



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

ESTIMATES

(Additional Estimates)

MONDAY, 14 FEBRUARY 2005

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SENATE

**ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY
AND THE ARTS LEGISLATION COMMITTEE**

Monday, 14 February 2005

Members: Senator Eggleston (*Chair*), Senator Bartlett (*Deputy Chair*), Senators Conroy Lundy, Santoro and Tchen

Senators in attendance: Senators Allison, George Campbell, Conroy, Eggleston, Harradine, Johnston, Lundy, Marshall, McLucas, O'Brien, Santoro, Tchen and Tierney

Committee met at 9.03 a.m.

**COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS
PORTFOLIO**

In Attendance

Senator Coonan, Minister for Communications, Information Technology and the Arts

Department of Communications, Information Technology and the Arts

Executive

Ms Helen Williams AO, Secretary

Ms Fay Holthuyzen, Deputy Secretary, Communications

Dr Rod Badger, Deputy Secretary, Information Economy

Ms Lynn Bean, A/g Deputy Secretary, Arts & Sport

Corporate and Business

Mr Frank Nicholas, A/g Chief Operating Officer

Mr Mike Hutchings, General Manager, IT and Facilities

Finance and Budgets

Ms Jennifer Gale, Chief Financial Officer

Telecommunications

Mr Chris Cheah, Chief General Manager, Telecommunications

Mr Simon Bryant, General Manager, Telecommunications Competition & Consumer Branch

Mr Brenton Thomas, General Manager, Enterprise, Infrastructure Branch

Ms Carolyn McNally, General Manager, Regional Communications Policy Branch

Mr Maurice Austin, Manager, International Strategy Section

Broadcasting

Mr James Cameron, Chief General Manager, Broadcasting

Mr Gordon Neil, General Manager, Licensed Broadcasting

Mr Rohan Buettel, General Manager, Public Broadcasting

Dr Simon Pelling, General Manager, Digital Broadcasting & Spectrum Management

Mr Tom Dale, General Manager, Strategic Policy

ICT, Intellectual Property and Regional Communications Initiatives

Dr Beverly Hart, Chief General Manager, ICT, Intellectual Property & Regional Communications Initiatives Division

Mr Philip Allnutt, General Manager, ICT Industry Branch

Mr Simon Cordina, General Manager, Creators' Rights and Access Branch

Mr James Barr, General Manager – Regional Communications Initiatives Branch

Information Economy

Mr Keith Besgrove, Chief General Manager, Information Economy Division

Mr Ashley Cross, General Manager, Security & Business Environment Branch

Mr James Shaw, General Manager, Strategy Branch

Ms Helen McLaren, Manager, Connectivity Strategy & Policy Section

Mr Greg Piko, Manager, Broadband Programs

Arts and Sport Division

Mr Colin Lyons, A/g Chief General Manager, Arts & Sport Division

Mr Mark Taylor, A/g General Manager, Arts, Regional and Governance

Mr Peter Young, General Manager, Film and Digital Content

Mr Paul McInnes, A/g General Manager, Collections

Mr Kevin Isaacs, General Manager, Sport

Ms Sally Basser, General Manager, Indigenous Arts & Training

Ms Kate Cowie, General Manager, Old Parliament House

Mr Andrew Sayers, Director, National Portrait Gallery

Mr Les Turner, General Manager, Indigenous Culture & Arts Support

Agencies**Telstra**

Mr Bill Scales AO, Group Managing Director, Regulatory, Corporate & Human Relations

Mr Geoff Nicholson, Director, Business & Finance Services

Mr Don Pinel, Regional Managing Director, Telstra Country Wide, Queensland

Mr Denis Mullane, General Manager, Integrated Network Planning

Ms Kate McKenzie, Managing Director, Regulatory

Ms Chloe Munro, Managing Director, Human Resources

Mr Greg Adcock, Head of Business & Commercial Operations

Ms Jenny Young, Head, Consumer Segment

Australia Post

Mr Michael McCloskey, Corporate Secretary

Mr Michael Tenace, Financial Controller

Mr Rod McDonald, Group Manager, Human Resources

Mr Terry Sinclair, Group Manager, National Logistics

Mr Stephen Walter, Group Manager, Corporate Public Affairs

Mr Allan Robinson, Group Manager, Letters

Mr Glenn O'Bryan, Acting Group Manager, Retail

Australian Communications Authority (ACA)

Dr Bob Horton, A/g Chairman

Mr Allan Horsley, A/g Deputy Chairman

Mr Geoff Luther, A/g Member

Mr Paul White, A/g Senior Executive Manager, Telecommunications

Mr Mark Loney, Executive Manager, Corporate Management

Mr John Neil, Executive Manager, Telecommunications Analysis

Mr John Haydon, Executive Manager, Consumer

Mr Darren Hooper, Chief Financial Officer

Australian Broadcasting Corporation (ABC)

Mr Russell Balding, Managing Director, ABC

Mr Colin Knowles, Director, Technology and Distribution

Mr David Pendleton, Chief Operating Officer

Mr Murray Green, A/g Director, Strategy & Communications

Mr Michael Ward, Head Policy and Administration, Television Division

Special Broadcasting Service Corporation (SBS)

Mr Nigel Milan, Managing Director

Ms Julie Eisenberg, Head of Policy

Mr Jon Torpy, Chief Financial Officer

Mr Will Berryman, Chief Technology Officer

Mr Shaun Brown, Head of Television

Mr Quang Luu, Head of Radio

Australian Broadcasting Authority (ABA)

Ms Lyn Maddock, A/g Chair

Ms Andree Wright, Director, Industry Performance and Review

Mr Richard Fraser, Senior Project Officer

Mr Fred Gengaroli, A/g Director, Planning

Mr Giles Tanner, General Manager/Acting Member

Australia Council

Ms Jennifer Bott, Chief Executive Officer

Ms Karilyn Brown, Executive Director, Audience & Market Development

Dr Catherine Brown-Watt, Director, Major Performing Arts Board

Ms Megan Coombs, Executive Director, Finance and Services

Australia Business Arts Foundation (AbaF)

