BIRMINGHAM—Chair, I am happy to defer to others if they have questions, otherwise I will keep going.

CHAIR—I think Senator Ludlam did but he is out at the moment, so keep going.

Senator BIRMINGHAM—I want to turn back to complaints. In the 2008-09 year, if you eliminate those complaints that you determined were not able to be assessed for one reason or another, there were 8,851 complaint issues investigated, of which just over half, 4,654, were upheld—this is according to your answer to a question on notice—and I gather that about half of those related to *The Chaser*, which we explored previously. You cleverly put, to save the maths on this:

Excluding complaints about the 'Make a Realistic Wish Foundation' sketch by The Chaser ... 4,847 issues were investigated, of which 650 ... were upheld.

Mr Scott—Which question on notice was this answer to?

Senator BIRMINGHAM—It is No. 162. Those 4,847 issues: are they independent issues? Are the 650 issues that were upheld each independent issues or each independent complaints?

Mr Scott—This is in paragraph (c) in the answer?

Senator BIRMINGHAM—Yes, right at the bottom of the page.

Mr Scott—I think 4,847 separate issues were investigated. I believe that is right.

Senator BIRMINGHAM—Separate and discrete issues?

Mr Scott—Yes.

Senator BIRMINGHAM—And 650 such separate and discrete issues were upheld?

Mr Scott—Yes. If you do the rough maths, it is about 8,000 apart from *The Chaser*, 4,800 issues, and 650 were upheld.

Senator BIRMINGHAM—What proportion of those relate to television versus radio?

Mr Scott—I can take that on notice for you.

Senator BIRMINGHAM—Okay. You might also provide perhaps some extra detail on the nature of those issues.

Mr Scott—Sure. A lot of this is covered in the annual report. We can detail that.

Senator BIRMINGHAM—If you could simply excise the relevant aspects that would be helpful. Six hundred and fifty seems like a lot to be upheld. I realise there is an awful lot of footage that goes out and material that is broadcast.

Mr Scott—I suppose I would say that too. We have 65 live microphones going round the clock and our broadcasting is across radio and television and online. The highest area by far are minor factual inaccuracies. We acknowledge that and those complaints are appeal. But we do have a breakdown of categories of where the complaints come and where they are upheld. Some of that is summarised in the annual report and we are happy to provide that material.

Senator BIRMINGHAM—Under your processes, all of those complaints that are upheld are corrected on the website.

Mr Scott—I would have to check on that. As I said earlier, we have a website for corrections and we are putting up our news errors.

Senator BIRMINGHAM—Under what circumstances would a complaint that was upheld not be corrected in some way, shape or form?

Mr Scott—Not all the material would be up on websites anyway to correct. I can provide you with detail of what our policies are around that.

Senator BIRMINGHAM—Sure, but you have a website that specifically deals with the complaints?

Mr Scott—Yes.

Senator BIRMINGHAM—All of the complaints that are upheld, at least the fact that there was a complaint and it was upheld: is that available on the website?

Mr Scott—I just want to check on the policy of that. One of the things we are doing—and I am happy to forward it to the Senate—is to list more of the errors online and, when our audience members point that out, to actually have opportunities on the websites linked to the pages of those sites that allow that correction to happen without going through the Audience and Consumer Affairs process. We have new self regulatory policies that we are outlining, which are spelt out in that, and I will provide you with a copy of it.

Senator BIRMINGHAM—Just take me through that. You have an opportunity on program websites for people to complain direct to the program; is that right?

Mr Scott—Yes. At the moment we have a very complex process for dealing with audience complaints. It is well stepped out and can take up to 60 days. We want to be able to more

quickly turn around a response, particularly, to correct the record around minor factual errors. So rather than people having to write to us and go through a formal investigation and review, the aim is to allow programs themselves to quickly identify that there has been a problem there and to remedy it quickly on their website. That has not always been the case up until now and at times part of our concern has been that it has taken too long to set the record straight, so we are going to enable that to happen under new guidelines that we are just introducing now.

Senator BIRMINGHAM—Those guidelines have been finalised.

Mr Scott—Yes. We are in a process of transitioning from the old scheme to the new scheme.

Senator BIRMINGHAM—I assume those guidelines have requirements to advise complainants of the other more formal mechanism available to them.

Mr Scott—Absolutely right. If people want to use the formal Audience and Consumer Affairs process, they can. If people want to use online, they can. In a sense, one of the things we have said is that we want our people internally to develop thicker skins around this and not to be too defensive. We recognise that we will not be perfect all the time and that it is beneficial for us to correct the record. We should do that and we should make it easier for people to have their voices heard if they want to be heard.

Senator BIRMINGHAM—What reporting requirements internally are there for complaints received by the new alternate mechanism?

Mr Scott—I receive detailed reports on this, and the work that they are doing out in the divisions is being reported back to Audience and Consumer Affairs. I get a monthly report and the board gets a report. We have detailed record keeping around this.

Senator BIRMINGHAM—The complaints might go through different mechanisms and different means and hopefully be dealt with in a faster way, and the record corrected in a faster way, which of course would be welcome. A colleague pointed out the other day that apparently Toowoomba radio was describing me as a Labor senator, after our visit there recently. I do not know whether I should apologise to my Labor colleagues or not. I did not lodge a complaint, but that is incidental.

Senator Conroy—I feel defamed.

Senator BIRMINGHAM—I did just apologise to the Labor colleagues. Nonetheless, we will not see a sudden nosedive in the number of complaints that the corporation keeps records of or the nature of them.

Mr Scott—No you will not, Senator.

Senator BIRMINGHAM—Thank you. Mr Scott, how many times has the *Insiders* program asked the Prime Minister to appear?

Mr Scott—I would have to take that on notice.

Senator BIRMINGHAM—How many times has the Prime Minister appeared?

Mr Scott—I would have to take that on notice also.

Senator BIRMINGHAM—I think the answer to the second one is an incredibly small number, if not a fairly round one, in recent times.

Senator Conroy—I think you should get Mr Turnbull out more.

Senator BIRMINGHAM—Thank you, Minister, for that endorsement of Mr Turnbull's abilities. How about *The 7.30 Report*, Mr Scott?

Mr Scott—Are you talking about the number of requests or the number of appearances?

Senator BIRMINGHAM—Both.

Mr Scott—Again, I do not have that material at my fingertips.

Senator BIRMINGHAM—Perhaps you could also take that on notice, and as well for *Lateline*; that would be appreciated.

Mr Scott—Yes.

Senator FIELDING—Mr Scott, given that there was a fair bit of talk before about the salary. I did not want to cover that. There was some talk about accuracy of reporting of one topic. Could you give us a handle on biases in *The 7.30 Report*, just generally? Are there some sorts of guidelines about keeping an eye on it?

Mr Scott—There are guidelines, but *The 7.30 Report* is no different from any of our other news and current affairs programs, and that is the principle that relevant viewpoints need to be heard on issues—a range of viewpoints over a period of time—and that the program itself does not have a point of view on issues but it is a forum that allows those viewpoints to be aired.

Senator FIELDING—Do you have any monitoring of the range of viewpoints by political parties that have actually been on *The 7.30 Report*?

Mr Scott—We have data on who appears. You would find on a number of these programs—and it would happen under this government, as happened under the previous government—that ministers appear more than shadow ministers, because the ministers are the ones who are making the policy that is creating the news of the day. That is not to say that other figures do not appear, be it opposition figures or be it senators from minor parties or the like. Our news division reviews those programs and we can do other audits of those programs, but the same editorial guidelines apply to *The 7.30 Report* as apply to our other news and current affairs programs.

Senator Conroy—You should not take it personally, Senator Fielding. I have never been on *The 7.30 Report* live in 11½ years in opposition and nearly two years as a senator. I have been interviewed many times for pieces but have never been on live with Kerry.

Senator FIELDING—You have probably pre-empted where I am going here because you did raise the issue of minor parties and making sure views are heard. There are crossbenchers in the Senate and they each have equal weighting. I have never seen the Greens split their vote but they could correct me. There are three parties sitting in the crossbenches with equal weighting and I thought those views would be interesting to hear on *The 7.30 Report*. I cannot recall the last time that Family First appeared on *The 7.30 Report*. I am just wondering: is something going on there?

Senator Conroy—I cannot recall when I last appeared on it either, Senator Fielding.

Senator FIELDING—But the Labor Party has been on there a lot, which is fine, and so has the Liberal Party and so have the Nationals and so have the others.

Mr Scott—The test is not—

Senator Conroy—The test is relevance, Senator Fielding, but he is too polite to say! You and I fail the relevance test.

Mr Scott—It is not driven by a stopwatch. The test is whether on issues where there is a range of relevant viewpoints those viewpoints are heard. Those viewpoints or aims can be aired without the representative of the party being there.

Senator FIELDING—Could you have a look at that, by party, as to who actually has appeared?

Mr Scott—Yes.

Senator Conroy—Are you suggesting there should be an alternative test—the Conroy-Fielding test?

Senator FIELDING—It just seems strange that Conroy and Fielding have not been on *The 7.30 Report*.

Mr Scott—I am sure it is nothing personal.

Senator BIRMINGHAM—And less there be any mistake, Mr Scott, I am not arguing that Mr Rudd has been on *Insiders* too often; it appears he has been on there too little. He seems to like FM radio stations and *Rove Live* a little bit more.

Senator Conroy—Please! The former Prime Minister regularly frequented various radio stations—Alan Jones comes to mind.

Senator BIRMINGHAM—Which perhaps have tougher questions than some of the FM breakfast programs do, Minister.

Senator Conroy—I thought Alan Jones asked Joe Hockey some very tough questions.

Senator LUDLAM—I have some questions about the ABC.

Senator Conroy—Have you ever been on *The 7.30 Report*, Senator Ludlam?

Senator LUDLAM—My invitation has gone missing as well. I want to congratulate you, first of all, on the iView service that is offered by the ABC. It is superb. I would like you to tell us, if you can, what sort of traffic you get to it—if you have an idea how popular it has become?

Mr Scott—It has grown significantly, Senator. I am not sure if I have the traffic figures now, but we have had significant growth this year. It is a widely appreciated service. We have increased the amount of catch-up viewing on it, we have put some further channels on it and we are promoting it quite widely. It has been an outstanding service. The other thing we have noted is that the traffic on iView is significantly higher with those ISPs who allow iView to be viewed in an unmetered way. That has been beneficial for those ISPs but it has also been beneficial for iView.

Senator LUDLAM—I will ask you about the metering and the unmetering in a moment, but would you be able to provide us with some traffic data on notice?

Mr Scott—Yes.

Senator LUDLAM—I do not know whether you have these figures to hand, but can you also take on notice what it costs for the ABC to put that content online; whether it is a significant additional cost?

Mr Scott—There are some distribution costs that we have had to absorb and there were some development costs but we can provide further details.

Senator LUDLAM—Is it the case that the material on there is left online for a period of two weeks?

Mr Scott—Yes, it is mainly two weeks. The BBC only keeps theirs up on iPlayer for one week. Often this comes with the rights agreement that you have with the rights holder. Some of the material we hold the rights to but other material we do not hold the rights to. Basically we are arguing around the existence of a free-to-air window, a right that is basically saying, ‘The people who watch it within that two-week window are like those who would watch it that evening it was being shown.’ But if you go much beyond that then the feeling is, particularly with some of the independent producers we deal with, that you are moving into different markets. So we are at the outer end compared to, say, what the British public broadcaster is doing, by having it available up there for two weeks.

Senator LUDLAM—Can you tell us in a bit more detail what the argument is for the material that you do hold the rights to. Why shouldn’t it be up there in perpetuity once you have broadcast it?

Mr Scott—Partly it is the carriage cost of having all that up there and available, like the archive that is ongoing. If you look at some of the material we have shown in the past that we have rights to, we have it more widely available now for audiences than we ever have before, through its availability on iView. Some of that will end up on DVD. Some of that will end up for sale in ABC shops. Take *SeaChange* for example. Our audiences understood that they could have watched *SeaChange* on air and *SeaChange* when we repeated it, but if you wanted to go and watch *SeaChange* tonight then you could purchase those DVDs, which gives you a different kind of audience experience. We continue to look at the ongoing availability. There is a lot of material that we have created around news and current affairs, archival material that is available through other ABC websites—the *Four Corners* website and other things—but it goes well beyond the two weeks. But a lot of the content up on iView is entertainment, drama and comedy, and a lot of that material is developed with a more narrow rights window.

Senator LUDLAM—I would have thought that the current affairs material, for example, would benefit from being in that.

Mr Scott—I think that is true, but we are finding at the moment—and I do not want to limit where the development of iView goes—that if you want to watch *Four Corners* episodes from earlier in the year you can find those on the *Four Corners* website rather than through the iView distribution mechanism.

Senator LUDLAM—Are you able to foreshadow what your intentions are for that service in the next little while?

Mr Scott—I would like, finally, for people to be able to experience it not just on the computer but on the television set. That would be ideal. With the technology—and certainly with the government’s fast broadband initiative—there would be a capacity to be able to deliver that. I think our audiences, too, would like, to be able to sit on the couch and watch not just what is on air tonight but the programming that was on offer over the previous two weeks. That is an ambition for it. There are different ways you could go about delivering that, and that is what we are looking at at the moment.

Senator LUDLAM—Coming back to the question of metering—and I do not know whether this is an oversimplification—my understanding is that the ABC moved to using a content distribution platform called Akamai.

Mr Scott—We have used Akamai, yes.

Senator LUDLAM—The way that it has been explained to me is that for technical reasons more than anything else that makes it difficult, if not impossible, for most ISPs to offer that content unmetered. Is that your understanding?

Mr Scott—No. We think there are ways. Akamai is one of the biggest content distribution systems in the world.

Senator Conroy—Other organisations have agreements with them.

Senator LUDLAM—It is possible.

Mr Scott—Lots of organisations use Akamai. Apple uses Akamai to distribute their iTunes, and others. This has been something that we have continued to review internally to manage the cost of demand of delivering this service. But, as the minister rightly points out, we do have other ISPs that are able to deliver iView unmetered. We do not think there are inhibitors on this. We are in discussions with other ISPs around delivering iView unmetered as well.

Senator LUDLAM—My understanding, just to be clear, is that the inhibitor was perhaps an unintentional side effect of moving to that service, whereby unmetering is based on source IP addresses.

Mr Scott—We believe we are going to work around that.

Senator LUDLAM—What do you think is your time frame for having fixed this?

Mr Scott—We are in discussions with other ISPs at the moment. The question, finally, I do not think is a technological one. The question is whether in fact those ISPs decide they want to show the iView content unmetered. So really it is a question for them, not for us. We are providing every encouragement, and if there are any technological inhibitors they have identified we are working with them to overcome them. But I do not think that is where the debate is at the moment.

Senator LUDLAM—So you are not aware that those concerns have been raised?

Mr Scott—Some concerns have been raised, but, as the minister points out, other ISPs have been able to work around them, and we think workarounds are possible.

Senator Conroy—I am assuming you are on iiNet.

Senator LUDLAM—I have forgotten. I just use the parliamentary service, which unfortunately will not stream iView in here, which is a great shame—on wireless, anyway.

Mr Scott—That is a tragedy, not a shame!

Senator LUDLAM—I am aware that iiNet, which is the example that I picked out, is unmetered because of some of the technology that they have deployed which is not available to other ISPs. You have acknowledged that there are some technical issues.

Mr Scott—Some issues have been raised, but we do not believe them to be absolute inhibitors to the provision of that service. We would welcome discussions with ISPs to deliver iView unmetered. The reality is that the Australian public has already paid for this content. They do not actually have to pay extra to listen to it on radio or watch it on television, and we do not think that they should have to pay extra to watch it on the internet.

Senator LUDLAM—I appreciate that. I would like to move to ABC Radio and black spots in particular. I had a week in the north-west Pilbara region last week and visited at a couple of Aboriginal communities—in particular, one at Jigalong, which is about 100 kilometres east of Newman—that cannot get ABC Radio. They desperately want to get it. Senator Abetz touched on this before in the context of Tasmania, but what is the strategy for the three or four per cent of the Australian land mass that cannot catch ABC Radio?

Mr Scott—Land mass or population—because more than 99 per cent of Australians live in a place where they can receive ABC local radio. We have the data of our reach well and truly spelt out in our annual report. We are looking at whether there are direct-to-home provisions that help with the others. We do our best to extend the reach. Of course, the geography is very difficult in the Northern Territory and the far reaches of Western Australia. The northern parts of Western Australia have proved challenging for us. In the Northern Territory we have used high-frequency distribution and shortwave distribution and that has been challenging in the environment. We continue to talk with Broadcast Australia about that. Our reach is into 99 per cent of the country and to get to the final per cent is a significant challenge.

Mr Pendleton—It becomes more cost-effective to have terrestrial transmission, and it is always available to the very small remote area locations to take the satellite feed of some of the national radio program services.

Senator LUDLAM—Is that quite a bit of a more expensive for them to receive? The example that I want to cite to you is from Dr Randy's Spargo, who was interviewed recently on Radio National but then could not actually listen to the broadcast. He is a doctor out at Jigalong. What are the options for that community? Do they need to purchase satellite receiving equipment?

Mr Pendleton—Yes, unfortunately. A number of councils have invested in retransmitters for their communities, where they believe there is enough demand for it. The only other alternative is to take the satellite feed off the direct-to-home.

Mr Scott—I think fast broadband will also give another distribution opportunity on this. If the country is linked up with fast broadband, we are streaming live our national radio networks, our digital radio networks and local radio stations—not all local radio stations are

streaming now but certainly the capital cities are. We hope fast broadband will be an answer to some of the challenges of distribution to isolated areas.

Senator LUDLAM—That is where I was going to go next. I am quite looking forward to the asking some of the coming witnesses about this. The Jigalong community is getting a dial-up connection at the moment. They can barely get email. Without too much crystal ball gazing, could you tell us, out of terrestrial broadcast, satellite, digital radio transmissions or the National Broadband Network, what is going to reach a community like that in remote Western Australia first?

Mr Scott—First? I think those are probably better questions for later in the day. All we know is that we have targets that we are trying to reach through digital television. We have our current reach through analog radio. Digital radio will be further away, of course. The National Broadband Network is an alternative distribution mechanism for us for all our content—television, radio and the online content that we are creating. There are satellite provisions as well, if that is what the communities want to embrace.

Senator Conroy—Do you want to talk about regional digital TV now or do you want to wait until a bit later on?

Senator LUDLAM—I was going to wait until broadcasting comes up—that is fine.

Senator Conroy—No worries.

Senator LUDLAM—What is your understanding—and I will put this to Mr Quigley when he is here—about whether the National Broadband Network is likely to be rolled in from the fringes of the network rather than outwards from metropolitan areas?

Senator Conroy—That is a question for Mr Quigley, I would have thought.

Senator LUDLAM—I was just about to ask the ABC part of the question. What is your understanding of that rollout strategy? Are you tailoring or gearing some of your strategies around that?

Mr Scott—I can only speak to that question broadly. We provide a suite of services that we want Australians to be able to experience no matter where they live. We have had experiences in the past, which the minister has spoken about and which I have spoken about, where slow broadband in the bush has been a disadvantage to us. We had to pull back a bit the capacity of our *Unearthed* music site because of the problems people had with dial-up in regional areas. So of course we are keen to get to a result where everybody has fast broadband. We absolutely appreciate that in regional areas there are some specific problems that need to be addressed for them to catch up with even what is available in the cities. As to the final timetabling and priorities for the rollout of the network, those will be questions for them, not us.

Senator Conroy—It is fair to say, though, that the ABC has rolled out a range of programs across the country over many years but has not started them in the same place at the same time?

Mr Scott—Yes.

Senator Conroy—If you look at the rollout pattern of the whole range of programs, the ABC has had an economically rational approach while trying to apply a community approach to the whole rollout.

Mr Scott—Yes. As the rollout of news radio to smaller communities continues, it happens over time.

Senator LUDLAM—Okay. I am not sure what I will take back to Jigalong as to when they might be getting ABC Radio out there, though. That still seems—

Senator Conroy—Do you mean digital radio?

Senator LUDLAM—Any kind of radio. They do not get ABC out there at all. We can come back to digital radio later. I would like to close with a couple of questions about arts programming on ABC TV. It appears, from an outsider's point of view, that arts coverage on ABC radio and TV has declined over the last 10 years or so, in quantity and probably in depth as well. Can you tell us what your intentions are for the flagship *Sunday Arts* program? Is there an intention to reduce that on TV or throw it over—

Mr Scott—I have no advice on that. I will start with your point, Senator. Next week the ABC is hosting a conference with leading partners in the arts community on arts coverage at the ABC. It is a responsibility we take very, very seriously. We have a regular slot in prime time on Tuesday night for arts and we have Sunday afternoon. We have run increased arts programming on ABC2 and a range of arts programming on Radio National. Of course, we are covering the arts all the time across all our platforms, including an online presence with websites like Pool, which we are doing in partnership. That is focused on the visual arts. So there is a lot of activity. We have significant partnerships with Australia Council for the Arts that is allowing us to take advantage of digital technology to bring live cultural events into the homes of people around the country, such as opera, ballet and live theatre events. There is a lot happening. We are in close consultation with the arts community and, as I said, next week we have another major planning session underway. We take our responsibilities seriously and we are very committed to it.

Senator LUDLAM—Is it a fair conjecture to say that arts—on ABC1, at least—is being reduced, even if coverage might be expanding online or elsewhere?

Mr Scott—No, I would not have thought so. I am a bit surprised to hear that, Senator. I think there is extensive arts coverage across a range of programs, including arts programming. The main place we have run arts programming for a number of years has been Tuesday night at 10 o'clock, and that has continued. If you take a broader definition of the arts, there are things like *First Tuesday Book Club*. Our commitment to reading and literature has been very strong across radio and television. So, no, I would not have put the view that you put on it, Senator, but I hear your comments. I can tell you I am pleased we have got the conference coming up next week which will address precisely our arts coverage issues.

Senator LUDLAM—Is there a specialised or dedicated arts unit at the ABC?

Mr Scott—There is an executive who is responsible for arts coverage and other areas. We do not have somebody responsible for the arts across all our platforms. The responsibility is carried out in different divisions.

Senator LUDLAM—So you do have a specialised religion unit, for example, which we have spoken of before, but not an arts unit in the same way?

Mr Scott—Religion and science, yes, but we do not have an arts unit that is responsible for the delivery of that content. But I would say to you, Senator, that we have an entire radio network that is devoted to classical music and a lot of Radio National is responsible for arts coverage, so it is pretty broad and scattered across all divisions, I suppose.

Senator LUDLAM—Just going a little more broadly, how do you at the ABC determine if you want particular television arts programs—sticking with TV at the moment—to be produced in-house or outsourced? What are your criteria for deciding that?

Mr Scott—They are decisions that are made by our television executive. Some of our expertise around television production, some of the way we commission, is whether in fact we think there are partners out there who bring particular expertise to bear, people that we want to work with, and also whether they bring funding or there is an ability to attract other kinds of funding. And it is not just the funding that the independent producer can bring. Sometimes if you are doing a documentary you can do it with an independent producer and that can trigger other forms of government funding is well, from Screen Australia or other state entities, that the ABC will not get if it is just internal production. So you have to weigh all these things up. If you look at it, there is a lot of arts programming now that we do internally, but there have been significant arts related documentaries that we have either done in partnership with the independent production sector or that we have purchased. So they calibrate that as they work it through.

Senator LUDLAM—Okay, thank you. Can you tell us whether announcements or promos that a broadcast on ABC TV are broadcast at higher volumes than the programming?

Senator Conroy—This is the compression issue.

Mr Scott—Not that I am aware of, Senator Ludlam.

Senator LUDLAM—I know on other channels there has been discussion about this.

Mr Scott—Yes, there has.

Senator Conroy—This is a legitimate issue raised right across the spectrum. I did see a very good explanation once about what caused the perception that they were broadcasting at a higher frequency. I am not a technician—and after I have said this you might want to ask the ABC whether they do this or not—but my understanding is that it never breaches the individual sound limit but, because they compress it in a way that puts the entire sound at the highest pitch, it sounds like it is at the higher limit but it does not actually go outside it. Now, they may have changed and are being cheeky and are breaching the upper sound limit, but my understanding is that the reason that the ads sound like they are at a higher level is because they are continually at the highest level.

Senator LUDLAM—It is because they kind of are.

Senator Conroy—No, there is a limit on where they are allowed to go through. They do not go through the limit, they just compress it so it is all at the one higher pitch, if I can use that strictly non-technical term. So you might want to ask whether or not they are at their highest pitch.

Mr Scott—I can take that notice. We are certainly not cranking up the volume.

Senator LUDLAM—I am aware of the technique that Senator Conroy is talking about, although I do not have the technical language to describe it either, but I would be very interested to know.

Mr Scott—We can give you some advice on that.

Senator LUDLAM—That would be appreciated.

Senator Conroy—Michael Danby asked these questions a while ago.

Senator LUDLAM—Of the ABC?

Senator Conroy—Not of the ABC; of the industry in general. I do not know which show it was but it was demonstrated why it sounded like they were breaching, going too high and louder. Like you, I do not have the technical jargon to express it quite accurately.

Senator LUDLAM—I will chase those, but if we can get some feedback from the ABC that would be appreciated.

Mr Scott—Yes.

Senator LUDLAM—I asked the question in the context of TV, but maybe you could chase that up for us about radio as well.

Mr Scott—Yes.

Senator LUDLAM—Thank you.

Senator BIRMINGHAM—Mr Scott, you gave a certain speech in the last week or so—

Senator Conroy—A cracker!

Senator BIRMINGHAM—that has attracted a bit of adverse comment, I think would be the term Senate committees would use about it.

Senator Conroy—I cannot believe you have not asked about that before now.

Senator BIRMINGHAM—How do you respond to the criticisms of those who suggest that, as a public broadcaster luxuriating in taxpayer dollars coming your way, you are not necessarily as well placed as others might be to comment on those who need to raise commercial revenue to fund their operations?

Mr Scott—I think debate is healthy and I welcome debate. If you look at the context of what I said, though, Senator, there had been some who had said that public broadcasters like the ABC should either move away from coverage of news or should charge for coverage of news. I was simply making it clear that the taxpayers have paid for the ABC content already and so they should not have to pay twice. That was a representation that I was making on behalf of our shareholders, who are the Australian public, and I would argue that that is a position that would have very strong support from the Australian people. I have had no sentiment at all in my time in the ABC role of people wanting to pay further for ABC content, be it radio, television, new services, online, because they have already paid to contribute it.

Senator BIRMINGHAM—The comments seemed to go a little further than that. Certainly the reporting of the comments implied they went a lot further than that.

Mr Scott—I would encourage you to read the speech, not all the reporting of the speech. The other thing I would simply say is that in Australia we have always had a mixed model, and that mixed model is that you have had commercial media operating side by side with the public broadcaster, with the ABC, since 1932. We increasingly argue that there are some spaces that the ABC needs to deliver in. News and public affairs is one; drama, which we have talked about this morning; provision of content in regional and rural Australia: it is very important the ABC step up and deliver in these areas because commercial media increasingly finds it difficult to do so.

You find at times when commercial media has been under pressure that increasing criticism comes to bear around the public broadcasters. I think we should be grateful that Australia has a strong public broadcaster in the ABC that has been developed over many years and that it can deliver what the community wants, funded by the community independently, particularly at this time that the media is under so much pressure.

Senator BIRMINGHAM—So the commercial broadcasters are free to—of course they are free to, but in your opinion it is up to them as to whether they charge or not—

Mr Scott—Absolutely.

Senator BIRMINGHAM—It is up to the market as to how they respond.

Mr Scott—Absolutely. If they want to charge they can. I was simply pointing out in the speech that we will not be charging a second time, because the public has already paid for the content. I suppose I was simply being sceptical of a model that suggested that everybody would be charging for all content and therefore the public broadcaster should either charge as well or vacate the field. I just do not think that is going to happen.

Senator Conroy—Are you committing to pay for the *Advertiser's* content online, Senator?

Senator BIRMINGHAM—Minister, let us not invite commentary on the merits or not of certain news sources.

Senator Conroy—I am just taking a random poll here, Senator Birmingham. Are you indicating you would pay for the *Advertiser's* content online?

Senator BIRMINGHAM—I imagine if that was the only way I could get the *Advertiser's* content then I probably would, Minister. We will see how the market evolves. The question relevant to Mr Scott here is whether, as head of the national public broadcaster, he feels that in any way his remarks stepped beyond commenting on the role and responsibilities of the national public broadcaster and into the commercial operations of his competitors in the news world.

Mr Scott—No, I would view it this way. I was asked to give a lecture at a Melbourne university that various people have given in the past, including Rupert Murdoch and Bob Hawke and a range of other people, as a broad media lecture. I was drawing on my experience not just at the ABC but as a publisher, editor and journalist who has operated in commercial media. I was asked to comment at a time of massive change in the media world and coming after several months of quite detailed public commentary about the paid model for online content and the role of public broadcasters in that space. I took that opportunity and I responded to that invitation by giving a broad range of commentary. Some of it was

speculation. Some of it was discussions about the kind of capabilities that organisations may need to develop to survive in this change. But what I really did on behalf of the ABC was made clear the commitment that the public has already paid for this content and they should not be expected to have to pay for it a second time to experience it on the device they want, in the format they want. So if newsroom is creating news for radio and television and if we are going to create a version of that for online, then people should be able to experience that the same way.

Senator BIRMINGHAM—You invited me to go and read the speech and indicated that perhaps not all of the reporting of it reflected the manner—

Mr Scott—The nuance, I think.

Senator BIRMINGHAM—the nuances of the speech.

Senator Conroy—It was colourful and entertaining.

Senator BIRMINGHAM—Maybe reading it I will not pick up on all of the nuances that sometimes come with speeches, but my recollection is that some of the ABC's own programs like *Lateline* positioned the speech very much as a direct attack on Mr Murdoch and comments that he had made, and a direct response—

Mr Scott—I would reflect on it as a robust defence of the independence of public broadcasting, the role that public broadcasting has to play and the fact that the public has paid for our content, and that suggestions by others that we should either leave the field or charge for our content was not going to happen here at the ABC. They were important things to say.

Senator BIRMINGHAM—You do not feel that you were misrepresented by your own programs at all?

Mr Scott—I have made no complaints.

Senator BIRMINGHAM—You have made no complaints—okay.

Senator Conroy—Given the speech by Mr Murdoch junior in the UK, I think it was a colourful, robust and entertaining speech.

Mr Scott—Mr James Murdoch said he thought news should be left to the market.

Senator Conroy—You do not share that view, do you, Senator Birmingham?

Mr Scott—I suppose my response to that is that for the best part—

Senator BIRMINGHAM—You think news should be regulated?

Mr Scott—For more than 70 years news has not be left to the market here, and we have had a strong and robust system here as a consequence of that. It has been a mixed model, where public and private broadcasters have operated side by side. Increasingly, the feedback I get is that people are grateful that the ABC is there with our investment in journalism locally, nationally and internationally. I support the mixed model. I do not support a view at all that says only the ABC will be there at the end, and I do not think that is going to happen. But the ABC has a vital role to play and we should be allowed to play it.

Senator BIRMINGHAM—What risk, if any, do you see in terms of the future of that mixed model, given that the ABC does have a clear and, while you can debate about the levels

from time to time, guaranteed source of revenue, whereas the income model for commercial news operators is a rapidly changing and very uncertain world?

Senator Conroy—So they shouldn't go online? They should produce all this material are not put it online?

Senator BIRMINGHAM—I am not suggesting that at all, Minister. But I am acknowledging the reality and I would have thought that as communications minister you would acknowledge the reality that the income model for commercial news broadcasters is changing dramatically and is very uncertain into the future. It is reasonable for them to be hypothesising about the impact of that on the future of news broadcasting and, indeed, on the potential that if their traditional income revenues dry up and the online world does not provide enough revenue, then we will be left with the ABC as the major news provider in that market space. That is the argument being put by some. I am not saying that it will happen, but there is some validity to it.

Mr Scott—I do not think the response to that is to weaken the ABC.

Senator Conroy—Absolutely.

Senator BIRMINGHAM—No.

Mr Scott—The response to that is to ensure the ABC remains strong, independent and robust, reporting locally, nationally and internationally. I would also say, and the speech outlined this, that there are a number of factors that are at work on the commercial model. Certainly the business model has been pressured. The economic downturn has made an impact. The amount of debt that some of these organisations has incurred has also made an impact. A number of these papers, for example, still remain very profitable in a good economic time; they are just not as profitable as they once were. So the challenge for those corporations, as News Ltd has done and as the speech acknowledged News Ltd has done, is to diversify their income streams away from solely being a free-to-air broadcaster or solely being a newspaper publisher.

The answer to all of these pressures is not to slap down the public broadcaster, as seems to happen from time to time and as has been some of the language of recent times. The language has been at the public broadcaster should step away, should be weakened, or that the public broadcaster should charge. We need to reject those things. Those things would damage the ABC. It is certainly not what the Australian public wants. A strong and robust ABC, particularly in news and current affairs, is more important than ever. That is the point that the speech made too.

Senator BIRMINGHAM—These are complex issues and we have seen them even in this building, where in the course of this year there have been two attempts by two different commercial agencies to merge their bureaus.

Mr Scott—Yes.

Senator BIRMINGHAM—That shows the pressures that are being brought to bear and the potential for a narrowing of the professional commentary and coverage of news journalism rather than the Twitter type coverage.

Mr Scott—And finally, Senator, we will always broadcast according to our charter and what we need to deliver under our charter, not pursuing where the dollar is made. It might well be that those amalgamations and rationalisations do happen. How much weaker would we be if the ABC had been curtailed and then the market still did what the market does? So we need to be there, strong, independent and robust, as we are today.

Senator BIRMINGHAM—You make a strong defence, and many of these are perhaps broader policy issues that fall to the minister rather than to you, Mr Scott.

Mr Scott—Yes. Thank you, Senator.

CHAIR—I understand there are no further questions for the ABC, therefore thank you very much for appearing before us today. I am slightly disappointed there was no debate about audience selection for *Q&A*!

Senator Conroy—Did you finally invite Eric onto the show?

Senator LUNDY—I did have some questions but I am happy to put them on notice. They relate to the coverage of the W league, the women's football, and other sports related investment.

Mr Scott—We can get those back to you quickly.

Senator LUNDY—Thank you very much.

CHAIR—Thank you.

Proceedings suspended from 1.10 pm to 2.09 pm

Special Broadcasting Service

CHAIR—We will resume proceedings. I welcome officers of SBS to the committee. Thank you for joining us. Do you wish to make an opening statement?

Mr S Brown—No, thank you.

CHAIR—We will go straight to questions.

Senator BIRMINGHAM—Thank you for joining us. Firstly, with regard to the additional triennial funding agreement that you were given in the last budget, having had time to absorb that and plan for the next few years, do you believe it will be sufficient to meet the government's aim of increasing local content by an additional 50 hours per annum?

Mr S Brown—I believe so—around that number. Obviously, the exact hours depend on the exact nature of the investment; higher costs produce fewer hours and lower costs obviously produce more hours. I thought that was a reasonable number. I would have thought it would only materialise probably in the year after the final year of the triennial funding, because the substantial part of the \$20 million, \$11 million, is in the final year. You tend not to see the output of that investment until at least the year after.

Senator BIRMINGHAM—With the production lags and so on.

Mr S Brown—Yes.

Senator BIRMINGHAM—I understand that. So, we hope to see that 50 hours met sometime in the 2012-13 year?

Mr S Brown—Yes.

Senator BIRMINGHAM—That would be the target that SBS is working towards?

Mr S Brown—That is correct.

Senator BIRMINGHAM—Also within the budget, which we discussed last time, were efficiencies on distribution and transmission that are being sought with the ABC. How goes that work?

Mr S Brown—That is still at a relatively early stage. We had some preliminary discussions with them and remain committed to working with them and the department to identify the best model for the future. We do not have anything too much further to add.

Senator BIRMINGHAM—So, no savings have been identified let alone locked in as yet?

Mr S Brown—Not at this stage. I heard Mr Scott speak a bit about this. There is a large number of contracts relating to both broadcasters, relating to a series of different services— analog, digital, radio and television—let alone the distribution side of the business as opposed to the transmission side. It is a substantial piece of work to identify what the savings are and how they are best captured.

Senator BIRMINGHAM—I realise we are not going to find out what those amounts are because of the commercial arrangements. I think we went through that in the last budget. Has the government given the broadcasters targets for savings that it believes can be achieved through these efficiencies?

Mr S Brown—There are some numbers that are obviously confidential relating to analog switch-off and potential savings.

Senator BIRMINGHAM—There is a budgeted item for the analog switch-off, which is covered for both ABC and SBS, and then there were the additional efficiencies that were being sought.

Mr S Brown—Yes.

Senator BIRMINGHAM—Whilst that figure has not been published, I am just wondering whether the agencies themselves are working to a target figure given by the government.

Mr S Brown—We have been given a number by the government, but I am not sure that I would provide that necessarily as the target.

Senator BIRMINGHAM—You would like to do even better?

Mr S Brown—Yes, certainly. After all, it was SBS's idea and we remain very firmly committed to it because we think if we can free-up funds it takes pressure off the government in funding us in other areas.

Senator BIRMINGHAM—If you exceed the government's targets is there any understanding as to whether SBS will get to keep the extra for your own activities or is that something you will have to go back into bat and negotiate on?

Mr S Brown—There is no agreement on that, but I do not think the government would be surprised that that would be an approach we wish to take.

Senator BIRMINGHAM—I would have thought, if you exceeded those savings targets, given that you have fixed funds in the triennial funding agreement, that at least for the remainder of the triennial funding agreement the savings would be enjoyed by SBS.

Mr S Brown—I am not sure to what degree the savings are going to come through in any significant manner in this triennium, given that we are in the first year now. If we can identify the best way forward, because of the nature, scale, range and overlapping nature of the contracts that might be discussed, I think this has a longer term view.

Senator BIRMINGHAM—You would have heard me ask Mr Scott about digital transmission. How many analog transmission points does SBS have?

Mr Broderick—We have 237 managed sites and 68 self-help sites.

Senator BIRMINGHAM—How many digital transmission points are there now?

Mr Broderick—We have 247 managed and two self-help.

Senator BIRMINGHAM—From what you said, that is an increase in the number of managed sites by SBS, from 237 for analog to 247?

Mr Broderick—That is correct, yes. We are still rolling out the digital transmitter sites, too. There are about 16 to go.

Senator BIRMINGHAM—How does that equate to population?

Mr Broderick—At the moment, based on the 2006 Census data, it is about 96.9 per cent for analog and 96.59 per cent for digital.

Senator BIRMINGHAM—You are very close to providing equity in that. For the remaining 16 sites that you are working on, will that get you up to and beyond the 96.9 per cent?

Mr Broderick—We expect so. The rollout at the moment is communities of between 3,000 and 5,000 people. We are hoping to get all communities down to 3,000, and the self-help obviously goes below the 3,000 mark. People between zero and 3,000 are targeted as self-help.

Senator BIRMINGHAM—In each of those instances you are broadcasting both SBS1 and SBS2 on all of the digital transmission points?

Mr Broderick—Yes. The digital transmission carries the whole transport stream—SBS HD and also two radio services in our digital TV transport stream. There is SBS1, SBS2, SBS1 HD and the two radios.