Ms Winsome McCaughey, Executive Director

National Library of Australia (NLA)

Ms Jan Fullerton, Director-General

Mr Gerry Linehan, Assistant Director-General, Corporate Services

National Gallery of Australia (NGA)

Mr Ron Radford, Director

Mr Alan Froud, Deputy Director

National Museum of Australia (NMA)

Mr Craddock Morton, Director

Ms Freda Hanley, General Manager—Collections, Content & Technology

Ms Suzy Watson, General Manager, Operations

Ms Louise Douglas, General Manager, Public Programs and Audience Development

Mr Jeff Smart, Chief Finance Officer

National Archives of Australia (NAA)

Mr Ross Gibbs, Director-General

Ms Jenny Anderson, Assistant Director-General, Corporate

Australian Film Finance Corporation (FFC)

Mr Brian Rosen, Chief Executive Officer

Australian Film Commission (AFC)

Dr Paolo Cherchi Usai, Director National Screen and Sound Archive

Mr Kim Dalton, Chief Executive Officer

Australian Sports Commission (ASC)

Mr Mark Peters, Chief Executive Officer

Mr Brent Espeland, General Manager, Sport Performance and Development

Ms Lois Fordham, General Manager, Business Operations

Australian Sports Drug Agency (ASDA)

Mr Kim Terrell, Acting Chief Executive

Ms Anne Gripper, A/g General Manager, Operations

Ms Catherine Rule, A/g General Manager, Strategy and Support

CHAIR—I declare open this public hearing of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee considering the 2004-05 additional estimates. On 10 February 2005 the Senate referred to the committee particulars of proposed additional expenditure in respect of the year ending 30 June 2005 and related documentation for the two portfolios of Communications, Information Technology and the Arts, and Environment and Heritage. The Senate also resolved on 10 February 2005 that this committee should conduct hearings over the next two days.

We will commence examining the Communications, Information Technology and the Arts portfolio today, continue with the Arts and Sport programs tomorrow morning and at the conclusion of the examination of the communications portfolio call the Environment and Heritage portfolio. The committee is required to report to the Senate on 15 March 2005 and it has determined that the deadline for answers to questions placed on notice at the hearings today and tomorrow is the close of business on Friday, 8 April 2005. The committee reminds senators that the deadline for written questions to be placed on notice is by close of business on Wednesday.

I welcome Senator the Hon. Helen Coonan, Minister for Communications, Information Technology and the Arts, and I congratulate you on your appointment. I also welcome portfolio officers who are appearing today. Minister, would you like to make an opening statement?

Senator Coonan—No. I have no opening statement, but I do not think the officers do either. Thank you for your warm welcome.

CHAIR—Before we move to questions, I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I also remind officers that they will not be asked to express an opinion on matters of policy and shall be given reasonable opportunity to refer questions of them on policy issues to superior officers or to a minister. Witnesses are

reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. I will call agencies in accordance with the agenda, so I now call the representatives of the Australian Broadcasting Corporation and we will proceed to questions. I also welcome Senator Conroy to the committee.

Australian Broadcasting Corporation

Senator CONROY—I understand that, in recent weeks, the ABC has been exploring options for televising the Ashes cricket later this year. Could you update us on any progress? As you know, I have a keen interest in this issue.

Mr Balding—I am sure you have, Senator, as do a lot of other members of the public. I have been considering this issue for some time, especially well before Christmas. I can confirm we are in negotiations with the England and Wales Cricket Board, the ECB. However, they have rejected our initial bid. Nonetheless, discussions are continuing. In looking at this issue of free-to-air telecast of the Ashes, what I am trying to do is essentially find a balance between, firstly, the public interest in this event; secondly, the broader needs of the ABC audience; and obviously, thirdly, the limited resources that the ABC has available to it to acquire the rights. I think we need to note that it has been a long time since the corporation was in a position to bid for, let alone telecast, test match cricket.

I should say also that, in considering all of this, I am absolutely astonished that, irrespective of the existence of the antisiphoning rules, pay TV secured non-exclusive live rights to the Ashes as far back as July 2003—and that was even before the ABC was invited to bid for those rights.

Senator CONROY—Which rights did they secure then? Was it just the pay TV rights?

Mr Balding—Non-exclusive pay television rights to the Ashes series.

Senator CONROY—So did that leave the free-to-air TV rights still available?

Mr Balding—Yes, it did. That is why we are still in the position of negotiations. But one would have thought that is at least against the intention of the antisiphoning legislation. From a free-to-air broadcaster's point of view, it is quite unattractive, when you are looking at securing rights, to have the situation that those rights are non-exclusive live rights as opposed to exclusive live rights. But, having said all of that, I think what really concerns me is that it appears that the ECB may be of the view that the rights are worth a lot more if they are kept exclusive to pay TV as opposed to being available at a reasonable rate to a free-to-air broadcaster. Notwithstanding that, we are continuing to explore those options, and I am trying my best to secure the Ashes to be shown on free-to-air TV by the national broadcaster. What I am trying to do in securing those rights is to find a balance between the public interest and our commitment to our broader audience. What I also see is a wonderful opportunity to use both ABC channels to cover the Ashes series whilst at the same time looking at providing what I would see as the necessary catalyst to accelerate the take-up of digital television in Australia.

So what I am essentially proposing—and this obviously would be subject to acquiring the rights—is to gain assistance from the parliament by having the parliament lift the current genre restrictions, which prevent sport of this nature going on the second television channel.

If we could have those genre restrictions lifted and if we could acquire the rights at a reasonable rate, then the Ashes series could be available for the whole of each match, covered across both channels on free-to-air television. So, essentially, ABC2 would show the first session of play; the remaining sessions of play would be carried on the national network, ABC television. That is essentially where we are at.

Senator CONROY—Minister, do you have any views about the genre restrictions that you can share with us?