Senator BIRMINGHAM—Turning to SBS2, I note increased expectations about the amount of sports coverage that SBS anticipates being able to cover, particularly in juggling the World Cup, the Tour de France and so on, as much as you did with the Ashes and the Tour de France in some ways. We have seen in answer to questions on notice provided to me that SBS1's number of hours of sporting content has grown significantly over the last few years, up to 631 hours in 2008-09 of Australian sports content, compared with 491 hours in 2007-08. Do you have any estimates for how many hours of sports content across both SBS1 and SBS2 there will be going into 2009-10?

Mr S Brown—We provided on notice the half-year figure, which we had some visibility on—495. What I would say generally about sport is that it is very lumpy. We happen to be in a financial year that contains not only the traditional coverage of the Tour de France, the UEFA Champions League, but two big events with high-volumes attached to them—the Ashes, which fell from July onwards, and the FIFA World Cup, the substantial part of which falls in June. It is not our intention to acquire sports specifically for SBS2, but to use it to get the best possible exploitation out of the sports rights that we own, for the benefit of audiences. With the UEFA Champions League we can carry a replay of a game in the evening. When it comes to the FIFA World Cup we can schedule the content in a checkerboard fashion so that if you are watching the World Cup on SBS1, because it is a live game, then there will be something else on SBS2. But when SBS2 is carrying during the daytime in particular replays of the overnight games there will be another schedule on SBS1. It is the best of both worlds. It is the maximum possible coverage of the sports event, at that same time maintaining a more general offering for audiences that are not interested in sport.

Senator BIRMINGHAM—Has SBS made a submission to the anti-syphoning review?

Mr S Brown—We are just in the process of making our submission.

Senator BIRMINGHAM—Are you willing to pre-empt what you might be asking for?

Mr S Brown—I do not think that would be appropriate.

Senator BIRMINGHAM—It depends at what stage your submission is. If you are still seeking your board's approval for the submission then it would be inappropriate, but if it is just that you have not yet lodged it, I do not know that there is any great secrecy around the submissions that people put into the anti-syphoning review.

Senator Conroy—How do you know that before they have put it in? There could be something that they do not want to reveal before they publicly put it in. You are just after a scoop.

Senator BIRMINGHAM—In that case Mr Brown can tell us if he has some great secret.

Mr S Brown—I have not finally signed off on the submission. I was working on it on the weekend, but there is still a bit more work to be done. We have sought the department's indulgence for a couple of extra days while we finalise some of the elements there. Our intention would be to lodge it as soon as possible and our assumption is that it will be made public along with all the other submissions by the department. I am quite happy to say that we are proponents of use it or lose it—we always have been—but we feel that can only operate in an environment where all broadcasters are given the best opportunity to use it before it triggers a lose it.

Senator BIRMINGHAM—I imagine that you will include a ringing endorsement of the need to have World Cup qualifiers added to the list?

Mr S Brown—I think that has always been our position.

Senator Conroy—Long before I stumbled on to the scene.

Senator BIRMINGHAM—I would have suspected that it was. In relation to the World Cup, the Ashes, the Tour de France or any of those events, does SBS bid for the rights to those events against the commercial broadcasters?

Mr S Brown—In principle, yes. I cannot say that it is absolutely the case every time, because such bidding is conducted in secrecy and so one never really knows the degree to which you have opposition and how high they are bidding. For instance, I would have thought that the Tour de France was something that we secured the rights to without it being an open bidding process, because we are the ones who first took the punt, as it were, on putting it live to air. I am not sure any other free-to-air broadcaster has the same appetite for that. With the Ashes in 2005 the ABC was interested, but was not prepared to carry full coverage. I do not know how our bid stacked up, but our commitment certainly stacked up well because, as you know, we cover every ball. With the Ashes, of course, it is not an exclusive property. It has a pay TV partner with Fox Sports as well. There is not a bidding between those two. With the FIFA World Cup we secured the rights to both next year's FIFA World Cup and 2014. At the conclusion of the 2006 tournament, I would like to think that the response of FIFA on that had something to do with our commitment not just historically but to the future and our willingness to broadcast every single game live on free to air.

Senator BIRMINGHAM—Do you believe that the anti-syphoning list should be extended to include the second channels/networks?

Mr S Brown—No, I do not. Not until analog switch-off. The spirit of anti-syphoning is universal access and I think that public policy position is best achieved by retaining it on the main channels, which everyone has access to, until the analog switch-off, at which point it is a moot point and everyone can access it.

Senator BIRMINGHAM—After 2013 would you say yes?

Mr S Brown—Yes. I do not think there is any distinction. There is no such thing as a main channel after 2013. We are all watching the same bouquet of channels on every network.

Senator BIRMINGHAM—That of course would increase the capacity of some of those commercial broadcasters, or indeed the ABC, to perhaps take events such as the Ashes. If they were to show a commitment to give ball-by-ball coverage does SBS see it as a being a priority within its charter to continue to bid for those sorts of events?

Mr S Brown—We take it all on a case-by-case basis. My answer to your first point, though, is that, yes, I guess it is conceivable that a network that currently has not bid might wish to start bidding with the intention of putting it on the second channel. But if the reach of that second channel is only 50, 60, 70 or 80 per cent, then in my view it fails the public interest test.

Senator Conroy—Tournaments such as the World Cup Final cover a variety of matches that potentially can be played at the same time. There is a whole range of countries. They have finished almost all of the first round of qualifications now. You may have seen in the newspapers recently that England, Germany and Chile have qualified. Portugal is still to qualify in the second round.

Senator BIRMINGHAM—You are far more qualified than I to take us through the qualifiers.

Senator Conroy—If two matches are shown at the same time, and SBS has the capacity to show them both live and allow viewers choice of the live broadcast at the same time, that is a substantively different issue in the short run.

Senator BIRMINGHAM—Yes.

Mr S Brown—That is certainly the case. Our way of treating, say, the earlier rounds of the World Cup when there are simultaneous games is to put a live one on each channel and the replay immediately following it so that you satisfy every audience need. If use it or lose it is strictly adhered to, obviously there needs to be some consideration about what actually constitutes 'use it'. In my view, I do not think that taking the whole of the Ashes and putting it on a multichannel would be appropriate. Certainly being able to simultaneously broadcast when there are multigame events across both channels or to have a degree of delay, which is the case with, say, Channel 9's NRL coverage, which shows one game live, and the other game which is occurring live is immediately following, is a legitimate tactic as well. For instance, Channel 9 will not cover cricket during the news. In my view, I do not think that constitutes failing to use it and therefore triggering a lose it.

Senator BIRMINGHAM—I am not trying to pin SBS over a failure to use it. To be frank, as much as I like and value having the Ashes or other sports broadcast—and your sports broadcast has gone up from 297 hours in 2006-07 to 476 in 2007-08 and 608 hours in 2009—I am struggling to see where it all, and particularly for an event such as the Ashes, fits into the core principal function of your charter.

Mr S Brown—As to the fluctuation in hours, it was 373 in 2005-06 and then it dropped down to 297.

Senator Conroy—It will fluctuate due to the tournaments. Let us not be silly. The World Cup is once every four years. There is not a more multicultural event in the world than the football World Cup. FIFA has 160-odd affiliated nations, as I said, from countries as diverse as Japan and tiny little nations in Oceania to the giants of South America—Brazil, Argentina and Chile. This is the most multicultural sport there is. To suggest that you should not show it because it is a sporting contest and therefore that must rule it out from being a multicultural—

Senator BIRMINGHAM—Firstly, the only example I cited was the Ashes.

Senator MINCHIN—It is an obsession.

Senator BIRMINGHAM—There is something of an obsession. I understand that. We all have our sporting obsessions. Secondly, I was trying to draw Mr Brown out on the future where there will be a broader number of channels and many more hours of free-to-air television being broadcast and the possibility that other networks—we already now have one commercial network running a 24-hour sports channel—will express greater interest in some of these sports. Will that provide more opportunity for SBS to perhaps refocus on its charter?

Mr S Brown—I do not accept the view that the Ashes is not multicultural. I know it is between Australia and England, but I think when you look at sport you do not necessarily look at the 22 players who are striding the pitch. You look around the ground. If you look

around any cricket ground here or anywhere in the world you will see a vast multicultural audience. Secondly, let me also make the point that this goes back to 2005, when we stepped into the breach and made sure that all Australians got to see the Ashes. I think that is a public broadcaster's function. If we had not done that—

Senator Conroy—Exactly.

Mr S Brown—most Australians would not have seen the Ashes. At the time I think that was warmly applauded. What for future? The reality is of course, as we all know, that if other commercial entities set their sights on properties that we currently own we inevitably lose them. That is just the way it is. The only in which we retain the Ashes is because it is on the anti-siphoning list and because no other free-to-air broadcaster in 2005 certainly—with the exception of the ABC, as I said, with truncated coverage—was prepared to step up to the plate and make it happen. The next Ashes is in 2013 in England. That happens to be the last year of analog, so I cannot even tell you whether, in my view, it would be permissible to have it on a multichannel. If it is permissible to have it on multichannel, I would have thought that if Nine and Ten set their hearts on that property SBS will struggle to maintain it.

Senator BIRMINGHAM—We will obviously have plenty of opportunity to canvass this in the light of whatever the anti-siphoning review finds and the government's decisions on that. There are some stories relating to the internet access and service provision by SBS and your discussions regarding unmetering of content with service providers. Has SBS selected a single or particular service providers in that regard that it chooses to partner with?

Mr S Brown—No.

Mr Broderick—Our tender has just closed for the CDN, the content delivery network, provider—whether it is Akamai, Limelight or one of the others. We are assessing that at the moment.

Senator BIRMINGHAM—Are you in the midst of assessing the tender?

Mr Broderick—Yes.

Senator BIRMINGHAM—We might pursue that at a later stage as well.

Senator LUDLAM—Were you in the room earlier when we were asking Mark Scott about the CD network that the ABC uses for its iView service and that the ABC is currently in negotiation with ISPs about unmetered access. Are you aware of technical issues that have arisen with the ABC using that service?

Mr S Brown—No, I am not. I am as of this morning's discussion. That was the first I had heard of it.

Senator LUDLAM—It is essentially around source IP address lists and how the server would have to be offering everything unmetered, not just ABC or SBS content, and that has thrown up a couple of issues, which they are busy negotiating on currently. I think it would be worth investigating that. Presumably you are doing that as part of your tender process. Can you give us a bit of detail as to what it is that you are intending to offer and how similar it would be, for example, to what the ABC is doing?

Mr S Brown—We already offer broadly what the ABC is doing. We have not branded our catch-up system. That is simply available on the SBS website. Our catch-up strategy is broadly similar to theirs in that depending on the rights that are available we will offer seven-plus days of catch-up hopefully as part of our free-to-air rights and not costing any more. Obviously that is a potential constraint. But at the moment I think the trend in the industry is for a view that there is a free-to-air window that incorporates an online delivery as well over a constrained period. After that it tends to go into another commercial proposition where the original rights holder will seek to exploit it for their own purposes. In addition, we provide a substantial volume of current affairs on a much longer timeframe. *Dateline* and *Insight* programs or parts thereof can be accessed going back many months.

Senator LUDLAM—Is there a policy whereby after a certain period that sort of content is knocked off or are you starting to hold that material in perpetuity?

Mr S Brown—I will take that on notice. That is a good question.

Senator LUDLAM—I would presume there is no technical reason why that material could not be archived for all time, server space permitting?

Mr Broderick—There is. Our internet service provider—the company that does that for us, Macquarie Telecom—holds a lot of the content online for us and we pay for an amount of storage that they have at their site. It does cost us to keep it sitting there even if no-one is using it.

Senator LUDLAM—Thank you for that. So, there are a couple of questions on notice. Returning to an issue that I think we spoke about in May or June, or whenever it was we were here last: ad breaks and funding, which I figure you assumed I would ask you about.

Mr S Brown—Yes.

Senator LUDLAM—Minister, feel free to step in, as I am sure you will, if you think it is within your purview. Given we are into a triennial funding round, would the government consider adjusting funding available for public broadcasters such as SBS in the middle of that round or will we need to wait until 2012 or thereabouts until we see increases in funding?

Senator Conroy—The government is always prepared to consider worthwhile funding concepts, but we have obviously just completed an increased funding for both the ABC and SBS. In the current economic climate and the restraint that many are calling for I do not foresee that there is much likelihood of that, but we do not have a closed mind. We have an open mind.

Senator LUDLAM—That was what I was trying to establish. You are not in any kind of policy straitjacket until that triennial funding period lapses before you start looking at an increase—

Senator Conroy—That is why it is known as a triennial funding period.

Senator LUDLAM—But you are not constrained within that period—

Senator Conroy—The government is the government.

Senator LUDLAM—Can you tell us—and I will put the question to you Mr Brown—whether there have been any formal or informal discussions around an increase in SBS

funding to make up for any shortfalls that might arise as a result of cutting back on in-program advertising?

Mr S Brown—I think as I indicated last time we have not sought that arrangement. Our preference is that at this stage any additional funds go to expand our service. You have talked about online and SBS2. These are critical areas of necessary growth for SBS. If there were additional funds available from government our view is that they should be prioritised into that and also into radio rather than offsetting the commercial revenue at this stage.

Senator LUDLAM—Do you get a lot of feedback or criticism over the amount of advertising that you are running? Is it an issue that regularly pops up in email or snail mail feedback to the station?

Mr S Brown—We receive about two complaints a week and that is to be expected. It is not so much about the volume because the volume is a constant. It is five minutes and it always has been five minutes on both radio and television, and that is unchanged. But obviously the decision to place advertising in programs was controversial and some audiences resent it. When we first did it we attempted—and I think we were relatively successful—to explain why and pointed to the benefits on air for audiences that would not otherwise be there if we did not have sufficient commercial revenue. But there remains a group of viewers who perfectly legitimately hold the view that advertising does not belong on public broadcasting. That is something they hold true to, and no amount of persuading them that, as they are watching *East West 101* and *Who Do You Think You Are?* and *The Nest*, they would not be able to see all of these local programs we are currently showing if we did not have these additional funds.

Senator LUDLAM—The minister responded to a question on notice in May of this year that SBS's policy in respect of films that are longer than 60 minutes is that they would be broadcast with only two breaks. I do not have a number that I can quote back to you, but that was the response in May and that was affirmed by you, Mr Brown, again earlier this year.

Mr S Brown—Feature films; movies, in other words.

Senator LUDLAM—'Films that are longer than 60 minutes'; I guess that would take in feature films, yes. But I am aware of a number of instances in which programs longer than 60 minutes are being broadcast with up to five breaks. I am just wondering how that policy is applied and why it is so uneven.

Mr S Brown—It might be helpful to know the examples, but in general the intention of that policy is to apply it to the specific feature films, which are always over an hour, and to have a very low level of interruption in them. But there are other programs that might exceed an hour. Sports events exceed an hour, for instance. Obviously, they are not films. If there is some ambiguity there that needs to be looked at. But my understanding is the intention of that guideline is to ensure that feature films are not interrupted with the same frequency as general programming.

Senator LUDLAM—The one example that I have here is the German film *Eight Miles High*, screened at 11 o'clock at night on 11 September 2009, which ran for nearly two hours and had five breaks and not two. That might be one example you could go back to and find out whether—

Mr S Brown—Thank you. It that is a feature film then, in my view, that is not in accordance with the guidelines we have laid down.

Senator LUDLAM—Perhaps you could follow up on that one. Again, on the same subject, Minister, I put a quote to you from May, which was, ‘Labor has opposed and continues to oppose the decision by SBS to introduce in-program advertising.’ You came back with the comment that that was just an opinion and it was not actually Labor policy. Can you remember that exchange?

Senator Conroy—I do remember that exchange because, as I said at the time, I am very familiar with what Labor policy was. And you cannot point to anything that said it was Labor policy.

Senator LUDLAM—I can. I am just about to. I did not have that at the time. There was an email sent from you, one from Kevin Rudd, who was then opposition leader, and one from the ALP campaign information services that contained that quote under the heading Labor—

Senator Conroy—You have already given these to Crikey!; they have run them ahead of you.

Senator LUDLAM—No, I have not, actually. It was quoted under the heading of ‘Labor’s SBS policy’. Is that in error? Can you acknowledge for us whether it was policy or an opinion?

Senator Conroy—You are misrepresenting that letter/email. I think it was a consistent response in both email and letters—

Senator LUDLAM—What would a true representation of it be if it arrived under the heading of ‘Labor’s SBS policy’?

Senator Conroy—You are misrepresenting what it says in that document.

Senator LUDLAM—I just read a quote back to you. Is that quote in error?

Senator Conroy—Perhaps you would read it again, but I believe you are trying to misrepresent that quote.

Senator LUDLAM—I would not do anything of the kind: ‘Labor has opposed and continues to oppose the decision by SBS to introduce in-program advertising.’

Senator Conroy—That does not state that we would force SBS to stop it.

Senator LUDLAM—That you would do anything about it?

Senator Conroy—You continue to try to suggest that that is what it says. It is entirely your opinion.

Senator LUDLAM—No, that is what it actually says.

Senator Conroy—No. What you are implying—

Senator LUDLAM—I have read it to you twice.

Senator Conroy—You are implying it says that it was an ALP policy commitment to withdraw or to stop that funding, which it is not.

Senator BIRMINGHAM—I think the minister ultimately conceded, when he looked at the legal advice that he called for, that he was wrong and it was in fact within the act.

Senator Conroy—I did not say it was wrong. I just said that I accepted their legal advice. I think I stated that they believed their legal advice allows them to do this. Given that no-one has yet charged them for a breach of the act it is probably a reasonable assumption that their legal advice stands up.

Senator LUDLAM—You spent a lot of time prior to the election suggesting that you thought it was a breach of the act.

Senator Conroy—As I said, I have now seen the legal advice.

Senator LUDLAM—That is your act, though, now.

Senator Conroy—I accept that, but the implication that you are again trying to draw is just your assertion and your opinion. It is not a fact.

Senator LUDLAM—It arrives in an email headlined ‘Labor’s SBS policy’ but then you try to redefine it after the election as an opinion.

Senator Conroy—No, I am not redefining it as an opinion. I am simply saying to you that that is not a policy commitment to end the practice.

Senator LUDLAM—What does ‘continue to oppose’ mean if not some kind of commitment to actually do something—

Senator Conroy—Now you are verballing and now you are attempting to draw—

Senator LUDLAM—I am reading the email that is right in front of me. There is no verballing going on.

Senator Conroy—Yes, that is exactly what you are doing. You are actually now trying to put words into my mouth rather than the words that are written in the piece of paper. You are saying, ‘But doesn’t it really mean this?’ I am saying to you: no, it does not.

Senator LUDLAM—Does the government continue to oppose in-program advertising? Does the Labor Party continue to oppose in-program advertising?

Senator Conroy—The Labor Party introduced advertising on SBS, so let us be very clear about this. We introduced advertising on the SBS.

Senator LUDLAM—Yes. Then did you proceed in the next step to oppose in-program advertising?

Senator Conroy—There are many letters—

Senator LUDLAM—In-program advertising—let us just stick to that.

Senator Conroy—No, many letters are written to us saying, ‘Abolish this.’ They actually wrongly believe that you did it, Senator Minchin, in your government. I would be quite willing to make sure people understand that we introduced it. Am I excited by it? Absolutely not. But am I in a position that I can provide \$20 million, \$30 million or \$40 million a year to make up for the lost advertising revenue? The answer is, no. Within the existing funding constraints the policy, as SBS board are enacting it, stands. Senator Birmingham has tried to

torture me on this in his own mind extensively. Senator Ludlam, you are welcome to join in. You will get the same responses.

Senator BIRMINGHAM—Does the government no longer oppose in-program advertising on SBS? Does the Labor Party no longer oppose in-program advertising on SBS?

Senator Conroy—As I said, am I excited by it? No. But am I in a position that I can provide—

Senator BIRMINGHAM—I am not too fussed about your excitement levels.

Senator Conroy—Am I in a position that I can commit to either cause those programs to stop being produced or provide alternate funding for those programs that are receiving that advertising revenue? The answer is, no. So, within the existing budgetary funding constraints SBS will keep doing what they are doing and we are not in a position to change it.

Senator LUDLAM—You make it sound like a law of physics that you are in no position at all to do anything about.

Senator Conroy—Unless you have \$30 million or \$40 million that you would care to donate to the SBS I am not in a position to do anything about it.

Senator MINCHIN—Did you not seek to prevent the SBS having in-program advertising unless you could confidently, and to the SBS's satisfaction, recompense them for the loss of revenue?

Senator Conroy—Absolutely. If we were to follow Senator Ludlam's suggestion—

Senator LUDLAM—No, it is your suggestion in an email from you.

Senator Conroy—No, it is not my suggestion. I repeat: you are now for the third or fourth time attempting to imply what you think that letter or email means—

Senator LUDLAM—It is pretty unambiguous.

Senator Conroy—It does not say the words you are implying it says. It stands in its own right. It is very simple—

Senator LUDLAM—I am reading it directly from the email.

Senator Conroy—Yes, and then you are going on to try to extrapolate, imply or suggest what those words mean.

Senator LUDLAM—In that case, just for the record, can you tell me what I should assume this to mean: 'Labor has opposed and continues to oppose the decision by SBS to introduce in-program advertising.' What sort of meaning should I draw from that if I am reading it wrongly?

Senator Conroy—That if we had been in government at the time we would not have done it. But we were not.

Senator LUDLAM—But you were not, you were in opposition.

Senator Conroy—That is correct.

Senator LUDLAM—Now you are in government.

Senator Conroy—And now we have seen the legal advice and we have the budgetary constraints that are on us and we are not in a position to reverse it. I do not know how much clearer I can be. But for you to suggest that we said in a letter that we would reverse it is clearly misleading this committee.

Senator LUDLAM—You would oppose it until you were in a position to do something about it, is what—

Senator Conroy—Three times you have attempted to suggest what you believe the meaning should be, want it to be, or was and none of them is correct.

Senator BIRMINGHAM—As you alluded to before, we did spend a lot of time in the February 2008, May 2008—

Senator Conroy—We did. I am happy to keep going over and over this.

Senator BIRMINGHAM—and October 2008 and the February 2009 estimates leading up to this. Because each time, of course, you told me that it would be a matter determined in the triennial funding agreement.

Senator Conroy—It was, and it was determined to leave it as it was as there was no available funding to replace the moneys currently being raised through those—

Senator BIRMINGHAM—Did you seek available funding to replace those—

Senator Conroy—I am not going to comment on budgetary matters and deliberations of cabinet.

Senator BIRMINGHAM—You spent so long in opposition, as Senator Ludlam is reminding us, that you were railing against this—

Senator Conroy—I did.

Senator BIRMINGHAM—and were so passionate that it was said that it was perhaps even a breach of the act, and then spent nearly 18 months in government leading everybody to believe that there was some—

Senator Conroy—No. You are falling into the same trap as Senator Ludlam. Frankly, I am disappointed about that.

Senator BIRMINGHAM—You kept telling me to wait for the triennial funding review.

Senator Conroy—You are now attempting to join Senator Ludlam in verballing both the Prime Minister and me.

Senator BIRMINGHAM—You allowed people, shall I say, to hold out hope until the triennial funding review that you might do something. I do not think that is verballing you. You continued to defer giving a commitment on the matter and saying, ‘Wait until the triennial funding review.’

Senator Conroy—That is not quite right. I accept the general thrust of what you are saying, but I do not accept your assertion that it was giving a commitment. I will accept the point you are making.

Senator BIRMINGHAM—You allowed people to hold out hope.

Senator Conroy—We went through the triennial funding round and the government was not in a position to commit the funds needed to offset the loss of revenue that would have occurred in the programs that are being produced.

Senator BIRMINGHAM—Did you champion that cause that you had so passionately championed in opposition?

Senator Conroy—As I said, I am not going to reveal cabinet budget discussions. I do not think Senator Minchin ever did whenever I sought to press him on these matters. As I said, I have always had a lot of admiration for Senator Minchin—

Senator MINCHIN—Very wisely.

Senator Conroy—and follow his lead on many matters.

Senator MINCHIN—Not all, regrettably.

Senator BIRMINGHAM—With that gratuitous love, I will let Senator Ludlam get back on track.

CHAIR—Move along please. Senator Ludlam.

Senator LUDLAM—No, I have had enough.

CHAIR—Thank you. I would like to ask a question about the \$20 million in extra government funding that the SBS did receive to support the creation of local content in the last budget. Can you give us an update of how that is going and when we can expect to see some of that local content?

Mr S Brown—The funding fell into three blocks—\$4 million, \$5 million and \$11 million. As I said earlier, obviously the major impacts will be towards the end of the triennium. I think it is fair to say that the funding, which is very gratefully received, has enabled SBS to offset some of the reduction in local content that would have occurred because of the GFC. We have said previously that we are roughly \$10 million off our expected revenue last year and probably \$10 million to \$12 million this year. It is still a bit hard to tell. If those funds had not come in we would not be able to maintain our commitment to some of the programs that are currently on air, such as *Who Do You Think You Are?*, for which we have entered into a commitment for a third series. That probably would not have been possible. As well as dramas such as *East West 101* and *The Circuit*. When we come to the third year, when the \$11 million is fed into the budget—and assuming, as I think we all do, that the advertising situation will have substantially recovered—then it contributes to the growth in hours and range of content that we have previously identified.

CHAIR—Thank you.

Senator MINCHIN—To follow up on Senator Ludlam's question, I noticed in a report that Mark Scott at the ABC, in a speech in London, said that it was a mistake for public broadcasters to accept advertising as around the world it generally meant governments stopped increasing their funding. I do not know if you saw those remarks, but I would be interested in your response to that, as to whether there is any validity to that statement, whether that is your experience or whether you are confident that is not the situation you are in.

Mr S Brown—I think I answered previously that we do not believe that is the situation here. Public broadcasting around the world has very many models that range from, in the case of TVNZ, being fully commercially funded—in fact, paying a dividend to government—through to the other extreme, which is the ABC and BBC being fully funded. Right now, if you are the ABC and BBC you are feeling pretty happy. After James Murdoch's speech in Edinburgh, where he basically accused the BBC of being overfunded and overdominant, I thought that one of the commentators made a very interesting point, which was that it is not the case of public broadcasters such as the ABC and BBC being overfunded; it is the case that the tide has gone out on everybody else, which leaves them looking rather bold and well protected, which they clearly are. I think that anybody who is partly or wholly dependent on commercial revenue would be wishing there were some other alternatives around at the moment.

Public broadcasting has evolved. I have been to meetings where I have heard, for instance, the CEO of Spanish public broadcasting close to tears because he was losing advertising off his channel and felt it meant the loss of independence. For everybody who has one view there is another person in public broadcasting who has a contrary view. The fact is that each nation makes up its own mind about how it best affords the commitment that it makes to public broadcasting. Australia is blessed with having two public broadcasters and doubly blessed, in my view, in having one of those committed to the very honourable principle of social harmony and cohesion. Whatever it takes to make sure that is maintained as an independent entity I think is worth doing.

Senator MINCHIN—Minister, could you confirm that Mr Scott's assessment of the situation is incorrect from the point of view of you and your government?

Senator Conroy—Mr Scott was here just a little while ago.

Senator MINCHIN—Sorry.

Senator Conroy—I appreciate you may have had other things that you were tied up with, but I am not quite sure which part of it you are referring to.

Senator MINCHIN—He is asserting that it is a very big mistake for public broadcasters to accept advertising, as around the world it generally meant governments stopped increasing their funding. Do you reject that?

Senator Conroy—We introduced advertising into the SBS many years ago. Clearly, SBS is a public broadcaster, so we do not quite share the extent of Mr Scott's views, because we have already done it—a long time ago.

Senator MINCHIN—Thank you.

Senator WORTLEY—Following up from a question in the May budget estimates on the development of audience engagement through the new social media activities such as Facebook and Twitter, how are they progressing?

Mr S Brown—I do not really have anything to add to my last comments on that. It is early days. Perhaps if I can take it on notice I can give you an update if there have been any developments, because when we last discussed this it was very much an idea, with one person particularly working on what opportunities existed in this area. Nothing has been presented to

me about it, which would suggest that it is still at that exploratory stage. If I take it on notice I can inform you if there is anything further.

Senator WORTLEY—I would appreciate that, thank you.

CHAIR—There are no further questions on SBS. Thank you very much, gentlemen, for appearing before the committee today.

The committee would now like to invite to the table officers of NBN Co. and officers of the department relevant to Program 1.1: Broadband and Communications Infrastructure. I will take this opportunity to remind people who may be listening that after that area of questioning we will then go to general questions of the department followed by ACMA.

[3.01 pm]

NBN Co

CHAIR—I welcome NBN Co representatives and departmental officers. I welcome especially Mr Quigley—I think this is your first outing before this committee of estimates, Mr Quigley—and also Mr Harris. I think it is your first outing at estimates as well, Mr Harris. Thank you very much for coming along to join us today. Does anybody wish to make an opening statement? As no-one does we will go straight to questions.

Senator MINCHIN—Thank you, Mr Quigley, for appearing today. CEOs do not always appear but estimates committees do appreciate it when CEOs do appear. Could we just clarify exactly your status and position? Are you both the CEO and the chairman of NBN Co?

Mr Quigley—That is correct. We refer to it as executive chair.

Senator MINCHIN—But you effectively wear two hats. You are the MD and chairman?

Mr Quigley—CEO and chairman.

Senator MINCHIN—Maybe the minister might have to answer this, but is it the intention that a separate chairman will be appointed?

Senator Conroy—Yes, this is just in the start-up phase. We thought that it would work best in this manner but I am a fan—as you have heard me say many times on corporate governance—of a chair and an executive being separate figures. But just in the short term—for three months or six months—we are just seeing how we go. But there is no question we will move to a chair and a CEO as separate individuals.

Senator MINCHIN—I am pleased to hear that because I agree with you in terms of corporate governance. I think it is a much better model. Could you be more specific as to the timing of that—

Senator Conroy—I think in terms of how we discussed it, we will have 12 months to allow Mr Quigley to really get everything set up and driving forward in the manner that he thinks is satisfactory. But we are not looking for this to be a long-term structure.

Senator MINCHIN—May I ask this? Are you being remunerated for both positions? Is your remuneration package as CEO or do you get a bonus for being executive chairman?

Mr Quigley—No. No bonus is applicable.

Senator Conroy—There is no bonus applicable. When we made the decision to make Mr Quigley the executive chair we incorporated both of those together and we were very conscious of the extraordinary workload that has been involved in being a one-person company to start with. The board, importantly, will be reviewing those matters when we move to separate the positions. There is no fixed government position but we certainly took the view at the beginning that both those roles were important roles and given, as I said, the extraordinary workload we are very comfortable—

Senator MINCHIN—I hope Mr Quigley does not lose part of his remuneration when he loses the position—

Senator Conroy—That is a matter ultimately for the board to make a decision on.

Senator MINCHIN—Are there five board members?

Senator Conroy—Five plus myself. We are considering, I think, two more to come.

Senator MINCHIN—What is the constitution of the company in terms of board placements?

Senator Conroy—Nine in total, I think.

Senator MINCHIN—What is happening with those others?

Senator Conroy—There will be one position that will be vacant in the short term.

Senator MINCHIN—What do you mean?

Senator Conroy—There are two we are hoping to fill shortly, so that will be eight, and there is one position that is being held in reserve depending on the needs identified.

Senator MINCHIN—When you say you hope ‘to fill shortly’, do you mean you have put recommendations to the cabinet?

Senator Conroy—No. Rightly there is also a process of the nominations of the NBN board to have a discussion with as well. We will not do a Geoff Cousins to the board, as you did with Telstra—

Senator MINCHIN—When you talk about—

Senator Conroy—very successfully. You might want to give me some tips later on how to manage that particular, successful process.

Senator MINCHIN—It depends on your relationship with your Prime Minister.

Senator BIRMINGHAM—Just before we jump off the salary and appointment issues, you have said that it would be a matter for the board to determine if Mr Quigley’s arrangements were to change as a result of a change of responsibilities; I am assuming though that Mr Quigley has entered into a fixed-term contract of some nature.

Senator Conroy—I do not think it is fixed term. It is a fixed salary, but I do not think it is fixed term.

Senator MINCHIN—Is it a contract for a particular period? That is what would normally be the case.

Senator Conroy—I am happy to take that on notice. I am not trying to be evasive in any way. I just cannot recollect that off the top of my head. I am happy to see if we can get that information for you as quickly as we can. I just cannot remember off the top of my head. It does not leap out to remind me but, as I said, I am happy to correct the record if that is not the case and come back to you.

Senator BIRMINGHAM—Obviously there was no board at the time of Mr Quigley's appointment.

Senator Conroy—That is correct.

Senator BIRMINGHAM—So if Mr Quigley's appointment, I am assuming—

Senator Conroy—No, sorry, there was a board. It consisted of five public servants at that stage. To constitute a company I am required to nominate a number of names to ASIC, so there was a board.

Senator BIRMINGHAM—Nonetheless I am assuming that Mr Quigley's appointment was approved by cabinet rather than by the board.

Senator Conroy—Could I come back to you on that process? I just want to make sure I can give you the correct answer. Things were happening fairly fast at that stage. I think a subcommittee may have been delegated to deal with it rather than the full cabinet. I would not want to mislead you so could I come back to you with the exact details of the appointment process? We had an independent search firm. I think it has been publicised that it was Egon Zehnder, who were hired by the department to go through a process and they made a recommendation to me and I am sure that Lindsay Tanner was consulted as the other shareholding minister. I just want to make sure that I accurately represent the process from there, but it was not by unilateral decision. Obviously, it was a matter we gave some consideration to but, as I say, I just do not want to mislead you so I will come back to you on that.

Senator BIRMINGHAM—That is fine, but the final decision of appointment of Mr Quigley as the person and the terms of the appointment though were approved not by public servants constituting the board at the time—

Senator Conroy—No.

Senator BIRMINGHAM—nor by you unilaterally but by a combination of ministers, be that a subcommittee of cabinet or—

Senator Conroy—I am happy to come back to clarify that for you just so that I get it correct. I might lead someone off and I would not want to lead someone off.

Senator BIRMINGHAM—If we can just go back to the term, as to whether it is a fixed term or some other term. I accept that you may not recall all of the details—

Senator Conroy—As I said, I am happy for us to chase this information as fast as we can for you.

Senator BIRMINGHAM—I do note that Mr Quigley is at the table himself as well—

Senator Conroy—In terms of the contractual arrangements of Mr Quigley, it is probably better for you to address the questions to me even though he is at the table but my

recollection—and I think that is right after some consultation—is that there is no fixed period at this point. I am happy to come back and correct that if that proves not to be the case, but I think that is my recollection and it is also Mr Quigley's.

Senator BIRMINGHAM—Are there fixed performance indicators attached to the appointment?

Senator Conroy—There is no bonus involved so there is no remuneration tied to performance at this stage. But the challenge of establishing a company from being one person to building the National Broadband Network is quite enormous. I can only commend Mr Quigley on his diligence and passion for the work that he has done. I think if you were to listen to the commentary from around the sector you would find that everywhere Mr Quigley has gone every single person has been impressed by his capacity, ability and passion to succeed in building it.

Senator BIRMINGHAM—I am sure that is the case. I think it is safe to say that he probably—I cannot speak for all members—impressed the NBN Select Committee when he appeared before its members the other week as well, for which we were grateful. Are there performance indicators tied to the duration of the contract, if not to the remuneration of the contract?

Senator Conroy—I would have to check that and try to come back to you as quickly as I can. I just do not remember the exact details. This happened back in April and there has been a bit happen since then. I do not remember all of the details of the contract. I am happy to provide an answer to that question. I might have to take it on notice and provide the answer to that question.

Senator BIRMINGHAM—We will look forward to those answers. These are relatively key things for a start-up shelf company that you hope will grow into, of course, a very, very significant entity.

Senator Conroy—I do not think that I would pretend that I could envisage what Mr Quigley is involved in terms of the architecture of the network, so how would we define, what is it, when the first 10,000 homes are fully connected? Is it the first million homes? Is it having the first cable dug? It is a little early to start putting forward the normal hurdles that I think you are referring to but, as I said, I am happy to get any of the information that answers your question.

Senator BIRMINGHAM—Some of those hurdles will of course be dependent on the implementation study, which I am sure Senator Minchin will take us to as well. There will be plenty of exploration of that. But it does seem a little odd that you cannot give us some parameters around which—

Senator Conroy—As I said, it is more that I am just trying to remember those issues. It is not that I am not trying to help. I have undertaken to as fast as I can get you the answers to those questions.

Senator MINCHIN—Have you been a chief executive before? I am sorry, I do not have your CV in front of me?

Mr Quigley—I was chief executive of ARCTEL's subsidiary in the US, which was a legal entity in its own right. It was a company of 30,000 people. I think we hit a revenue of \$US4.7 billion at one stage.

Senator MINCHIN—The minister said there are vacancies. I am interested in what you perceive to be the skill set you bring to the board as a board member and what skill sets you as the MD believe are still required on this board in order to give greatest effect to this rather gargantuan project.

Senator Conroy—Given that we have not finalised absolutely the selection process it is a little unfair to ask Mr Quigley to speculate. We are relatively close to some announcements. I am sure Mr Quigley would be happy to talk about the skill sets of the individuals when they come forward and what they are, but I am not absolutely sure that it is fair to ask Mr Quigley to start commenting on the skill sets at this point.

Senator MINCHIN—I think he could probably comment on his own—

Senator Conroy—Certainly he can talk about his own skill sets, and I think if I could come back in about an hour he should be almost finished.

Senator MINCHIN—I am happy to get a one-minute answer, but I am also happy if you give us a two-minute answer on the skill sets you are looking for with the two vacancies that you seek to fill.

Mr Quigley—As to skill sets, I have been in the telecommunications business for probably around 35 years in just about all areas in the vendor community—that is, from designing individual products to designing networks. I have been associated for a very long time with large telcos in looking at the types of architectures they produce, the services they provide, how they structure their networks and operate their networks. In fact before I left Australia I spent quite a bit of time working on the future mode of operation. That was the big switching—

Senator MINCHIN—Are you an engineer by background?

Mr Quigley—I am an engineer by background, that is correct. I spent my first 10 years in R&D, research and development, and I think I worked in just about every technology from submarine optical fibre systems to satellite systems, so I know telecoms reasonably well.

Senator MINCHIN—Are you able to give us any advice on what you need as to the skills you think are still required on this board?

Senator Conroy—I am happy to come back to you very shortly with my thoughts on that. I just have not got all the information in front of me right now, but I will before we finish today.

Senator MINCHIN—Could you perhaps describe to us where you are at in terms of employees of this company, how many you have? I think I read somewhere that they are consultants not full-time employees, or something? What is the status of their employment? What is the path for ramping up employment? Can you enlighten us on that?

Mr Quigley—Certainly. As of last week we had 13 full-time employees and 25 people on contract—some of those are on longer term contracts. We are in fact at appropriate points, if

we think it is the right person for the company, converting people from contract to full-time employment. As of today, we have around 38 people.

Senator MINCHIN—Are you able to give us a quick summary of their physical disposition? Where are these people?

Mr Quigley—They are now largely in a mixture of locations—in Melbourne, Canberra and Sydney.

Senator MINCHIN—I saw somewhere you said that you would go and get the people with the skills you wanted but then they could work where they lived, which suggests you are going to set up offices all over the place. Is that the plan?

Mr Quigley—That is probably a liberal interpretation of ‘where they live’. I meant by that of course that we did not intend moving people between capital cities.

Senator MINCHIN—Do you envisage having premises in every capital city?

Mr Quigley—I suspect long term that will happen.

Senator MINCHIN—Are you able to either now or take on notice advice that we might like on your current, let us say, monthly employment bill, what you are paying out monthly in salaries and contracts now for the 38 employees, or whatever it is? I presume you are renting and that you are not buying premises. So I would also appreciate knowing what rentals you are paying currently per month. Is that something you can give us now?

Mr Quigley—No, I do not have it with me.

Senator Conroy—I am happy to take that on notice.

Senator MINCHIN—As to this funding issue—and perhaps this is a question for the minister—I was not at the NBN committee hearing but I think you referred there to the capital injections you have had which amount to, what, \$60 million—

Mr Quigley—Sixty million and ten dollars.

Senator MINCHIN—Having been finance minister I am not surprised there is a \$10 there somewhere. With regard to all these salaries and rents and everything else—the information which you will give us—are they all just being drawn down from your equity injections, effectively?

Mr Quigley—Precisely. It is the working capital of the company, yes.

Senator MINCHIN—What is the mechanism by which you seek further capital injections? Do you just write to Senator Conroy?

Mr Quigley—My understanding is that it is an information memorandum that we use to seek an equity injection, provided with all the supporting documentation.

Senator MINCHIN—What do you do with that request?

Mr Harris—I am happy to explain. There will be an assessment made of the proposition put forward by the NBN board across the relevant portfolio departments and advice will be put, if it is within our scope, to the finance minister. Within this government it will be with the finance minister but more likely this will be done through a cabinet subcommittee process, given the amounts of money that are likely to be involved here.

Senator MINCHIN—When you say ‘likely’, was the \$60 million approved by the finance minister only?

Mr Harris—I was not around at the time so I will have to clarify that.

Senator Conroy—For the sake of accuracy, I will come back to you shortly on the exact process that was followed.

Senator MINCHIN—How many injections were made to comprise the \$60 million? Does anyone know that?

Mr Quigley—Yes. For the \$60 million there was an injection of \$10 million followed by an injection of \$50 million.

Senator Conroy—I think we might now have all the information handy for you.

Mr Heazlett—I suppose, technically speaking, there have been three injections of capital. One was of \$10 to register the company, which is why there is the odd \$10—

Senator MINCHIN—Don’t they pay that back to you?

Mr Heazlett—Subsequently there was an injection of \$10 million following a request from the company. It was formally submitted to the two ministers and it was subject to consideration by the Minister for Broadband, Communications and the Digital Economy and the Minister for Finance and Deregulation. Similarly, a couple of months later, there was a further request for \$50 million which was treated similarly by the two relevant ministers, the shareholding ministers. The money is appropriated under the Building Australia Fund legislation and it follows the processes set out there.

Senator MINCHIN—The two ministers as the shareholding ministers have the authority to—

Mr Heazlett—Under the Building Australia Fund legislation, yes.

Senator MINCHIN—That is because all this money comes out of the Building Australia Fund, which is essentially the communications fund that the government abolished?

Mr Heazlett—Yes.

Senator MINCHIN—So, that legislation provides that the two ministers can draw down on the money in the fund.

Mr Heazlett—The Building Australia Fund.

Senator Conroy—You voted to abolish that.

Senator MINCHIN—No, I did not at that time. That is right; I did not vote.

Senator Conroy—You were out of the room.

Senator MINCHIN—I certainly did not vote for the abolition of the communications fund.

Senator Conroy—You were indisposed. What—you were not supporting your shadow cabinet position?

Senator MINCHIN—I did not vote for the abolition of the communications fund.

Senator Conroy—You were not supporting your shadow cabinet position?

Senator MINCHIN—I was not supporting Labor policy to abolish the communications fund.

Senator Conroy—Dear, oh dear. So, you were not really indisposed or at the toilet.

Senator MINCHIN—Is there an upper limit on the extent to which ministers have authority to draw down?

Mr Heazlett—The limit of funds in the fund.

Senator MINCHIN—What was that?

Mr Heazlett—The amount of money in the fund.

Senator MINCHIN—So, the ministers, without reference to anybody else, can draw down—

Mr Heazlett—Technically, yes.

Senator MINCHIN—How much is that?

Mr Heazlett—It is \$2.4 billion.

Senator Conroy—No, it is \$2 billion rather than \$2.4 billion.

Senator MINCHIN—The communications fund was \$2.4 billion.

Senator Conroy—Yes, but the \$400 million was earmarked for the Glasson recommendations, if you will remember.

Senator MINCHIN—You have set that aside.

Senator Conroy—Yes.

Senator MINCHIN—So, up to \$2 billion. At this stage, the maximum equity that the government will put into NBN Co. is \$2 billion?

Senator Conroy—Under that mechanism, yes.

Senator MINCHIN—There has been no other decision to make any other moneys available, has there? I am not saying there might not be in the future, but to this point this is the only mechanism?

Senator Conroy—We have indicated that we will issue bonds.

Senator MINCHIN—No, I am talking about equity.

Senator Conroy—NBN Co. will, potentially, issue bonds. What was the time profile of the other equity?

Mr Heazlett—It is over a number of years.

Senator Conroy—Over a number of years.

Mr Heazlett—It is an issue that will also be dealt with as part of the implementation study as the appropriate mechanisms to utilise.

Senator MINCHIN—Yes, but at this stage the only equity available to be injected into NBN Co. is the \$2 billion in the Building Australia Fund.

Mr Heazlett—Under those mechanisms.

Senator MINCHIN—There has been no other decision.

Senator Conroy—Under that mechanism, yes.

Senator MINCHIN—Yes, but there has been no other decision to make any other funds available. I am not saying you might not make a decision in the future—

Senator Conroy—I know Mr Quigley has moved up to 13 full-time staff, but we are not anticipating using a bump-up against the \$2 billion in the next few days.

Senator MINCHIN—Ultimately, he is going to have to find up to \$43 billion; that is all I am saying.

Senator Conroy—That is not correct.

Senator MINCHIN—They will not have to find up to \$43 billion?

Senator Conroy—The government has indicated—and this will be subject to the implementation committee, and you have heard me say this a number of times—that if you make the assumption that it is fifty-fifty equity and capital you can get the *Lateline* interview out on the day—

Senator MINCHIN—Yes, but you are still going to have to find it—that is my point—whether it is in equity, capital, from the private sector or from you; that is what I am saying.

Senator Conroy—That is correct; the government is not finding \$43 billion. I just want to make sure we are absolutely clear on that.

Senator MINCHIN—Well, somebody is going to have to find \$43 billion; it looks like it is Mr Quigley.

Senator Conroy—Good luck.

Senator MINCHIN—Do others have more questions regarding the company itself and salaries?

Senator IAN MACDONALD—Minister, you stand by your comment that the NBN Co. will run as a commercial operation and therefore run profitably?

Senator Conroy—Yes.

Senator IAN MACDONALD—And the directors have those obligations to fiduciary duties?

Senator Conroy—They have their normal Corporations Law obligations.

Senator IAN MACDONALD—Can I confirm that you also said that there will be one pricing across Australia?

Senator Conroy—No. Unfortunately, you have been misled by reporting.

Senator IAN MACDONALD—Well, I am glad that I asked you so you can have the opportunity to clarify it.

Senator Conroy—You have come to the horse's mouth, so to speak. What I said in Tamworth was that across the fibre network for 90 per cent there would be one price for a

product—for example, one meg. What I clearly said was that it was our ambition, depending on the implementation report—and this is what I actually said as opposed to what was reported; they just chose not to report the entire discussion—for across the three platforms of wireless, satellite and fibre for there to be consistent pricing, subject to the implementation study and technology.

Senator IAN MACDONALD—What you were saying then and now is that the 10 per cent may be paying more than the 90 per cent?

Senator Conroy—No. What I am saying is that different technologies can deliver different outcomes, as you well know, and that satellite is not able to deliver quite the same—for instance, downloads and uploads—as fibre. No-one has suggested to me yet that a satellite can deliver 100 meg down or 100 meg up, so different technologies have different constraints. What I have talked about is products and, depending on the implementation study, some products may—and I stress ‘may’—be able to be priced across all three platforms. This is not to be confused with saying that with the fibre platform, of the three, you would have a similar pricing mechanism.

Senator IAN MACDONALD—The 10 per cent may pay more, they may pay less or they may pay the same?

Senator Conroy—The same products will not be available on all three platforms.

Senator IAN MACDONALD—With regard to the pricing for what is available in all three platforms, for someone sitting there with a laptop, will they pay the same in Burketown as they do in Pitt Street?

Senator Conroy—As I have said a couple of times now, on the fibre platform for the 90 per cent there will be uniform pricing for the same product.

Senator IAN MACDONALD—Okay.

Senator Conroy—The ambition is if it is technologically feasible and, depending on what the implementation study says—I said this in Tamworth; if you read the full transcript, you will see that—that would be an ambition, but it will be subject to exactly what I said in Tamworth.

Senator IAN MACDONALD—For the 10 per cent we do not today know that the users are going to pay the same?

Senator Conroy—No. What we do know is that it is not possible to deliver all of the same products across the three platforms, so when you say, ‘Give a guarantee that every price and every product across the platforms is consistent,’ it is not possible because it is not technologically possible to deliver the same product. You cannot deliver 100 megs over satellite, so it is impossible to say that you will be charging the same price for 100 meg on fibre and satellite; it is just not technically feasible.

Senator IAN MACDONALD—What I am concerned about is that there are some Australians—10 per cent, which has gone up, unfortunately—who will not get the same service and who may be paying a different price for the same output. Is there a group of Australians—the 10 per cent—who may find themselves in a different pricing capacity for a similar service? I appreciate that not everyone will get the same service, but for those services

that are similar, and for the use of a PC for normal email traffic, will the government be doing anything to moderate prices to ensure that all Australians get access to the basic service at the same price?

Senator Conroy—As I said in Tamworth—and I have said it already today—the ambition across the three platforms is for the same products that are capable of being delivered. For the 90 per cent—it could not be clearer—there will be a cross-subsidy, clearly, to deliver the 90 per cent on fibre, the same products at the same prices. Where it is obviously not possible to deliver the same products, by definition it cannot be the same price. The sorts of products you have described—faster emails—can be delivered on existing technologies at existing prices today. The National Broadband Network is not about faster emails; it is about a revolution in the way that people—

Senator MINCHIN—Another revolution!

Senator Conroy—You can all laugh about it. Senator Birmingham gets it, but, unfortunately, not everyone on that side of the table gets it.

Senator MINCHIN—Well, we just watched what happened to your education revolution.

Senator BIRMINGHAM—We are still spinning at that.

Senator Conroy—The suite of products that becomes available on a fibre network is different, so you are actually asking me a question that it is not possible to quantify at this point.

Senator IAN MACDONALD—Okay, I will accept that. Telstra told us the other day that they are hopeful of coming to some negotiated settlement with you shortly, and I am wondering if you can update us—without, of course, giving away anything that is commercial-in-confidence—on what is the necessity for the bill that is currently before the parliament being passed before Christmas, and how are the negotiations going?

Senator Conroy—As I have said many times publicly, I am not going to be giving a day-by-day description of how negotiations are going other than to generally say—

Senator IAN MACDONALD—We do not want it every day, just this one day.

Senator Conroy—Today is part of every day.

Senator IAN MACDONALD—All right.

Senator Conroy—I would say what I have said consistently, which is that discussions are constructive and positive. In terms of wanting to resolve it before Christmas and pass the legislation, it is very simple; there is a great deal of regulatory overhang on the Telstra share at the moment and Telstra shareholders are very concerned about that. We are seeking to end the regulatory uncertainty around Telstra and the sooner that that can be done the better. We believe that dragging it into next year will not be to the benefit of the market as a whole or, importantly, Telstra shareholders.

Senator IAN MACDONALD—Of course, that is not Telstra's view. I thought they were more into you—

Senator Conroy—You asked me my view. I am giving you my view.

Senator MINCHIN—Are you telling Telstra what is good for Telstra?

Senator IAN MACDONALD—Telstra shareholders—that is the point. Wouldn't Telstra know what is best for Telstra shareholders?

Senator Conroy—I would probably have to say that, under Mr Trujillo—sponsored by your friend and colleague Senator Minchin, who was the only man in the country who thanked Sol when he left; the other 21 million were thanking him for leaving—

Senator IAN MACDONALD—Could you answer the question?

Senator Conroy—the Telstra share price dropped nearly 40 per cent.

Senator IAN MACDONALD—So you know what is better for Telstra shareholders?

Senator Conroy—No, I am simply making the point that at the moment the market would say to you, if you go and read any analyst's report, that there is an enormous amount of regulatory overhang and if that were cleared up by Christmas I am sure every Telstra shareholder would be relieved.

Senator IAN MACDONALD—That is not what the shareholder associations all told us.

Senator Conroy—So they are now speaking on behalf of Telstra shareholders!

Senator IAN MACDONALD—Well, that is what they are; they are Telstra shareholders.

Senator BIRMINGHAM—That is not what Telstra told us; they would expect to be speaking on behalf of their shareholders.

Senator Conroy—I expect Telstra to argue their position, but they have also made it very clear that they support the government's NBN vision. They have said it over and over and over again.

Senator IAN MACDONALD—We might come back to this. I understand Senator Minchin has a question.

Senator MINCHIN—Thank you. I gather you have got to go at 4 pm.

Senator Conroy—I do—hopefully not for too long. We were going to drop to ACMA at that point just so that we do not miss out on your questions.

Senator MINCHIN—Mr Quigley, I am not sure what is happening in this phase in which we have McKinsey doing a \$25 million implementation study on the NBN, but we have you and your colleagues busy building NBN Co. and spending taxpayers' money to get this thing rolling and you are talking about acquisitions and things like that. I am just trying to work out the interrelationship between what you and your colleagues are doing, what the implementation study is doing, your role in the implementation study, what you yourself believe the implementation study is going to produce and what answers it is going to give you, and what you cannot do until that implementation study is produced. If you could help us clarify that relationship from your perspective, I would find that very useful.

Senator Conroy—The lead adviser is employed by the department, so I might ask Mr Harris to clarify some of those matters for you.

Senator MINCHIN—All right, but I would also like to know what Mr Quigley's role in all of this is.

Senator Conroy—The lead adviser is employed by the department, so Mr Harris can respond.

Senator MINCHIN—That is fine.

Mr Harris—I will give you the overview.

Senator MINCHIN—But I do not think we should suppress Mr Quigley's answers to any questions.

Mr Harris—If Mr Quigley has other things to say in supplementation of my answer, I am sure he will be happy to do so.

Senator Conroy—Mr Quigley is irrepressible!

Mr Harris—As I explained the other day in a committee examining the draft legislation we have in front of the house, the way we are viewing the role that is going to be undertaken here is that the department will be responsible for the alignment between the various factors that you outlined in your question. We have the lead adviser working with us; we have a steering committee of the interested departments. The lead adviser reports to and informs the steering committee, and the intent, as you know, is that the lead adviser, in that interchange between the steering committee and the other parties with whom it is widely consulting—particularly parties within industry but also with Mr Quigley—will develop the detailed outline of an implementation plan for the government's consideration by February next year. The implementation plan will then cover the subsequent rollout period and will address a wide variety of what I might call policy factors that are necessary to support the delivery of this major project.

You referred quite clearly to the negotiations that are going on with Telstra at the moment. Mr Quigley leads those negotiations, but again I am an alignment factor behind those negotiations, thus the department is represented in that group and we are in regular contact with Mr Quigley about what he is doing and why he is doing it. There is an ongoing exchange arrangement with us to ensure that, between the lead adviser, the steering committee of departments and the process that Mr Quigley is running on negotiations with Telstra, we keep all parties together. Over and above that, obviously, are the minister responsible for this portfolio and the finance minister who have got an interest as shareholding ministers in both the outcome of Mr Quigley's negotiations and the implementation study. That implementation study will be considered more broadly by the government. That structure is probably something that you would be reasonably familiar with from previous processes; it is quite a traditional way for governments to run these sorts of projects but, obviously, on a scale that is much larger than the norm.

Senator MINCHIN—Is Mr Quigley on the steering committee? How does he fit into this?

Mr Harris—He participates in the steering committee.

Senator MINCHIN—Is he a member of it?

Mr Harris—He has a seat there. We actually have marked seats for who is there so I am assuming I can confirm he is a member of the steering committee.

Senator MINCHIN—Tell us who is on this steering committee.

Mr Harris—As I said, the relevant government departments.

Senator MINCHIN—Which are?

Mr Harris—Finance, Treasury, Prime Minister and Cabinet and us.

Senator MINCHIN—Right, the central agencies and you.

Senator Conroy—Deputy Prime Minister's?

Mr Harris—No, they are not on the steering committee. Also, obviously, there are the advisers that we employed and NBN Co. Clearly, as the advisers require—as I said, they talk for industry but they also talk to other parties—they will be talking to other relevant government departments. Effectively, they bring together the body of knowledge that might be available for aligning the important factors that are necessary to a rollout like this. I do not know how much there is that I have not answered that Mr Quigley would need to answer in response to your question, but they are the basics.

Senator MINCHIN—On that, are you still running to a February deadline for the presentation of an implementation plan to the government?

Mr Harris—We are.

Senator MINCHIN—Will that be made public?

Mr Harris—That is a matter government will consider at the time.

Senator Conroy—We have not considered that yet.

Senator MINCHIN—That will be by way of a set of recommendations that the government would then have to respond to, presumably?

Mr Harris—That is correct. There will obviously be choices that are inherent in the implementation plan. I always liked the choice between timeliness and accuracy in briefing; well, this is a similar set of choices. There will be choices to be made at that point and the government will have to settle those for us. They will obviously be relevant to—

Senator MINCHIN—Are you able to enlighten us as to what the key issues are that will involve decisions by the government at that point? I am not asking you for the detail of those, but, presumably, they would include the architecture of the network, the 90 per cent and the 10 per cent, and those sorts of issues?

Senator Conroy—We can get you a copy of the tender document or—

Mr Harris—The terms of reference.

Senator Conroy—the terms of reference for the lead adviser if you have not seen them. I will provide them.

Senator MINCHIN—Do you think that provides the detail that I am seeking?

Senator Conroy—It provides as much detail as we are prepared to make public.

Senator MINCHIN—Will the implementation study provide a final estimated costing of the project that will then be made public?

Mr Harris—I doubt that at that point you would be able to bolt in final figures in terms of costing. But I think we would be pretty clear at that point that, for the purposes of budget

estimates processes, you would have to have enough information to satisfy that. The degree of that information is a matter we will be discussing with Finance and Treasury in the steering committee as this process is developed, but you will be familiar again with the nature of the sorts of requirements that will be placed upon us to ensure that we have sufficient information out of the implementation study for those sorts of impacts to be forecast in the subsequent budget.

Senator BIRMINGHAM—Will the implementation study revise the headline figure of \$43 billion?

Mr Harris—The government has, a number of times, clarified the \$43 billion number.

Senator Conroy—No-one has described it as an overestimate yet.

Senator MINCHIN—I gather that number is banned from any discussion in the NBN, according to your interview.

Senator Conroy—I am not sure it was an interview. I did not see you directly quoted anywhere in it.

Senator MINCHIN—Is that an inaccurate report?

Mr Quigley—Inside the company we do not have to speculate on the final number. We are working on a number of concrete things.

Senator MINCHIN—Mr Harris, you mentioned that Mr Quigley is the one conducting the negotiations with Telstra. Is there a catch-22 in preparing the implementation study and the implementation plan that until you know whether you are going to be able to roll this thing out through Telstra's ducts you simply do not know how you are going to implement this or the ultimate costing?

Senator Conroy—The access to Telstra ducts is a matter for the ACCC and the access regime. The access to their ducts is available through the access regime. No-one has questioned that other than Telstra once, which took it off to the High Court and got spanked seven-nil, and it was made very clear to them about the access regime on their assets. There is an existing access regime. The starkness of the choice is not quite as stark as you are describing it.

Senator MINCHIN—This is helpful. Your whole assumption in your implementation study is that you will have access to all of Telstra's ducts. That is the basis on which this thing is going to be built.

Senator Conroy—No. You are now making a number of assumptions yourself.

Senator MINCHIN—I am asking you what your assumption is.

Senator Conroy—Access to overhead rollout is an option rather than the ducts, and we have made that clear all along. Where we finally fall on those two options is a matter for consideration by the implementation committee.

Senator MINCHIN—That is one of the issues that the implementation study directs?

Senator Conroy—Yes, that is an issue. It is not correct to say that you cannot make a choice or a decision until you know whether or not you have to deal with Telstra. There are a

range of choices that Mr Harris indicated would be put to government, but I am sure you do not expect us to speculate on those choices many months out from the final report.

Senator MINCHIN—Not what choices you have, but the areas in which choices will have to be made. You have obviously made that point, I think properly, that one of those will be whether you are rolling it out through Telstra's ducts or you are doing it overhead and all the rest of it. Presumably this study will be costing those things in considerable detail in order to be able to make recommendations.

Senator Conroy—As I said, we are happy to provide you with the specifications of the—

Mr Harris—The terms of reference.

Senator Conroy—Sorry, terms of reference.

Senator MINCHIN—You are not prepared to tell us whether you will be costing the various alternative methods of rollout?

Senator Conroy—Commonsense suggests that that would be considered, but we are not going to allow you to play 20 questions with what it is and is not going to be.

Senator MINCHIN—You will not allow us to play that game?

Senator Conroy—We are happy to give you a copy of the terms of reference.

Senator MINCHIN—Thank you very much, Senator Conroy. Mr Quigley, is it generally true that overhead rollout is considerably cheaper than undergrounding?

Mr Quigley—In general terms that has been the experience overseas.

Senator MINCHIN—To the extent the government wishes to ensure that this is a cost-effective rollout overhead is attractive?

Senator Conroy—That depends on a range of factors arising around a discussion with Telstra. If you get access to Telstra ducts or you end up with outcomes, as speculated in the media, where NBN Co. would own the ducts. You are asking Mr Quigley a number of specifics. I would call them hypotheticals in that they are not unreasonable questions, but to ask him to make a call at this stage is a little premature.

Senator MINCHIN—Sorry to get into the nitty-gritty but, with respect to the connection to premises, could you tell us what the options are? This is one of the critical questions for ordinary Australians.

Senator Conroy—Could you clarify your question a little?

Senator MINCHIN—What are the options for individual premises? You do not have to tell me what your answers are.

Senator Conroy—Fibre-to-the home means fibre-to-the home.

Senator MINCHIN—Can that be overhead or underground?

Mr Quigley—It could be either.

Senator MINCHIN—But, again, the same issues would apply. It is presumably cheaper to run it overhead than it is to dig up people's gardens.

Mr Quigley—That would depend on particular circumstances, whether there is a duct in there and whether the duct is free.

Senator MINCHIN—Again, remind me, with optical fibre you have to attach a unit to the side of people's houses, do you not? There is a powered unit with battery backup?

Mr Quigley—You need a powered unit to terminate the fibre, yes.

Senator MINCHIN—With battery backup and so on?

Mr Quigley—Battery backup is an option, yes.

Senator MINCHIN—Again, these are the sorts of questions that I presume this implementation study will be examining.

Mr Quigley—They will certainly be looking at those, as will NBN Co.

Senator MINCHIN—Would one of the issues be who pays for that? Is that still to be determined?

Mr Quigley—That is still to be determined. There is a cost associated with that.

Senator MINCHIN—What does it cost?

Mr Quigley—They vary. It depends on the functionality of that terminating unit.

Senator MINCHIN—What is the range?

Senator Conroy—There are a variety of ranges.

Senator MINCHIN—Is it from \$1,000 to \$10,000?

Mr Quigley—No, that is a little high. They are normally in the hundreds.

Senator Conroy—I would like to update the committee. I am at the beck and call of a cabinet subcommittee at the moment so, at this stage, we are literally just waiting for a phone call. If the committee is happy, we will just keep going until I get the phone call and then we can substitute in for ACMA. I am just trying to give you as much information as I have.

CHAIR—Thank you. We can have an afternoon tea break at some time.

Senator Conroy—At 4 o'clock.

Senator MINCHIN—Mr Quigley, could you clarify the question of the extent to which, if any, you are actively involved in negotiations with other entities about acquisition of assets?

Mr Quigley—As you would expect, we are having a look at Telecom assets around the place. We have been approached by various parties to have discussions and we are looking at options in front of us, as you would expect any company to do when starting up.

Senator MINCHIN—This is where I am unclear about the relationship between your current activities and the implementation study. Presumably, you are not in a position to make decisions on acquisition of assets until we know the outcome of the implementation study and the extent to which this NBN is going to acquire existing assets, lay out competing assets—there is already an amount of fibre out there.

Senator Conroy—Are you suggesting that if NBN Co. were faced with an asset that was valued at a fair price that we should turn it down on the basis that we have not finished the implementation study?

Senator MINCHIN—I am interested in the question of the extent to which you feel free to pre-empt this taxpayer funded \$25 million implementation study and what it is for?

Senator Conroy—As I said, given you do not know what it is for and given you have not read the terms of reference, it is a little hard to engage in a conversation.

Senator MINCHIN—I am wondering what it is for. I have read the terms of reference. I must say they are rather general. I was trying to get some more information.

Senator Conroy—We have learnt from you, Senator Minchin.

Senator MINCHIN—That is obviously impossible.

Senator Conroy—We continue to learn from you.

Senator MINCHIN—Making your ex cathedra statements about pricing seems, for example, to be pre-empting what I would have thought would be constituent parts of the implementation study and subsequent government—

Senator Conroy—If you are opposed to the concept of universal pricing on the fibre network to the 90 per cent, please feel free to articulate that. It has clearly been articulated many times through the course of broadband plans that have evolved and been upgraded. We have made that commitment consistently from day one. We have been quite explicit. This is a cross-subsidy.

Senator MINCHIN—You are saying that is pre-ordained government policy?

Senator Conroy—I could get the library to go through all my speeches, press releases and policy documents. They have all been very consistent on this theme. To come back to your more fundamental question of whether or not the company should wait until after the implementation study is completed before it was to do anything, if Mr Quigley formed the judgement that an asset was a valuable asset and there was a fair price involved then that is the judgement that Mr Quigley would form.

Senator MINCHIN—He has sanction from the shareholders to engage in those sorts of negotiations and ultimately if he chooses to can come to you prior to the completion of the implementation study?

Senator Conroy—Yes.

Senator MINCHIN—That seems rather odd. I do not know why taxpayers are spending \$25 million on it.

Senator Conroy—That is exactly what we are doing with Telstra at the moment.

Senator MINCHIN—Mr Quigley, I would be interested in your view on this, because there is a lot of commentary on it. It would be impossible for this business to be commercial, in the government's terms, if it had to compete with the existing Telstra copper network.

Senator Conroy—You are putting forward a hypothetical scenario to Mr Quigley. Do you have a question about Senate estimates?

Senator MINCHIN—Yes. Can the NBN be viable if it is in competition with Telstra?

Senator Conroy—That is a hypothetical question based on a set of circumstances that may or may not arise.

Senator MINCHIN—Either it is or it is not, in his view.

Senator Conroy—Do you have a question about Senate estimates and the expenditure that Mr Quigley is involved in?

Senator MINCHIN—Yes. I am sure Mr Quigley deserves every penny he is getting from the taxpayers, but the taxpayers are spending a lot of money on Mr Quigley.

Senator Conroy—I am glad you have finally reached that conclusion, because in the last press release you put out about Mr Quigley you suggested that he had nothing to do—that he was earning \$1.9 million for doing nothing.

Senator MINCHIN—The taxpayers are spending a lot of money to employ Mr Quigley.

Senator Conroy—I am glad you acknowledge that.

Senator MINCHIN—It is not unreasonable for us as representatives of the taxpayers to ask Mr Quigley, with all his expertise, whether it is, in his view, possible for this business, of which he is now the CEO and answerable to the shareholders, who are the taxpayers, to be commercially viable if it has to compete with Telstra.

Senator Conroy—I am inviting you to ask him a question of fact, which is what the Senate estimates is here to deal with, not his opinions.

Senator MINCHIN—I am amazed that you are preventing Mr Quigley from answering a perfectly sensible and legitimate question about which there is much speculation and in which taxpayers have a legitimate interest, given that they are paying his salary. This is a company owned by taxpayers.

Senator Conroy—I will just respond and then Mr Quigley might want to add something. I think Mr Quigley has been asked this a number of times publicly and I am sure that he would be happy to repeat what he said publicly. Senate estimates is a process for asking about actual expenditures, and your questions are broad ranging. Mr Quigley might wish to add further to that, but he has commented on this publicly.

Senator MINCHIN—Perhaps he could repeat those public comments.

Senator Conroy—I am inviting him to.

Mr Quigley—I think there is sufficient experience on a worldwide basis to indicate that people do build fibre based networks in competition with copper and other platforms for broadband. These are commercial entities. Obviously they would not be doing it unless they thought there was potential return. When I say ‘potential’, it could be over a period of time. I certainly would not exclude the possibility of providing a return on the investment over the longer term.

Senator MINCHIN—I note with great interest your very carefully chosen words.

Senator IAN MACDONALD—Do you know that Telstra will not continue to run its own network?

Senator Conroy—That goes to the heart of a range of discussions, so I am sure that you would not expect us to comment on anything that commercially sensitive in a public forum.

Senator IAN MACDONALD—It is a fact that you are inviting us to ask Mr Quigley. I am asking him: does he know that Telstra will not be continuing?

Senator Conroy—I am inviting you to ask questions about Senate estimates and the expenditure of public moneys.

Senator IAN MACDONALD—This is very much about Senate estimates and public moneys.

Senator Conroy—You are asking him to speculate on future positions.

Senator IAN MACDONALD—No, I am not.

Senator Conroy—Yes, you are.

Senator IAN MACDONALD—I am asking: does he now know today for a fact that Telstra will not continue to operate its copper network?

Senator Conroy—Telstra have not indicated anything like that, otherwise they would be in breach of their Stock Exchange obligations and ASIC's continuous disclosure obligations.

Senator IAN MACDONALD—I know that. That is why I was asking someone who has some experience, such as Mr Quigley, whether he knows that as a matter of fact.

Senator MINCHIN—I would like to ask a question of Senator Conroy before he goes.

Senator Conroy—As I said, at this stage I have not received the call.

Senator MINCHIN—We will be breaking in five minutes. The ALP policy on the issue of separation—your election policy—stated:

Labor will ensure that 'Telstra's wholesale and retail functions' are clearly distinct within the company ...

I took that to be endorsement of the current operational separation arrangements.

Senator Conroy—You should not do that. I am sure you have heard me say we voted against the existing operational separation regime in parliament.

Senator MINCHIN—That is certainly not a statement advocating structural separation.

Senator Conroy—We voted against it and stated quite clearly that we did not believe the existing regulatory structure—

Senator MINCHIN—No, I am getting to your policy on separation. Your policy, at the election, was to keep these functions 'within the company'. When I asked you about this in May, in relation to your position on structural separation, you said, 'I'm not advocating, I've never advocated it.' We come to September and in your press release you state:

'It is the government's clear desire for Telstra to structurally separate ...

Senator Conroy—I think you have left a word out, but keep going.

Senator MINCHIN—You say:

... on a voluntary and cooperative basis ...

Senator Conroy—Thank you.

Senator MINCHIN—I am happy to quote you in full, although we all know that is something of a misrepresentation of the reality. The point is it is a 'clear desire' now for the Labor government for Telstra to structurally separate. I take that to now be the policy, albeit you pretend that it is voluntary for them. That has not been your policy. What I am asking you to do is tell the committee the process by which the government came to change this policy. Was it something you took to cabinet? Did the cabinet agree and it went through caucus? How did this all happen and when?

Senator Conroy—I have probably stated on many occasions, including when I was shadow minister—and I have already said that here—that the current system is broken and does not work. In fact, we voted against the operational separation regime that currently exists. We voted against it then and we said we would toughen it and strengthen it. That was publicly stated many times in the lead-up to the election. When the regulatory reform discussion paper was released in April, the government noted:

The existing regime needs to be reformed to improve competition and strengthen consumer safeguards, as well as remove redundant and inefficient red tape. A vibrant, competitive telecommunications sector is important for delivering lower prices, better quality and more innovative services for consumers and businesses.

The government have been engaged in two major public consultations over 15 months. We have received over 200 submissions. The overwhelming majority of the responses to the government's public consultations on the regulatory regime have called for stronger separation measures for Telstra. As I said, we have done two reviews of this since we came to government, and every single submission has criticised the existing regime. Even Telstra's submission to the first discussion paper criticised the existing regime. It is fair to say nobody in the industry is happy with the status quo. After careful consideration of all of those submissions—15 months of consultations and over 200 submissions—the government then formed the view that we needed to put forward the package that we have put forward. We have not mandated structural separation, as some—I don't believe you—have said. We are not mandating structural separation. After listening to those consultations over 15 months and after all of those submissions, the government formed the view that this was the best way forward for the telecommunications sector.

Senator MINCHIN—At some point you made a significant change in policy to go from a view that you are not advocating structural separation, where you believe that retail and wholesale should stay within the company, to one where apparently it is now government policy, albeit you say not forced, that Telstra structurally separate.

Senator Conroy—Voluntarily.

Senator MINCHIN—You acknowledge that was a change of policy?

Senator Conroy—As I said, after going through 15 months, two separate regulatory reviews, putting out a paper on 9 April when we announced NBN Co., which clearly flagged all of these issues, the government took the view that the package we put forward was the appropriate way forward. We have not mandated structural separation. We have expressed a clear preference that the company should voluntarily separate. That is true.

Senator MINCHIN—It is government policy that it structurally separate.

Senator Conroy—We have been supported by the ACCC. Firstly, you demanded the right to see the ACCC's advice, which I think the ACCC has now released. They said in their advice to the expert panel:

For the reasons set out below, the ACCC's view is that ensuring (in the strong sense) equivalence in access can only be achieved by a non-integrated or a fully structurally separated Proponent.

You demanded the right to know what the ACCC thought. They revealed it, they repeated it, and then you criticised the chairman by saying he has crossed the line. That is a very interesting proposition. You demanded to know what the ACCC thought on this and then when they told you you criticised them for stepping over a line in a press release. That is quite unique.

Senator MINCHIN—It was outrageous, and I hope you saw John Clarke and Bryan Dawe make a fool of you. You might want to talk to John Clarke. He does not know that you are the communications minister. He thinks Mr Samuel is, and quite rightly so.

Senator Conroy—I always enjoy John and Bryan's satire.

Senator MINCHIN—They are very good. It was a good episode last Thursday. I hope you watched it.

Senator Conroy—I did see it live. They went on to state:

The ACCC is of the view that equivalence in access over an NBN can only be ensured by a non-integrated or a fully structurally separated Proponent. That is, vertical integration of any form into downstream markets, even when subject to functional separation, will not ensure equivalence such that this objective has been fulfilled.

After demanding—and you were vociferous in your demanding—to know what the ACCC thought, they told you.

Senator MINCHIN—Why did you not release the whole of the expert panel report? You are boasting about releasing that; give us the expert panel report that you refuse to release.

Senator Conroy—I have given you the ACCC's advice to it. You demanded it. They released much of their advice.

Senator MINCHIN—I am very thankful for that. What about the expert panel report?

Senator Conroy—And then when you were not happy with what they said you told them that they were being outrageous.

Senator MINCHIN—They did overstep the line. He is not a spruiker for the Labor Party.

Senator Conroy—No, he is a spruiker for the policy.

Senator MINCHIN—No, he is a spruiker for the Labor Party.

Senator Conroy—He is spruiking the policy the ACCC is advocating.

Senator MINCHIN—It was the most outrageous thing I have seen from an independent regulator ever, and you should know that.

Senator Conroy—You should get out more.

Senator MINCHIN—If you are boasting about that being released, why will you not release the expert panel report?

Senator Conroy—You have been demanding this, and the ACCC have released a huge amount of information that they submitted to the expert panel. It is quite clear that they strongly support, and in fact advocated before the government did—

Senator MINCHIN—Of course. Regulators always want to have an easy life. It is much easier to regulate it separately. What did you think they would say? Talk about, ‘They would say that, wouldn’t they.’

Senator Conroy—Oh dear. I just find it possibly—

Senator MINCHIN—I am interested that the ACCC now writes Labor Party policy. I think John Clarke is right; Mr Samuel is the minister for communications.

Senator Conroy—Oh dear.

CHAIR—We have limited time. Senator Minchin, are you continuing with this?

Senator MINCHIN—I am finished with that line of questioning.

Senator Conroy—I am sure you are.

CHAIR—Senator Minchin has finished his line of questioning. Are there further questions for the NBN Co. and outcome 1.1?

Senator PARRY—Yes.

CHAIR—Are there many?

Senator PARRY—A maximum of 10 minutes.

CHAIR—In that case I suggest that we have a break and then if the minister has to go—

Senator Conroy—I am happy to come back and do the 10 minutes. I am in the hands of a cabinet subcommittee. I do not control the time involved. I do appreciate the committee’s forbearance in that matter.

Senator PARRY—I would like to make a suggestion, only if the committee members wish to do this, that we break when the minister is called away.

Senator Conroy—It could be an hour. I would love to be able to tell you it is in 10 minutes. I do appreciate your forbearance.

CHAIR—Thank you. We will have a break and then we will resume with ACMA. Officers who are here for this portfolio area will be required again at some point. We will let you know as soon as we can.

Proceedings suspended from 4.06 pm to 4.24 pm

CHAIR—We will resume.

Senator Conroy—Perhaps I can just update the committee. I sought to get some information for Senators Minchin, Birmingham and Macdonald. Senator Minchin asked me about the skill set on the board.

Senator ABETZ—Could I suggest, with respect, in case there are follow-up questions—

Senator Conroy—No. We are coming back, so we can let them know.

Senator ABETZ—Yes, but it is just that Senator Minchin will not be hearing your answer and he might want to follow up on it.

Senator Conroy—But we will let him know when we resume this. We have not sent the other officials away, so when they come back and Senator Minchin comes back we can doubly update this. It is just that I may not be here. Civil engineering, finance, content and non-traditional telecommunications applications are the sorts of skill sets. Also, regarding the Communications Fund, I indicated earlier that \$2 billion went into the BAF. I would correct that. All \$2.4 billion went into the BAF, not just the \$2 billion; the 0.4 went in as well, Senator Abetz.

[4.25 pm]

Australian Communications and Media Authority

CHAIR—We will now go to ACMA and commence with questions from Senator Birmingham.

Senator BIRMINGHAM—Mr Chapman and company, welcome, as always. Is al-Manar Television broadcasting into Australia at present?

Mr Chapman—It is.

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

Mr Chapman—It is broadcast on the Indonesian satellite service that I think is called Indosat, but I am not sure of its specific reach and the number of people who access it.

Ms O'Loughlin—No, I do not think we have those figures.

Mr Chapman—We do not have those figures to hand, so I would need to take that question on notice.

Senator BIRMINGHAM—I assume that Indosat, being a satellite service, is accessible to anybody who chooses to subscribe. Is that correct?

Ms O'Loughlin—And who has the appropriate equipment.

Senator BIRMINGHAM—Who has the appropriate equipment and chooses to subscribe et cetera.

Senator ABETZ—Do you know whether that equipment is expensive?

Ms O'Loughlin—I would expect that there would be some cost to that equipment, but we would have to take that on notice; I do not have the details with me at the moment.