Senator Coonan—There has obviously been a review of multichannelling. That was one of the four simultaneous digital reviews being carried out. I am currently considering some information from the department about how we might look at that going forward. It is a bit difficult to simply pre-empt an outcome and be talking about lifting genre restrictions for the purposes of the Ashes, particularly when, because there has not been a huge digital take-up, there is probably not a lot of extra people who would be able to see it anyway, at least for the purposes of the Ashes, which is what our discussion is about. But it is part of a broader consideration by government of the move to digital and is the subject of a review.

Senator CONROY—Mr Balding, in terms of the ability to broadcast the Ashes, are you suggesting it would not be possible to accommodate all of the Ashes without the genre protections being lifted for this series? Maybe down the track in four years time you would be able to do it, but are you saying you need it now?

Mr Balding—If all the sessions of the Ashes series are to be shown on free-to-air television, I am proposing—as I said, with the assistance of parliament—to use both channels. In respect of our main channel, it is very difficult. As I said, I am trying to find this balance between the public interest in the event and the broader needs of our audience. Unfortunately, not everyone follows cricket, especially in winter. This is one of the issues that the other free-to-air networks have to deal with as well in its prime time scheduling. The other thing that we need to consider, in securing the rights and what is a reasonable fee for the rights, is that two-thirds of the content goes to air after 10 p.m. Eastern Standard Time as it is anyway. So, in trying to find that balance, I think we have a wonderful opportunity to lift the genre restrictions and absolutely capitalise on the benefits that digital television brings.

Not only the ABC but also the public—the community—have invested quite significantly over the last number of years in digital television, and the minister is right, there is not that much of a take-up at the moment, and our view is that one of the reasons there is very little take-up is that there is very little incentive. There is no extra programming and no extra content, but, if you lift the genre restrictions and we can provide extra content on the ABC's second channel, I believe that will provide the incentive for people to go out and invest in a set-top box, which you can acquire today for around \$100.

Senator CONROY—Are they available?

Mr Balding—Yes, they are.

Senator CONROY—I know there was a problem early in that there were not enough boxes available.

Mr Balding—The advice I have is that, yes, there are enough boxes and they are available. So, for a one-off investment of \$100, a household has access to digital television. I think we have to remember that, as I said, the Australian public have invested millions, if not billions, of dollars in digital infrastructure and we are yet to reap the benefits of that.

Senator CONROY—Minister, you indicated that the take-up was a bit disappointing at the moment. Do you know what the latest figures are?

Senator Coonan—No, I did not say that. What I said was that the take-up would not justify a one-off decision for the Ashes that pre-empted the necessary policy decision arising out of looking at multichannelling as a policy position more broadly. That is really what I was saying. And, for the purposes of the Ashes, were you to do it, my view is that there is probably not enough take-up where people would be running out to get a set-top box simply to watch the Ashes. It would need to be part of a broader policy response.

Senator CONROY—So you do not think that it could drive take-up?

Senator Coonan—Certainly not for one series of the Ashes. I think that it would need to be a broader policy platform on which you proceeded.

Senator CONROY—What is your estimated timing at the moment on that review that you are talking about?

Senator Coonan—What I am interested in doing with the digital reviews is looking at them in the context of cross-media reforms. I have come to the view that it is very difficult to do this in a piecemeal fashion. There is likely to be a better outcome if we can have an integrated response that looks at the fact that there has obviously been a move in new technologies that ought to be accommodated in the consideration of cross-media. There will need to be extensive consultation on how the government would see these matters going forward and, although I am not absolutely committed to this, my thinking is that we would probably pull it together into a discussion paper within the next month or so, so that there can be public discussion about the government's view of all of this new media and digital in the context of cross-media more broadly.

Senator CONROY—So if the ABC and Mr Balding are successful in negotiating with the English county cricket board and secure the rights, you are not in a position to guarantee that they would be able to show it to the Australian public on the second channel?

Senator Coonan—My understanding is that the problem with the free-to-air and acquiring the rights or even interest in acquiring the rights is the fact that it interferes with their programming. From what Mr Balding has said, my understanding is that he is trying to get a balance between public interest in normal programming, such as the news and Saturday night programming—for example, *The Bill* and other programs that have a huge audience and that people look forward to as fervently as they do the Ashes—and public interest in other programming. If the ABC were successful in acquiring the rights to the Ashes series, it would be shown perhaps from about 10 o'clock on, possibly with a highlights package, and so you would be simply looking at a portion that might otherwise be shown on the second channel. My point is that I do not think that the whole-of-media policy and the very complex matters that need to be taken into account that I have just described can really be pre-emptive for the

portion that might otherwise be shown on the second ABC channel. I understand the argument but Mr Balding's problem is that his programming constraints are prohibiting it all being shown on ABC.

Senator CONROY—I might come back to that. Mr Balding, is the ABC aware of whether any application has been made to remove or delist the Ashes from the antisiphoning list?

Mr Balding—We have had correspondence from the ABA asking us whether, in our view, we have had a reasonable opportunity to bid for the rights, and I think that is in relation to an application that is maybe before the minister to delist the Ashes series. I am also advised from discussions that we had with the ECB that they have also mentioned the presence of an application to delist the event.

Senator CONROY—Minister, is there an application before you?

Senator Coonan—There is an application, yes, but the contents are obviously commercial-in-confidence. I would be acting on advice in any event. I have made no decision at all.

Senator CONROY—Are you able to tell us who has made the application?

Senator Coonan—Yes, it is the ECB.

Senator CONROY—The English county cricket board have actually put it in to remove—

Mr Balding—For the record, the ECB is the England and Wales Cricket Board.

Senator CONROY—So what do they call that—the EWCB?

Mr Balding—No, the acronym is the ECB. What concerns me is that here we have a rights holder applying for it to be delisted. At the moment, I am trying to enter into constructive and fruitful negotiations with that rights holder to have those rights available to free-to-air television. Now that has been confirmed to me, I have a concern that the ECB may value those rights at a higher value if they were held exclusively for pay television. I just think that is something that the Australian public should be concerned with.