Senator ABETZ—Please tell us the cost of Indosat as well—

Ms O'Loughlin—We will certainly take that on notice.

Senator ABETZ—and also the reach.

Senator Conroy—A satellite dish—I have some experience—can cost up to about \$600. That does not necessarily include the connection to that service but is a satellite dish itself in terms of its structure, depending on size and things and—

Senator ABETZ—It is a pity that you do not have that sort of expertise with broadband and set connection et cetera.

Senator Conroy—Dishes to receive broadband and dishes to receive satellite signals for TV are a little difficult in terms of some of the connections. I am talking more about satellite TV reception. As you know, we are engaged in the analog/digital switchover, and one of the issues we are considering at the moment is satellite TV reception.

Senator BIRMINGHAM—Mr Chapman, the ACMA undertook a review in recent months of the operation of al-Manar Television in Australia, did it not?

Mr Chapman—As part of its investigations, it looked at nine days of programming in August and September 2008.

Senator BIRMINGHAM—What prompted that investigation?

Mr Chapman—A general awareness that there was some disquiet about the al-Manar service being available in Australia, coupled with the fact that we had conducted a number of years earlier a previous investigation into al-Manar. So we, of our own accord, decided to initiate an investigation.

Senator BIRMINGHAM—What precedent exists for deciding on the type of investigation and scope of investigation? How did you come to decide that a nine-day investigation was an appropriate examination?

Mr Chapman—There is no precedent, as such. We were at liberty to structure the terms of our own investigation, and we did so. It is always a balance of having an apprehension of what the issues are, coupled with having the budget to do a conclusive and reasonable investigation. It is always the interplay of those two matters that finally determines what the shape of the investigation looks like in its terms of reference.

Senator BIRMINGHAM—Is it correct to describe al-Manar as being a Hezbollah operated television station?

Mr Chapman—What exactly do you mean by that assertion, Senator?

Senator BIRMINGHAM—Is the content of this television station coordinated by those who also operate the terrorist organisation and/or political organisation, depending on the perspectives of differing individuals, known as Hezbollah?

Mr Chapman—Please just bear with me for one moment, Senator.

Ms O'Loughlin—It has some linkages to Hezbollah, but the exact relationships are not necessarily clear.

Senator ABETZ—I will ask a question specifically on that, if I may, Senator Birmingham. Are you aware that it is an Arabic satellite television station run by the Lebanon based but Iranian funded and controlled terrorist group Hezbollah?

Ms O'Loughlin—I think that is the way it has been described. I think the links between Hezbollah and al-Manar have changed over time and they are quite difficult to be prescriptive about.

Senator ABETZ—So what is your best advice?

Ms O'Loughlin—We have an antiterrorism standard that applies to open narrow-casting television services. We focus on the content of such a service, not necessarily who owns it.

Senator ABETZ—I am sorry; I do not want to cut across Senator Birmingham's line of questioning, but all I want to know is your understanding of who runs al-Manar.

Ms O'Loughlin—Our understanding is that it has links to Hezbollah.

Senator BIRMINGHAM—Ms O'Loughlin, the review was undertaken by the ACMA as a result of concerns that this television station may in some way breach the antiterrorism provisions that you were just referring to in response to Senator Abetz.

Ms O'Loughlin—Yes. I would just like to clarify: we did not receive a complaint about the programming. When it came to the general community concerns being expressed, there was not specific content that we were directed to investigate by those complaints. So, as my chairman said, we looked at an 'own motion' investigation by the authority, given the general community concern. We decided, on balance, to look at nine days of programming and to look at that against the antiterrorism standard, which was agreed by the ACMA in 2006. We looked at and did a thorough review of that programming. Al-Manar currently has a broad range of programming. It has things like video clips and a current affairs program, but it also has soap operas. It is a broad based programming service these days, compared with what it used to be. We looked at those nine days of programming and, for that period of time, we did not find any content that was in breach of the ACMA's antiterrorism standards.

Just to clarify: our standards turn their mind to whether or not the content itself could be reasonably construed as directly recruiting people to join or participate in the activities of a terrorist organisation or as soliciting funds or assisting in the collection of provision of funds for a terrorist organisation. Also, the standard itself refers to a listed terrorist organisation, and that is the list maintained by the Attorney-General.

Senator BIRMINGHAM—Thank you. I am interested in the fact that the ACMA was responding to community concerns and not to specific complaints. How do you gauge the mood of community concerns in an instance like this? What drove that understanding of there being community concern?

Mr Chapman—I am tempted to take a line out of *The Castle* and say that it was 'the vibe', but it was more a community awareness or our awareness of it as a potential issue. It is a very subjective matter. It is a decision that we make at the time, based on those circumstances. It is no more scientific than that.

Ms O'Loughlin—To add to that: some general concerns were expressed, through the press, through organisations such as the Australia/Israel and Jewish Affairs Council around their ongoing concerns with the al-Manar broadcasting service.

Senator BIRMINGHAM—How was the review undertaken? You said that it was a review of nine days of programming. Obviously it is programming that is, I assume, predominantly if not entirely, in Arabic language. How was the review of that programming undertaken over those nine days?

Ms O'Loughlin—Firstly, we had at least one staff member who is a fluent Arabic speaking member. Secondly, we got transcripts of a number of days of those services. So we both used

our internal knowledge and looked at the general programming and then identified specific days of programming where we thought we would get full transcripts and go through each of them.

Senator BIRMINGHAM—I assume that al-Manar broadcasts 24 hours a day. So in some way—be it by Arabic speakers employed by the ACMA reviewing it or by translated versions being viewed by ACMA staff—was a 24-hour a day coverage for the nine days of broadcast reviewed?

Ms O’Loughlin—That is correct. That was specifically because we did not have a particular complaint about a particular piece of content.

Senator ABETZ—Perhaps I may ask quickly: were they nine consecutive days?

Ms O’Loughlin—They were.

Senator ABETZ—Can you tell us what dates they were?

Ms O’Loughlin—Yes. They were 28 August to 5 September 2008.

Senator BIRMINGHAM—As a result of the review, is the authority undertaking any ongoing assessment or review of any content on al-Manar, or is it now a case of waiting for a particular complaint and/or period of time to pass where you think community concern warrants another investigation?

Ms O’Loughlin—There are probably two sides to that. As you may be aware, the former ABA looked at al-Manar back in 2004, given community concerns and specific complaints about the service. When we did this review, we found the service has changed considerably since that time. However, generally the authority is very well aware that there is ongoing community concern about what programming is on al-Manar. We certainly have planned to do a similar type of ‘own motion’ review probably early next year just to recheck the content and see whether there is anything that should cause the authority some concern. That having been said, if there is particular programming content which is of concern to people, we would welcome their identifying it to us and we would certainly investigate it.

Senator BIRMINGHAM—You cited two grounds of prohibition, in a sense, that could apply, one being to directly recruit people to join a terrorist organisation and the second being to solicit funds for a terrorist organisation. Are the definitions of those particular activities—recruitment and soliciting of funds—set in any place, or is it for the authority to determine how to interpret those two prohibitions?

Ms O’Loughlin—My advice is that the authority has a discretion with those. But I would say that they are broadly consistent with provisions in the Criminal Code that direct themselves to the recruitment of people and the solicitation of funds.

Senator BIRMINGHAM—In looking for instances where a network or a television station such as al-Manar might be seeking to recruit persons to a terrorist organisation, do you look purely for specific instances, or is material considered in a holistic sense of the narrative and dialogue of whole programs or, indeed, sequences of programming?

Mr Chapman—The answer to that is ‘both’. There have been many examples over the last several years within the ACMA of conducting investigations and making determinations, for

example, in the broadcasting sphere, where we have looked at the cumulative impact of matters. That has become a concept that we have employed in a significant and material way over the last several years. That would be a concept that goes to the sort of notion that was implicit in your question—that we just would not look for one-off specifics but would take the whole context of a particular program or, indeed, over a period of time, if indeed you could connect the dots under a cumulative impact test. We also look at specific instances. So the answer is that we would do both and we do do both.

Senator BIRMINGHAM—So we are not just looking for the ad that flashes across the screen that says, ‘Join Hezbollah now’, or gives the contact detail; we are looking at the context of all of those programming activities. Indeed, is it accepted by the authority that in some way the glorification of terrorism would be an incitement to join a terrorist organisation, or do you look for more direct links than that?

Ms O’Loughlin—They are some of the very difficult issues that we have looked at in this review of this service. In terms of the standard, we are quite specific about looking at direct recruiting, as compared with general promotion of a particular belief of an organisation. When the original standard was struck in 2006, I think that was the balance that the authority attempted to make: to try to balance the capacity for the reporting of and the free speech of organisations against what was particularly of concern at that time, which was the direct recruiting for these organisations and fundraising. At that particular time, there was evidence of advertisements such as you have just indicated; there were direct advertisements on the service at that time.

Senator BIRMINGHAM—In your opinion, would those direct advertisements be a clear-cut case?

Ms O’Loughlin—Clear cut.

Senator BIRMINGHAM—The transgression where it is more of a dialogue or more of a build-up or cumulative impact, as Mr Chapman has said, would be more of a grey zone, depending on just how far that dialogue went. Is that right?

Ms O’Loughlin—It would be for us to determine on the content that came before us, yes.

Senator BIRMINGHAM—If you start getting statements that are of a cumulative nature—such as, ‘I would love to die as a martyr’—built into programming, even if they do not ultimately point to a particular terrorist organisation, does that type of ongoing dialogue and language represent a potential breach?

Mr Chapman—It all depends on the circumstances of the case. If it were of such a frequency and so obvious as to pass the threshold of cumulative impact with respect to directing recruiting, the answer would follow ‘yes’.

Senator BIRMINGHAM—However, clearly, in the authority’s opinion, in the case of al-Manar, it does not pass that threshold. Is that correct?

Mr Chapman—With respect to what we saw in that nine days of material, that is correct.

Senator BIRMINGHAM—Was there questionable material in that time? Would you say that it entered at least the grey zone?

Mr Chapman—Yes, I would. If you read the findings, I think you would see that we expressed some reservations. But in the end we worded it in the way we did because, on balance, we decided that it fell short of that threshold.

Senator BIRMINGHAM—Is it true that this network or television station is prohibited in a range of other countries?

Mr Chapman—We understand that it is in some other countries, yes.

Senator BIRMINGHAM—I think it is in the United States and in Germany. I just cannot quite see my list.

Senator ABETZ—In Canada and France—in the EU.

Senator BIRMINGHAM—Thank you, Senator Abetz; you have the list there as well.

Ms O'Loughlin—There are a number of reasons for that. The US has taken the approach of listing al-Manar, as well as Hezbollah, as a terrorist organisation or terrorist entity. I may not get the words absolutely correct; if I need to, I will correct them for you. There are other examples in other jurisdictions where it has been because the service was operating without a licence. In other jurisdictions, it really comes back to what the national law is and how that is handled.

Senator BIRMINGHAM—In relation to the soliciting of funds, Ms O'Loughlin, did you indicate previously that, according to your interpretation of the definition, it can only be the solicitation of funds for a terrorism organisation as listed by the Attorney-General's Department or, indeed, in the legislation?

Ms O'Loughlin—Yes.

Senator BIRMINGHAM—You may not know this, but is the al-Emdad charity a listed organisation?

Mr Chapman—No.

Senator Conroy—Neither is a fair bit of Hezbollah. Why didn't the Howard government list all of Hezbollah?

Senator ABETZ—You have been in power for two years—

Senator BIRMINGHAM—Minister, those lines come back and start to reflect on you as well over a period of time. I think, as we enter the third year of the Rudd government, you have to start standing in response to your own positions on these matters.

Senator Conroy—Have Hezbollah changed in their organisation? I am speaking of Hezbollah, not the charity.

Senator BIRMINGHAM—I do not pretend to be a terrorism expert, so I do not know whether they have changed in their organisation or not.

Senator Conroy—Senator Minchin, you were involved in the discussions.

Senator MINCHIN—Chair, I think we have a series of questions to ACMA and they should be allowed to continue.

Senator Conroy—I was just adding some information for the committee's knowledge.

Senator MINCHIN—You are being very helpful, Senator Conroy.

Senator Conroy—Thank you, Senator Minchin.

Senator BIRMINGHAM—Ms O’Loughlin, in that nine-day period, did the ACMA observe requests for donations to the al-Emdad charity?

Ms O’Loughlin—We looked at the content, which included material involving the al-Emdad charity. But, as I have mentioned, al-Emdad is not a listed organisation.

Senator ABETZ—But do you know what al-Emdad actually collects money for?

Ms O’Loughlin—We understand or it is reported to us that there is some link between al-Emdad and Hezbollah, but that is not something that we as the regulator could opine upon. Basically, our standard covers listed terrorist organisations. Currently, that includes ‘Hezbollah overseas operations’ but it does not include al-Emdad.

Senator BIRMINGHAM—Does the authority feel somewhat hamstrung by the tight constraints of the definitions that you are working within?

Mr Chapman—The short answer to your question is no, because the standard was developed by the ACMA. The authority, nonetheless, recognises that there is always a great deal of subjectivity in seeking to have a standard that prohibits the sort of activity that the standard does versus the ability or the right of free speech to at least espouse views. The standard was developed by the ACMA in 2005-06. It was resocialised with public discussion in 2008, at the time of making the change from ‘terrorist organisation’ to ‘listed terrorist’. I need to advise senators that at no stage in that subsequent public discussion was there any suggestion that the standard was framed too tightly. I think it is fair to say that the investigation has certainly given rise to heightened sensitivity about it. As Ms O’Loughlin indicated, our investigation about these matters is ongoing and not only with respect to the standards but also, if material is provided to us directly or indirectly, through complaint or otherwise, with respect to examples where it represents vilification. That is another avenue that would be open to us on the next occasion. But I need to stress that not once has material been provided to us by way of a formal complaint that brings these materials to our attention.

Senator BIRMINGHAM—On the issue of vilification, which is where I was about to go, Mr Chapman, what consequences are there for Australian networks that engage in any form of racial vilification and is there any difference in those consequences for a satellite network such as al-Manar?

Mr Chapman—Would you just excuse me, Senator? The consequences that flow from a breach of the standard is different to what might flow from the breach of a code. In this particular code, there are understandable and necessary constraints on vilification. So, if on the next occasion we find a breach of the code with respect to vilification, the avenues open to the ACMA there are narrower than they are with respect to a breach of the standard. We have many occasions in our broadcasting investigations where we find a breach of the code and we have found historically that that provides fewer immediate remedies for us to pursue than a breach of the standard, and that would be the case here.

Senator BIRMINGHAM—In relation to racial vilification particularly, perhaps you could give us the 30-second summary of how such breaches fit into a breach of the code versus a

breach of the standard so that we have a slightly clearer picture of what the consequences of each may be.

Mr Chapman—The essence of the standard here deals with recruiting for listed terrorist organisations and the raising of funds for it. That is the essence of the standard. The code that deals with this particular subject matter covers the full gamut and full range of other matters that one would ordinarily see in a broadcasting code with respect to content matters. So the standard on this particular occasion sits over and above the code and is singled out as an issue to be addressed. So the vilification provisions sit in the code, whereas the matters that I indicated—the two strands—sit in the standard.

Senator BIRMINGHAM—So do breaches of the standard essentially result in the ending of the privilege to broadcast in Australia?

Mr Chapman—Would you just excuse me, Senator? I might just read from the extract I have in my advice here. It states:

In the event of a breach of the antiterrorism standards, the ACMA can issue a notice to the person providing the service directing action to be taken to ensure that the person does not breach the standards. The ACMA can also apply to the Federal Court for an order directing the service provider to cease providing the service.

Therein potentially lie some further difficulties with respect to the enforcement of those orders.

Senator ABETZ—But they are your own rules that you, yourselves, set?

Mr Chapman—No. The standards are the standards that we developed. The remedies that I just read to you are not remedies that we have ascribed to ourselves; they are the remedies set out in various pieces of legislation.

Senator BIRMINGHAM—Does the code sit under the standards?

Mr Chapman—It is another form of content regulation. It is a different animal, if you like. It is under the co-regulatory approach, which fundamentally informs the Broadcasting Act. It is developed by the industry and, ultimately, approved by the ACMA.

Senator BIRMINGHAM—The code deals more directly with issues of racial vilification than the standards do. Is that right?

Mr Chapman—Not only more directly; it deals with it, whereas the standards do not.

Senator BIRMINGHAM—That is well and truly more directly. Would single instances of anti-Semitism be a breach of the code?

Mr Chapman—That is correct, yes.

Senator BIRMINGHAM—Is there any difference in the way the code would handle single instances of anti-Semitism versus ongoing regular instances?

Mr Chapman—The technical answer is no. In a code investigation, just as in a standards investigation, we would deal with specifics. Also, increasingly, we have been using cumulative impact and cumulative intensity as a concept within our investigations. The difference lies perhaps in the remedies that we seek to pursue if it is a single one-off breach. If it were what we would call a systemic or recurring offence, we would probably craft the

remedies and our relationship with the licensee in a different way. That would be just a proportionate response to the particular issue.

Senator BIRMINGHAM—Have you had complaints of breaches of the code by al-Manar?

Ms O’Loughlin—No.

Senator BIRMINGHAM—Have you taken any action or undertaken any investigations of your own volition regarding any breaches of the code by al-Manar?

Mr Chapman—No, we have not—

Ms O’Loughlin—Not at this point.

Mr Chapman—but I indicated a minute ago that there is a much heightened awareness of these matters and I also indicated a minute ago that our investigations will be ongoing. I further indicated that the sorts of matters that you are touching on may well be in the frame with respect to our next investigation.

Senator BIRMINGHAM—In the nine-day investigation, did you look for breaches of the code as well as breaches of the standard?

Ms O’Loughlin—No. We focused our attention at that stage on breaches of the standard; that was mainly, as I said, because we did not have complaints before us. But some of the concern was more around this issue of direct recruiting and solicitation of funds, so we felt that the investigation, as commenced by the authority, was more on point, if you like, with community concern. I think it is fair to say that over time the public discussion has been a mixture of the direct recruiting and the vilification issue and, as the chairman has said, I think the ACMA in its next investigation will be looking at both those arms.

Senator BIRMINGHAM—Wouldn’t it have made sense, when going through nine days worth of television broadcast, to see whether it passed the test on both fronts rather than just on one?

Mr Chapman—It is easy to suggest that with hindsight. But, when we went into that investigation and formally framed those terms, what was top of mind for us were the antiterrorism standards. Not having been informed of any complaints about vilification, it is not something that we addressed our mind to at that time.

Senator ABETZ—Wait a moment. Somebody watched it 24 hours a day for seven days. Didn’t it jump out at them that this was going on and was part of what was regularly being shown, or did they just dismiss it from their mind because they were only watching it for terrorism?

Ms O’Loughlin—The focus of the investigation was on whether it breached the antiterrorism standard. I cannot comment on what my staff found on other matters, but it is certainly—

Senator ABETZ—But they were your staff. Surely they would be aware of the standard.

Mr Chapman—They were clearly aware of the standard; they did not go into it with any brief under the formal investigation terms with respect to vilification, nor—

Senator ABETZ—But it is like a policeman going into a house to investigate a burglary and finding a stash of drugs or something. Do they turn a blind eye and say, ‘Oh well, I only came here for the burglary, so I won’t worry about the stash’?

Mr Chapman—I understand the point and it is not as though our staff are blind to these matters. We do not have a recollection of it. I do not think our staff are of a mindset that they just narrowly charge on and do it. If there were something that clearly had created an impression about it, then they would have brought it to our attention. The staff of the ACMA are encouraged to think broadly, but clearly on this particular occasion it just did not register strongly enough.

Senator BIRMINGHAM—It did not register strongly enough.

Mr Chapman—It did not register. I retract what I just said.

Senator BIRMINGHAM—What is the worst penalty that can be applied for systematic and ongoing breaches and cumulative breaches of the code?

Mr Chapman—In the ordinary course and in the ordinary commercial television broadcasting sense, consistent and repeated breaches of the code lead to one of two outcomes: a discussion with the particular licensee or network encouraging them to provide us with an enforceable undertaking that is detailed and prescriptive and seeks to go to the heart of the matter to redress behavioural issues within the licensee or network—that has been an increasing trend with the way we have liaised with licensees and networks, and there have been a number of examples of that over the last two years in particular—or, in the absence of an enforceable undertaking being offered or with the inappropriateness of an enforceable undertaking, as an enforceable undertaking is not a magic bullet for all circumstances, we would seek to impose a licence condition on the licensee. More serious consequences would then flow from any subsequent breach of the licence condition, which in the ordinary course would probably reflect in a licence condition what exists in a code provision.

Senator BIRMINGHAM—All of that was on the pretext of being an ordinary broadcaster in the Australian context.

Mr Chapman—Yes.

Senator BIRMINGHAM—How does a satellite broadcaster like al-Manar fit into that context? Are there examples of how you have dealt with such broadcasters for any breaches of the code?

Ms O’Loughlin—There haven’t really been. When al-Manar was last looked at back in 2004, when it was provided by TARBS, the service was voluntarily ceased by TARBS. I do not have at my fingertips any other examples. But, if there also were something carried forward by the Federal Court, we would also seek the cooperation of the local satellite provider in addressing the issue.

Mr Chapman—So that limited experience in dealing with other areas is why I gave you an insight into what typically happens in the commercial broadcasting environment. I was not seeking to avoid your question; I was just trying to give you a feel for the way in which we would go about it ordinarily.

Senator BIRMINGHAM—But those types of undertakings and so on are unlikely to succeed with a satellite broadcaster based out of another country.

Mr Chapman—That is a very good example of where an enforceable undertaking would be just a totally inappropriate approach and a licence condition would be far more direct. You then still have the question of subsequent enforceability issues, but I think it is a good example of where a licence condition being opposed, as opposed to an enforceable undertaking, would be a more appropriate remedy.

Ms O'Loughlin—I think also there is application to the Federal Court. We are not alone in looking at trying to enforce Australian law with overseas providers, but issues such as enforcing court orders through the Federal Court would also be something that we could pursue.

Senator BIRMINGHAM—So, in light of this occasion and review and the heightened community awareness resulting from it, does the ACMA feel that there is a need to review the terms of the standard at all, particularly given the list of countries, which Senator Abetz mentioned before, that seem to have found they have provisions that allow them to ban the broadcast of this network that is in some way linked to Hezbollah?

Mr Chapman—Speaking on behalf of the authority and as chairman of the authority, I would have to say that we are not minded at the moment to review the standard. We still do not have any formal specific complaints with respect to either a breach of the standards or any vilification material. But what I was trying to indicate to you earlier was that we are going to be conducting further investigations. There are always lessons learned, and I have indicated to senators that the next investigation will almost inevitably be more broadly based than the one that we did the last time.

Senator BIRMINGHAM—It is very welcome, indeed, Mr Chapman, that the next investigation will be more broadly based. Can it be expected over the course of this financial year?

Mr Chapman—I think that is a fair time frame, yes.

Senator ABETZ—Thank you, Senator Birmingham. You have exhausted most of what I would have asked, but I have five quick areas. Can you confirm for us—you have taken this on notice—that these broadcasts do go into the east coast of Australia, including Melbourne and Sydney?

Mr Chapman—We will certainly take that on notice.

Senator ABETZ—Please take that on notice, given certain events especially in those cities or areas. Just to confirm: you do set your own standards, but you are currently reviewing them. Is that right?

Mr Chapman—No. We set the standards as a result of a process of consultation with the community—

Senator ABETZ—Yes, but you said—

Mr Chapman—but, in response to Senator Birmingham's question, I indicated that we were not currently considering revising or amending the current standard, which goes to the

two legs, being the recruiting and the fundraising. So we are not currently revising that standard.

Senator ABETZ—What are you reviewing then?

Mr Chapman—At any time we can open an investigation into material. I have indicated to Senator Birmingham that we will be having further investigations into the sort of material that al-Manar is broadcasting, with respect to both an assessment against our standards and with respect to other matters that are in the code.

Senator BIRMINGHAM—Just for the sake of rounding off there as well: you will look, of course, at the aspects of the code and the aspects of the standards. In terms of the cumulative impact of that and the consciousness of the need to potentially present a case to the Federal Court, which you indicated would be a possible outcome if you were to seek to ban the broadcast of al-Manar, will you also be looking at the adequacy of the definition of those standards? Will you conduct a review of those perhaps after you have undertaken further assessment such that you find that, in the opinion of the authority, the content and conduct of this station is reprehensible and is inappropriate for Australian television but that your definitions are too tight to be able to act under those definitions?

Mr Chapman—Not only the definitions but the construct and the intent that sits behind. I think that is a fair proposition. We are the sort of organisation that prides itself on staying current and relevant and, if post the next investigation we find serious matters that are not addressed by the standards, we would definitely have a look at amending them in the light of what we discover. I just want to reiterate that we have not had one complaint directly to us proffering information or content that we concluded breached the standards or the vilification provisions of the code.

Senator ABETZ—But you can pursue matters of your own volition?

Mr Chapman—We can, yes.

Senator ABETZ—So you do not need a complaint to act?

Mr Chapman—No, we do not.

Ms O'Loughlin—But, in some respects, it points us more precisely to the areas of concern. This is a service that is on the air 24 hours a day, seven days a week. We did nine days, which was a quite large commitment for us to do. Complaints can be very beneficial for us in pointing us precisely to the day, the time and the content that is of most concern to people.

Senator ABETZ—Were all the programs reviewed in-depth?

Senator Conroy—Senator Abetz, perhaps I could add to that. I have received some specific material, which I am in the process of forwarding to ACMA, highlighting the sort of information that Ms O'Loughlin is asking for.

Senator ABETZ—Do not sit on it too long.

Senator Conroy—I am not sitting on it, Senator Abetz. The individuals who supplied me with this information also have the capacity to forward it on to the organisation as well.

Senator ABETZ—But, having made the complaint to the minister, I dare say they may be anticipating that the minister will act on it. But can I ask: were all the programs during that nine-day period reviewed in-depth, with detailed translations?

Ms O'Loughlin—It might be best if I take that on notice because there was a variety of ways in which we handled the content over the nine days. It was easy to make an assessment of some of it in that we did not have to go any further because of its type or style of programming, such as with a video clip, as opposed to a current affairs program, where we looked at the full transcript. I would like to take that on notice to give you the full information.

Senator ABETZ—We have been told that there was a review of nine days for 24 hours a day, which would be 216 hours worth of broadcasting. It would just be interesting to know how many hours were subjected to a detailed translation. The information that I have is that only two programs or two shows were looked at in-depth. So perhaps you could—

Ms O'Loughlin—I certainly do not believe that is the case, but I am happy to take that on notice and give you full details.

Senator ABETZ—In that case, I will refer you to an article by Bren Carlill that was published on page 12 of the *Australian* dated Tuesday, 11 August 2009. In this article, Bren Carlill makes that assertion publicly. It is interesting that, as I understand it, you have not responded to that assertion publicly.

Mr Chapman—Just on that, there were a number of articles in the press at that time and, in our view, they had many inaccuracies in them. I did indeed write to the editors of some of those newspapers, although I cannot recall which ones. But I do not want you to have the impression that we sat there and blithely just accepted that.

Senator ABETZ—I stand corrected on that; that is fair enough. Is Mr Bren Carlill also wrong when he asserts that, if you google al-Manar—of course, as part of its programming, al-Manar promotes itself—and go to its website, you will find numerous examples of gross anti-Semitism, which contravenes Australia's various racial hatred laws? Potentially, the TV programming might be the honey that attracts viewers. Then they say, 'Let's find out more about this show,' then go on to the net, do a Google search and get all this hate material against Israel, which is gross anti-Semitism et cetera. Given those sorts of linkages, shouldn't that be alerting you possibly to having the standard adjusted? So if somebody provides a facade of decent broadcasting but behind it there is a web of racial vilification and terrorism et cetera that is something that would exercise your mind—that people are not unwittingly brought along the track only to find that which would, in fact, offend against the laws and standards?

Mr Chapman—I understand the proposition. I am just trying to cast my mind back to whether in recent times we have done an investigation where, by association, we have picked up material that was not in the broadcast itself—for example, by going to the net as a result of a lead in a program. There is not one that immediately comes to mind, but I understand the proposition.

Senator ABETZ—You might think al-Manar is broadcasting well or whatever or you might see one show on al-Manar and then think, 'I wonder what else they broadcast.' Rather

than sitting there for 24 hours a day, seven days a week, to find out what they broadcast, some people might Google them to find out what their programming might be. In doing that, they then would stumble across all the other material to which Mr Carlill refers in his article. I would just alert you to that for your future investigations because I think that is a very important factor. Can I gratuitously encourage you to review your standards and take into account what other comparable countries such as France, the European Union, Germany, the United States and Canada have done in relation to al-Manar. One would imagine that, if it were offensive to Canadian sensibilities—I dare say that, out of that list, they potentially would be the closest to us—chances are that it would offend the broad values and sensibilities of Australians as well. I will just leave that with you. Thank you.

Mr Chapman—Thank you, Senator.

Senator LUDLAM—I will start with the minister, if that is all right. On the last occasion that we spoke to ACMA, Minister, you indicated that you were considering a bit of an overhaul of the way that material gets on to the ACMA black list—maybe ‘overhaul’ is putting it a bit strongly, but I am sure that you will correct me—with some kind of independent oversight of the list that would perhaps catch how a website gets onto or off the list, review processes and so on. Can you update us as to your thinking in those matters, please.

Senator Conroy—Yes. Thank you for the question. The exciting news, I am sure you will agree, is that over the weekend my department received the Enex report. I have not had the chance to read and consider it yet. We are preparing a paper on these matters which is to be released probably at about the same time. As I have said, I actually have not read the Enex report yet, but we hope to be able to release both the report and a discussion paper around what is an improved mechanism, with some other transparencies and accountabilities. I look forward to your contribution on that, Senator Ludlam.

Senator LUDLAM—Great. On the last occasion I asked you about this in question time, you thought the report was close to conclusion. Now it has come to you—

Senator Conroy—Yes. As I have said, I have not had a chance to read it yet. It arrived on the weekend.

Senator LUDLAM—Have you begun work on a discussion paper?

Senator Conroy—No. The discussion paper is anticipated. It anticipated the arrival. It has a number of ideas and options. It is not quite finalised yet but it is close to finalisation, so hopefully you will be able to see it soon.

Senator LUDLAM—I presume that you have not been working on your discussion paper in the complete absence of any material at all from the test laboratory. Has it been issuing interim reports?

Senator Conroy—No. I think I indicated to you at the last estimates that there were a range of options that we might consider.

Senator LUDLAM—Yes.

Senator Conroy—As I say, it is not finalised, but we have been able to contemplate and anticipate it sufficiently to prepare a document that would allow some discussion around what the best mechanism would be if we were to go down this path.

Senator LUDLAM—So you have seen some interim findings or whatnot from the laboratory?

Senator Conroy—As I have said, no.

Senator LUDLAM—Not yet.

Senator Conroy—I do not believe there was an interim report. I am not sure whether the point you are trying to make is that an accountability paper has to be dependent on the trial.

Senator LUDLAM—No.

Senator Conroy—I thought that was the implication from what you said, but I would not want to put words in your mouth.

Senator LUDLAM—No, I am not making that point. You have said all along that the government intends this to be evidence based policy and that you have been awaiting the results of the trial, so I just wonder how much work you have been able to do in the absence of anything from Enx Testlab.

Senator Conroy—As I have said, considering the accountability measures internally is not contingent on having received the report. We have been able to anticipate improved accountability and transparency measures in the absence of the report.

Senator LUDLAM—I understand that. Can you just confirm for us—then I will move on—that you intend to release an unedited version of the Enx report as it stands and, side by side with that, a response?

Senator Conroy—Yes. We will be releasing the Enx version, as received, in full.

Senator LUDLAM—Can you give us a rough idea of the timing? Are we talking weeks or months?

Senator Conroy—I would like to release it as soon as is practicable, but there are a range of considerations. But I will attempt to release it as soon as I am able to.

Senator LUDLAM—Just a rough idea—weeks, months or years?

Senator Conroy—This is not an attempt to be cute about not releasing it. Perhaps I can just make this point: I am not trying to get out of releasing it, I assure you; I am going to release it, as I said I would release it.

Senator Birmingham interjecting—

Senator Conroy—There are processes of government that have to be gone through and I do not absolutely control all of them, but I will be attempting to release it as soon as possible.

Senator BIRMINGHAM—I am curious. I assume that the report itself is not waiting to go to cabinet, is it?

Senator Conroy—No, it is not a cabinet document.

Senator BIRMINGHAM—I did not think so.

Senator Conroy—As I have said, I would like the opportunity to read it and I hope to release it shortly.

Senator BIRMINGHAM—When did you receive it?

Senator Conroy—Over the weekend. I have not read it yet. I am told that it arrived on the weekend. As I have said, I have not seen it yet.

Senator BIRMINGHAM—It came to the department over the weekend?

Senator Conroy—Yes.

Senator BIRMINGHAM—Outside of the department and your reading it and preparing some type of response to the obvious comments and questions that will come from it—

Senator Conroy—There is the question of the response. No-one would be surprised if we wanted to have a response.

Senator BIRMINGHAM—At least—even if that response is, ‘Well, we’re still formulating no response.’

Senator Conroy—I would hope that the response would be a little more meaningful than that.

Senator BIRMINGHAM—So would we, but I think, equally, Senator Ludlam hopes that the report is released in a timely manner.

Senator Conroy—I would hope to surprise Senator Ludlam. I am always an optimist in life, Senator Ludlam, as you know, so I would hope to surprise both you and Senator Birmingham.

Senator LUDLAM—You have mentioned a discussion paper. Presumably, you hope to provoke some discussion. What sort of comment period do you have in mind?

Senator Conroy—I have not made a final decision on that, but a month would not seem unreasonable. I am sure that there will be a lot of interest in it. It may be longer than that; do not hold me to the month. It would be unreasonable if it were something like two weeks; I think that would be an unreasonable proposition.

Senator LUDLAM—Given the interest that this one has provoked, I think you are quite right.

Senator Conroy—As I have said, I am not seeking to limit commentary on that by a shortened time frame.

Senator LUDLAM—It will not be released on New Year’s Eve or anything like that?

Senator Conroy—I think a public consultation on the website for four weeks would be a reasonable comment period.

Senator LUDLAM—It is probably a very good start.

Senator Conroy—Thank you. As I have said, I am trying to surprise you, Senator Ludlam.

Senator LUDLAM—I am open to being surprised on this one, for sure. I just want to change tack a little bit.

Senator Conroy—Do we still need ACMA?

Senator LUDLAM—Yes, we do. I am going to stay with ACMA. I just want to talk briefly about NetAlert, the program that was discontinued. I gather ACMA is no longer distributing the black list that NetAlert was based on. Is that correct?

Ms O'Loughlin—We are still distributing the black list of URLs that we have found to be prohibited content.

Senator LUDLAM—Can you update the status of NetAlert? I understand it has been discontinued, but those filters would be supported until 30 June 2010.

Ms O'Loughlin—Just to be clear, the NetAlert filter program, the Protecting Australian Families Online filter program, is a matter for the department; it is not a matter for the ACMA.

Senator LUDLAM—Do you play any role at all?

Ms O'Loughlin—Not in the provision of those filters. Our role is the development of the list of URLs of prohibited content, the so-called ACMA black list, which is still being distributed to family-friendly filter providers.

Senator LUDLAM—That is an entirely separate question to what may or may not have happened to NetAlert. So there is no relationship, at all, between those two?

Ms O'Loughlin—That is right.

Senator LUDLAM—Are you able to tell us where you are in the process of reviewing? I understand that the ACMA black list is basically triggered by public feedback where people refer material to you and then you evaluate and decide whether it should or should not go on that. Are you engaged in any process of scaling up that work? For example, are you anticipating a larger number of referrals?

Ms O'Loughlin—The level of online complaints that come to us will ebb and flow. We are quite well prepared for any increase in numbers. We have recently launched our Cybersafety website. It has a referral button on it. We were expecting that to increase complaints to us. Generally the level of public discussion around the capacity for people to complain to the ACMA about internet content has seen our numbers rise a bit. I think we are well placed to deal with the level of complaints that we currently have and we anticipate that they may go up a little more.

Senator LUDLAM—I am aware of one of the proposals for filtering that has been under discussion or under review. The minister let us know last time or the time before that they were looking at the ability to block a list of up to 10,000 websites, which presupposes a much larger number of referrals.

Senator Conroy—That is the technical capacity.

Senator LUDLAM—I am aware of that. Are you seeing the need for a large expansion of personnel to cover that?

Ms O'Loughlin—The 10,000 related to the trial. That is a matter for the department.

Senator LUDLAM—Can you provide for us, either here or on notice, a current breakdown of the material that is on the black list, as you have done in the past?

Ms O'Loughlin—I can provide that to you now. As at 30 September there were 1,175 URLs on the black list. Fifty-four per cent of those were URLs where we had found prohibited content at the refused classification level. Of that 54 per cent, approximately 33 per cent was child sexual abuse material.

Senator LUDLAM—Was it one-third of the RC?

Ms O'Loughlin—It was one-third of the 54 per cent, yes. Forty-one per cent was X18+ and five per cent was R18+, which was commercial product where there was no appropriate restricted access system in place.

Senator LUDLAM—Thank you for that. The proportions have remained roughly the same. There has been a slight increase since the last batch of figures that you have taken.

Ms O'Loughlin—They have remained around the same. There is always a bit of movement in them, but they are reasonably consistent.

Senator LUDLAM—I will leave that there. You will probably need to provide this on notice to us, but I am wondering whether you can provide us with a figure in 2009 dollars of the total amount that ACMA has spent since 1999—in the last 10 years—on internet content regulation.

Ms O'Loughlin—I would have to take that on notice.

Senator LUDLAM—I am presuming those figures would exist. Is that a discrete category of expenditure?

Ms O'Loughlin—No. I do not believe we received any additional funds. I stand corrected. We did get some original funds when the online content scheme came in back in 2000, but we would have to go through each of our budget figures for the last nine years to give you that figure.

Senator LUDLAM—If you are able to do that.

Mr Chapman—By way of clarification, are you looking at the dollars that we have expended on staff or education?

Senator LUDLAM—No, not the education side. I would like the content side and more around maintenance of the black list.

Ms O'Loughlin—So the actual classification of material that has come to us and the procedures in place for the distribution of the black list?

Senator LUDLAM—That is right. We are trying to benchmark what that is costing the taxpayer relative to the services that are provided by the private sector, for example, in providing filtering software.

Mr Chapman—Yes, okay.

Senator LUDLAM—I do not know whether you will be able to help me with this. My question is around the R18+ classification of games, which is a category that currently does not exist in Australia. Does ACMA have any role in the classification of computer games that are proposed to be imported or released in Australia?

Ms O'Loughlin—The classification framework is set through the National Classification Scheme, which is the responsibility of the Attorney-General with his state colleagues. Our role is limited to investigating any material that comes to us where we would find it in breach of schedule 7 of the Broadcasting Services Act.

Senator LUDLAM—Can you just remind me what schedule 7 refers to?

Ms O'Loughlin—Schedule 7 is where we look at what is prohibited content. That is Refused Classification R18+ and X18+.

Senator LUDLAM—Do you have a role in evaluating whether that material should be distributed in Australia?

Ms O'Loughlin—Not pre-emptively; it is only if a complaint comes to us after the fact.

Senator LUDLAM—I understand. Is there a distinction that should be drawn between games that are distributed on CD or DVD as opposed to those that can be accessed online, and can you describe for me ACMA's role in evaluating each of those?

Ms O'Loughlin—I might need to take some advice. That is probably something that falls under the National Classification Scheme and is probably best directed to the Attorney-General's Department in terms of policy.

Senator LUDLAM—No, not policy but actual operational role.

Ms O'Loughlin—We would look at whether a URL was able to be assessed as being prohibited content under our rules. Our rules go to online content and do not go to CDs. It is about online content.

Senator LUDLAM—Minister, I will put this to you unless you refer me to the Attorney-General. Are there any processes of review underway currently within the government to evaluate the introduction of an R18+ category of games?

Senator Conroy—I understand, from memory, that the states attorneys-general meeting is considering this. It is certainly something that is worthwhile for them to consider. We are currently considering the interaction between the lack of consistent classification processes for gaming material. This is something that we are considering in light of the filter. I think it is a reasonable argument to say that there is the interaction between the games online, because they do not have the same process of classification as does other material, and that there is a reasonable and valid issue that has been raised that we are considering at the moment. It is under policy consideration at the moment. SCAG, as it is delicately known, recommended a public consultation on the issue of an R18+ classification for games at its April meeting.

Senator LUDLAM—The forthcoming meeting?

Senator Conroy—It recommended it at its last meeting in April.

Senator LUDLAM—This is a bit of a cross-portfolio question. Can you describe your involvement or the involvement of your department in those discussions, or should I take this to the Attorney-General?

Senator Conroy—I am happy to call up anyone in the room who can handle that now or we can come back to it. I am sure we will be revisiting filtering a little bit later with the department.

Senator LUDLAM—I was planning on doing that.

Senator Conroy—I am happy to deal with it then.

Senator LUDLAM—We can move on if you like. Thank you for your answers.

CHAIR—I have Senators Wortley, Macdonald and Lundy. I am conscious that we need to move along. Senator Wortley.

Senator WORTLEY—I think this is the appropriate place. I would like to raise the issue of cybersafety.

Mr Chapman—We have a series of programs underway in the general area of cybersafety. Which particular one did you have in mind?

Senator WORTLEY—I am interested in the issue of cyberbullying. I understand that there was a survey commissioned by ACMA of 800 parents and children accessing the internet. One of the results of that survey indicated that 19 per cent of 16- to 17-year-olds had experienced cyberbullying. I also understand that internationally that figure is between one in three and one in four children and/or teenagers on the internet, in particular with the social networking pages, where they experience cyberbullying. That may be via the mobile telephone or any of the other avenues available to them, like Facebook and so on.

Can you tell me what the most recent figures are in relation to the issue of cyberbullying and how important is it? Obviously, with the announcements made by ACMA for the launches and programs initiated by ACMA over the last 18 months it appears to be of significant concern. I would like to know about the extent of cyberbullying and also about the programs that ACMA has in place to address this issue.

Mr Chapman—We have made enormous inroads in the whole area of cybersafety. Indeed, we have multiple programs. I am very proud of the work that the ACMA has done in consultation with the department and a number of other organisations at the encouragement of the minister. The area of cyberbullying, in particular, is one where we have recently released a terrific set of resources and materials. I might ask Ms O'Loughlin to go into the specifics of that, because it is a first-class resource.

Senator WORTLEY—I am familiar with the Let's Fight It Together program. I would like to know about the resources available to schools, also training of teachers, how significant the issue of cyberbullying actually is and the amount of resources that have obviously been dedicated to addressing this issue.

Ms O'Loughlin—I can address part of that and then I will call on Ms Wright, who is the executive manager responsible for cybersafety, to draw out some further detail for you. The most recent research, which was done by Edith Cowan University, tells us that between seven and 10 per cent of young people have experienced cyberbullying in Australia. You are quite right that in some countries the incidence of that, particularly in areas like the US, has been measured as high as 50 per cent. But, while it is not as severe a problem in terms of numbers as it is in other countries, we still believe that it is an immensely damaging activity that can really affect young people and we have focused quite a lot of our resources and attention in our cybersafety programs towards cyberbullying over recent months.

Over the last four months we have introduced about six major new activities. Those include the launch of our new Cybersmart website, which includes quite comprehensive material on cyberbullying. It provides a one-stop shop for cybersafety advice for parents and young people, with advice, tips and information. We are very pleased with the response to that website. We have had over 120,000 unique visitors to it since its launch. We have taken the approach of promoting it through the work we are doing with schools, through the linkages that are being provided through the private sector, with organisations like Telstra, Google and MySpace, and also linkages through non-government organisations who are really at the coalface of dealing with these issues, such as the Alannah and Madeline Foundation and Bravehearts. We have linked through to those organisations to make sure that we raise visibility of the website.

We have included on that website an online helpline so that young people who are experiencing issues can go directly online to a trained counsellor, through our partnership with Kids Helpline, which is a free service for young people. We think that is a really important part of the program on dealing with cyberbullying, particularly when young people may not feel comfortable with perhaps talking to their parent or a peer. They have somebody to talk to online. In January this year we expanded our program to introduce a professional development program for educators. Since January almost 2,500 teachers have participated in those workshops and we have approximately 410 registered to attend offsite workshops. To date another 117 schools have registered for the online workshops.

We also do our internet safety awareness presentations, which are designed for parents, teachers and students, and over the last 18 months we have gone to approximately 55,000 people with those presentations. Those presentations have been refocused to make sure that the information in them includes quite a lot on cyberbullying to make sure it is up to date and is really dealing with the matter. A new program is the cybersafety program for student teachers in training. We piloted that last month with 650 Australian Catholic university students and we are hoping to roll that out over the coming months. I might refer you to Ms Wright because there are probably some specific cyberbullying programs that started together which might be of interest to you.

Ms Wright—As Ms O’Loughlin has said, we have a range of core resources that deal with cyberbullying. In fact, virtually every program we offer deals with cyberbullying. She has extensively outlined the website and outreach program resources; however we thought more was needed. Over the past two months we have launched two particularly exciting programs. One is for primary school children and one is for secondary school children. These were programs that had some pedigree as relevant and award winning internationally. However, what we wanted to do was to work with their original providers and to customise them for Australian school situations and Australian students. The one for primary school aged children is called Hector’s World. There is a series of cybersafety programs around Hector. He is called Hector the Protector. He is a blue-nosed dolphin. He has a series of other sea characters that are very appealing to primary school aged children.

In August we launched this new Hector module on cyberbullying to a class of six-year-olds in Sydney who worked through the module in front of us. We saw them engage with the program. One of them said to us, ‘Up until now this is the best thing in my world.’ Another

one said, 'I like Hector's world because it's funny.' This is something that we have a strong commitment to. When children are enjoying an experience they learn. That resource is targeted around their age group, making it fun, but it has some key messages. It encourages young children to tell an adult if they have experienced cyberbullying behaviour and it also gets them to focus on the fact that they can delete messages and they can support other children who are being bullied. This is also supported by a comprehensive set of lesson plans and classroom activities for young children. We understand that teachers are very busy people. They do not have time to manufacture their own resources or even to look very far for them, which is one of the reasons as to our new website. We drive information through the website and outreach presentations, our professional development type training for teachers and our teachers in training initiatives, so that they will be aware of this program.

For secondary school students we launched a very comprehensive kit: a DVD, a CD and information brochures that supported them with lesson plans again. With Let's Fight It Together we felt we needed to come in, if you like, at a different level. We think the DVD is a very powerful experience. It focuses on a young person who is bullied who does not know where the bullying is coming from and tries various ways to resist it but is worn down and in the end makes a video blog which he then provides to an adult to show what he has been going through. In fact, we worked with Australian schoolchildren to ask them whether their experiences were similar, what strategies they used and what would resonate with them. That material is also included in the program.

We found that it was very important to customise the program to take account of relevant laws in Australia but, most importantly, to match the requirements to our national statements of learning for ICT. It resonated very much with me when one young child in a secondary school said, 'I do not think parents understand cyberbullying as much as we would because it is a new kind of media and it is very much our generation. I think it would be good for them to see the video because then they get to see the kids' perspective.' I think that, for some time, there was a view that cyberbullying probably was not as potentially harmful to young people's lives as real-world bullying, but I think these resources make it much clearer that the bullying can happen 24/7. You do not go home to a private space any more. It can follow you home. The pressure can stay. It can come through your mobile phone. It can come through your computer. It can come from all sorts of directions.

Senator WORTLEY—Obviously a significant amount of resources have gone into addressing the issue of cyberbullying. Do you have information about the real life consequences of ongoing and severe cyberbullying?

Ms O'Loughlin—I do not have it with me at the moment but I think the Edith Cowan report drew out some of those quite severe consequences of cyberbullying. As Ms Wright said, bullying has been a concern particularly in school environments for many years, and schools have worked quite actively to deal with it. The difference with cyberbullying is that it is relentless. It is 24/7 and it is very damaging. It has that effect of children not being able to escape it. I think we hear over and over again just how damaging that can be to a young person if they feel that they are trapped and cannot get away from it. We can certainly provide some additional information and point you to some research in that area.

Senator IAN MACDONALD—I am sorry I did not give you notice about this, but SweetFM, which is the community radio station in my area, had a letter from ACMA back on 10 July, saying:

ACMA has almost finalised plans for the news radio services—

and thanks for fixing up Townsville at long last after 18 years—

and can now give priority to other broadcasting proposals. Please be aware that ACMA has currently over 50 requests for variation to LAPs on its current work plan, hence the need to confirm your previous request. Will you let us know by 10 August?

They dutifully did that by 10 August and have not, as they say, got the courtesy of so much as a response to that. I guess you will have to take on notice the detail of that particular application, but can you just tell me: are you having staff resourcing difficulties in dealing with these applications for variation of LAPs?

Mr Chapman—I am going to ask Mr Tanner to address that.

Mr Tanner—There is quite a demand for LAP variations, and they can take a while. The key factor is going to be, I guess, the overall priority but also whether or not the group is able to assist—

Senator IAN MACDONALD—I am having trouble hearing you. Could you speak into the microphone—a bit closer?

Mr Tanner—I am sorry. I am going to have to take that question on notice, but, yes, there is an outstanding list of requests for LAP variations. In general, in situations where groups are able to do their own engineering, that can speed things up. Where changes proposed are uncontroversial and have no implications for other groups, that can be a factor which goes to speed, but I really do not have any information about this particular case to hand.

Senator IAN MACDONALD—Please take that on notice; I said that. But my question was: do you have resource difficulties in dealing with these? You said in your letter to SweetFM that you have been flat out doing news radio services and now that that is finished you can give priority to other things, but it is some time since this letter of 10 July and they have heard nothing further back from you. So your clerical section is obviously snowed under and whatever needs to be done in engineering has not been done. I am no engineer, but it does not seem to be a particularly difficult thing. The question really is: how are your resources?

Mr Tanner—I believe our resources are adequate. As I think we indicated in the letter, we have been giving priority for some time to news radio. We had an enormous job to get through. We have now more or less finished that job and we are turning to the backlog with other licence area planning requests.

Senator IAN MACDONALD—Here is your chance to say, ‘We are snowed under and we need extra resources’, if that is the case. I do not want to put words in your mouth, but I am sure that the government would be very interested if you were snowed under, which this little experience I have in my own local area seems to suggest you might be.

Mr Tanner—I would actually like to make the somewhat bolder suggestion that I think in the medium term we can see a shift of priority towards digital and new media, such as digital radio. But for now, licence area planning, which is how we improve and correct problems

with analog facilities, remains very important. But we do have to make decisions about priorities. We do have a backlog to deal with and we do have quite a number of requests that we are working through.

Senator IAN MACDONALD—Are your resources okay? I am surprised you did not cut in and say, ‘No, we could really do with double the staff.’

Mr Chapman—I am listening.

Senator BIRMINGHAM—The right minister is not at the table.

Senator IAN MACDONALD—I am sure Senator Conroy reads the *Hansard* avidly.

Mr Chapman—Any organisation would take additional financial resources, and clearly we are no different. The technical skills required in this area are a constant balancing act. They are not overly readily available in this country, and there are competing interests and competing demands for those resources. Mr Tanner has an enormous portfolio and we do constantly prioritise and reprioritise. You just heard Mr Tanner give you an example of having swung from one area to another. We tend to try to get some group efficiencies. It is not something where I would be crying from the rafters that we are short of resources. We have finite technical skills and we are just working our way through them—not batching it, but we are tending to do—

Senator IAN MACDONALD—Could you give this application a closer look? The difficulty is that we are approaching the cyclone season and the flood season in the lower Burdekin area. This is the local radio station. They have a very, very important role to play during disaster and emergency events. I am no technical buff—quite the opposite—but it does seem to me to be not a particularly onerous task. I am told that the spectrum—or whatever is needed—is available, so I wonder if you perhaps could have a look at it and let me know. But perhaps, more importantly, do not waste resources on letting me know if you can use the resources to get out and fix up their problem.

Mr Tanner—I can do all that.

Senator LUNDY—ACMA released its revised Children’s Television Standards on 1 September, and I understand the new standards introduced some new restrictions on the use of characters and celebrities in advertising during children’s television programs. Can ACMA explain what these restrictions are and what the effect is.

Ms O’Loughlin—In terms of the use of popular characters, promotional endorsement of commercial products and services by popular characters and personalities will no longer be permitted during C and P programs. That is because our research and the evidence put before us found that children are particularly vulnerable to that form of advertising where you have a popular personality or character endorsing a product. That expands on the existing arrangements where all advertising is banned during P programming. There are a small number of exemptions that we made to that provision which are really around toys. We found that it was very difficult where a character is inherently an aspect of many toys to actually extend that prohibition to toys, so we have given an exemption there.

For example, that will allow Bob the Builder to promote Bob the Builder toys and games in C programming time but it would not allow Bob the Builder to be used for the promotion of

other products such as a food product. We think that has struck a balance between recognising the particular vulnerability of children to advertising by popular characters and a pragmatic approach to dealing with things like toys.

Senator LUNDY—Thank you for that. I think it is an important area of policy. Can you update the committee on what developments have taken place within the industry code. For example, I know Free TV have made some efforts in the past—or claim to have made some efforts in the past—to tighten up their code of practice with respect to advertising targeting children. I am happy for you to take that on notice but I am interested to hear about any progress in that regard as well.

Ms O'Loughlin—I think the authority has particularly welcomed some recent initiatives by the industry, through the Australian Food and Grocery Council, which has taken the initiative as to advertising to children along with the quick service restaurant industry initiative. Each of those is an initiative by the industry itself to voluntarily restrict its advertising to children. When the authority released the revised CTS, it indicated that it would be monitoring those new initiatives carefully over the next 12 months to see the impact. I am happy to take on notice the detail of those particular initiatives for you.

Senator LUNDY—If you could, and could you also provide to the committee correspondence relating to those undertakings or progress made by the Food and Grocery Council and indeed Free TV.

Ms O'Loughlin—Certainly.

Senator LUNDY—In relation to the package of measures announced by ACMA back in May to protect mobile telephone customers, can you outline the progress that has been made in relation to that package of measures.

Ms O'Loughlin—I think we have made very good progress since the introduction and the announcement of that package. Probably most encouraging to us is the fact that the complaints in relation to mobile premium services continue to decline. Level 1 complaints recorded by the Telecommunications Industry Ombudsman around mobile premium services have fallen from a peak of 3,573 in July 2008 to the latest figure that we have, which is 984 in September 2009, which we think is a significant and very encouraging drop. Importantly, we saw that drop start around the time we started looking at this issue more carefully and talking to industry about the code, but we have also seen a substantial drop even in the months that the code has been in place.

The code came into place on 1 July. It is to be formally reviewed after 12 months of operation. The ACMA do not regard compliance with that mobile premium services code as optional. We believe that those obligations are binding on the industry and we have a comprehensive audit program underway on the progress the industry is making on compliance with the code. In addition to those audits our program involves shadow shopping surveys and analysing complaints data to identify systemic and recurring problems.

The initial audit that we did on advertising obligations in the code has generated 14 formal investigations by the authority and which are underway. We have also released a consultation paper on the implementation of a barring capability for mobile premium services. That

requires that, from 1 July 2010, industry will need to provide a capacity so consumers can bar access to mobile premium services.

Senator LUNDY—Does that mean that you can set your phone in advance not to participate, not to call and not to receive any numbers of those premium mobile services?

Ms O'Loughlin—There are two options that we have teased out in the consultation paper. One is an opt-out option—which is what you are describing—so that people can talk to their carrier about not receiving those services. There is also an opt-in option that we included in the consultation paper where the industry would have to bar all access to mobile premium services and you would only be provided with those services if you chose and identified to your carrier that you wanted to opt in.

Senator LUNDY—Just for the sake of completeness, can you describe to the committee the sorts of premium mobile services that we are talking about.

Ms O'Loughlin—Predominantly ringtones. They tend to be of most concern to—

Senator LUNDY—Basically, really expensive mobile services that you do not always know—

Ms O'Loughlin—The concern generally has been from consumers that, until the introduction of these new provisions, they have not known that they were subscribing to services. They are expensive services that all of a sudden they have a subscription to that they do not understand and that they have had huge difficulties in opting out of. They are the types of issues that we are trying to address.

The other area that we have been very active in is to do with the provisions under the Spam Act which also cover, of course, mobile premium services. Since May we have issued nine infringement notices under the Spam Act which were worth more than \$350,000, relating to those services. We have also issued two formal warnings and have accepted two enforceable undertakings in relation to such services and we currently have one matter before the courts.

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

Ms O'Loughlin—Certainly. I do not think there are any impediments to me doing so. We will certainly provide that on notice.

Senator EGGLESTON—Does internet financial fraud come under your umbrella? There is a huge increase in the number of emails coming in from international sources seeking details of people's financial accounts which has led, in many cases, to people finding that their accounts have been robbed through a transfer of funds after they have given details of their accounts. I can put these questions on notice. I just want to establish if it is your area.

Ms Cahill—Financial fraud is a criminal matter, so it is not directly captured by the role of the ACMA. However, when we are alerted to these scam emails and approaches we do firstly put out a warning through our own websites and also related websites within the Commonwealth and state. We also of course highlight these to the relevant policing authorities.

Senator EGGLESTON—It is happening very much within Parliament House. Lots of people are finding that they get two or three of these every day. While you say it is a criminal matter, and you obviously deal with the Federal Police, is there any way of coordinating the process of trying to identify from where these emails are coming and blocking them?

Ms Cahill—Part of our role would also be, where we see these issues as spam, to work through our Seoul-Melbourne MOU, which is an international agreement, to highlight whether it concerns overseas. At the moment approximately 90 per cent of spam originates outside of Australia, so we very much work through those international agreements. At this point our roles go towards working collaboratively with people exchanging information and highlighting those areas. We have those roles across government and we work internationally.

Senator EGGLESTON—It just seems to me that there is a greater increase in the incidence of this. I just wonder what additional measures the ACMA or the government might take to deal with it.

Ms Cahill—The e-security group initiatives are significant initiatives for a whole-of-government approach. Part of the role the ACMA has in those goes to issues associated with for instance, the AISI, which is a software tool that actually alerts internet service providers to potentially infected botnet and network issues, so we work very, very closely on those matters. In terms of our role we are also very keen on educating members of the community as well as industry about their obligations. We are finding that there is an awful lot more community awareness of the risks inherent in the exchange of information on the net, and that is actually where we are putting a lot of our effort. We do work very closely, though, with A-G's, who actually have the whole-of-government e-security agenda.

Mr Cheah—The A-G's Department also does work on identity issues in particular so there is a crossover here between e-security and identity issues, which I think is the particular focus you are concerned about. I would suggest one of the things you might want to do is talk with them about the work that they are doing there. In a sense I think they have got the central role in coordinating the Commonwealth's approach to the kinds of matters you are talking about.

CHAIR—Thank you very much for appearing before the committee this afternoon.

Proceedings suspended from 6.08 pm to 7.07 pm

CHAIR—We will resume proceedings. I understand Mr Quigley has to go. Is that right?

Senator Conroy—He has an engagement first thing in the morning and he is unable to get a flight tonight so he has to drive back to Sydney.

CHAIR—We will attempt to facilitate an early exit.

Senator Conroy—Senator Minchin, unfortunately you were not here when I corrected the record. If you remember, the amount of money we talked about was \$2.4 billion, and how much went into bat. All \$2.4 billion went into bat. My apologies. I corrected that earlier, but unfortunately I think your press release had already gone out.

Senator MINCHIN—Yes, okay. Your apology is noted.

Senator Conroy—That was my fault. If anyone draws that to your attention you can blame me.

Senator MINCHIN—Thank you, Minister.

CHAIR—Who is leading off with a question? Senator Fielding.

Senator FIELDING—Mr Quigley, how many staff are there already on board? I saw a report in the *Financial Review* the other day. You may have covered this already.

Senator Conroy—Yes.

Senator FIELDING—When is the decision being made on where the head office is—or has it been made by default? Is it going to be in Sydney, with the amount of staff you already have in Sydney?

Mr Quigley—No, it is certainly not being made by default. It will be made by the board in due course, but we are a little way away from that at this point. We are in fact just hiring staff and we are employing them where we find them, and the board will make a decision on a potential headquarters in due course. We are not at that point yet.

Senator FIELDING—How many staff are there on board and where are they based?

Mr Quigley—As of mid last week we had 13 employees and 25 people on contract. They are spread between Melbourne, Canberra and Sydney.

Senator FIELDING—Do you have the break-up? You must know that, because there are not that many.

Mr Quigley—I do not have the exact break-up here, but I think probably at this point there are a large number in Sydney.

Senator FIELDING—Could you provide that break-up to the committee?

Mr Quigley—Yes, I think we can.

Senator FIELDING—What is the process you are going to be using to select where the head office will be?

Mr Quigley—That is really a matter for the board, but it will obviously be looking at where the disposition of staff will be. We are also having discussions with some of the state governments which are keen to see us in their state.

Senator FIELDING—When do you expect the decision to be made?

Mr Quigley—Within the next few months, I would suspect.

Senator FIELDING—What factors will you be using to help guide that decision?

Mr Quigley—Generally, we would look at the demographics of those inside the company at the moment and we would look at the outcomes of the discussions with the state governments.

Senator FIELDING—Are you aware that research has been done on the where the head offices of major companies are? It is normally in the home state, where they come from themselves. You are based in Sydney at the moment; is it highly likely that the head office will be in Sydney?

Mr Quigley—I certainly would not draw that conclusion. Travelling between Sydney and other capitals, frankly, would be relatively trivial compared with the job I was previously in,

where I commuted between Paris, France and Dallas, Texas every couple of weeks for four years.

Senator FIELDING—Why are the bulk of the staff in Sydney at the moment and not Melbourne, for example?

Senator MINCHIN—Adelaide, for example?

Senator Conroy—It should be Hobart!

Mr Quigley—It was not by design. We simply relied on a number of search firms. They turned up people in various places. We selected what we believed were the best people for the positions we were looking for and that is where they happened to be. For example, the CTO we have just appointed is from Melbourne, we have some technical people in Canberra and we have some other folks in Sydney.

Senator FIELDING—From what I understand, above 50 per cent and close to 60 per cent of the contractors on board so far are Sydney based.

Mr Quigley—We have only 13 employees at this time so I would not draw any conclusions from 13, but the larger number of people will be related around a network operation centre and labs. There has been no decision made on that front at this point.

Senator FIELDING—What are the in-house staff numbers expected to reach, say, with the core or head office of NBN Co.? What numbers are you expecting?

Mr Quigley—I am not, frankly, expecting any particular numbers at this point. We are still in the planning phase and we will expect to have people in various locations. I would be very surprised if we did not end up with a substantial number of folks in Melbourne and a substantial number of folks in Sydney.

Senator FIELDING—Let me ask the question another way. How many people do you expect to have after one year, two years, three years—or your time frame? You must have some idea what numbers you expect to have in the head office of NBN Co. You must have some expectation of staff numbers.

Mr Quigley—I think, obviously, as we get further down the track—if I disregard the folks who will be involved in the build process, who will be all over the place—I do not expect there will be one single location where the rest of the staff will be. They will be spread out.

Senator FIELDING—Let us start the other way around. Do you expect to have a head office for NBN Co.?

Mr Quigley—I expect there will be a place where the company is registered, and it is registered at the moment.

Senator FIELDING—Most companies have a head office. This is going to be very interesting with you, I think, over the next couple of years. It could be interesting.

Mr Quigley—I do not want to give the wrong impression about what a head office is. A head office will not be necessarily where even the bulk of the staff will be. The largest number of people will be associated with operations, NOCs, and integration labs.

Senator FIELDING—Let us go back to the question. How many staff do you expect to be in the NBN head office in your time frame? You must have a feeling. I understand that the bulk of the staff will be out there building.

Mr Quigley—Within a few years I would expect maybe a thousand.

Senator FIELDING—A thousand staff.

Mr Quigley—As I said, that is still in the planning phase. I hesitate to name a number simply because we do not yet know where the distribution of staff will be. We have not made decisions on where network operation centres and integration labs will be, and that is where the bulk of the people will be.

Senator FIELDING—Has the location of the head office for any other major telecommunications players had any influence at all on the decision?

Mr Quigley—I would be surprised if the board did not consider that. It is important, I think, to be able to have close contacts with other players, perhaps vendors or other potential customers, but I do not think these days that is a big issue.

Senator FIELDING—Which state governments have approached you so far? Or should I say which state governments have not?

Mr Quigley—We have not had approaches from some of the more far-flung states, but we have had approaches from at least three state governments.

Senator FIELDING—Which three?

Mr Quigley—Victoria, New South Wales and Queensland.

Senator FIELDING—I will leave it there, thank you.

Senator MINCHIN—Perhaps this committee could receive an assurance that the board's decision will not be influenced by the unseemly overtures of various state governments trying to outbid each other to attract you. Could we have that assurance, Minister?

Senator Conroy—I do not think we can give you that, frankly. Those state governments, as I understand it—and I have not seen their bid documents—have put in some very substantive bid offers for the board to consider.

Senator MINCHIN—So you are able to be bought, Minister?

Senator Conroy—Some would suggest I could be, but I am confident Mr Quigley cannot be.

Senator MINCHIN—Thank you.

CHAIR—Thank you, Senator Fielding. Senator Parry.

Senator PARRY—Maybe I could put a plug in early for Tasmania!

CHAIR—Good luck.

Senator PARRY—That is where it is starting.

Senator Conroy—That is where it started.

Senator PARRY—That is very good. That has led beautifully into my questions. I want to go to Tasmania, where it has started. What is the time frame for the first three rollouts of Scottsdale, Smithton and Midway Point?

Mr Quigley—I believe, as the minister has suggested, we will be turning services up there by the middle of next year—by mid-July.

Senator PARRY—Out of curiosity more than anything else, why were those three towns chosen—one in the electorate of Bass, one in Braddon and one in Lyons?

Senator Conroy—It may come as a surprise to you, but I am not familiar with which electorates they are in.

Senator PARRY—It is a surprise!

Senator Conroy—They were recommended to us by Aurora as places that could meet criteria for a fast start.

Senator PARRY—So there were some criteria?

Senator Conroy—As I said, these were recommendations to us—that we could do these three towns. It was not like we had any, from recollection, substantive discussions with Aurora about it.

Senator PARRY—So from mid-July next year those three towns should be operational. What is the time frame for the rest of Tasmania, in particular Hobart, Launceston, Burnie and the greater north-west? I am happy for any of these to be taken on notice.

Senator Conroy—Tas NBN Co. board is having a meeting today where it may consider some of those issues, but at this stage we are awaiting more preparatory work by Tas NBN Co. board.

Mr Quigley—Yes, and also the overall design.

Senator PARRY—No.

Mr Quigley—The overall design of the—

Senator PARRY—Do you anticipate completing Tasmania before the rest of the nation has any commencement?

Senator Conroy—I think we indicated it will take between four and five years to do the 200,000 homes in Tasmania, and the total project is usually described as an eight-year project. By definition that would mean that we would complete Tasmania before we finish the nation.

Senator PARRY—Is the intention to connect all of Tasmania?

Senator Conroy—200,000 homes; that is what we announced.

Senator PARRY—That will take you four years?

Senator Conroy—No. I said between four and five years.

Senator PARRY—What percentage of optical fibre will be overhead in Tasmania and what percentage will be underground? If you do not know any of these I am happy to accept them on notice.

Mr Quigley—I am not sure that we have a final answer to that one. It is too early in the planning phase.

Senator PARRY—Do you have a preference about going underground or overhead?

Mr Quigley—It depends area by area on what facilities are available. In this case, obviously, Aurora as a power utility has access to poles, so that is a factor in the long run.

Senator PARRY—So one would tend to think that Aurora may lean towards overhead rather than underground cables?

Senator Conroy—No. Let me be clear about what we have said and what others have said. The government have stated that we want FTTP rollout to be as unobtrusive as possible. We have indicated that we will consult with key stakeholders on the rollout plan, including local governments. It is interesting to note not everyone seems to share Senator Minchin's views about rollout of aerial. Could I draw your attention to evidence given by Mr Allan Garcia, CEO, Local Government Association of Tasmania, last week, I believe, at the Senate select committee. One thing that the councils were half excited about was: 'Do you mean we have a solution that is not going to knock'—allow me to use his word here—'the crap out of our roads and our footpaths? We have just put them all back together after the gas guys came through.' I would not say 'excitement', but there was certainly no concern about the fact that poles and wires were being contemplated as a methodology to enhance distribution. Mr Andrew Connor from Digital Tasmania said:

It is a necessary rollout method to get the rollout happening within a timely period. If streets had to be dug up to lay new conduit or if existing conduit had to be accessed, that might be a very high cost. The aerial cable is a non-preferred option for many. That is because it is slightly more susceptible to disruption by mechanical interference—that is, car crashes, floods and storms, as we seen recently here in Tasmania. But what can be done to ameliorate that potential issue of reliability is ensuring that at least each town and each suburb has more than one backhaul connection in there so, if a town is cut off from one direction, the connection will still come through in the other direction. Whether that be aerial or underground, it will provide a backup to a connection should it fail.

So not everyone in Tasmania is joining in Senator Minchin's campaign to oppose cabling.

Senator PARRY—There is opposition to overhead cabling in Tasmania, and I can speak, as a Tasmanian senator. Recently, you may be aware, we had some severe storms and we were subjected to strong winds, Antarctic and otherwise, that knocked out power connections for up to four days. In some areas we had some severe disruptions, and they were overhead power cables. I just place that on the record—that is, that there be consideration given to having as much underground cabling as possible. You mentioned a consultation, and I will be interested to know from Mr Quigley about that. Has the consultation process been undertaken with the first three communities that I mentioned? Has consultation commenced?

Mr Quigley—That I am not sure.

Senator PARRY—Can that be provided to the committee on notice.

Senator Conroy—What was the question? I might be able to help there.

Senator PARRY—Has consultation commenced with the three communities involved in the rollout process?

Senator Conroy—We will have to get back to you on that one. So that you are clear, we have set up a separate board, Tas NBN Co., which is handling those more on-the-ground details. We are happy to get you that information.

Senator PARRY—Thank you. If that could be provided on notice, that would be good. What is the process for consultation? Is it by going to all householders? Is it by way of letter? Is it by way of just consulting with the local government authority? Do you have any idea of the method to take place?

Senator Conroy—I am not sure that that has been determined at this stage. Mr Quigley might be able to add to that.

Mr Quigley—No, we have not determined that yet.

Senator PARRY—Could that also be taken on notice, if you have that detail. Has the fee structure been set?

Mr Quigley—What do you mean by the ‘fee structure’?

Senator PARRY—Is there a price?

Senator Conroy—You mean the price? No.

Mr Quigley—No.

Senator PARRY—When will that be set?

Mr Quigley—It will be part of the draft undertaking we have to put before the ACCC.

Senator PARRY—Have small business operators and schools been consulted independently of the broad consultation or will they be consulted independently?

Mr Quigley—That one I cannot answer yet, particularly in Tasmania.

Senator Conroy—I am happy to take that on notice.

Senator PARRY—Yes, please take that on notice. It appears, though, that whilst it has commenced there is not really much detail at this point in time.

Senator Conroy—I am not going to allow you to make that bland and bald statement—no pun intended.

Senator PARRY—What has actually happened?

Senator Conroy—Construction of the NBN has commenced. Let us be very clear about that. As much as you are in denial, trenches are being dug, cables are being laid and ducting is being put in place where appropriate.

Senator PARRY—Could you provide on notice what cabling has been undertaken and what trenches have been dug.

Senator Conroy—I am more than happy to do that. In fact, I might even put it in a nice flashy envelope for you, Senator Parry! But let us be clear that the project has commenced, and you can stay in denial or you can accept that the project has actually commenced.

Senator PARRY—I have made no comment. I am just asking what you have done.

Senator MINCHIN—You are very defensive.

Senator Conroy—I am not defensive at all. I am looking forward to sending you the answer!

Senator PARRY—I am looking forward to the bright coloured envelope it comes in! Thank you very much.

Senator Conroy—I will send it in an especially bright coloured envelope!

Senator MINCHIN—Can I just intervene. Pardon my ignorance if I missed it somewhere, but have we had a confirmation of exactly how much the federal government is putting into the—

Senator Conroy—No.

Senator MINCHIN—We have not had that?

Senator Conroy—Not yet.

Senator MINCHIN—So I did not miss anything?

Senator Conroy—No, you did not miss it. That is a matter of ongoing—

Senator MINCHIN—You are working away there, are you?

Senator Conroy—That is a matter of ongoing negotiation. I know that as finance minister you would not have wanted to reveal what your potential envelope was when you were having discussions with any state premier or state instrumentality.

Senator MINCHIN—So you have not yet resolved that matter with the Tasmanian government?

Senator Conroy—No.

Senator MINCHIN—Okay.

Senator BIRMINGHAM—Who is paying for the current three rollouts?

Senator MINCHIN—Yes. How is that being met, if you have not agreed?

Senator Conroy—There is \$37 million committed for the existing rollout.

Senator BIRMINGHAM—\$37 million of Commonwealth funding?

Senator Conroy—Yes.

Senator BIRMINGHAM—Does that cover 100 per cent of the cost?

Senator Conroy—No, it covers a small proportion. It covers the cost of the three towns.

Senator BIRMINGHAM—100 per cent of the three towns?

Senator Conroy—I could not confirm that absolutely. I would have to take that on notice. Aurora has some of its own assets, which may make up some portion of that as it is a joint operation with the Tasmanian government.

Senator PARRY—Which would be the poles, so you will end up going to overhead cabling.

Senator Conroy—There was a photograph of a truck digging trenches.

Senator PARRY—Is that plural or singular—

Senator Conroy—I have no idea. Mr Rudd was not driving the truck. Quite a failure on my part.

Senator MINCHIN—On the funding issue, you have committed 37. We will not know the final figure until you have concluded your negotiations and then you will reveal all. Is there any timeline on that?

Senator Conroy—We are in the process of negotiating what we call a long-form agreement.

Senator MINCHIN—Can we expect it by Christmas?

Senator Conroy—Some of it revolves around the potential savings from tendering. Some of it will not become absolutely clear until after you go to market. You can make an indication of what you think it will cost to get X amount of cabling, but it comes down to that tender process delivering you hopefully a better than you budgeted for outcome on the actual competitive tendering for the cable. To some degree, even once we have signed the long-form agreement the final costs may not actually be able to be judged until after the completion of that tender work.

Senator MINCHIN—I presume the source of that funding, which could be in the hundreds of millions at least—

Senator Conroy—I would expect so.

Senator MINCHIN—That presumably will still be this magic pudding of what is now confirmed as the \$2.4 billion? Is that the source of that?

Senator Conroy—It is not a magic pudding. It is cash that is being expended. It is cash that has been properly appropriated and is being properly distributed by the ministers within their powers. Yes, I would anticipate that that would be one of the sources of funding, given we have not made the commitment yet in terms of the timeframe on it. We are not putting the X amount of dollars in a bank account all up front, so we may not need to draw down on it. You are making an assumption that is not necessarily—

Senator MINCHIN—Its status would be equity, would it not, in the Tas NBN Co.?

Senator Conroy—In normal circumstances, yes.

Senator MINCHIN—The only identified source of this equity is the Building Australia Fund?

Senator Conroy—No. We do not know whether it is the full amount.

Senator MINCHIN—I am wondering where else it could come from.

Senator Conroy—Let us pick a ludicrous figure for the full amount—\$2 billion. That is a totally ludicrous figure. The full amount of that would be over a period of four years. It depends on whether or not another source of funding is being used to equate against what you described as the \$2.4 billion as to whether or not some of that will be from that existing pool of money or a different pool of money. It is a time profile issue as to when the money is needed and being drawn down upon.

Senator MINCHIN—There has to be a source to draw from. You can decide to put it on budget, but at this stage the only equity that we are told will be available is the \$2.4 billion for the whole of the NBN. Tasmania is part of this—

Senator Conroy—That is right; we are constructing the entire NBN with only \$2.4 billion. You are right.

Senator MINCHIN—You are going to borrow the rest or get some sucker to invest in it.

Senator Conroy—We are not going to borrow the rest.

Senator MINCHIN—In terms of government injections of funds—

Senator Conroy—What we have stated repeatedly is that if you work from the \$43 billion figure—and you have heard me say this a number of times, there is a *Lateline* transcript from the night, and a range of times since—and if you work on a fifty-fifty debt to equity ratio, which is just a nominal figure, 50 per cent is funded by debt by the NBN Co. and 50 per cent by equity injection from the government. Let us say that is \$21 billion or \$22 billion. Of the \$22 billion—because the government has indicated that it will keep 51 per cent of that absolutely in its own ownership, equity—\$11 billion of that would be the minimum, if I could use the phrase, government contribution over the eight-year period. The remaining \$10 billion could be owned by somebody who vended in assets or some other funding mechanism.

The worst case scenario, if none of that was to happen, is that the government will be up for the \$22 billion over the eight years. That is the description I used on the night on *Lateline*. I think you were following straight on from me, so I am sure you heard me say it then, as well as a number of other times. When you say that the government has to find the \$43 billion, that is not correct. In a worst case scenario, if no-one expressed an interest and we were forced to go it alone—and we continue to be very pleased with the level of interest in the project—then the \$22 billion would roughly be the Commonwealth's equity exposure.

Senator MINCHIN—The company then has to borrow the rest?

Senator Conroy—Yes.

Senator MINCHIN—So you cannot say you are not exposed.

Senator Conroy—Exposed to equity. I was not trying to be tricky.

Senator MINCHIN—So far in terms of cash at hand or monies available we know only about the \$2.4 billion.

Senator Conroy—At this point in time, yes.

Senator MINCHIN—This comes back to the source of the funds for Tasmania. I accept that it may or may not all come out of that \$2.4 billion.

Senator LUDLAM—We were there the week before last and heard from a group called Digital Tasmania. It is a small business IT consumer group. It told the select committee that 96 per cent of the network's backbone in Tasmania would be via overhead cables. If there are photographs of trenches being dug they are somewhere in the four per cent. Are you able to confirm that?

Senator Conroy—I am happy to be advised by the Tas NBN Co. board, rather than a gentleman who has no understanding of the engineering design that is going—

Senator LUDLAM—He lives there. This is one of the peak IT groups.

Senator Conroy—I said the engineering design that we are undertaking, which we have not finalised yet.