Senator CONROY—The whole purpose behind the antisiphoning list is to stop this sort of manipulation. For the ECB to be manipulating your negotiations like this to deprive a majority of Australians from seeing the Ashes is just an outrage. Minister, do you think it is?

Senator Coonan—Nobody is being deprived of anything. The scheme is working in such a way that no decision has been made to delist and no decision would be made—

Senator CONROY—I was commenting on their behaviour, not the government's.

Senator Coonan—until the free-to-air have had a fair opportunity. Mr Balding can be confident that no decision will be taken by government that would in any way inhibit the ability of the ABC to negotiate.

Senator CONROY—I think the point Mr Balding is making is that the ECB are manipulating their current negotiations because they have an application before you. They believe that they can make more money by selling it exclusively to pay TV.

Senator Coonan—They cannot do that unless they are delisted. The way the scheme works is that it would be unlikely that that application would be granted until proper advice can be given to me that all of the free-to-air have had an opportunity to acquire the free-to-air

rights. The rights are split, obviously, so that there are pay rights and free-to-air rights. I would think that it would be highly unlikely that I would be advised to delist until all of the free-to-airers have exhausted all of their options and opportunities to acquire the rights.

Senator CONROY—Given that there have been no bidders from free-to-air and now there is a bidder, I would have thought that it would be buyers' market if there were only one bid. What surprises me about the approach from the ECB is that they seem to be pursuing the agenda that they can maximise their revenue, as opposed to the effect of that outcome on the interests of the majority of Australians, by trying to cut back on the availability to free-to-air. It just seems a very cynical manipulation by the ECB. As I said, it is a government decision and I am in no way being critical of the government. Have you mentioned this to Mr Howard, yet? Is the Prime Minister aware of this scam?

Senator Coonan—Which scam are we talking about?

Senator CONROY—The ECB's attempt to delist the Ashes.

Senator Coonan—I do not think that is a scam. It is a right of any rights holder to apply for delisting. The protection under the scheme is that no delisting is granted until there is a proper opportunity for the free-to-airers to acquire the free-to-air rights.

Senator CONROY—Have you consulted with the PM yet? Does he know?

Senator Coonan—Have I consulted with the Prime Minister?

Senator CONROY—Have you let him know that the ECB are trying to—

Senator Coonan—I have not had a conversation with the Prime Minister to that effect, no.

Senator CONROY—Hopefully, he is watching us now and he will hear about it and be as outraged as I am.

Senator Coonan—I can understand how all of us—and that includes me—would very much like to see a free-to-air acquire the Ashes and that it would be available to all those Australians who want to see it. I am in that camp, but I do not think it is a scam that someone can avail themselves of the right to apply to delist. That does not mean to say that it is granted.

Senator CONROY—When they are currently negotiating with a free-to-air, are going to receive zero dollars from free-to-air and are holding out on any offer above zero, it would be seem to be a cynical manipulation.

Senator Coonan—They have already sold the rights to pay and presumably there will be simulcast transmission of pay in any event. So it is a bit difficult to see why that is so cynical. Anyone who owns rights can apply to delist them.

Senator CONROY—Sure.

Senator Coonan—I have said that there are protections there for Australians—

Senator CONROY—I am confident that you will see through this ploy—

Senator Coonan—I am very glad that you are confident.

Senator CONROY—particularly once the Prime Minister finds out about it.

Senator Coonan—You have every right to be confident that we will be looking after the Australian public who want to see the Ashes.

Senator CONROY—Excellent. We will look forward to your announcement. Mr Balding, I appreciate that there may be some commercial sensitivities—although given that there is only one bidder they are perhaps less than they otherwise would be—but are you in a position to give us an indication of the cost?

Mr Balding—We have not been given an indication of the cost. As I said, we put in an initial bid, which is reported in some of the press as being a token bid. I do not know how they would deem it to be a token bid, because one would assume it is confidential. Having regard to the relativities of the ABC's funding—the fact that, to my knowledge, there is no other player in the market bidding for the free-to-air television rights; the fact that they are non-exclusive live rights; and the fact that two-thirds of the content happens after 10 o'clock at night—I believe it is a very reasonable bid. Our indications coming back from the ECB are that we have a long way to go.

Senator CONROY—It must be very frustrating.

Mr Balding—You have to work your way through it.

Senator CONROY—Do you believe that ultimately you may need to seek additional funding?

Mr Balding—I have taken a decision—and it is subject to the approval of the board, which meets this week—that I will not be recommending to the board that we seek additional funding. I think this is a decision that the ABC needs to take within its funding resources. I will be making an offer which I believe would be reasonable, having regard to the matters I have just pointed out, and within existing ABC resources. So at this stage I will not be seeking additional funds from the government. As I said, what I am seeking is assistance from the parliament to help us address these issues. I am also confident and hopeful that the ECB will negotiate on reasonable terms and conditions.

Senator CONROY—If you were successful, does it cover all the one-day internationals as well as the test matches?

Mr Balding—No. We are only talking about the Ashes series; it is only the test matches. ABC radio is covering the one-day matches and the test matches.

Senator CONROY—So at this stage what you need from the government or the parliament is potentially genre restrictions. I feel a private member's bill coming on! Santo, are you going to join me?

CHAIR—Don't put Santo on the spot, Senator; it is very unfair!

Senator SANTORO—I will always have a look at whatever you put in front of me.

Senator CONROY—He is a good cricket lover. So, Mr Balding, you need genre changes but no extra funding. Is there nothing else you require from the government or the parliament?

Mr Balding—No. I think we need the general public to express their concern to the ECB that they negotiate in a reasonable manner.

Senator CONROY—In good faith.

Mr Balding—In good faith, having regard to market conditions. In respect of the minister's comments about the take-up of digital television, there are about 660,000 set-top boxes—digital televisions—out in the market at the moment. Over the last few months, and particularly leading up to Christmas, there was an acceleration of the take-up. As I said, I believe that if the genre restrictions were lifted it would provide an additional incentive to drive the take-up of digital television. We have until July; there are a number of months yet. I think you could see in the order of one million set-top boxes out in the community by July, when the Ashes series starts, if it was available on the digital free-to-air channel.