Senator LUDLAM—What is the board telling you, if that is who you are listening to? What are they saying?

Senator Conroy—It is early days in terms of its preparation.

Senator LUDLAM—They are in Tasmania. They have not formulated a strategy for the rest of the country?

Senator Conroy—We are not playing a game. We have made it quite clear that we consider some overhead cabling will be involved. It is not like it is a secret.

Senator LUDLAM—No. I put a 96 per cent figure to you.

Senator Conroy—What was the name of the gentleman?

Senator LUDLAM—It is a group. I do not know if the name is here, although I can fish that out for you. It is a group called Digital Tasmania.

Senator Conroy—I am familiar with it. I just cannot remember the name of the gentleman involved.

Senator LUDLAM—Andrew Connor.

Senator Conroy—I do not think that Mr Connor is on the board of NBN Co., so I am not sure how he makes such a firm assertion.

Senator LUDLAM—You appear to be dismissing it out of hand.

Senator Conroy—No. What I am dismissing out of hand is that he is in a position to know.

Senator LUDLAM—Can we hear from Mr Quigley about what the thinking is on the board of NBN nationally about the amount of the backbone that is going to wind up on poles and the amount that will be underground?

Senator Conroy—Can we get your definition of ‘backbone’, because ‘backbone’ has a particular meaning in a telco sense, which I suspect is not quite what you are using it for?

Senator LUDLAM—Let us start from scratch. Can you tell us your broad thinking around how much of the NBN infrastructure you will be building will be installed overhead and how much underground, or what stage your thinking is at in that area?

Mr Quigley—It is still very preliminary days. Normally when you look at installing infrastructure you need some quite detailed geospatial data, and you cannot make those decisions, frankly, until you do that analysis almost region by region. There are no broad views. There are no percentages that we have preordained. We will look at the options that are available, different types of ducts or otherwise, and make those decisions as we do the detailed engineering planning area by area. There are almost certainly guidelines for various types of technologies to access premises, and you operate within those guidelines, but the

decisions about which particular technology will be based on the geospatial data that you have as you analyse each particular region.

Senator LUDLAM—Obviously a lot of that is going to be guided by what infrastructure already exists, but you have been charged with rolling out infrastructure nearly everywhere that it does not currently exist. I am just wondering whether you have access to reliable costing information about the relative costs of installing cable overhead as opposed to digging new trenches for underground cabling?

Mr Quigley—We are in the process of obtaining some information, both estimates within Australia and also overseas. We do not have the details yet, but we are in the process of gathering it. Of course, our colleagues in the implementation study team are also looking at that data as well.

Senator Conroy—Senator Minchin has actually made a contribution on this publicly, which you may be surprised to hear. He admitted talking to Steve Parsons. In his view, undergrounding is much more expensive; there is no doubt about that.

Senator LUDLAM—It is more expensive in the short term. I do not think there is any dispute there. It is also less prone to being blown over by storms or catching fire and so on. The select committee has been investigating the long-term costs as opposed to the upfront costs, and what your payback periods would need to be over the life of the infrastructure to justify putting it underground. It is going to be an essential service, as much as electricity is. I think there are arguments, in terms of network resilience, for putting a lot of the cabling underground even if it does cost more in the short term. Presumably you are engaging with all of these issues already.

Mr Quigley—Indeed, and we will be building some quite sophisticated models of availability, resilience, robustness and looking at good statistical models.

Senator LUDLAM—I would like to move on from Tasmania.

CHAIR—We have other senators with questions about Tasmania. I will go back to Senator Birmingham.

Senator BIRMINGHAM—I will be very quick on the Tasmanian front. Will the three towns that the minister mentioned be turned on by July? Is that what you said before, Mr Quigley?

Mr Quigley—The services will be turned on by July.

Senator BIRMINGHAM—Will those three towns be operating on a wholesale-only open access regime?

Mr Quigley—The trials that we are doing in Tasmania, which we are working through with Tas NBN Co. and Aurora, are looking at what those particular services are that will be turned on in July.

Senator BIRMINGHAM—That did not sound to me like they were—

Mr Quigley—They will certainly be wholesale services.

Senator BIRMINGHAM—It will certainly be a wholesale service?

Mr Quigley—Yes.

Senator BIRMINGHAM—Open access?

Mr Quigley—Yes. We are having discussions with a number of retail service providers at the moment.

Senator BIRMINGHAM—It will be an open access wholesale service.

Mr Quigley—Yes.

Senator Conroy—As advertised.

Senator BIRMINGHAM—It always pays to double-check these things. Is Tas NBN Co. expected to run at a profit the same as NBN Co.?

Senator Conroy—Tas NBN Co. long term—and I am talking long term—will become part of the overall NBN network. In the short term, while it is establishing, before it has customers, it faces the same constraints as NBN Co. nationally. There will be expenses and in the short term minimal revenue. It depends on the timeframe that you are describing, but Tas NBN Co's operations will be subsumed ultimately into the full NBN Co. It will be running as a national organisation. Tas NBN Co. is there simply to facilitate the speedy rollout in Tasmania, as the Tasmanian government had already put forward its own proposal as part of the RFP process, which you are very familiar with. Your question depends on the timeframe and whether or not it is being fully absorbed into the national operation.

Senator MINCHIN—Just remind me, is Tas NBN Co. a subsidiary?

Senator Conroy—Yes.

Senator MINCHIN—Does NBN Co. nationally have a 50 per cent stake in Tas NBN Co.?

Senator Conroy—At this stage it has a 100 per cent stake.

Senator MINCHIN—It is 100 per cent?

Senator Conroy—Yes.

Senator BIRMINGHAM—In respect of Tasmania, you will give some shares depending on how much they—

Senator Conroy—The question of valuation of assets is always an entertaining discussion between any two parties.

Senator MINCHIN—What is the legal involvement of Aurora?

Senator Conroy—Aurora has some assets and the Tasmanian government has some assets that the discussions revolve around, but I do not want to pre-empt the final discussions around what those valuations are and so on. There is a proper process.

Senator MINCHIN—Is it possible they will take equity in NBN Co. nationally? Is that one possible outcome?

Senator Conroy—They would potentially ultimately end up with whatever the valuation of their assets is in part of the full NBN Co.

Senator MINCHIN—They could take that valuation either as cash or as shares in NBN Co.?

Senator Conroy—I am sure they could negotiate for either of those options.

Senator BIRMINGHAM—In the short to medium term you would expect that Tasmanian government and Aurora will become equity partners in Tas NBN Co.?

Senator Conroy—As I said, we are negotiating with them in what we call the long-form agreement at the moment. Those negotiations have been going on for some time. We negotiated the short-form agreement, which allowed us to commence the rollout that I described before and that Senator Parry knows is happening. We hope to complete the long-form agreements as soon as it is practicable.

Senator BIRMINGHAM—That is specific to Tas NBN Co.?

Senator Conroy—Yes.

Senator BIRMINGHAM—In the long term, with respect to the long-form agreement you would expect that Tas NBN Co. will be subsumed by NBN Co. and they will likely either take—

Senator Conroy—There are specific needs in terms of managing that rollout that are unique to Tasmania. The points that Mr Quigley made about having to ensure that—I am not an engineer so you might want to help me with the technical term—it all works as one network is critical to the success of the Tasmanian operation. I think those points also need to be made.

Senator BIRMINGHAM—Is there a deadline for when negotiations with retail providers are expected to be concluded for the three towns initially?

Mr Quigley—They are ongoing now. We have not set a deadline. We are working to schedule it, as I outlined before. Those discussions are taking place now.

Senator BIRMINGHAM—Out of all the markets in Australia to attempt to build this and expect it to have a high take-up rate and be profitable I would have thought that Tasmania would have been one of the harder ones.

Senator Conroy—You might have waited until there were no Tasmanians in the room before impugning Tasmania in that way.

Senator BIRMINGHAM—The regional diversity of Tasmania—

Senator Conroy—I think the very point you are making is demonstrable proof as to why Tasmania should be first. It has the slowest, worst and most expensive broadband in the country. This is an opportunity that the premier and the state government of Tasmania saw to advance Tasmania from the bottom of the pile to the top of the pile. They had the guts to put in a proposal.

Senator BIRMINGHAM—What is the comparable take-up of ADSL2+ services in towns similar to—

Senator Conroy—Tragically in Tasmania broadband penetration, from recollection, is in the low 30 per cent.

Senator BIRMINGHAM—That is why I asked. It does exist?

Senator Conroy—Broadband take-up in Tasmania is the worst in the country.

Senator BIRMINGHAM—It is going to take a long time for Tasmania to turn a profit, is it not?

Senator Conroy—It will be part of the national network. It will be cross-subsidised in the same way the rest of regional and rural Australia are cross-subsidised. To try to suggest that Tasmania is a standalone project in the way you are is nonsensical. Let me be clear, Andrew Connor from Digital Tasmania, said:

Over time I believe the take-up rate will be equivalent to that of a public switched network at the moment, and that is approaching 98 per cent, because this will be a replacement for that network at some point in the future. Whether that is five years, five plus five or even 20 years it will ultimately be the new platform that we are connected with in Australia.

Mr Darren Alexander, from Tasmanian ICT, was asked and he said:

Yes I do. As I said to you, I think it is very simple. If you look at mobile phones, when they first came out, it was only yuppies who had them. Now the average household has, I think, three or four. I think the noise around uptake will happen eventually. What people are concerned about is the price—how much is it going to cost?

You have two Tasmanians, both involved in ICT, who would very much take issue with your suggestion that because Tasmania has the worst broadband take-up at the moment you should leave it till last, which is exactly the implication.

Senator BIRMINGHAM—I was not suggesting you leave it until last. I am quite happy to note that you said it will be cross-subsidised and that it will be unprofitable for the foreseeable future.

Senator Conroy—Tasmania has the worst, slowest and most expensive broadband in the country and that is the very reason it should be first.

Senator BIRMINGHAM—As you know, through every incarnation of your NBN processes I have sat here and argued that those underserviced areas should be the ones getting priority rather than wasting money elsewhere. I am happy to welcome investment in underserviced areas, but you are also saying all of these things will be profitable. I am pleased that tonight you have conceded that Tasmania will be cross-subsidised for the foreseeable future.

Senator Conroy—There was never a suggestion otherwise, as part of the national network. It was never suggested that it would be otherwise. Same services, same prices. When I said earlier that there would be the same pricing points for the same products on the 90 per cent fibre network, that included Tasmania. Unlike you, I include Tasmania when I talk about 90 per cent of Australians' homes and businesses. You might not, but I do.

Senator BIRMINGHAM—That is the closest we have had to a definition as to where the 90 per cent goes.

Senator LUDLAM—I am about as far from Tassie as it is possible to get, actually. I have just been in the central and western Pilbara in WA visiting some remote Aboriginal communities and some of the regional towns and mining centres out there, some of whom are getting by on dial-up and some who do not have any connection at all. Can you foreshadow for us what your thinking is at this stage? Let us just assume they are going to be well and

truly in the 10 per cent of the country that fibre will not reach. What is your thinking for places like that?

Mr Quigley—If they are too far out to be reached effectively by fibre, the two options of course are fixed wireless of some sort—some technology such as WiMAX—or satellite. We are looking at both of those options and exploring both of those technologies, having discussions with a range of satellite providers and looking at various radio technologies. It will be one of those two technologies that would be used to reach premises such as those.

Senator LUDLAM—I should say for the minister's benefit as well that once we have talked people through what was possible and what was potentially on the horizon people were actually really excited about the possibility. They will use that gear on remote communities in ways that we currently cannot contemplate.

Mr Quigley—Exactly.

Senator LUDLAM—I am looking forward to that equipment getting there. Can you tell us whether it is likely that the network will be rolled in from places like that or whether we will still be rolling it out from the inner cities to meet, presumably, that need for early profitability in the life of the company?

Mr Quigley—I think when it comes to technologies such as satellite—and we will be looking at both paths in parallel, of course, the fibre rollouts and the satellite technologies—as you are probably aware, unless you use existing satellite capacities, new satellite capacities do have a significant lead time. There is not much you can do about that. We are progressing that as fast as we can.

Senator LUDLAM—Are you telling us that there is not really a roll-in or roll-out conversation happening so far on your board that you are going to be doing both at the same time?

Mr Quigley—No, there certainly has not been a roll-in or roll-out discussion.

Senator Conroy—In terms of the 10 per cent, I think Mr Quigley pointed out that on average if you are lucky it takes about three years to put a new satellite up. If we were to make a decision to go down that path—when I say 'if', it is entirely in the hands of Mr Quigley and the board as to the best way to achieve it—there is three-year timeframe. But what are the potential transitional steps to take? They are under consideration at the moment, and as soon as there is anything that we can advance on that I assure you we will be advancing it.

Senator LUDLAM—I did come in halfway through before on a conversation about consultation, which was something that came through very strongly when we were in Hobart the other week; the local government authority there did not really have much of an idea what was going on and did not really seem to have been spoken to. For the moment sticking with Aboriginal communities in some of the remote centres of WA, what is your plan to inform people as to what is coming and when it might arrive?

Senator Conroy—That is probably more of a government question than an NBN one. I am happy for Mr Quigley to update you, if there is anything that NBN has been looking at in this sense. The Tasmanian government did hold a seminar quite recently. I flew down for it. It was

addressed by Professor Larry Smarr, one of the fathers of the internet. It was a two-day conference, but it was just the beginning. In terms of that education process that you are describing, we are engaged with a range of internal discussions at the moment about the best way to promote what this transformation is going to bring to people. We are looking at ways to engage local communities via local councils and local chambers of commerce. We have some money in the budget to appoint some local individuals on the ground in a number of places to be part of that education process, and we will have some announcements later this year I think in terms of that educational process that I think you are all referring to. I think we are well across the fact that people are excited genuinely by the potential, but they would also like to know how they can be involved and how they can help with that education process.

Senator LUDLAM—There is a degree of excitement. There is also a degree of bewilderment and indifference, because a lot of people, even in areas of Tasmania that we heard from in Hobart, have no idea what it is or what they are expected to be able to do with it. For someone who has just been there I suppose I would just like to put in a bid that, if you are looking for some of the most difficult terrain in the country to bring in this infrastructure, similar to why you have started in regional Tasmania, for places like Wiluna and Jigalong and so on, this technology cannot arrive quickly enough.

Senator Conroy—Thank you for that feedback.

Senator MINCHIN—I was interested in an answer you gave to Senator Mark Bishop I think at the NBN select committee in relation to price points and things of that sort. The government is saying that it wants a 100 megabit service available to everybody, but what you will be doing is providing that by wholesale. The question as to whether anybody or everybody gets 100 megabit service offered to them is presumably a decision of the retailer. There may be parts of Australia presumably where retailers may decide that there is no market or insufficient demand or whatever for them to be offering a 100 megabit service as part of their retail offering. Is that possible?

Senator Conroy—Have you abandoned the free market and competition principles?

Senator MINCHIN—Mr Quigley has to drive to Sydney. Why don't you just let him answer the question? Rather than asking me a question, let me Mr Quigley answer my question.

Senator Conroy—Your question is theoretical and goes to the heart of the whole concept of competition policy, which we could spend hours debating.

Senator MINCHIN—It had nothing to do with anything of that. I asked him whether it is possible that in parts of Australia there will be retailers who will not offer 100 megabit services. It is a perfectly sensible question and I think he is capable of answering it without you interfering and asking me questions.

Senator Conroy—I am not sure that it falls into the category that you define as a sensible question. Competition will drive down prices. Competition will be something that—

Senator MINCHIN—Why don't you want to let him answer the question?

Senator Conroy—Mr Quigley can add to the answer but the—

Senator MINCHIN—Now that you have given him guidance on how to answer it.

Senator Conroy—No, the premise of your question is flawed, frankly, and I am surprised. It is actually flawed.

Senator MINCHIN—Pardon my ignorance. I may be really stupid, but you are building a wholesale service so, yes, there may be the capacity in the pipe, but what services are actually offered to people is a matter for retailers who choose to buy a wholesale service from you. And then what customers are offered is a matter for the retailer to decide what products he is going to offer. Is that right?

Senator Conroy—In my experience—and maybe you have got—

Senator MINCHIN—Can't Mr Quigley even answer that question?

Senator Conroy—Mr Quigley can add to the answer any time he likes.

Senator MINCHIN—He is not getting a chance.

Senator Conroy—But usually—

Senator MINCHIN—You keep answering my questions with questions.

Senator Conroy—In my experience, when I open a newspaper where broadband plans are advertised is other than—this is germane to your comments about Tasmania—opening an ad and seeing a statement that says 'Broadband plan'—this speed—this price—asterisk. The asterisk representing 'Tasmania not included' because of the poor quality of their broadband. They have been excluded from national plans. But most of the advertising I see in those leaflets that drop out of every newspaper, driving us all mad on a daily basis, are actually about national plans, which we would suggest that they are going to start writing plans and excluding geographies not for the reason that Tasmania has been excluded, which is the price of the pipe, because there is only player with a pipe across; you are actually suggesting they are going to start writing plans and then say, 'Areas are excluded on the basis of geography because we don't think anyone is interested.' They will issue national plans. It is what they do today in the marketplace.

Senator MINCHIN—I really was asking Mr Quigley this question. I was not asking you to ask me questions—

Senator Conroy—It is nonsensical. Your question is nonsensical.

Senator BIRMINGHAM—I am sure Mr Quigley will provide—

Senator MINCHIN—If Mr Quigley thinks it is nonsensical, I have a thick skin and he can tell me it is nonsensical question.

Senator Conroy—Mr Quigley is far too polite to point out to you how nonsensical your question is. I thought I would save time. I assure you he is far too polite.

Senator MINCHIN—I know you delight in telling me I am nonsensical, but Mr Quigley can do it also.

Senator Conroy—No, he is far too polite.

Senator MINCHIN—If my question is nonsensical I am happy for Mr Quigley to say so.

Senator BIRMINGHAM—He can do so in a polite way if we just let him get on with it.

Mr Quigley—We were providing for 90 per cent of the premises a 100 megabit per second service. That will almost certainly be offered into the retail market in various speeds and qualities of service at given price levels. What the retail service providers then decide to on-sell is up to them. We certainly will not be dictating that to them. We will provide a platform capability. They will then turn that into a retail product of their choice.

Senator MINCHIN—Exactly. So, they may or may not choose to offer a 100 megabit service?

Senator Conroy—Internode offers a 100 megabit service to the home today in the marketplace.

Senator MINCHIN—Why won't you let Mr Quigley answer the questions I ask him? If you are not going to let him answer questions he might as well start driving now.

Senator Conroy—I am sure he would like to but—

Senator MINCHIN—Then stop interrupting him and let him answer the questions.

Senator Conroy—he is too polite. Your question continues to be nonsensical.

Senator MINCHIN—I thought Mr Quigley treated it as a very sensible question and he gave me a sensible answer, much more sensible than yours.

Senator BIRMINGHAM—And shorter.

Senator MINCHIN—Is that right? It is a matter for the retailer what products will be offered to the customer?

Mr Quigley—We offer into the market a range of wholesale products with the maximum rate of up to 100 megabits per second for 90 per cent of premises, and 12 megabits per second for the remainder.

Senator MINCHIN—It is entirely a matter for the retailer. So, it is possible that there will be retailers who will not offer 100 megabits per second?

Senator Conroy—Now you are asking him a hypothetical question.

Senator MINCHIN—You will not let him answer the question himself. This is unbelievable.

Senator Conroy—I would not speculate on—

Senator MINCHIN—You might as well not have come to estimates, because you are not going to be allowed to answer the questions. Incredible!

Senator Conroy—Is that permission for him not to come in future. I am sure he would willingly accept that.

Senator LUNDY—Senator Minchin, you should be careful what invitations you extend not to attend Senate estimates.

Senator MINCHIN—I thanked Mr Quigley for appearing. It is not always all CEOs who do. Again, Senator Conroy will no doubt say this is nonsensical as well but—

Senator Conroy—Does anyone know whether SingTel is listed on the Australian Stock Exchange?

Senator MINCHIN—What?

Senator MINCHIN—Does anyone know whether SingTel is listed on the Australian Stock Exchange?

Senator MINCHIN—That is nonsensical, too. On that, I do not own shares so pardon my ignorance as to whether every company is listed on the stock exchange.

Senator Conroy—I do not own shares either.

Senator MINCHIN—As to the extent of the copper network, the fixed line copper network now extends well beyond 90 per cent; is that right? I think it is 97 per cent or something like that.

Mr Quigley—Yes.

Senator MINCHIN—To the extent that the government achieves one of its objectives, which appears to be that Telstra basically shuts down its network and migrates its customers to the NBN, which is clearly the objective of the legislation, then simple maths tells you if you do go to 90 per cent—and I think there is still a question mark around that—there will be, let us say, seven or eight per cent of Australia which used to have a fixed line service that no longer will. Does that maths stack up? Am I correct or am I way off the mark?

Senator Conroy—You are assuming—

Senator MINCHIN—You will not let him answer the question.

Senator Conroy—I just want some clarification. You are assuming that means we went around and ripped out the eight per cent?

Senator MINCHIN—One of the scenarios painted in your legislation that you have before the parliament in relation to structural separation is basically that Telstra ceases to operate its network and migrates its customers to the NBN. By ceasing to operate its fixed line network—you do not need to hide this—obviously it is much better for the NBN if Telstra is not in competition with it. You have said you think you can compete with it, but obviously by definition it is better if you do not. So that must be one of the desirable outcomes, that they shut down the copper network. Under that scenario—and you can quibble about whether or not it is a likely scenario—there must by definition by seven per cent, eight per cent of Australia that will no longer have a fixed line service.

Senator Conroy—I think you are—

Mr Quigley—I asked Mr Quigley, actually.

Senator Conroy—There is a range of both policy as well as engineering issues involved. Mr Quigley, if you would like to jump in and add anything, but I actually think there is a policy question around USO that goes to the heart of your question, which is why I am just thinking about what you have said.

Senator MINCHIN—It was basically a physical question. If one of the scenarios you paint in your legislation eventuates and the copper network is shut down—and that must be a desirable objective—and you roll out to 90 per cent, if you do get to 90 per cent, then to the extent there is a difference between the reach of the fixed line network now and your new fixed line network there will be a whole bunch of Australians—

Senator Conroy—I think you have misunderstood—

Senator MINCHIN—without a fixed line service.

Senator Conroy—I think you have misunderstood the nature of the speculation that has been in the newspapers. You are asking Mr Quigley to comment on speculation that you may have read in the newspapers and—

Senator MINCHIN—If you do not want to let Mr Quigley answer it, can you answer it?

Senator Conroy—What I think you are referring to is the suggestion that as fibre is installed, to borrow your phrase, the copper network is closed down. By definition, from what you have said the eight per cent you have referred to is not having a piece of fibre installed. Therefore, the copper remains in place. I think there is just a misunderstanding between what is being speculated upon in your mind.

Senator MINCHIN—You are speculating that somebody will continue to operate that copper to that part of Australia?

Senator Conroy—As I said, then you move into USO questions.

Senator MINCHIN—Is it possible that NBN Co. will continue to operate a copper network? USO or no USO, somebody has to operate or be the USO provider. What you are telling me is that if you achieve your objective—

Senator Conroy—Telstra—

Senator MINCHIN—to get Telstra out, if you want Telstra out of wholesale—

Senator Conroy—What you are seeking to do is extrapolate into the 10 per cent, which is not actually what is being suggested. You are actually asking Mr Quigley and me to speculate on the future provider to the 10 per cent of the fixed line network, and that is a hypothetical rather than an actual. As I said, I think there is a misunderstanding about the discussion around the 90 per cent. You are just asking how the build will happen in the 90 per cent and extrapolating it into the 10 per cent.

Senator BIRMINGHAM—It is unlikely that Telstra is about to give up the 90 per cent of its network that is in the most profitable areas and agree to keep the 10 per cent that it clearly costs a somewhat smaller fortune to service.

Senator Conroy—I am not going to speculate on—

Senator MINCHIN—It is not allowed to operate a wholesale network.

Senator Conroy—I am not going to speculate on how we are going to manage the network. I am certainly not going to speculate on potential USO issues. But I am sure all of these will be matters that Telstra will represent to us as part of our discussions.

Senator MINCHIN—But you have said—

Senator Conroy—I am not going to speculate on what the outcome of those discussions are. I do not believe you are trying, as you sometimes do, to draw us into this. I think you are just genuinely asking informational questions.

Senator MINCHIN—I am genuinely interested.

Senator Conroy—I appreciate that. I think what you are referring to goes to a matter of some policy issues as well as some practical engineering issues, which have not been resolved at this point.

Senator MINCHIN—Are you able to give a guarantee to Australians that everybody who gets a fixed line service now will get a fixed line service under the NBN?

Senator Conroy—We will continue to provide Australians, through a variety of policy mechanisms, with a fixed line service.

Senator MINCHIN—That is not the assurance that I asked you to give.

Senator Conroy—That is exactly what I just said to you.

Senator MINCHIN—Can you guarantee that everybody who gets a fixed line service now will get it under the NBN?

Senator Conroy—I think I just said that. I am not trying to be cute, but I think I just said that.

Senator MINCHIN—Just for my sake—and pardon my ignorance—could you—

Senator Conroy—Everyone who receives a fixed line service, through a variety of policy mechanisms, will continue to receive one.

Senator MINCHIN—That is quite a claim you are making, but you have made it and we will hold you to it.

Senator BIRMINGHAM—Has the NBN Co. sought opinions on or valuations of any assets that it might be interested in?

Mr Quigley—We have not at this time, but we would not preclude that possibility if we were to become seriously interested in an acquisition.

Senator BIRMINGHAM—Thank you.

CHAIR—That is all we require from you tonight. Thank you very much for your attendance.

Senator BIRMINGHAM—In response to questions on notice numbers 25 and 26, which asked where the \$43 billion estimated in the end cost came from, the answers were unusually clear. They stated that the \$43 billion was not contained in any reports or recommendations of either the panel of experts or the ACCC. Where did it come from?

Mr Harris—I am afraid I cannot answer that. Perhaps Mr Lyons might be able to assist you with that answer.

Senator Conroy—The figure arose at private cabinet discussions and considerations and I do not propose to reveal cabinet discussions.

Senator BIRMINGHAM—Did you and Minister Tanner have the whiteboard out around the cabinet table and it came out of the cabinet discussions—

Senator Conroy—You can continue to ask us what went on in cabinet. We will continue to give the same answer Senator Minchin has always given which is: we have no intention of revealing what discussions and what advice go on in cabinet.

Senator BIRMINGHAM—For your benefit, knowing that you were not here when I provided the intro to the question, I did ask some specific questions on notice as to whether the panel of experts cited the \$43 billion figure, whether the ACCC cited the \$43 billion figure in any of their reports or recommendations—

Senator Conroy—Who was the second one?

Senator BIRMINGHAM—The ACCC, and the answer to all of the above came back a very pleasant and direct no. I welcome the clarity of those answers and hence the question as to if you had a panel of experts who you have told us previously did in fact recommend going down a fibre-to-the-premise pathway, where did this \$43 billion figure come from?

Senator Conroy—It arose out of cabinet consideration. As I said we are not going to be going into the details of the processes of government.

Senator BIRMINGHAM—Did cabinet have any expert advice to verify this figure?

Senator Conroy—The department had a number of expert advisers in this area so the cabinet had an informed discussion. But you are seriously not going to get far traversing there. I am just saving you some time. If you are going to ask who, what and where, then no!

Senator BIRMINGHAM—Were these employed expert advisers of the department—

Senator Conroy—Where there is a contractual basis for the department to expend funds I am happy to answer the questions. I think I recall our advisers were Gibson Quai. Do not ask me to spell it.

Senator BIRMINGHAM—I am going to ask you who or what Gibson Quai are usually—

Senator Conroy—They are a technical consultant with specialty in this area.

Senator BIRMINGHAM—They are a technical consultant with specialty—

Senator Conroy—You might not ever have heard of them but they are reasonably well known in the profession.

Senator BIRMINGHAM—That is fine. I am pleased to know that somebody has a speciality in the area of building national broadband networks.

Senator Conroy—Rolling out fibre to the home is not an unknown thing. There is a range of sources that you could avail yourself of.

Senator BIRMINGHAM—I am sure I will give some thought to the answer you have given and probably put a few more questions on notice. Speaking of which, in 27 and 28 from last time around I inquired about how many premises are estimated to be covered by the fibre-to-the-home version of the NBN and how many premises are not estimated to be covered by the fibre-to-the-home version of the NBN. In each instance the answer was somewhat less clear than the answer to the previous questions and the answers were identical: ‘The government’s objective is to achieve 90 per cent coverage with the fibre-to-the-premises network with remaining coverage to be delivered through next generation wireless’, et cetera, none of which actually tells me how many premises might actually be covered.

Senator Conroy—I am sure with a calculator you can manage to work out how many premises there are—ABS will be able to tell you—and then do a mathematical calculation on what 90 per cent of the ABS figure is.

Senator BIRMINGHAM—Thank you for that very polite response. I am wondering why the department cannot manage to do that in response to a Senate question placed on notice through a Senate budget estimates process.

Senator Conroy—I think they have given you the answer to your question.

Senator BIRMINGHAM—They have not answered the question at all. They have not come remotely close to answering the question.

Senator Conroy—You might not like the answer but you have received the answer.

Senator BIRMINGHAM—I have received some under the word ‘answer’. It is not actually an answer to the question. There is a very clear difference. The question was, ‘How many premises are estimated to be covered by the fibre-to-the-home version of the NBN?’ You are telling me that is very easy to calculate. If the department has calculated it—which perhaps in coming up with the \$43 billion price tag for connectivity you would have thought they might have—then why is it impossible for the department to give me the answer?

Senator Conroy—All of the information you need to answer that question is available publicly.

Senator BIRMINGHAM—It is quite unsatisfactory for you to sit here and tell us all the information is available publicly and yet your department is giving the most unhelpful of responses to this type of process.

Senator Conroy—The job of the department is not to save you time from doing two entries on a calculator.

Senator BIRMINGHAM—Perhaps you could send us the weblink? Do me a favour and tell me how many premises there are—

Senator Conroy—I am sure the ABS can tell you that very simply.

Senator BIRMINGHAM—No. You give me a source that you will stand by and that way I have got something that we can actually challenge on at future estimates.

Senator Conroy—I am sure the Australian Bureau of Statistics have a website where you can find this information and then you just plug in 90 per cent.

Senator BIRMINGHAM—If I find that and plug in 90 per cent you will stand by that as your figure for connecting households to fibre to the premise.

Senator Conroy—Our commitment is to connect of 90 per cent of Australian homes, small businesses and schools.

Senator BIRMINGHAM—Excellent. I will look forward to the fact that you will stand by whatever ABS figures we—

Senator Conroy—I am not going to let you put words in my mouth. We will do our own calculation and if you have the same number as us and you can manage to work that calculator the same way we can then it may be a coincidence that we have the same figure.

CHAIR—Are there any further questions on output 1.1?

Senator BIRMINGHAM—It would save us a lot of confusion further on if you actually told us what your figure was now rather than obstructing the committee in its work.

Senator MINCHIN—Could I get some clarity on our legislative program with respect to the NBN and related matters? Is it your intent to have the Senate in the four days available to it between now and Christmas—is it four days?

Senator Conroy—Given that the last two weeks are presumably all going to be CPRS, if the opposition decide to filibuster their way through that two weeks that is entirely up to them, but do not ask us to prejudge what your party are going to do to avoid its embarrassment—

Senator MINCHIN—We understand from you that you are assuming that the CPRS will occupy those two weeks.

Senator Conroy—No—

Senator MINCHIN—Let me rephrase it, are you proposing that the Senate deal next week with both the package of legislation to do with Telstra et al and the bill relating to NBN and utilities, the implementation study and utilities? Where is that at?

Senator Conroy—I think they are two different bills—

Senator MINCHIN—Yes, that is what I am saying. There is one bill dealing with provision, the utilities matter with regard to access to information relating to utilities. That is one bill. Then there is this other massive bill that you have brought about. Are you intending to deal with both the—

Senator Conroy—With the cooperation of the Senate all is possible. I appreciate that you are a bit paralysed by your internal problems which have occupied most of your time for the last—

Senator MINCHIN—No, not at all. You are the ones desperate to get your CPRS passed this term, which could well take all of the final two weeks. Because of your insistence on the parliament dealing with that bill it may well take all of those two weeks. That gives you only four days to deal with all the rest of your program. Because of your insistence—

Senator Conroy—We are sensitive about this CPRS bill, aren't we?

Senator MINCHIN—No, you are the ones insisting the parliament deal with it before Copenhagen. If you want to—

Senator Conroy—If you spent more time working on your day job rather than your night job we might be able to get to the—

Senator MINCHIN—I am simply trying to work out the legislative program. Will those two bills, to which I refer, be listed for debate next week? Is that the intent of the government?

Senator Conroy—The info bill has been hanging around for some time, but you have been refusing to give it consideration.

Senator MINCHIN—You have not brought it before us in the Senate.

Senator Conroy—You have put a resolution of the Senate that it cannot come forward.

Senator MINCHIN—No. It is up to you to seek to have the Senate waive that resolution.

Senator Conroy—I am not the manager of government business or opposition business.

Senator MINCHIN—It is your legislative program.

Senator Conroy—My understanding is that it has been introduced in the Senate.

Senator MINCHIN—You want to proceed with it.

Senator Conroy—I cannot. I thought it had. I was surprised that you did not realise that.

Senator MINCHIN—My advice is that it is not listed for next week. Presumably there will be a whole new bill governing the NBN itself and its regulations; is that right?

Senator Conroy—Yes. We have indicated our preference is for that to be tabled in the session before Christmas.

Senator MINCHIN—What about the bill that you promised with respect to greenfield estates that was promised for introduction in the winter session?

Senator Conroy—We are still consulting on it. It may be that it gets tabled next year.

Senator MINCHIN—Is that unlikely?

Senator Conroy—Yes. It is unlikely at this stage. We are still engaged in negotiations, discussions and consultations.

Senator MINCHIN—I would hope so. Thank you.

Senator Conroy—If we can just get you to spend some time on your portfolio rather than—

Senator MINCHIN—If you did not occupy the Senate's time with your bill trying to desperately applaud Mr Rudd's vanity by having him go to Copenhagen with a bill, we would have a lot more time to deal with your legislation. It is your internal problem.

CHAIR—We have 10 minutes left with the department. I now propose that we move to general questions of the department. Senator Lundy.

Senator LUNDY—I would like to ask the minister about the digital economy aspects of the portfolio. What is the current stage of the Future Directions paper consultations and what plans are there in the near future for engaging in consultations around the future directions of the digital economy?

Mr Windeyer—I can offer some observations. The report itself flags at the end one of the most obvious next steps, which is the intention of the government to hold a forum looking at a range of issues around the digital economy. The intention is that that will be held shortly and planning is underway. The paper said:

To assist Australia's research community and commercial sector fully map the applications and business models which will thrive in Australia's high speed future, the government will host a national broadband network realising the vision forum before the end of 2009.

That is probably the most obvious next step, which will be inviting participation and comments from outside government into the future of the digital economy.

Senator LUNDY—What planning has been made already? For example, what type of forum? Will it engage in an interactive way and use the resources of the internet to reach the widest group possible? I am trying to get a feel for how well developed those plans are and the sorts of things that you are thinking of doing.

Mr Windeyer—The planning is underway, but we are still working with government to confirm precise timing. In terms of the way the forum would operate, we are interested in making sure that the forum itself is highly informative to people, as well as cutting edge in terms of use of technology, where possible. They are the sorts of issues that we are investigating which depend, in part, upon available venues and the technology available in the venues. We are looking to see what venues might be able to offer options to take advantage of technology, be it live tweeting type options or use of WiFi networks so that people can participate in an interactive, online way. I cannot confirm what it will look like because it depends on the facilities available in the venue, but that is certainly what we are looking at with the forum.

Senator LUNDY—I am pleased to hear that. There was a Gov 2.0 conference here in Canberra today that successfully used a tweeter wall, as well as live streaming. I think that it makes the conference business that much more accessible if you are able to live stream it out to wider participants.

Mr Windeyer—That is certainly what we are looking at.

Senator LUNDY—I do have other general questions for the department but, given the time, I will probably place them on notice.

CHAIR—Are there further general questions for the department?

Senator BIRMINGHAM—Yes.

CHAIR—Senator Lundy, you can put your questions on notice.

Senator BIRMINGHAM—How many FOI applications has the department handled this year?

Mr Harris—I do not have that statistic with me.

Senator BIRMINGHAM—Can you take that on notice?

Mr Harris—I am happy to provide you with the information.

Senator BIRMINGHAM—Can you also advise us of how many were successful, unsuccessful or partly successful?

Mr Harris—By ‘successful’, are you asking if the information was supplied in full or in part?

Senator BIRMINGHAM—When the information was supplied in full, in part or not at all. What expenditure on legal advice did the department incur in handling the FOI applications?

Mr Harris—I would have thought the numbers were small but, again, I do not have that information with me. I can provide that to you.

Senator BIRMINGHAM—Thank you. How many ABC and SBS board vacancies are coming up?

Senator Conroy—I am happy to take that on notice. If we can get you some information later in the evening then we will.

Senator MINCHIN—What is happening to the legislation that you have on the ABC board?

Senator Conroy—We were hoping to table it by the end of this year.

Senator BIRMINGHAM—I think that is the commitment you gave.

Senator Conroy—Yes. It will be tabled this year. It is not for passing, but it will be tabled.

Senator BIRMINGHAM—I note that Mr Michael Lynch's term on the ABC board expires on 27 March 2009. I have not checked all of the others and have not checked the SBS directors. If it is 2009 then it is this year.

Senator Conroy—We just appointed Mr Lynch.

Senator BIRMINGHAM—I am on the wrong link. I think there is somebody due early next year.

Dr Pelling—That is correct. The ABC has one board appointment. Janet Albrechtsen's term ends on 23 January.

Senator BIRMINGHAM—What process is planned for the appointment to fill Ms Albrechtsen's vacancy?

Dr Pelling—The process will essentially be the same as that which was implemented for the merit selection for the previous years.

Senator BIRMINGHAM—Will the department engage an executive search firm and advertise?

Dr Pelling—Yes.

Senator BIRMINGHAM—Will the same panel convene?

Dr Pelling—Yes.

Senator BIRMINGHAM—Thank you.

CHAIR—We have three minutes left. Does anybody have any questions about 1.2 and 1.3?

Senator MINCHIN—I will put them on notice.

Senator LUNDY—I would like to say that it is unfortunate because I did have a series of questions about programs that I ask questions about at every Senate estimates. With three minutes to go it is obviously unrealistic to even try to embark on that series of questions. I think it is quite indulgent of the opposition to occupy so much of the time. I suppose in a way we used to do it too, but I just wanted to express that because there are a huge number of important things that have been going on that I track. I will organise a briefing for myself and you can all miss out.

CHAIR—The committee agreed to move to the Arts portfolio.

Senator LUNDY—I understand that. I was just complaining about it.

CHAIR—In accordance with the committee's former decision, it being nearly 8.30 we will now move to the Arts portfolios. I would like to thank all the officers of the department for being available today and tonight. We will have a short suspension while we wait for the other department to attend.