CHAIR—When is the mandatory take-up of digital?

Mr Balding—At this stage, it is 2008.

Senator CONROY—It is not fixed.

Mr Balding—No, it is only indicated.

Senator CONROY—It is an indication rather than a piece of legislation.

Mr Balding—Yes.

Senator CONROY—If the genre restriction is not lifted, will that mean you can only show it after lunch?

Mr Balding—It means that, if we were to secure the rights, we would only show it after 10 o'clock. We would not show the first session; we would only show the remaining sessions. What we may be in a position to do is show a highlights package of the first session, leading into the second session.

Senator CONROY—I think Channel 7 was in a similar position four years ago and negotiations took place with Channel 31, which showed the first session. Is that an option?

Mr Balding—It comes back to the application of the antisiphoning rules as well. If we acquire the rights and we are not showing all the sessions, we would have to make the first session available. Under the antisiphoning rules, as I understand it, we would have to make it available to SBS.

Senator CONROY—Not to Channel 31?

Mr Balding—No, I think it is to the other public broadcaster. SBS do not have to take that up but that is the dilemma. As I said, it is not only the ABC that faces it. Channel 7 faced it four years ago; Channel 9 faced it before that again. It is finding the balance. Unfortunately, you are damned if you do and damned if you don't. What we will not compromise on is our 7 p.m. news going to air live around Australia and we will not compromise on the *7.30 Report* going live around Australia.

Senator CONROY—I think a 10.30 report sounds good!

Mr Balding—The proposal that I am putting to this committee and to the parliament is a way around that.

Senator CONROY—Sure. I am just looking at perhaps giving an expanded menu of options in terms of Channel 31. I appreciate that it is not a public broadcaster.

Mr Balding—I want to make a correction. It is under the antihoarding rules that we would have to make that first session available.

Senator Coonan—No, the cricket is not listed. The Ashes are not listed.

Mr Balding—It would only be if the minister chose to list it.

Senator Coonan—Could we hear from Mr Cameron to clarify that, because there is some confusion about whether the Ashes are listed so that there would be an antihoarding requirement to provide what they did not show.

Mr Cameron—The mechanisms that Mr Balding referred to do relate to obligations under the antihoarding scheme. The Ashes are not listed under the antihoarding scheme, so if the ABC were to acquire those rights they would not be under any of the antihoarding obligations to on-supply them if they chose not to use them.

Senator CONROY—So you could actually onsell them, for instance, for a nominal fee to Channel 31? I think the government were involved four years ago in a similar situation. I do not think there is any competition.

Mr Balding—I would have to look at that, because that would also be subject to the contract conditions you enter into with the rights holder as well.

Senator CONROY—Sure. I think that publicly you indicated—I am referring to interview that you did at *World At Noon* on a Thursday—that you were not initially interested. Did the campaign from the *West Australian* newspaper influence you to change your mind?

Mr Balding—As I said, I have been considering this for some time. There are a number of things that you have to take into account. When the ABC initially declined the invitation to bid that was very early on in the piece. It was back in 2003 and again towards the end of last year. It was on the basis that, firstly, we expected the cost to be prohibitive to the ABC, because at that stage we were of the view that there were still a number of commercial free-to-air broadcasters in the market in bidding for those commercial rights. Secondly, at that stage we were also very much of the view that it would have an impact on our prime time schedule. This is not just one-off test match; there are a number of test matches over three months. It would have an enormous impact on our schedule. What has changed is that we are, as I understand it, the only network in there bidding for those rights and, secondly, we have an opportunity not to disrupt our main prime time schedule by way of showing it live on the second channel.

Senator CONROY—Are you seeking a genre change on an ongoing basis or just in this one-off particular instance to allow the minister to complete her review?

Mr Balding—That is up to the parliament. I have been quite public in saying for a number of years now that I believe that the genre restriction should be lifted, but it is up to the parliament. It may be possible to have a one-off temporary lifting.

Senator CONROY—We were just trying not, as the minister said, to pre-empt the minister's ongoing review. I can understand and have some sympathy for the minister's situation, but a one-off circumstance to allow you to let the Australian public see the Ashes may be an option that the Prime Minister and the minister could swallow.

Mr Balding—I believe a one-off lifting of the genre restriction, as I said, would not only have the benefit of having the Ashes available free-to-air, subject to acquiring the rights, but also provide additional incentive to drive the take-up of digital and demonstrate to the Australian public the value of digital television.

Senator CONROY—Is this a cabinet decision, Minister? Would this need to go to the cabinet to seek the views of the PM and the rest of cabinet on a temporary genre? Would that be how it works?

Senator Coonan—The future of media, which this is really part of—the future of how multichannelling might work if that were the way that the government decided to go—would certainly be a decision for cabinet.

Senator CONROY—But, in the way cabinet processes work—and I am sure you will understand I have never been in cabinet—you would need to take a submission for a one-off lifting, for instance, to the cabinet.

Senator Coonan—But I would not be persuaded that trying to quarantine a one-off lifting would have the desired benefits that it might be said it would have, in the first place. But, in the second place, I think it would be improper to pre-empt a review process where there have been many submissions and there are many views. To simply just pull one application out of the blue and have to try to get it in before July would, I think, be logistically difficult. It certainly would be against good principles of how you develop public policy and the way these things are discussed. It has been a process that—

Senator CONROY—Perhaps you could apply for a regional grant. I understand the processes are a bit thin there.

Senator Coonan—If I could just finish, there has been a very significant process on all of these digital reviews and, in my view, it would be inappropriate to try to ring fence an application for a particular purpose when it is a programming issue. If the free-to-air want this, they can all have it: every single one of them can bid. Nine can bid, 7 can bid, 10 can bid, ABC can bid, SBS can bid—all of them can bid—and to subvert a policy process simply because there does not appear to be much interest because of programming restrictions would not be the preferred way to go.