[8.33 pm]

ENVIRONMENT, WATER, HERITAGE AND THE ARTS PORTFOLIO

In Attendance

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

Department name Environment, Heritage, Water and the Arts

Executive

Ms Robyn Kruk, Secretary

Mr Peter Burnett, Acting Deputy Secretary

Mr Malcolm Thompson, Deputy Secretary

Dr James Horne, Deputy Secretary

Mr Mark Tucker, Deputy Secretary

Mr Sean Sullivan, Acting First Assistant Secretary

Mr Ross Matthews

Arts Division

Ms Lynn Bean, First Assistant Secretary

Ms Joanne Miller, Acting Assistant Secretary, Arts Development and Training Branch

Mr Paul McInnes, Assistant Secretary, Arts Policy and Access Branch

Australian Film and Television and Radio School

Ms Ann Brown, Director, Corporate and Student Services

Corporate Strategies Division

Mr Malcolm Forbes, First Assistant Secretary

Ms Lily Viertmann, Chief Financial Officer

Culture Division

Ms Sally Basser, First Assistant Secretary

Mr Kim Allen, Assistant Secretary, Collections Branch

Dr Stephen Arnott, Assistant Secretary, Film and Creative Industries Branch

Heritage Division

Mr Cathy Skippington, First Assistant Secretary

Mr Theo Hooy, Assistant Secretary, Historic Heritage Branch

Mr Terry Bailey, Assistant Secretary, Natural and Indigenous Heritage Branch

Dr Greg Terrill, Assistant Secretary, International Heritage and Policy Branch

National Portrait Gallery

Ms Louise Doyle, Acting Director, National Portrait Gallery

Policy Coordination Division

Mr Sean Sullivan, Acting First Assistant Secretary

Ms Claire Howlett, Acting Assistant Secretary, Strategic Advice Branch

Screen Australia

Dr Ruth Harley, Chief Executive Officer

Mr Ross Pearson, Chief Financial Officer

Ms Fiona Cameron, Executive Director, Strategy and Operations

Department of the Environment, Water, Heritage and the Arts

CHAIR—We will resume proceedings and I will read the usual statement. The committee will now commence its examination of the Environment, Water, Heritage and the Arts portfolio. These are supplementary budget estimates and the agencies heard during these estimates are only those which have been nominated by various senators. The Senate has referred to the committee the particulars of proposed expenditure for 2009-10 for the portfolios of Broadband, Communications and the Digital Economy and Environment, Water, Heritage and the Arts, and other related documents. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee has set Friday, 11 December 2009 as the date by which answers to questions on notice are to be returned. Senators are reminded that written questions on notice to those agencies or divisions nominated to appear at this round of supplementary estimates should be provided by close of business this Friday.

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 anybody needs assistance with those rules, the secretariat has copies of them.

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*. 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 into the microphones. Mobile phones should be switched off or silenced.

I welcome Senator the Hon. Stephen Conroy representing the Minister for Environment, Heritage and the Arts, together with portfolio officers. Would you like to make an opening statement?

Senator Conroy—No, thank you.

CHAIR—Ms Kruk, would you like to make an opening statement?

Ms Kruk—I would like to place on the record my thanks to this committee. As you are aware, we have a number of bodies within the administration of this portfolio, and the fact that the committee has before questioning actually identified particular parties that they would like to have before it is much appreciated, given the travel that some of the members would otherwise have to make.

CHAIR—We like to facilitate the process as much as possible, although you might not think that sometimes. I will call agencies in accordance with the circulated program. I now call officers from Screen Australia.

[8.34 pm]

Screen Australia

Senator BIRMINGHAM—Ms Kruk, it is good to see you again. I would like to start with Screen Australia. I understand that you are conducting an inquiry into the movie *Two Fists One Heart*. Is that correct?

Dr Harley—We have had an internal review of it. I would not describe it as an inquiry.

Senator BIRMINGHAM—Is the internal review process a common process following all such investments?

Dr Harley—No. It was an occasion where one board member at a board meeting said, ‘Are there any learnings we can take from this?’ It was a relatively low-level inquiry.

Senator BIRMINGHAM—What was the scope of Screen Australia or the FFC’s investment in that movie?

Dr Harley—I will ask Mr Matthews to answer that question.

Mr Matthews—The budget of the film was about \$8 million and we had a \$4 million investment in it. The balance came from the private sector. It is one of the last of the 10BA projects.

Senator BIRMINGHAM—Who was the distributor of that movie?

Dr Harley—Disney BVI. Which one was it at the time?

Mr Matthews—It was Disney.

Dr Harley—It is the same company.

Senator BIRMINGHAM—I assume Disney are one of the larger distributors?

Dr Harley—They are.

Senator BIRMINGHAM—What was the result of the film? What did it gross?

Mr Matthews—It grossed under \$500,000. It was not regarded, in any respect, as a success.

Senator BIRMINGHAM—An \$8 million film with a \$4 million investment. Ms Harley, you said \$288,000 before we heard from Mr Matthews.

Dr Harley—That is what I guessed. I am not certain if that is correct. I am happy to tell you what the correct number is, but I do not have that figure with me at the moment. Ms Cameron has the figure. It is \$295,000.

Senator BIRMINGHAM—That certainly is right. It obviously was not a success in any terms. When was it released?

Dr Harley—Some time in 2008.

Mr Matthews—It was about the middle of 2008. That does test my memory. Again, I would have to take that on notice and check it out.

Senator BIRMINGHAM—You said some time in late 2008.

Dr Harley—I said late 2008. Mr Matthews said the middle of 2008.

Mr Matthews—We would have to check for you.

Senator BIRMINGHAM—We will work in that time frame. When did it go to the board meeting for discussion about the results of \$295,000 gross?

Dr Harley—It did not because it was an informal question from one board member, so I talked to him about it. This was not an inquiry. It was not a major board issue. One board member asked me if I could get some learnings from it, so I did.

Senator BIRMINGHAM—When did the board member ask you to do so?

Dr Harley—I do not know. I can find out for you. I do not remember the date.

Senator BIRMINGHAM—Was it a month or months after?

Dr Harley—It was probably February or March of this year.

Senator BIRMINGHAM—We are working on the premise that the movie was released some time mid to late last year. It obviously did not have a particularly long stint at the box office, which is fairly clear. Around February or March this year a board member spoke to you. Are these results reported regularly to the board?

Dr Harley—Yes.

Senator BIRMINGHAM—Presumably from what you said, the board simply noted the result and it was a singular board member who spoke to you?

Dr Harley—That is correct.

Senator BIRMINGHAM—Is it unusual for the board to simply note a result of a \$3.7 million loss?

Dr Harley—They always note it and they always comment on it. On this particular occasion this board member said, ‘Is there something we can learn from it?’ Everybody was very disappointed because they had expected a different outcome.

Senator BIRMINGHAM—What were the learnings of that investment?

Dr Harley—It was one of those things where everything went almost right, but ‘almost right’ in the film business is not quite right enough. It is very unforgiving and very competitive. In the end everybody concluded that the film was good, but good is not quite enough to be competitive in this market. The release strategy was good, but good is not quite enough to be competitive in this market. Everybody was very disappointed.

Senator BIRMINGHAM—Is this one of the larger losses for Screen Australia? Obviously Screen Australia has only existed for a short period of time, but is it one of the largest investment losses for Screen Australia and its predecessors in recent times?

Dr Harley—Can I have a shot at rephrasing the question because I think it gets to what you want to say?

Senator BIRMINGHAM—Yes.

Dr Harley—Is it one of the bigger investments and one of the smaller gross box offices, because that is quite different from the return on the investment.

Senator BIRMINGHAM—I will take that point that you are not necessarily out to turn a profit on every investment.

Dr Harley—Correct.

Senator BIRMINGHAM—I understand that.

Dr Harley—It is a sizeable investment and it is a disappointing result. It is not the largest of all investments and it is certainly not the lowest box office.

Senator BIRMINGHAM—In terms of the net difference between the two, how does it compare?

Dr Harley—I would say that it is one of the larger ones. Ms Cameron is looking down the list of grosses and agrees with my statement. It is one of the larger investments and it is one of the more disappointing results. It is not the biggest at either end.

Senator BIRMINGHAM—She is confirming that it is one of the largest investments?

Dr Harley—Larger, but not one of the largest.

Senator BIRMINGHAM—And one of the more disappointing results?

Dr Harley—Yes.

Senator BIRMINGHAM—In terms of the difference between the two?

Dr Harley—She says that it is fairly average. Would you mind if I came back to you with the answer to that question specifically? Off the top of my head I do not know if that is the biggest difference.

Ms Kruk—Are you after what investment Screen Australia did in this particular film and what the loss was? Is that right?

Senator BIRMINGHAM—No. We have clarified that.

Dr Harley—What the gross box office was and what the difference is between the two. I think we can provide two or three years of information on that.

Ms Kruk—If you would like to take it on notice then we will try to get it back to you during the course of this committee or certainly very quickly, if that suits you. I am very conscious of the fact that it comes in a year of some great successes for Screen Australia that probably Dr Harley had before you and was hoping you would ask about.

Dr Harley—It does.

Senator BIRMINGHAM—I know. We did discuss *Samson and Delilah* that collected some major awards the last time we met. I may well have gone there, but I am just working through the list. Indeed, you will be pleased to see that it is actually on my list.

Ms Kruk—Dr Harley, are you taking that on notice?

Dr Harley—Yes.

Senator BIRMINGHAM—To be clear, the detail is the proportion of return to investment.

Dr Harley—Not gross box office.

Mr Pearson—Because they are very different.

Senator BIRMINGHAM—Indeed. I assume out of a gross box office of \$295,000 that Screen Australia probably does not get any return.

Dr Harley—That is almost certainly right.

Senator BIRMINGHAM—The proportion of gross box office to investment.

Dr Harley—We can do that for all titles for two years. What would you like?

Senator BIRMINGHAM—The last couple of years would be fine, just for examples and to be able to see the comparative basis as to what the result of this was.

Senator Conroy—Do you have your calculator ready?

Senator BIRMINGHAM—One of my staff has forwarded a website off the ABS that gives me the number of households, but I am yet to find one that does households and business premises. Let us not bore Ms Kruk and others by being distracted. Dr Harley, you described the outcomes of your internal assessment or consideration of it as showing that things were good in most senses, but not necessarily good enough in any particular sense. What changes, if any, have been instigated as a result of that?

Dr Harley—There have been changes instigated. I would not specifically say they were as a result of that particular incident, but there is a general trend of change. The general trend of change is to be more demanding of scripts before they go into production and to be more collegial with the distributors, to partner with them in a more detailed sense. You will appreciate that Disney does regard itself as very competent indeed in the business.

Senator BIRMINGHAM—I would have expected that they would. I am sure that they were disappointed by the outcome.

Dr Harley—They were.

Senator BIRMINGHAM—We will move along. What was the extent of Screen Australia's investment in *Mao's Last Dancer*?

Dr Harley—The consensus is \$5 million. However, it is \$4 million.

Senator BIRMINGHAM—Out of a production cost of how much?

Dr Harley—It is \$25.8 million.

Senator BIRMINGHAM—This was a significantly lower share of the cost of production than the film we were just talking about. I realise these are generalities, but is this at the lower end of proportionate scale of production costs for a Screen Australia investment?

Dr Harley—I understand that \$5 million is the highest investment.

Senator BIRMINGHAM—Highest dollar amount.

Dr Harley—I only know of one that is higher than the \$28.5 million. So, it is at the very high end of the total budget.

Senator BIRMINGHAM—Do you have any indications as yet as to the gross box office takings for that movie?

Dr Harley—I am glad you asked that question.

Senator BIRMINGHAM—I am happy to—yin and yang.

Dr Harley—It will go over \$9 million tonight. It was \$8.9 million this morning. It is on track for \$12 million to \$14 million, which is a fabulously good result.

Senator BIRMINGHAM—Is that Australian box office?

Dr Harley—Yes, just Australian.

Senator BIRMINGHAM—Are the returns that Screen Australia gets from any investment taken on the basis of Australian box office only or on global box office?

Dr Harley—No. It depends on each individual deal and it would usually be a share of global.

Senator BIRMINGHAM—*Mao's Last Dancer* has, I assume, been released in other markets by now?

Dr Harley—Not that I am aware of. It has been to festivals in other territories, but I do not think it has had cinema release as yet.

Senator BIRMINGHAM—There are plans for that, given its relative success in Australia?

Dr Harley—Yes, there are, but it will depend firstly on selling the film to the other territories. It has had sales to some territories but not all.

Senator BIRMINGHAM—At what point in this instance does Screen Australia start to receive a return? Is it only after all of the other parties have received a return?

Dr Harley—There are two aspects to that question. One of them is, as you suggest, what is the deal or when does our opportunity to participate in the deal take place. I have to say I am not familiar with the deal for *Mao's Last Dancer* but I am sure Ross will be. The other thing is the timing of any such return. So the performance takes place, such as the gross box office here. Then there will be a certain reporting period. Following the reporting period and the deductions that are owed to other investors will be Screen Australia's chance to actually collect some cash.

Senator BIRMINGHAM—With regard to *Samson and Delilah*, which we discussed at the last estimates, how close to finishing up in terms of takings is that and what about the components of the deal that Screen Australia would have had with the producers of *Samson and Delilah*?

Dr Harley—As of this morning, *Samson and Delilah* was just over \$3.1 million in takings from the Australian market, and I do not know what the gross sales figure is. Do either of you?

Mr Matthews—It is very early days.

Dr Harley—We know the budget is \$1.6 million. I do not know the gross sales. I could get back to you and tell you that. I do not know that.

Senator BIRMINGHAM—It is still on screens in Australia?

Dr Harley—Yes, it is.

Senator BIRMINGHAM—So, it is still getting Australian takings to add to that \$3.1 million?

Dr Harley—Yes.

Senator BIRMINGHAM—And it has been distributed in some markets internationally?

Dr Harley—I do not believe it has been distributed internationally as yet.

Mr Matthews—No, it has not. They usually wait until they see the results of the domestic release before they jump in, and it is best to do the deals after the domestic release if the film is performing.

Dr Harley—So it does have some international sales, but following the sales are the releases in the other territories. The figure that I thought you were looking for was the gross sales, and I do not have that immediately.

Senator BIRMINGHAM—When you were talking about the gross figure, that was the gross sales figure that you were making?

Dr Harley—Yes. It is unusual to get returns from the box office in other territories. It does occasionally happen, but it is unusual.

Senator BIRMINGHAM—Are there any other noteworthy or spectacular successes or not so on the radar at present?

Dr Harley—I think in the last year, meaning the last calendar year, there were a number of films about which Australia could be very pleased with their performance in the domestic market. They all went over \$1 million, which is a good figure for an art house film—for a specialist film—and they are *Disgrace*, *Balibo*, *My Year Without Sex*, *Beautiful Kate* and *Mary and Max*. All of those took \$1 million and \$1.5 million in the case of *Beautiful Kate*. *Charlie and Boots* is at about \$3.6 million to \$3.7 million at the moment. It might get to \$4 million.

Senator BIRMINGHAM—Over the past 12 months how many projects has Screen Australia announced funding for or signed letters of intent for?

Dr Harley—Twelve months?

Mr Matthews—I have the figures for 2008-09 and I have the figures for 2009 to present, but I have not got the split.

Senator BIRMINGHAM—That would be fine.

Mr Matthews—Do you want a total across all the genres?

Senator BIRMINGHAM—Yes. Just a headline total would be fine for now.

Mr Matthews—For 2008-09 Screen Australia committed \$64.1 million to 89 new film and television projects, including docs, with a total production value of more than \$212 million. That was for 2008-09. So far this financial year we have committed to 29 projects, for a total production value of \$138 million.

Senator BIRMINGHAM—With a Screen Australia investment of?

Mr Matthews—It is \$29 million, generating \$138 million worth of production.

Senator BIRMINGHAM—There is \$29 million investment in how many projects?

Mr Matthews—In how many projects? Twenty projects.

Senator BIRMINGHAM—Twenty.

Mr Matthews—Yes. Twenty projects across the genres.

Senator BIRMINGHAM—In 2008-09 of the 89 projects that funding was committed for how many came to conclusion or fruition?

Mr Matthews—For the 2008-09 projects?

Senator BIRMINGHAM—Yes.

Mr Matthews—They would all be either concluded or very close to conclusion.

Senator BIRMINGHAM—So none of them had funding committed or announced or had letters of intent signed and did not end up coming to fruition?

Mr Matthews—Only one.

Dr Harley—Yes, there will be some.

Mr Matthews—Only one so far.

Dr Harley—But we did not pay out the money. Sometimes something gets a commitment and then it turns out it cannot raise the rest of its money, and that commitment will then lapse and go back into the pool for other projects. That is not uncommon.

Senator BIRMINGHAM—In those instances—only one, you believe, for the last year—is the producer eligible for the producer's offset?

Dr Harley—Yes. In other words, that fact does not change their eligibility. If they were otherwise eligible, yes.

Senator BIRMINGHAM—The investment is sufficient regardless of whether a product ultimately—

Dr Harley—They are eligible for the offset, but that does not mean that they will be able to raise sufficient money to get the film up without Screen Australia. Maybe they will; maybe they will not.

Senator BIRMINGHAM—In terms of overseas productions that are filmed here, does Screen Australia believe that there are appropriate policies in place around such productions for how they are produced or for benefits that they are or are not eligible for?

Dr Harley—I am not aware that there are any issues around how they are produced. I think we are all very well aware that the Australian dollar is very, very high and that that puts great pressure on the incentives that are in place.

Senator BIRMINGHAM—They receive their 15 per cent tax rebate, do they not?

Dr Harley—Yes.

Senator BIRMINGHAM—Are there any requirements regarding the use of postproduction facilities?

Dr Harley—There are no requirements, but to the extent that they spend that is what triggers the level of their rebate. Postproduction by itself has a flaw. Is it \$3 million here or is it \$5 million here?

Mr Matthews—Five.

Dr Harley—It is \$5 million in Australia and it is \$3 million in New Zealand.

Senator BIRMINGHAM—Are you aware of the *Green Lantern* production?

Dr Harley—Yes.

Senator BIRMINGHAM—Can you give me a snapshot on that production in terms of what you are aware of?

Dr Harley—I can, although I am aware that this is something that the department might prefer to comment on. I am not sure. I can just tell you briefly that *Green Lantern* is going to shoot in Louisiana and they are currently prepping in Los Angeles.

Senator BIRMINGHAM—Was it planned originally for it to be shot in Sydney?

Dr Harley—Yes.

Senator BIRMINGHAM—Do you know of any reasons why they have made the move to Louisiana instead of Sydney?

Dr Harley—I believe it is to do with the strength of the Australian dollar.

Ms Kruk—If I may, that is my understanding as well, and I think it was reported as such in the newspaper on the weekend, too, that New South Wales had initially announced that it had been successful in gaining the production. The argument was mooted that it was because of the value of the dollar. Dr Harley may be more familiar with exactly what the economics are and what the tipping point is in relation to the dollar as to when it is less attractive for the United States to produce over here. That is my understanding of it.

Dr Harley—I cannot give an exact tipping point.

Ms Kruk—Louisiana was now reported to have taken on the production.

Mr Tucker—That is right. Our offset schemes are quite generous and comparable by world standards, but clearly currency movement has an impact in terms of where people's costs are for producing movies. As we all know, our currency is very favourable at the moment compared with many others, including the US dollar, and they will take that into account when they are making their decisions about where they will spend.

Senator BIRMINGHAM—Are there any other examples of projects that the department is aware of where the investment decision has changed as a result of the currency movements?

Mr Tucker—That would mainly come through Screen Australia, but obviously we are aware of that one given the current reporting on the circumstances.

Dr Harley—I am not aware of any other title at the moment, but I have seen it happen a lot of times over the period I have been observing this.

Senator BIRMINGHAM—Have Screen Australia anticipated making, or made any, changes to your budget or the expected number of applications of or quality of co-investors, particularly from overseas, as a result of the currency movements?

Dr Harley—Yes. We are absolutely alert to the risks that this presents to producers in how much money they are able to bring to the table, and so we are very watchful for it. We have not made any specific action to address it. We are just watching it.

Senator BIRMINGHAM—Do you have any expectations as to what the likely impact of this will be on local production facilities, skills and abilities in the industry?

Dr Harley—You need to put it into two other contexts to answer the question. One of them is that of course there are very large-scale productions happening in Australia which are Australian generated. I think they are a matter of public record: *Guardians of Ga'hoole* and *Happy Feet*. So production has not dropped. *Green Lantern* has gone away. There are also two quite big offshore projects in town: one of the Narnia films and also *Don't be Afraid of the Dark*. The actual production volume is good, but it is a very different balance of skills. With *Happy Feet* and *Guardians of Ga'hoole* being animations, it is a very large crew but it is that of a physical production film. So there are those changes, but you will not find those if you just look at the gross figures. The gross figures are okay.

Senator BIRMINGHAM—What are the major post-production facilities in Australia?

Dr Harley—Omnilab, Dr D, Cutting Edge. What about 'fire' something?

Mr Matthews—There is something with 'fire' in the title. There is digitalpictures.

Dr Harley—There is deluxe studios.

Mr Matthews—Animal Logic. The Lab. There are a substantial number.

Dr Harley—Quite a lot.

Senator BIRMINGHAM—Do you have any understanding of the current work available to them?

Dr Harley—I do have an understanding that some of those companies are facing a downturn in their work and have a concern about it—not all.

Senator BIRMINGHAM—In terms of major studios in Australia and their operation, is it fair to say Fox Studios is one of the larger capabilities?

Dr Harley—Warner would be pretty large.

Mr Matthews—I would not want to split between them.

Dr Harley—I do not know which is bigger.

Senator BIRMINGHAM—Do you know what scope of work has been undertaken at those two major studios at present?

Dr Harley—No, I do not. I could find out for you, but I do not know that.

Senator BIRMINGHAM—No problems.

Senator LUDLAM—I have a couple of questions that go to the merger of the three agencies that went to create Screen Australia. I am just wondering whether you can tell us some details of how that merger was undertaken, give us just a very quick sketch of a time line, and tell us where you are up to now.

Ms Kruk—Would it be useful if Mr Tucker gave a preamble on that, because some of this probably predates Dr Harley?

Dr Harley—It does predate me.

Ms Kruk—I can feel Mr Tucker biting the bit there.

Senator LUDLAM—I presume most of this is on the public record already, so it can be fairly brief.

Mr Tucker—As a summary, I chaired a steering committee of the three CEOs of the previous three companies to oversee the merger to form Screen Australia. We had an extensive program of work that we did with the head of Film Australia Limited, the head of FFC and the head of the AFC at the time. We worked out a project plan of all the requirements that you would need to merge the three organisations into one. Over, probably, an 18-month period we worked through that in some detail to merge the three agencies. I should put on record that, once a decision was made to form one agency, we received very good help from the agencies and the three CEOs to have a successful agency, the single agency portfolio Screen Australia.

We were very pleased to say on the day that it was to operate as an entity in its own right that there were challenges, but we were confident that we had done everything in our power for it to be able to operate. One of the things that we did know was that we needed to find a chief executive officer for the new agency. The legislation was going through the parliament and, once the legislation was passed, we advertised for a chief executive officer. We are very happy to have recruited Dr Harley in that approach. We had an interim CEO in the meantime who successfully continued the merger of the organisations and put them together in one location, essentially making a new organisation that could operate with its new mandate.

Senator LUDLAM—Do you have figures available as to the number of staff positions that existed in the three organisations compared with the number that exist within Screen Australia? Were there any redundancies that occurred as a result of the merger?

Mr Tucker—I will let Dr Harley answer for Screen Australia, but when the three agencies were brought together there was no loss of positions as of the first day of bringing those agencies together. It is logical that when you put together three HR areas or three finance areas and you are looking to make an efficient agency, there are some services which would not require that number of personnel. I know that since the single agency has been formed, the interim CEO and Dr Harley have been working to make an efficient organisation.

Dr Harley—We started with 190 FTEs and we are at 144 FTEs. There have been a number—I think 41—of voluntary redundancies.

Senator LUDLAM—There were 190 FTEs across all three organisations that existed prior. Has that resulted in net financial savings across the three organisations? Is it possible to quantify that?

Dr Harley—It has resulted in savings and the savings are \$6 million. I would not be certain that that was absolutely all staff cost savings; it would be substantially from staffing.

Senator LUDLAM—Can I confirm that all of those redundancies were voluntary?

Dr Harley—There was one involuntary, but there was attrition as well.

Senator LUDLAM—How do you quantify attrition in this context?

Dr Harley—It is when a person decides to leave.

Senator LUDLAM—What number of resignations occurred through that process?

Dr Harley—We do not have that in front of us, Senator. We would have to get back to you with that.

Senator LUDLAM—All right, I would appreciate that. We will move on from there, but if you can provide us with the breakdown of what occurred and any of the financial savings that have accrued as a result, that would be very helpful. I will skip through some of these and I suspect you may ask to have some of these taken on notice as well. I am wondering whether you could tell us what happened to the remuneration of the senior positions that exist now relative to what would have existed in the three organisations that existed previously?

Dr Harley—I cannot tell you that because I do not know what existed in the previous three organisations. I will have to take that on notice.

Ms Kruk—We can also take that on notice and work on that jointly. To clarify: you are after the management structures that were in place for the three organisations. Is that right?

Senator LUDLAM—That is correct. I am after the management structure and also the remuneration packages that applied. I am looking for a comparative before-and-after picture of the three organisations and the one that exists now.

Dr Harley—One thing I can tell you, Senator, is there are a lot fewer managers.

Senator LUDLAM—There are a lot fewer managers? Okay. I guess those numbers will come out in the wash. Can we go to software costs? I gather there are a couple of different platforms and that would be one of the more difficult things to coordinate between the three organisations as you merged them. You commissioned a number of reports that recommended adopting a Mac platform over a PC. Is that the case?

Dr Harley—I asked my staff to form a view, and their view was Mac. I was concerned that that was not a very close look at the issues. We then commissioned PwC to do a second report. They also recommended Mac. I also took the view that they had not looked at the issues as thoroughly as I would like and I took my own view that we would move to PC.

Senator LUDLAM—Was the first review, the staff review, just anecdotes and talking to people at the coffee machine, or did you commission a study?

Dr Harley—No.

Senator LUDLAM—Sorry, I am not trying to be—

Dr Harley—The IT team wrote a report.

Senator LUDLAM—Are you able to table those two reports—the staff one and the PwC one—for the committee?

Dr Harley—I am sure I am. I cannot see why not.

Senator LUDLAM—You can check that if you need to. Having asked your IT experts within the organisation and an external consultant, on what basis did you form the view that both of those reports should be set aside?

Dr Harley—The staff report was done in a very short time frame, and when I read it I did not think it canvassed the issues fully. It will probably interest you to know that the head of IT has subsequently changed his mind and thinks that the PC platform is the right answer. When

I read the PwC report—and a number of us read it—I thought that, although they had identified the issues, they had not weighted them correctly. One of the things they had put in there as if it were equal to everything else was the fact that three of our current staff are particularly adept at Mac and so we did not have an installed PC talent base, if you like. Of course, that is not a very difficult thing to change. I do not rate that as a very significant problem to overcome.

Senator LUDLAM—Did you undertake any sort of formal cost-benefit analysis or anything to sit next to these figures?

Dr Harley—Yes.

Senator LUDLAM—Would you be able to table that as well please?

Dr Harley—It is in the document.

Senator LUDLAM—Which document?

Dr Harley—The PwC document.

Senator LUDLAM—You said PwC came to the view that the Mac platform was most appropriate.

Dr Harley—They did.

Senator LUDLAM—You then came to a different view. Is there anything that would substantiate that for us?

Dr Harley—Yes, I can write something to substantiate that view.

Senator LUDLAM—But there is not something written at the moment? Otherwise it makes it sound like it was just a view that was formed out of thin air.

Dr Harley—It was not a view formed out of thin air. I spent some months thinking about it. As you rightly observed, it is one of the more difficult issues. In fact, neither study made clear to me until later in the piece that there never was a Mac or PC option; there was a PC option or a mixed Mac-PC option. It was some time before I identified that there never was a pure Mac option, because our finance, HR and record-keeping systems are all PC based. That is one of the difficulties we have because the PC-Mac interface is not smooth.

Senator LUDLAM—Was the chair, Glen Boreham, involved or a party to that decision making?

Dr Harley—No, he was not, but I did ring him and ask if I could use one of his senior staff to help me think through the issues.

Senator LUDLAM—You would be aware obviously that he was the Managing Director of IBM.

Dr Harley—He is still the Managing Director of IBM. Yes, I am aware of that.

Senator LUDLAM—His views directly or indirectly were not important in forming that third opinion?

Dr Harley—That is correct.

Mr Pearson—I was actually leading this project and I did not discuss this matter at all with the chair in coming to our conclusions.

Senator LUDLAM—Being reasonably agnostic, I would be interested to see the rationale that eventually caused you to form that view and whether or not—and you can take this on notice—you ended up with a final cost to the organisation of converting from the Mac platform across to PC.

Mr Pearson—We do have costings, but if I could just add something to assist with your questions. There were three basic considerations that particularly moved our decision. One was a strategic aspect. We had our main corporate applications all running on PC servers and to then run a Mac desktop you would have to have translation software, which is slow, inefficient and costly.

Secondly, we did try to identify other corporate Mac-using organisations but were not able to identify any. Certainly, our main stakeholders such as DEWHA and the Department of Finance all work on a PC basis and we have difficulty at times communicating and file-swapping with them because of the difference in platforms. The other issue is one of risk. We formed the view that we were inevitably heading into a smaller resource base, because Macs are extremely useful for image and data manipulation but not for corporate applications. So the talent pool on which we could call for support would be smaller and smaller, as opposed to having a much wider pool for PC applications.

Senator LUDLAM—I have a couple more questions that I will put on notice. Thank you for your time this evening.

CHAIR—As there are no further questions for Screen Australia, thank you very much for appearing before the committee this evening. We appreciate it.

[9.19 pm]

Australian Film, Television and Radio School

Senator ABETZ—Thank you very much for your forbearance, Chair. How many executives have left the organisation in the past two years?

Ms Browne—I am the Director of Corporate and Student Services and am currently deputising for our CEO. I would like to put on record her inability to attend this evening due to extended sick leave.

Senator ABETZ—Wish her well from us.

Ms Browne—I will do, indeed. Thank you. Just conferring with my colleagues, we believe that three executives have left the organisation.

Senator ABETZ—In the last two years?

Ms Browne—That is correct.

Senator ABETZ—Can you check that. I was told four. Have they been accompanied with relatively large payouts?

Ms Browne—I would have to take that on notice and get back to you.

Senator ABETZ—All right; if you could. Can you tell us the basis of their departure—was it retirement or resignation?

Ms Browne—All of the executive members mentioned predate my involvement with the organisation so we would have to take that information on notice.

Senator ABETZ—All right; if you could please. How much has that cost in payout severance fees and other costs? How many executives are there in the organisation?

Ms Browne—There are eight executives.

Senator ABETZ—So three—although I was told four—would be a relatively high turnover, would it not, in a two-year period?

Ms Browne—I am not sure what the circumstances were that involved the turnover of these executives and whether it was relatively high or in the normal course of change for that organisation.

Ms Kruk—Given that the CEO is not here, this is something that the team may want to take on notice. I must admit that I am not familiar with the terms of the departure, although I am very conscious of the significant organisational changes that the organisation has gone through, which I think have placed it in a very sound position. We are certainly happy to take it on notice. I am just conscious of Sandra's absence here and, in effect, asking officers to postulate what the causes were is somewhat uncomfortable.

Senator ABETZ—I thought it had been taken on notice.

Ms Kruk—Thank you for that, Senator.

Senator ABETZ—I fully accept that. Can you give us a comparison with 2001-03, 2003-05 and 2005-07, if the Australian Film, Television and Radio School has been around for that long? I am not sure how long it has been around for.

Ms Kruk—Indeed it has. We will give you some comparable periods.

Senator ABETZ—Yes. Just some comparable periods would be helpful, the reason that the executives left, how many other staff have resigned over the past two years and whether any reasons have been provided for those resignations. That is it; thank you. Take all that on notice.

Ms Kruk—Thank you for that, Senator.

CHAIR—There being no further questions for the Australian Film, Television and Radio School, thank you very much for coming along this evening for those few questions. We do appreciate your attendance very much.

Proceedings suspended from 9.24 pm to 9.41 pm

CHAIR—We now have officers from the department in relation to program 5.1, Arts and Cultural Development.

Senator BIRMINGHAM—Ms Bean, good to see you. Did I see you on a plane the other day?

Ms Bean—Yes.

Senator BIRMINGHAM—I apologise—I did not say hello. I did not catch you as I climbed off. It was a pleasure to see you, albeit not to speak to you. The Resale Royalty Right for Visual Artists Bill 2009 is not progressing as quickly as I suspect the department imagined.

Ms Bean—The bill is currently before the Senate, so it is a question of Senate scheduling at this stage.

Senator BIRMINGHAM—It has not been listed for debate in the Senate.

CHAIR—It is—for next week.

Senator BIRMINGHAM—Oh, it is for next week—breaking news! Excellent. Is the department expecting that further amendments need to be made to this scheme? Is that a particular reason it may not have been listed prior to now?

Ms Bean—Not to my knowledge.

Senator BIRMINGHAM—So the department has not been—

Ms Kruk—I am not aware of any concerns on that basis.

Ms Bean—There are no further government amendments. I am not aware of whether anyone else is proposing any amendments.

Senator BIRMINGHAM—Has the delay in passage of the scheme created a potential underspend in the program?

Ms Bean—Some money has been rephased—moved forward.

Senator BIRMINGHAM—Moved forward from 2008-09?

Ms Bean—That is correct.

Senator BIRMINGHAM—And possibly even 2009-10?

Ms Bean—It will be a slightly different expenditure pattern.

Senator BIRMINGHAM—The PBS for the 2008-09 budget on page 26 had \$800,000, \$500,000 and \$300,000 for the Resale Royalty Right for Visual Artists Bill implementation. How does the rephased expenditure look?

Ms Bean—It will be \$500,000 in each of the three years, starting with 2009-10.

Senator BIRMINGHAM—Doesn't that mean \$100,000 is lost along the way?

Ms Bean—The 2008-09 appropriation of \$0.75 million will be spread evenly across the three years. So it will be an extra \$0.25 million in each year added to what is already in the forward estimates.

Senator BIRMINGHAM—The administered funds from the 2009-10 budget paper which showed \$750,000, \$250,000, \$250,000 and \$250,000 will now be \$500,000, \$500,000 and \$500,000.

Ms Bean—Yes.

Senator BIRMINGHAM—Presumably \$750,000 was initially budget as a significant start-up cost of some description. You now believe that that can be amortised over an even spread?

Ms Bean—Yes, we do think so, because we will be starting at a different point in the financial year. If the Senate were to pass the bill this session then we actually have half of this year to spend money. What was originally intended to be spread over a 12-month period is in fact compressed because the original intention was to start on 1 July.

Senator BIRMINGHAM—That is okay, Ms Bean. Has the government sought legal advice in relation to the scheme and particularly the constitutional or otherwise implications of section 11 of the bill as to whether the royalty is collected on the first or second resale?

Ms Bean—There was different advice sought through the drafting process.

Senator BIRMINGHAM—Was external legal advice sought at all?

Ms Bean—I think it was, yes. Senator, I am sorry, I am struggling with finding my brief.

Ms Kruk—From recall from the AGS, wasn't it? I stand to be corrected.

Ms Bean—Yes. You will be aware, Senator, that the government has not authorised public servants to disclose at estimates hearings legal advice or the nature of whether legal advice was sought.

Senator BIRMINGHAM—I think that is a slight overstatement of the provisions, Ms Bean. Certainly it is common practice to disclose whether advice was sought.

Senator Conroy—We are certainly not tabling it nor revealing what is in it.

Senator BIRMINGHAM—You are certainly not tabling it, Minister. Would you like to state the public interest grounds on which you are not tabling it?

Senator Conroy—I think there is a longstanding position of all governments, and I am sure that if you consulted with Senator Minchin he would also agree that he never tabled any of his legal advice.

Senator BIRMINGHAM—The Senate of course on 13 May this year did move an order of motion of continuing effect related to such claims.

Senator Conroy—Any time you feel like suspending me from my duties, about now would be good.

Senator BIRMINGHAM—Are we going through one of those sessions again are we, Minister, where—

Senator Conroy—Not in the slightest.

Senator BIRMINGHAM—you are just making a blanket claim that it will not be tabled, you are going to ignore the order of the Senate and will not give any public interest reason as to why such advice will not be tabled.

Senator Conroy—I think that the question of legal advice has been canvassed extensively. I accept your point that legal advice, whether it has been sought or not should be revealed, including costs and those sorts of things, but in terms of actually tabling it, I do not think I plan on being the first minister to table legal advice.

Senator BIRMINGHAM—That is okay. We are not going to use this as the issue on which to argue all night long on how the Senate's order of continuing effects should or should not be adhered to. We will deal with that one later on.

Senator Conroy—You are right. You are entitled to press your question and have a debate in the committee. Then, if you are unhappy with that, you can take it to the floor of the Senate. I think that is the process, Senator Birmingham.

Senator BIRMINGHAM—Thank you, Minister. Ms Bean, if we can return, because I had not got to actually asking what the nature of the advice was or asking to have it tabled as you pre-empted the debate—

Senator Conroy—I know you had not got to asking but I was just pre-empting at the same time.

Senator BIRMINGHAM—Yes, indeed. It was very kind of you, Minister.

Senator Conroy—Always here to help.

Senator BIRMINGHAM—I have pre-empted that there are grounds for argument that this will not be the subject that I want to argue on. Can we confirm advice was sought from the AGS?

Ms Bean—Yes.

Senator BIRMINGHAM—Do we know how much was spent on that advice?

Ms Bean—I do not have the amount in front of me, Senator.

Senator BIRMINGHAM—Could you take that on notice please? Has the department undertaken any additional modelling or costings in relation to this policy since the bill relating to the scheme was introduced?

Ms Bean—I am advised there has been no additional modelling since its introduction.

Senator BIRMINGHAM—Have the tender documents relating to the collecting agency been prepared yet?

Ms Bean—There has been some work done on drafting but they clearly cannot be finalised until the final shape of the bill is known.

Senator BIRMINGHAM—Yes, indeed, but some preparatory work has been undertaken?

Ms Bean—Yes.

Senator BIRMINGHAM—Has it been undertaken internally by the department or, again, have you sought external advice from the AGS or others in that regard?

Ms Bean—As far as I am aware, it has only been internal at this stage. I apologise—I am now advised that we have had some external assistance with drafting.

Senator BIRMINGHAM—Is that ongoing in nature?

Ms Bean—Yes, in the sense that once we know the final shape of the bill we need to get a final tender document and you would want that looked at by the lawyers.

Senator BIRMINGHAM—So, should the bill pass in its current form, you would not say that the tender document is complete, in any event?

Ms Bean—It is pretty close to completion, should it pass in its current form or with the amendments that are proposed.

Senator BIRMINGHAM—Once again, if you could take on notice the costs of that legal advice in relation to the tender documents, that would be helpful.

Ms Bean—Certainly.

Senator BIRMINGHAM—I understand artists have the ability to opt out of the scheme. Is that correct?

Ms Bean—They will, yes.

Senator BIRMINGHAM—What impact on the sustainability of the scheme would significant degrees of opting out incur—that is, of course, that the amount of royalties collected would be diminished significantly.

Ms Bean—That is clearly variable. If a lot of artists that have very valuable works opt out then that will have more effect than not many artists with not many valuable works.

Mr Tucker—Was the question about opting out of the scheme about opting out of the collecting agency running the collection? They cannot opt out of the resale royalty component but they can opt out of the collecting agency acting on their behalf. I just want to make sure that that is exactly what you are talking about.

Senator BIRMINGHAM—I am not professing to be an expert of the scheme, Mr Tucker, so I am happy to accept that it is opting out of the collection agency.

Mr Tucker—I just wanted to make sure that we were not talking at cross purposes.

Senator BIRMINGHAM—That then relates to the financial sustainability of the collection agency.

Mr Tucker—Yes.

Senator BIRMINGHAM—I assume the hypothesis Ms Bean put of it depending on the value of the artists who might opt out of that would depend on that sustainability of the collecting agency. Has any modelling been undertaken on this?

Ms Bean—Not directly on that point.

Senator BIRMINGHAM—Does government expect that funding over and above the currently budgeted \$1.5 million will be required to ensure the scheme can operate?

Ms Bean—I would be speculating—

Senator Conroy—Let's not.

Ms Bean—It should be sufficient. This is start-up money. Clearly, depending on the situation in the budget period prior to the three years ending, we would revisit that.

Senator BIRMINGHAM—I am not an expert on the art industry, but a lot of industries operate in what is variously called an 80-20 arrangement where 80 per cent of the revenue might come from 20 per cent of the businesses. In the art sector, if Australia's top five selling artists opted out, what impact would that have on the collection agency?

Senator Conroy—That is seriously hypothetical. I do not think the officer would be in a position to comment on that at this stage. You are asking, ‘If X happens then what would be the impact on Y?’

Senator BIRMINGHAM—It goes to the financial sustainability and modelling behind the program, Minister, and whether the budget estimates are accurate.

Senator Conroy—Obviously, the government believes its estimates are accurate. If you were to ask, ‘If they all opted out, how would that leave viability?’ it would be equally as valid a question but it would still be a hypothetical scenario that you are asking officers to describe. I am sure you have lots more questions there.

Senator BIRMINGHAM—Without any modelling at all, they are all hypothetical without any clear answers.

Senator Conroy—Senate estimates is about government expenditure.

Senator BIRMINGHAM—Has the government had any indication from artists that they will opt out?

Ms Bean—The prevailing view is that artists will opt in or remain in. I know of one artist who has suggested they may opt out. I am not aware of any others.

Senator BIRMINGHAM—Has that artist given reasons for why they may opt out?

Ms Bean—They certainly wrote to the minister. I cannot remember the contents of that letter in terms of reasoning.

Senator BIRMINGHAM—It is not just you being aware of an artist; they have written to the minister outlining, presumably, their reasons, not just telling the minister they are intending to opt out.

Ms Bean—I cannot remember to be honest. I cannot remember the contents of the letter in terms of whether it describes the reasons or not.

Senator BIRMINGHAM—Okay.

Senator Conroy—But we would not reveal the content of correspondence unless we had the permission of the writer.

Mr Tucker—I might be able to add to that. There was a House of Representatives inquiry into the bill and there were a number of submissions made including by individual artists. It is testing my memory, but, in one of those submissions, they may have put some reasons down. Those submissions are probably on the record.

Senator BIRMINGHAM—Is there a point of participation or non-participation in the scheme or the use of the collecting agency at which the scheme becomes nonviable?

Ms Bean—As I said, Senator, we have not done detailed modelling on that.

Senator Conroy—We can take that on notice. If there is any other further information, we can pass that on to you, Senator Birmingham.

Senator BIRMINGHAM—Thank you, Minister, and thank you, Ms Bean, on that topic. Has the department undertaken any modelling in relation to the impact of lifting restrictions on the parallel importation of books?

Ms Basser—The work is being done by the Productivity Commission and they have taken carriage of the policy responsibility. It is part of the Copyright Act, which is also the responsibility of the Attorney-General's Department. We have not done internal modelling; we have looked at the work that is there in the Productivity Commission's report, which is there on the public record.

Senator BIRMINGHAM—I was not quite clear there: is this department involved in the policy response to the PC report or is that entirely within the arena of the Attorney-General's?

Ms Basser—The response is being handled by the Treasury and the Attorney-General's Department.

Senator BIRMINGHAM—Has the department commissioned any studies or research of its own on the impact of this policy area?

Ms Basser—No, we have not.

Senator BIRMINGHAM—Okay, thank you. How many meetings of the Creative Australia advisory group have been held since we last met in May?

Mr Tucker—Senator, I can answer that question. There has been one more meeting since the last sitting of this committee.

Senator BIRMINGHAM—Where was that held?

Mr Tucker—It was held in Sydney, in the board room of the Australian Film, Television and Radio School.

Senator BIRMINGHAM—The same place that the second one was held in.

Mr Tucker—That is correct.

Senator BIRMINGHAM—Do the members of the advisory group still cover their own costs of travel?

Mr Tucker—They do.

Senator BIRMINGHAM—Are they all appointed on an honorary basis and not remunerated?

Mr Tucker—That is correct; they are not remunerated.

Senator BIRMINGHAM—Okay. I am just confirming my memory there. Have there been any changes to the membership of the group?

Mr Tucker—As you would expect with the membership of the group, not everyone can attend every meeting, so there were certainly some apologies. In one case, Kathy Keele, the chief executive of the Australia Council for the Arts, sat in for James Strong as a proxy, but the membership overall remains the same as the one I informed the committee of before.

Senator BIRMINGHAM—So there has been no change to the permanent membership, and there is just that one proxy?

Mr Tucker—It is still the same, Senator.

Senator BIRMINGHAM—Last time we met, you told us that the group has been asked to provide its views on what the scope of a national culture policy might be, that it is still a work

in process with them and that there will probably be a couple more meetings before it comes into firmer shape. How would you describe the current shape of their views?

Mr Tucker—They are continuing to develop. Minister Peter Garrett chaired the meeting in August in Sydney and explored a number of issues with them. Some research is being conducted by Griffith University, and a couple of the members took the committee through the preliminary findings of that research on investment in art and cultural activities around the world, some of the key messages coming out from looking at other countries and where they are going in this policy space. There was quite a discussion centred around what that might mean for the policy settings in Australia. The minister also talked about what shape might be looked into for a cultural policy for Australia. He asked them to provide further thought on that and to provide him with some more advice.

Senator BIRMINGHAM—Is the Griffith University research commissioned by the department?

Mr Tucker—No, it was commissioned by Griffith University, working, from memory, in conjunction with the Queensland government.

Senator BIRMINGHAM—So this is research that the department, a member of the Creative Australia advisory group or somebody else became aware of and thought it would be useful to get a presentation on?

Mr Tucker—It was. Stepping back a little bit further, the research that the Griffith University group is doing was something that we had in mind ourselves—to do that sort of data collection exercise to inform policy development. When the group was first brought together, one of the things that came out of that first discussion was the fact that Griffith University was conducting this work. So, in some ways, it may have saved us some money. They are doing a piece of work that will be useful for these purposes which did not require our expenditure.

Senator BIRMINGHAM—That is always welcome, Mr Tucker. So this is being funded by Griffith University?

Mr Tucker—I believe so. We did not go into detail about their funding sources, but I certainly know that they are conducting most of the work and that they do have some financial support from the Queensland government.

Senator BIRMINGHAM—Very good. What other consultations have taken place or are taking place on a national culture policy?

Mr Tucker—At the moment, it is contained within the group providing advice to the minister. It is up to the minister and the government where they may go with further advice or further consultations in the future.

Senator BIRMINGHAM—Are there any time lines around the development of the policy?

Mr Tucker—No firm time line has been set but obviously the members of the committee or the minister do not want to meet ad infinitum, so I think we are looking at what material has come back from the next meeting, taking stock of what further discussion is required and the minister making a decision about when the group might have its next meeting.

Senator BIRMINGHAM—It all sounds still relatively fluid in terms of when some tangible outcomes might be forthcoming.

Mr Tucker—It is a very complex subject. Coming to grips in its definitional aspects is also quite a challenge and bringing together that breadth of what Australian culture is about into a policy framework for government action is not an easy task.

Senator BIRMINGHAM—Mr Tucker, you also indicated last time that the group was examining the effectiveness of support arrangements for artists and that also, as a department, you were going to do some of your own analysis on that. What advice has the group provided in relation to support arrangements for artists?

Mr Tucker—That topic is also part of the research that the Griffith University group are doing. It was not as well formed as the international comparisons, which they presented at the last meeting. They are continuing to do that work, and my last discussion with the researchers is that they are hoping that that will be available to us reasonably shortly.

Senator BIRMINGHAM—Thank God for Griffith University, it sounds, Mr Tucker.

Mr Tucker—As I said, it was fortuitous timing in terms of the work they were doing. It is certainly something we would like to do our own work on but it is worthwhile seeing what they have been able to produce first.

Senator BIRMINGHAM—So, whilst not as advanced as the other work, did that form part of the briefing to the group at the last meeting?

Mr Tucker—No. As I said, because they were not advanced, they mentioned that they were doing this work but at that stage they did not have sufficient detail to be able to make a presentation on that aspect of the research.

Senator BIRMINGHAM—Is it expected that they will make a further presentation to the advisory group or to the department?

Mr Tucker—That will be up to when the next meeting is and what the agenda may be, and the minister would have views on what that agenda would be. If the meeting is going to be relatively soon, it would make some sense that if that research is complete then it is also presented to the group.

Senator BIRMINGHAM—Has the advisory group itself provided any advice to the minister in relation to support arrangements for artists?

Mr Tucker—They may have done off their own bats. It is quite proper for them to give their own views to the minister. At the particular meetings, there has certainly been some discussion about the adequacy of the current support levels for artists and what some of the options might be, but it has been very much an option suggestion period rather than detailed work that has been put forward.

Senator BIRMINGHAM—So there is nothing that you would describe as a recommendation from the group to the minister or the government?

Mr Tucker—No, Senator.

Senator BIRMINGHAM—The second part of that statement was that the department was going to do some analysis of its own on those support arrangements for artists. What analysis has the department undertaken?

Mr Tucker—We have done some preliminary scoping work but, as I said, I think it is useful to see what material comes out of the Griffith University research. There is no point duplicating the effort and we believe that research will be available shortly so that we can have a look at what they have been able to bring together.

Senator BIRMINGHAM—Preliminary scoping work in relation to potential further studies into the matter or preliminary scoping work in relation to the extent of support arrangements for artists?

Mr Tucker—In the first instance it will be the current extent of support arrangements and then obviously further down the track we do a bit of a gap analysis into what some of the options may be.

Senator BIRMINGHAM—Is there still a government aim or commitment of some description to reform the social security system somehow to further support artists?

Mr Tucker—There was an election commitment, I believe.

Ms Bean—There were a number of election commitments around what you could broadly call social security and the arts. Work is progressing.

Senator BIRMINGHAM—Are you able to remind me of those commitments, Ms Bean?

Ms Bean—I may not have the detail of those with me.

Senator BIRMINGHAM—Perhaps, as I miraculously lay my hands on them in the next couple of minutes—

Ms Kruk—While Ms Bean is having a look, I would guess that a number of those matters, if they do link with the taxation system, would no doubt be picked up under the Henry review, but I will just see if Ms Bean has the schedule there.

Ms Bean—I do not have the schedule.

Ms Kruk—Is that something we can come back to you about. It is obviously in this raft of folders we took and we do not have that particular document with us. I apologise for that.

Senator BIRMINGHAM—I can appreciate rafts of folders and lots of paper.

Ms Kruk—They give comfort!

Senator BIRMINGHAM—I am not sure about that!

Ms Kruk—Not always!

Senator BIRMINGHAM—Unless I miraculously lay my hands on the promises in next few minutes, could you perhaps provide on notice the details of those promises and the progress made to date in implementing them. That would be appreciated.

We now go to the Indigenous Australian Art Commercial Code of Conduct. Is new legislation going to be required to implement the code?

Ms Bean—No, the code will not be implemented by legislation in the first instance.

Senator BIRMINGHAM—What role will state and territory governments play in the code, if any?

Ms Bean—It is actually an industry code, not a government code, so, while we were expecting state and territory governments to be supportive—and indeed cultural ministers indicated their support for the code—there is not a formal role unless there are components of a particular government that are engaged in trade and commerce and therefore become signatories of the code in the same way as any dealer.

Senator BIRMINGHAM—My recollection from my industry days is that these sorts of industry codes frequently have to go through, or go through to achieve a formal status, an ACCC process. Is that correct?

Ms Bean—Yes, sort of. The idea is that you initially have a voluntary code and if that does not work then there is the potential to move to a mandatory code under the Trade Practices Act.

Ms Kruk—From my awareness of the discussions, both the minister and the state and territory counterparts made it quite clear that this was a first and necessary step if there was not the necessary change in the industry—that there did not appear to be hesitation moving to a more mandatory phase. Am I correct in saying that, Ms Bean?

Ms Bean—Yes.

Senator BIRMINGHAM—So the expectation is that this will start out as a voluntary code and hopefully succeed as a voluntary code. There will be a code administration committee or something of the sort?

Ms Bean—There will be a code administration committee that, again, will comprise industry people.

Senator BIRMINGHAM—Will that be filled purely by volunteers—volunteering as industry people?

Ms Kruk—I was just wondering whether you were asking whether our employees are volunteers. I was waiting to see Ms Bean's answer!

Ms Bean—I certainly will not prolong this issue!

Senator BIRMINGHAM—It is very clear contract negotiation, Ms Bean!

Ms Kruk—I think there was impatience from all parties—because this is obviously something that is a jointly shared initiative—to get work underway. I am not sure whether the committee was going to be called the 'Code Administration Committee'.

Ms Bean—It will be called the Code Administration Committee. At this stage it is shaping up that it will effectively be the board of a not-for-profit company limited by guarantee to which signatories to the code will be members.

Senator BIRMINGHAM—Is it expected that the department will—

Ms Bean—The department is providing secretariat support.

Senator BIRMINGHAM—To what extent do you expect that secretariat support to be? Is it a dedicated staff member?

Ms Bean—At this stage we have one dedicated staff member and others working on it but obviously the setup process is more resource intensive than we hope it will be as it settles down into operations.

Senator BIRMINGHAM—What funding has been allocated to the development and implementation of the code?

Ms Bean—There was funding allocated in the 2009-10 budget. The funding commences in 2009-10. It is 0.2 per annum for three years, terminating in 2011-12.

Senator BIRMINGHAM—So there is \$600,000 allocated at present. This is purely to cover staff costs, legal advice? How is that funding being spent?

Ms Bean—It will primarily fund support for the administration committee and, to the extent possible, some education and awareness-raising activities.

Senator BIRMINGHAM—Are programs in place or being developed for those education and awareness activities?

Ms Bean—We have started work. At this stage we are at the point of setting up the company and getting the code administration committee. We are getting things like the application form drafted and developing a website. The education and awareness-raising activities are kind of a second-tier priority at this stage.

Senator BIRMINGHAM—I have some other questions on the code, but I think we might put those on notice. On 26 June this year, Mr Garrett attended the French Order of Arts and Letters and accepted an order—and I will not attempt to give the French pronunciation of it, because that would be embarrassing for all concerned—and he spoke extensively about France's cherished goals of liberty et cetera and said a few other fabulous and wise words. This was an award provided to him in recognition of his contribution to Australian life and music. Was this a taxpayer-funded trip by Mr Garrett?

Ms Kruk—This is a test for my recall. My understanding is—and I am happy to correct the record if I am wrong—that this was actually part of a series of negotiations surrounding whaling in Portugal.

Senator BIRMINGHAM—It did sound close to the IWC meeting.

Ms Kruk—That is why you are testing my memory. I am sorry; it is an age thing at this time of night. I think he also had discussions, from recall, with a number of French officials on energy related matters.

Senator ABETZ—Like what? Were they on 87 per cent of their power coming from nuclear?

Ms Kruk—Senator Abetz, I would not possibly dare to postulate what the discussions were on. In all seriousness, I certainly remember him receiving the award. I am glad you did not ask me exactly what the name of the award was, either. I would have been very similarly embarrassed. It was a very full itinerary, from my recall.

Senator BIRMINGHAM—Noting that your recall is uncertain in this regard, we have some time set aside tomorrow for some general portfolio questions. Could you get some details on this trip—

Ms Kruk—I will do my very best.

Senator BIRMINGHAM—I would be pleased to see, if it was the IWC trip, that the minister came home with something at least. We might pursue that tomorrow, along with the IWC, if we could please, Ms Kruk.

Ms Kruk—I will do my best.

Senator BIRMINGHAM—Thank you. I am just trying to ensure we get through everything tonight. I think that will suffice for me for the arts and allow us appropriate time to start heritage.

CHAIR—Are there any further questions for program 5.1?

Senator BIRMINGHAM—Sorry—having said that, can I quickly ask this. I asked before about the social security and the arts promises. There are also some which I guess are related to this but related to Work for the Dole programs as well.

Ms Bean—As I said, it was a package that was around the broad social security area. I was mentally including the Work for the Dole type commitments in that.

Senator BIRMINGHAM—Okay. As long as what I have placed on notice is across all of those, that is fine.

CHAIR—Thank you very much.

[10.19 pm]

CHAIR—We will now call officers from the department in relation to program 5.2, Conservation and protection of Australia's heritage.

Senator ABETZ—I might draw a blank on the first one, but can I ask about geoparks. Does the department have any involvement in the UNESCO consideration of geoparks?

Dr Terrill—Yes, the department does have some involvement in that.

Senator ABETZ—To nominate an area as a geopark, would you need to go through the Australian government?

Dr Terrill—Yes.

Senator ABETZ—What is the government's policy in relation to declaring areas as geoparks?

Dr Terrill—Currently the matter is under consideration by the Environment Heritage and Protection Council of ministers, as a way for all jurisdictions to consider what the national policy on that might be.

Senator ABETZ—How long has that been under consideration for?

Dr Terrill—I think it first went to them, from memory, towards a year ago. It has been referred also to the NRMCM as well, because it relates to land use management issues. But it is scheduled to come up at the upcoming meeting.

Senator ABETZ—Which is scheduled for?

Dr Terrill—Several weeks time—November.

Senator ABETZ—Without giving the game away too much, is it anticipated that we might get a determination that the government might be minded to support the declaration of geoparks?

Dr Terrill—That is up to ministers to decide at that forum.

Senator ABETZ—I know that, but I understand that officials sometimes have a fair idea as to what the ministers might actually decide when they get together.

Ms Kruk—Not on this one, Senator.

Senator ABETZ—Not on this one? All right. We will have to wait and see. There is an area on the west coast of Tasmania that is interested in that potential.

Ms Kruk—Interested in becoming a geopark or interested in not becoming a geopark?

Senator ABETZ—No—interested in becoming a geopark. The state government is standing in the way. The local council and others can see the potential benefits. As a bit of a segue, as I understand it geoparks do not need buffer zones. Is that correct?

Ms Kruk—I was waiting for the segue!

Senator Conroy—She just won 10 bucks!

Ms Kruk—Can I say this. Just being aware of some discussions, only at officials level, on the issue of geoparks, I think people are actually trying to understand exactly what the implications and the benefits of a classification of that type are. It is certainly not closed as an issue. Minds are not closed to it. I was unaware, I must admit, of an area in Tasmania putting its hand up. If you want to provide us with those details, if that would be useful to the discussions, we would be pleased to receive them.

Senator ABETZ—I was around on the west coast recently for consultations and the issue came up. The state government, unfortunately, seems opposed. If that is the case then chances are this meeting in November will not be a successful meeting. But, anyway, let us wait and see. Before we move to buffer zones, who can have a discussion with me about the Richmond Bridge?

Mr Hooy—I can do that, Senator.

Senator ABETZ—Thank you very much. Since our last meeting I have learnt all sorts of things but I am, nevertheless, none the wiser of course. There has been a laser scan of the bridge undertaken, is that correct?

Mr Hooy—That is correct, Senator.

Senator ABETZ—Who paid for that? Was it funded federally?

Mr Hooy—That is correct. I am not sure if we funded the total cost but we did provide funding for that.

Senator ABETZ—If you could take that on notice as to the totality of the funding. Was the scanning of the bridge as a result of an offer by the Commonwealth to the state saying that there was a bit of money left in coffers that could be spent on an exercise such as this?

Mr Hooy—I have no recollection, Senator.

Senator ABETZ—All right, could you take it on notice if you have something to tell me on that which would be helpful. The one-off scan is interesting, but is it anticipated that other scans will be undertaken so that you can do a compare and contrast and see if things are deteriorating or not?

Mr Hooy—I would imagine that would be the case but I am not aware of any firm proposals to undertake that.

Senator ABETZ—When was this scan undertaken?

Mr Hooy—August 2008 was when the contract was completed.

Senator ABETZ—August 2008, so about 12 months ago. What one scan tells you is all very interesting but to make it worth while wouldn't you need a number of ongoing scans to see if the bridge is holding up or where particular points of weaknesses might be identified? Do we have any expert advice then, given the nature of the bridge and its usage as to how often such a scan should be undertaken?

Mr Hooy—I understand part of the reason for the scan was to essentially map or plot the bridge three-dimensionally for a range of purposes. One purpose, for example, as I understand it is to help determine the placement of vibration detectors that were looked at by the engineers. I understand that that would inform decisions around placement of vibration detectors.

Senator ABETZ—Was the scan also undertaken to assist in replacing parts of the bridge that might be damaged by vehicular traffic?

Mr Hooy—Clearly if there was some damage to the bridge then the laser scan would help, I would imagine, in replacing stonework.

Senator ABETZ—You kindly provided me with some written answers—questions Nos 223 and 224—from budget estimates of May 2009. I am not sure how to link the answers. Answer No. 224 in the first paragraph, the second last sentence, tells us the department found efficiencies in the policies relating to managing vehicle traffic. That was in relation to the draft conservation plan of April 2008. But answer No. 223 tells us the draft plan is a substantial update of the conservation management plan and incorporates policies to manage the national heritage values as gazetted. Are we saying that the policies incorporated are sufficient? That is how I read answer No. 223, and then I came across answer No. 224 which tells me that the department in fact found efficiencies in the policies relating to managing vehicle traffic.

Mr Hooy—I do not believe those two statements are in conflict. The response at 223 indicates that, compared to the 1997 plan, the April 2008 plan was a significant improvement. Also, the 2008 plan specifically refers to the heritage values as identified by the Australian Heritage Council, which obviously were not included in the 1997 plan. That is not to say that the plan was perfect on all counts.

Senator ABETZ—Has the Commonwealth made any requests about reducing the load limit or speed limit on the bridge?

Mr Hooy—The current draft recognises the discrepancy between a discussed 15-tonne load limit in the earlier plan and report in, I think, early 2001 undertaken by the Tasmanian department, which indicates that a 25-tonne limit may be appropriate.

Senator ABETZ—‘May be appropriate.’ Is the Commonwealth satisfied with that?

Mr Hooy—The current draft proposes vibration monitoring to determine—this is a technical exercise, which I am not an expert in—whether or not the 25-tonne load limit is excessive.

Senator ABETZ—As I understand it, the vibration testing that was undertaken suggested that, rather than load, the big issue was speed. Have you had the result of those vibration tests forwarded to the Commonwealth?

Mr Hooy—My staff may be aware of them. I am not.

Senator ABETZ—If you could let me know whether they have been passed on to you, please, and whether you can then confirm or advise whether those tests indicated that an important aspect was the issue of speed?

Mr Hooy—We will take that on notice, yes.

Senator ABETZ—And, if that is the case, what action have you undertaken to try to convince the state government, or local council, to reduce the speed limit on the bridge? Could you take that on notice?

Mr Hooy—Certainly.

Senator ABETZ—This issue of getting a management plan for a bridge has now been going on for over a decade.

Mr Hooy—Sorry.

Senator ABETZ—Trying to get this management plan finalised has been going for over a decade. We had laser scans once then a vibration test once, but we do not seem to have a forward plan of, let’s say, a laser scan, if that is the way to test the show, or a vibration test every so often, so that the qualities of the bridge can in fact be protected.

Mr Hooy—That is right. We have been trying to bring the planning process to closure. The plan was opened for public comment in early September this year. The public comment period is now closed and we have urged the Tasmanian department to now complete the planning process.

Senator ABETZ—One encouragement I would give you to complete this process is that you will not have to sit here late at night answering questions about the Richmond Bridge. This will continue to be a theme until then.

Ms Kruk—Can I just clarify something. Have you encouraged the state agency without any success?

Senator ABETZ—I have not, no; I am wanting to know whether the federal department has. I am not necessarily an expert to be able to make those sorts of judgments but if the, for want of a better term, vibration report does recommend that the speed limit should be 30 kilometres an hour on the bridge, I would like to know why that has not been done. Then the

question is: how would that arise? I think the Tasmanian department says, 'The only way you can assure that is by installing a permanent speed camera on the bridge,' and then of course they would need the Tasmania Police to do that, and Tasmania Police do not think that they would raise enough revenue from it to make it worthwhile, so they do not want to be involved. It just seems to be that this is going to drag on well beyond my stay in the Senate. If I could achieve something—not that I would be achieving it, but at least pursuing it—let us hope it is the finalisation of a management plan.

Senator BIRMINGHAM—What about Senator Watson from Tasmania? You have many years to go.

Senator Conroy—Surely, you are not giving up, Senator Abetz.

Senator ABETZ—No, but on the Richmond Bridge I think I really am.

Senator Conroy—That would be a first.

Senator ABETZ—On pursuing the Rudd government out of office, I definitely will not give up.

Senator Conroy—You waving the white flag on an issue would be a first, Senator Abetz.

Ms Kruk—We will certainly try to get those matters pushed to their fruition. I remember your frustration at the last hearing.

Senator ABETZ—I did suggest—because I have had a discussion with a certain person about this—fixing a box and a sign that says there is a permanent speed camera. There may or may not be one in there. It could be random, as they do in other places. I do not think even that is being considered. Anyway, let us see what happens.

I now turn to the buffer zone, which you are all waiting for me to ask about. The *Australian Convict Sites: World Heritage Nomination* document lists various convict sites. It was submitted to UNESCO in January 2008. Are you aware of that document?

Mr Hooy—Yes.

Senator ABETZ—I daresay nobody has a copy with them. In that is Kingston and Arthur's Vale Historic Area on Norfolk Island and a map that shows no buffer zone around it. We then have the Old Government House and Domain at Parramatta in New South Wales with a modest buffer zone, according to the mapping. It is the same with the Old Great North Road in New South Wales. It has a very modest buffer zone. We have the Coal Mines Historic Site in Tasmania, which again has a fairly modest buffer zone. It is the same with Sydney Harbour. The Port Arthur Historic Site—and you can see it on the map—a 114 hectare property, is going to have a 1,205 hectare buffer zone around it. Can I be given some explanation as to why there is such a large buffer zone?

Mr Hooy—It reflects the topography and it will help to protect the values for which that place has been nominated.

Senator ABETZ—What are the values that are trying to be protected by this huge—and I would describe it as excessive—buffer zone?

Mr Hooy—It is very much the setting.

Senator ABETZ—Yes, I have been told that, and that it is the vista that the convicts would have seen when they first arrived as being one of the grandiose descriptions that has been provided to the locals. Of course the locals have the presence of mind to say that when the convicts first arrived there would not have been any stone buildings there. That does not seem to have actually been considered by some people in their desperate protection of this area. Also, if you follow the topography of the land—I do not know how to describe this—it is like rolling mountain countryside as you move further inland. It was described to me that the buffer zone was based on somebody being in the water near the Isle of Dead and looking around at what they would see. You look over, in fact because of the steepness of the terrain, valleys in between mountain areas. If you are seeking to protect the vista as you would see it from the water, why are hidden valleys also included in the buffer zone when, even if everybody in that valley were to paint their house a bright purple colour with pink spots, nobody from the historic site would see it?

Mr Hooy—First of all, Senator, the intention is not to protect the site as it might have appeared on first arrival, but really to protect the value of the site over the life of the site as it operated at a convict site. The other issue is that I am not aware that it was based on a sole point of assessment, that is, looking at it from one point within the nominated area. I cannot make any judgment about that.

Senator ABETZ—On what basis was it then determined? If that wasn't, what was the basis?

Mr Hooy—As I understand it, it was to provide a fairly robust zone of protection around the site to protect, as I said before, the proposed values, and very much it is to present the site as much as possible as it might have looked when it operated as a convict site.

Senator ABETZ—How does including hidden valleys do that?

Mr Hooy—The fact that hidden valleys may occur within a buffer zone does not necessarily preclude any development within those hidden valleys. In effect, whilst the buffer zone maybe—

Senator ABETZ—Sorry, with respect, it is for the general vista we are being told. If it is hidden from site, it is not part of the vista, so why is it included?

Mr Hooy—All of these issues will be assessed by the consultants, Pitt and Sherry, who have been engaged by the council.

Senator ABETZ—The area has already been included courtesy of the nomination to UNESCO. It is now too late for these valleys to be excluded, is it not?

Mr Hooy—I defer to my colleagues here, but my understanding is that any buffer zone will come into effect once a decision is made to list the site. The issue of buffer zones is clearly under review by the Tasmanian government and by the local government. As I have said, they have engaged a planning consulting firm to work with the council and with the community to determine a heritage overlay for Port Arthur.

Senator ABETZ—We know that but I still do not think we have an answer in relation to why hidden valleys were included in the buffer zone area that has gone forward to UNESCO for the nomination in January 2008.

Mr Hooy—All the buffer zone would do is effectively represent a planning overlay. That is not to say that there would be uniform policies within that buffer zone. It just means that within that area special consideration will be given to protect listed heritage values.

Senator ABETZ—In what way are you going to protect the heritage value, which is about the vista, as I understand it, when it is hidden from sight? It seems to be that a grab-all was decided upon. There are actually property owners who have a greater affinity with the site because some of their predecessors were actually inhabitants of the convict settlement and were convicts. They still, many generations later, live there. They find it quite astounding that people from Canberra, let alone from UNESCO, would seek to put such substantial restrictions on their property when every other nomination, as I have pointed out, has quite a modest and, by the looks of it, sensible buffer zone, in comparison to 10 times the area of the actual area being protected. It just seems to be a huge overkill. I am still trying to—

Ms Kruk—It may be of benefit if Mr Hooy—and I know there is probably a divergence of views that underpins this in relation to the value of the buffer zones—explained what the impact would be. My understanding—and I am happy to be corrected—is that they are actually in consultation with the UNESCO officials and the landholders in the area. Was that not right?

Mr Hooy—That is correct.

Senator ABETZ—Yes, I am aware of those.

Mr Hooy—Just to very quickly recap, recently two ICOMOS experts came to Australia to evaluate the assessment. A fellow called Christophe Sand from New Caledonia, an ICOMOS expert, accompanied by Greg Terrill, visited the Tasmanian nominated convict sites. Mr Sand had a three-quarter-hour in camera meeting with three of the key people who have been unhappy with the nomination. We are not aware of the content or context of those discussions. They were very much between Mr Sand and the three people I referred to. But I do understand that they left the meeting at least happy with the hearing that they had.

Senator ABETZ—Can I ask you, Mr Terrill, what is the buffer zone for Woolmers and Brickendon?

Dr Terrill—I will refer that to Mr Hooy or Mr Bailey.

Mr Hooy—It is in the nomination, in the document before you.

Senator ABETZ—I am just asking whether you know what the buffer zone is.

Mr Hooy—Off the top of my head I cannot recall.

Senator ABETZ—As I understand it there is virtually no buffer zone. Once again, locals down Port Arthur way are asking: ‘Why is this so? Why isn’t the vista so important for all the others?’

Mr Hooy—It is very much the context of the nomination.

Senator ABETZ—The nomination is being undertaken by the Commonwealth.

Mr Hooy—With advice from the states and a coordinating committee convened with all the jurisdictions responsible for those sites. Port Arthur and KAVHA on Norfolk Island were clear penal settlements where they were contained sites, so visibility and the ability to manage

convicts were paramount. Brickendon and Woolmers were very much assignment areas, where in effect the people worked for the owners of those places. So in terms of the whole issue of visibility, the need to be able to see at any one time where convict gangs might be working or what have you, is in a significantly different situation. One essentially is a farm; the other one is a penal operation.

Senator ABETZ—Yes, of 114 hectares. With respect, Mr Hooy, I am sure everything you have said tonight will not convince anybody in the Port Arthur area as to the need for this huge buffer zone. But I can ask in relation to the one that is being proposed: why is a little pimple being left out on what I assume is the northern tip? Can you tell us who the owner of the land is?

Mr Hooy—I could not.

Senator ABETZ—Could you take that on notice for us.

Mr Hooy—Certainly.

Ms Skippington—Is that Port Arthur that you are talking about?

Mr Hooy—Yes.

Ms Kruk—Senator Abetz, if I could clarify: you are not opposed to the actual nomination of the site.

Senator ABETZ—I am only asking questions on behalf of constituents.

Ms Kruk—It was constituents that I think were concerned about the potential impact of the buffer zones on their activities.

Senator ABETZ—That is right.

Ms Kruk—Can I ask then: were they not addressed? I know there have been various consultations. You and I have talked about the consultations before. Were there issues that were raised in those discussions where they felt their activities would be impeded or is it just a general unease?

Senator ABETZ—It is the uncertainty. People cannot sell their properties because nobody knows. Mr Jones wrote to the residents in December 2008:

Dear Tasman resident,

The Australian Convict Sites World Heritage nomination does indicate a proposed buffer zone around the Port Arthur historic site. Buffer zones are a requirement of UNESCO.

It is a requirement, according to Mr Jones. The Secretary of the Department of Environment, Heritage and the Arts, Mr Gadd, on 7 May 2009 wrote to one of these Tasman residents:

As we have already discussed, you are correct that UNESCO guidelines do not mandate buffer zones.

So we have Dr Barry Jones saying one thing and the state department saying another thing. I think we are agreed that the buffer zones are not in fact mandated under the guidelines. So the Commonwealth body, through Dr Jones—or that is how it is seen—is asserting something and the state government is saying that it is not mandated. There is huge confusion. If you wanted to make a response to that, that would be helpful.

Dr Terrill—I can provide some background on the UNESCO rule in relation to this. I was present at the public meeting Taranna, not far from Port Arthur, in May this year where this issue was discussed at some length. You are quite right that the UNESCO rules do not mandate buffer zones, but it is equally true that over the past three years there have been, from memory, 63 properties added to the World Heritage List, of which 61 have had buffer zones. That reflects a very clear practice that they have to be there. Of the two properties that did not have a buffer zone, one was a geological formation high in the Swiss Alps—

Senator ABETZ—Were any rejected because they did not include a buffer zone?

Dr Terrill—In part, some were referred, as the terminology is, because of management issues which would include buffer zone concerns.

Senator ABETZ—On the strength of Dr Jones's assertion that it is a requirement, they talked to a Mr Giovanni Boccardi, Chief, Asia-Pacific Unit, UNESCO World Heritage Centre. He says that buffer zones are not compulsory.

Dr Terrill—That is right, and I notice that in your papers you have a copy of the UNESCO report on the buffer zones conference that took place.

Senator ABETZ—Yes.

Dr Terrill—They are not compulsory but in practice they are almost always a part of nominations.

Senator ABETZ—Only because the nominating country includes it.

Dr Terrill—The reason that they are looked for is that the World Heritage Committee pays very strong attention to management so that the values for which a property is inscribed continue to be present and in good condition.

Senator ABETZ—Are you honestly saying that UNESCO would not accept the Port Arthur historic site if the 1,200 hectare buffer zone was not included and was even double the size—so another 114 hectares, for example?

Dr Terrill—No. As Mr Hooy indicated, there is a review of the buffer zone underway by the local council. They will work with those residents to look at a proposal for a buffer zone. That proposal, if it differs from the current one, would have to be resubmitted to UNESCO as part of the current consideration of the nomination file, and the World Heritage Committee may accept or reject that.

Senator ABETZ—A World Heritage nomination and information sheet was circulated in September 2008, I am informed. In that, we are told how much public consultation will be undertaken. The very last sentence is:

As this process has not commenced, this is the main reason why there has been no additional consultation to date with people within the proposed buffer zone.

That was in 2008, yet people are asserting—like Dr Jones, in one communication—that there has been consultation about buffer zones since 2004. The materials that are being sent out to residents are conflicting and confusing. I do not blame your department, but I am just indicating what the circumstances are. That is what is causing a lot of grief in the local

community. Dr Terrill, if you were down there you would have seen many of the 'no buffer zone' placards that are around in that area.

Dr Terrill—Just to reflect, I think one of the first things that Scot Gadd indicated at that community meeting was that the work of the Tasmanian government on buffer zones had a lot further to go.

Senator ABETZ—Who came up with the idea of this buffer zone area being 10 times that which is being sought to be protected? Who came up with that? Do not say, 'Community consultation,' because I would not believe that anybody in the community would have suggested that as a buffer zone.

Mr Bailey—I was involved in the preparation of the convict sites nomination.

Senator ABETZ—Who by? It did not just drop out of the sky.

Mr Bailey—That is right. The development of the buffer zones in all properties was something that was negotiated between the steering committee for the convict nomination, which had representatives from all governments. I chaired that committee. In those consultations we also looked at the veracity of the protection of the heritage values that Mr Hooy has outlined.

Senator ABETZ—Who came up with the idea of this 1,204 hectares?

Mr Bailey—It was primarily the responsibility of the state to advise on the buffer zone.

Senator ABETZ—Who came up with the idea of the 1,204-hectare buffer zone?

Mr Bailey—It was primarily the responsibility of the state, and then the veracity of checking to make sure that the heritage values were protected—

Senator ABETZ—Who came up with the buffer zone area?

Mr Bailey—It was necessary to address the buffer zone issue in all the sites that are part of the nomination and then all of those 11 sites that are part of the nomination were checked to make sure that the buffer zones were appropriate.

Senator ABETZ—The Sydney Harbour one that is a little island, for example, has a buffer zone in the water.

Mr Bailey—That is Cockatoo Island. It is about 200 metres out from the island, right around.

Senator ABETZ—So there were no vista concerns for that one?

Mr Bailey—No, because of the waterways between the main parts and the rest of the land outlying the rest of the nominated areas.

Senator ABETZ—But the vista goes over the water, surely.

Ms Kruk—If I may assist, I am a bit more familiar with the Sydney Harbour nomination process. That was a very protracted process. A lot of the potential activities in that domain were discussed at some length with the community and also with neighbouring areas.

Senator ABETZ—But there has not been that community discussion in Tasmania. First of all it was mandated and then it was not mandated or whatever.

Ms Kruk—As I understand it, your point is that there has been conflicting advice going out to the residents about the history of the buffer zone and about the impacts. Is that right?

Senator ABETZ—Yes. Somebody must have put the 1,204 hectares on the table as the proposed buffer zone. Are you saying that was the state government?

Mr Bailey—That is correct.

Senator ABETZ—It was the state government?

Mr Bailey—That is correct. For all 11 sites negotiations were primarily driven by the state or territory responsible.

Senator ABETZ—Who came up with the idea of the 1,204 hectares?

Mr Bailey—The states came up with the buffers.

Senator ABETZ—Thank you.

CHAIR—It is now 11 o'clock. Unfortunately, we have not finished the questions under program 5.2, so officers will be required again in the morning.

Senator ABETZ—I have finished my questions—

CHAIR—Other senators have not.

Senator ABETZ—because I now have it that it was the state government that actually proposed the 1,204 hectares.

Committee adjourned at 11.00 pm