Senator CONROY—That would have to be a very disappointing outcome if Mr Balding goes to all the trouble of getting the rights and then, ultimately, we are still missing out seeing one-third of them.

Senator Coonan—I would understand, from conversations I have had with Mr Balding, that the ABC would, as it usually does, do its best to provide a highlights package and show it as soon as it can finish some of its regular programming. That may be the best that can be done. It is not over yet, of course.

Senator CONROY—What about the Channel 31 option for the first session, as well as the highlights package, Minister—similar to four years ago?

Senator Coonan—That is a matter for how the rights are negotiated.

Senator CONROY—Is that something you would take an interest in—making sure that the first session could be shown on Channel 31, similar to what the government did four years ago?

Senator Coonan—The government does not take a direct role in how the antisiphoning scheme works, apart from putting the policy in place. So far as I know, with its many imperfections that we are all aware of, trying to get this balance right—

Senator CONROY—You told me in November or December in question time that it was working well.

Senator Coonan—Senator Conroy, just a minute—let me finish.

CHAIR—Let the minister finish, thanks, Senator.

Senator Coonan—Within the kinds of constraints that an antisiphoning scheme inherently has in the way it is structured, all of the free-to-air can bid. The government is not going to be in there requiring anyone to do anything. It sets in place a scheme that allows any free-to-air to bid for it. That appears to be what the scheme provides, and that is indeed open to any free-to-air.

Senator GEORGE CAMPBELL—I would like to follow up that particular issue. Mr Balding, you said you would not be seeking any additional funding from the government if you were successful in these bidding rights. How do you then intend to fund the bid if you are successful? Do you have special programming contingency funds?

Mr Balding—We do have a contingency as part of our budget process, and that is something the board would need to consider.

Senator GEORGE CAMPBELL—And how is that contingency fund identified and operated within the ABC? Is it for special purpose?

Mr Balding—It is for special purpose contingencies or events arising that were not anticipated when we first put the budget together and had it approved by the board. This is one of those events that has arisen since the board approved the current year's budget.

Senator GEORGE CAMPBELL—Is that contingency fund identified when you put your budget together?

Mr Balding—To the board it is, yes.

Senator GEORGE CAMPBELL—Does that mean that, if you are successful in bidding for this program, it will not require shaving off funding from any other programs in order to assist the funding of this program?

Mr Balding—No. The ultimate amount of money that I would bid, as I said, would be on the basis that, firstly, the ABC can afford it and, secondly, it will have no impact on the current budget process.

Senator GEORGE CAMPBELL—Mr Balding, why are those contingency funds not used to assist in other areas of the ABC where funding has been pruned?

Mr Balding—In managing any budgetary situation you need to put aside a small amount of money in case an event happens that you need to fund. It is just good financial management

practice. Let me assure the committee that there is not a bucket of gold in this contingency fund. It is a relatively small amount of money in terms of the ABC's funding, but it is good proper financial management to have a contingency fund set aside.

Senator GEORGE CAMPBELL—I understand the argument for that. But, if you have a contingency fund set aside with no prospect of using it in any given year, why are those funds not made available to assist in other areas of ABC programming?

Mr Balding—At times they are; sometimes they might be released towards the end of the financial year. But, if at the end of the financial year you end up with your contingency fully intact, that contingency carries forward so when you go into the new financial year you do not have to find money to put into the contingency fund. Indirectly the funds are then released because you do not have to find them a second time. You just do not spend it for the sake of spending it and start again. At the end of the financial year the balance of our contingency fund rolls forward and, therefore, it is a lesser demand on the budget for the next financial year.

Senator GEORGE CAMPBELL—So whatever contingency funds you have available to the ABC are not put under pressure when you sit down with the government to talk about your future budgetary requirements?

Mr Balding—It is a relatively small amount of money.

Senator GEORGE CAMPBELL—That was not the question I asked, Mr Balding. Is it or is it not put under pressure in your negotiations with government for future funding?

Mr Balding—The amount of contingency we put aside is always under pressure. You are looking to allocate the maximum amount of funds to program-making on the ABC, but you have to do it in a responsible manner, and part of that responsible financial management is to hold some funds back. Those funds may begin to be released towards the end of the financial year once you are fairly confident that there will not be any major event that will hit you, whether they be natural crises or major events overseas that our news and current affairs section has to cover. We incur not only the travel costs but also significant satellite feed costs to bring vision and programming back. So you would take that decision about whether you release an element of those funds principally towards the end of the financial year.

Senator GEORGE CAMPBELL—When you get to the stage of sitting down with the government to talk about your forward funding, the government does not say to you, 'Aha, you've got X amount of dollars sitting in a fund that you haven't spent'?

Mr Balding—No. Once you establish your contingency fund it is a one-off—it is not on an ongoing basis. If you can maintain that contingency, it is not drawing upon the next year's money. So it is not an ongoing requirement.

Senator GEORGE CAMPBELL—But it does not influence the amount of money you get?

Mr Balding—No.

Senator CONROY—Minister, would you agree that an exclusive right is worth more than a general right?

Senator Coonan—It would depend who is acquiring it. The ABC does not advertise, for instance. I do not know that that would always be the case.

Senator CONROY—But, if you were a bidder in a commercial situation, would you generally agree that having it exclusive to your channel would be worth more to you than just bidding for it and getting it if everyone else can show it as well?

Senator Coonan—I would have thought that an exclusive right would be more valuable to some bidders than to others.

Senator CONROY—On 18 November I asked you about this issue and in your answer you said:

There is no evidence to suggest that the antisiphoning rules are being infringed or are otherwise not working in the way they were intended.

Given the evidence that Mr Balding has given you and given that application you have got before you, do you think that the antisiphoning rules are working as they were intended?

Senator Coonan—They are the critical words, aren't they—'as they were intended'. It might not suit everyone's particular interest but they are certainly working the way that they were intended. It is my understanding—and we can go back to the debates—that they were never intended to convey exclusive rights on free-to-air. They were intended to provide free-to-air with an opportunity to bid for the rights before pay.

Senator CONROY—Sure, and that is a fair representation, I think. The key question here is: is it about maximising the ECB's revenue with an exclusive pay deal or is it about maximising the coverage for the Australian public? Where does the government fall in that?

Senator Coonan—The government falls very much on the side of ensuring that the scheme works the way in which it was intended, and that is that all of the free-to-air have an opportunity to bid for the rights and that there would be no delisting until the minister—me in this particular case—received advice that there had been a proper opportunity for all the free-to-air to bid.

Senator CONROY—If the ECB take the view that they can maximise their revenue by essentially not negotiating in good faith with a free-to-air carrier, do you think that that would indicate that the antisiphoning rules are working in the way that they were intended?

Senator Coonan—I would not accept that an application to delist would necessarily mean that there was any bad faith or that there would not still be an opportunity for free-to-air to acquire the rights. Obviously these are commercial matters. The government cannot be sitting with one leg in the ECB's camp and one leg in the—

Senator CONROY—I would hope not!

Senator Coonan—free-to-air's camp. So the scheme operates in such a way that the public and the free-to-air are completely protected until there has been an appropriate opportunity to cast a bid.

Senator CONROY—But if the rights holder—in this case, the ECB—take the view that they can maximise their revenue by negotiating in a way that ultimately leads to no sale to

free-to-air, which allows them to then get a greater amount of money from pay, do you think that the rules are operating in the way they were intended?

Senator Coonan—They have already sold their rights to pay. What additional rights are you talking about?

Senator CONROY—But now they are seeking to delist them so that they do not ever have to talk to free-to-air again and they can offer an exclusive deal. There is a pattern of behaviour here from the ECB.

Senator Coonan—I do not know that it is a pattern, because that suggests that it is repetitious. Any rights holder at all can apply to delist. That is not to say that they will be successful. The government is alive to the possibility that the free-to-air may still be able to secure these rights and will be given an opportunity to bid.

Senator CONROY—But it makes commercial sense if you are the ECB that if you can get \$5 million—and I am just picking some figures here; I am not in any way trying to suggest that I know what the ABC or FOX or the ECB are at—from an exclusive deal and you can only make \$2 million from a non-exclusive deal with a pay and then \$1 million for a free-to-air, it is in the commercial interests of the ECB to shaft the negotiations with the free-to-air. That is just commercial sense. That is why these rules are here. That is why it is your job ultimately to make the decision. We have a national interest protection, which is you.

Senator Coonan—You can have every confidence that the government is not going to be making a decision without proper advice. The department, indeed the ACA and the ABA, takes into account whether there should be a delisting, and the behaviour of rights holders is obviously a point that is taken into account. The protections are there. It is not as if there is some position being taken to delist. Anything but.

Senator CONROY—I appreciate that. As I said, it is the ECB's behaviour that I am trying to get to the heart of. They have got two columns: they have got a revenue column for pay and they have got a revenue column for free to air. They have got the revenue column filled and ticked as Fox have bought it. They currently have a zero dollar figure and they have a potential buyer, and it appears they seem to be taking a very strident view.

Senator Coonan—If I may say so, and this is pure speculation on my part, it seems to me that this intense interest must make them feel that they can up the ante hugely.

Senator CONROY—I would have hoped that this intense interest would have shone a light on what they are actually really up to.

Senator Coonan—They do not need to have a light shone on that, because the department looks very carefully at the conduct of rights holders as something you would take into account as to whether or not you delist. So your mind should be at rest as to the fact that the public are protected under this scheme and that delisting only happens under the conditions that I have outlined. What I am saying is that I think that everybody talking about this must make the rights holders feel they have a hit a pot of gold and they can just keep upping the price. Why is that not an alternative scenario?

Senator CONROY—I guess that is a plausible one. I hope that is not what is actually happening. I hope that shining a light on the behaviour strengthens the resolve of the

government not to allow the ECB to manipulate things in this way and so that you will be acting in the national interest to ensure that as many Australians as we can ensure get to see it, preferably on free to air.

Senator Coonan—I think we are all in furious agreement that should happen. That is a desirable outcome. That is what we all want. We will all be trying in our own way to achieve that outcome.

Senator CONROY—Thanks. Senator Santoro.

Senator TCHEN—You exhibit an uncommon interest in running an estimates committee.

CHAIR—That is right.

Senator CONROY—No. My apologies—I was not trying in any way to pre-empt the chair.

Senator TCHEN—It is just that, from what I understood of the Labor Party, shadow ministers were interested in becoming ministers, not chairman of committees.

Senator CONROY—I can only defer to Senator Santoro to defend my honour at this point.

Senator SANTORO—Mr Chairman, I await your call.

CHAIR—I call Senator Santoro.

Senator SANTORO—Thank you, Mr Chairman. I certainly do not think that Senator Conroy needs anybody, including me in particular, to defend his honour. It would do you a lot of damage within your own party, Senator Conroy, if I participated in that way.

CHAIR—I think the fact that Senator Conroy has said that you would be defending his honour has been noted.

Senator SANTORO—Thank you, Mr Chairman. Mr Balding, it is nice today to see you and your team again. I will start on a positive note and then move to perhaps a constructively critical note. First of all, thank you for your professional courtesies. I remember writing to you, either on 23 or 24 December, and receiving a reply to my communications to you. It was very good to see that the minister, you and I—three Australians who are in this room—were working on Christmas Eve. I thank you for your prompt response to most of my communications to you.

As an opening statement, because it has not been said here this morning and I am sure that is because of an oversight, I congratulate the ABC on the way that you handled the coverage of the tsunami tragedy. It was a tragedy of a massive, unprecedented scale, and an enormous amount of work was done, particularly behind the scenes by support teams and people that had to display a great degree of technical and administrative acumen, to get the magnificent coverage that the ABC brought to the people of Australia. I think you were the first in there. You did an absolutely magnificent job. I have frequently been a critic of the ABC, particularly in terms of its bias and some other administrative matters, but I always go on the record when some praise has to be given. Minister, Mr Chairman and Mr Balding, I am pleased to be able to do so, as I have explained, as to these two occasions.

Mr Balding—Thank you, Senator.

Senator SANTORO—Today I want to go to a number of issues. Some obviously touch on bias; others touch on some administrative matters. I had been awake for a little while this morning and I was listening to a breakfast program. I was of course listening to the ABC, which at about 6.25 a.m. runs a round-up of the press. The gentleman who presents the round-up—I think he supports Stephen Crittenden—clearly has some quite interesting views. The other day he was referring in very flattering terms to al-Jazeera’s coverage of Israeli politics. He obviously likes organisations such as al-Jazeera, because he was very complimentary, but he obviously does not like people like Piers Akerman. This morning he came out swinging against Mr Akerman’s comments in respect of last night’s Habib interview.

Senator CONROY—Senator Santoro, I think Mr Akerman is more than capable of defending himself. He does not need your help, let me assure you.

Senator SANTORO—My first question is: how frequently has your commentator turned his critical attention to such luminaries of critical comment as Phillip Adams and Margo Kingston? I would like you to take that on notice, because I do not think would you have the answer here today.

Mr Balding—I take it you are referring to Radio National and the overview of what is in the papers?

Senator SANTORO—That is correct. I would like you to have a look at the record of that commentator in particular, in terms of his views on right-of-centre commentators, if I could put it that way, as opposed to left-of-centre commentators. A second and more concerning issue is what your commentator had to say this morning about whether Mr Habib had advance knowledge of September 11. Your commentator made what I thought was the very flippant remark that Mr Habib could not have had advance knowledge of 9-11 as by November 2001 he had been detained. Presumably his comment was merely a silly play on words to the effect that, while we all know that 9-11 refers to September, the date reference 9-11 can also mean November. Is it appropriate for your commentator, merely in order to have a go at Mr Akerman, to rely on flippant remarks on what are issues of very great significance—indeed, on an issue that is central to the AAT proceedings about whether Mr Habib should be issued a passport?

Mr Balding—I will have to take that on notice because I did not listen to the program and have not read the articles that he would have been referring to.

Senator SANTORO—I think the comments of this morning need to be placed in the context of that correspondent’s previous statements. That is the reason I have given you a very direct question on looking into what he has said previously as well as what he said this morning. What kind of guidance does the ABC provide to this commentator, or commentators like him, that allows him to believe that he should use public funding to selectively attack analysts such as Mr Akerman, presumably because he does not like him?

Senator CONROY—Would you just like him to cheer loudly for you?

Senator SANTORO—No, I do not want him to do that, Senator Conroy.

Mr Balding—The guidelines that are available to this commentator are applicable to all ABC employees, particularly ABC editorial employees, and that is through our editorial policies. There should be no commentary.

Senator SANTORO—I look forward to your reply. I would like to raise the matter of captioning for the deaf and the hearing-impaired, about which, as I am sure you will recall, we have been in correspondence with each other. The Australian Broadcasting Corporation, as you would be aware, has been contracting to the Australian Caption Centre, an Australian not-for-profit public benevolent institution established by the coalition government in 1982 to perform captioning services so that Australia's two million deaf and hearing-impaired people can have access to the national broadcaster's programming. This relationship has borne many initiatives which have, in my view, positively changed the lives of many Australians, such as the first captioning of a news bulletin—the national late edition news in 1990—and the first live-to-air captioning—the election debates in 1983. Without wanting in any way to come across as somebody who is against the proper processes of tendering—and I stress that—I am wondering what the reasons are for the ABC contemplating changing this relationship by putting the captioning contract out to tender in August 2004.

Mr Balding—You would be aware that the amount of captioning the ABC carries out is increasing year by year and the cost is increasing. The corporation took the right decision to go to market and seek value for money in this particular service. The decision to award the new captioning contract was made after a very rigorous, robust and transparent tendering process. We sought value for money, quality of service and reliability in delivery—they were key requirements of the tender. I do not apologise for going to tender for this quite expensive service that we provide. At the moment, the ABC spends roughly \$4 million per annum on captioning services. As you said, we have been with the Australian Caption Centre probably since day one, and I thought it was appropriate to see whether we were getting value for money. With this new contract, you, the Australian public and the parliament can be assured that we believe we are getting value for money.

I am aware of the amount of correspondence that is travelling between various venues with respect to this process. As I said, the process is very open, very transparent and very rigorous. We took the additional step of retaining the services of Deloitte Touche Tohmatsu to act as probity auditors. The probity auditor has signed off on the process. As I say, I do not apologise for that; in actual fact I think the ABC should be congratulated for going out to tender.

Senator SANTORO—I want to stress that I am not asking you to apologise for going to tender. I again state my very strong support for good tendering processes. But in your answer you seem to be talking about cost differentials—obviously, you used the term 'value for money'. What is the reduction in cost resulting from moving the contract to CSI?

Mr Balding—Can I refer that to Mr Pendleton.

Mr Pendleton—Over the term of the contract it will be in the order of \$1.4 million per annum.

Senator SANTORO—That has obviously been documented and subject to an audit analysis?

Mr Pendleton—Yes.

Senator SANTORO—Has the ABC done anything to ensure the sustainability of the pricing of the CSI proposal? Are you confident that its commitments can be carried forward in the future?

Mr Pendleton—Yes. A number of the evaluation criteria that were applied to the tendering process looked to the ongoing viability of the company, the pricing structure that had been put in place and the quality of the service to be provided.

Senator SANTORO—Are you confident that its proposal covers things such as overheads associated with training, management, technical support, data carriage and telecommunications?

Mr Pendleton—Yes.

Senator SANTORO—Will expenditure in any ABC department now increase because of the change from the Australian Caption Centre to CSI? If so, by how much?

Mr Pendleton—Will budgets increase for individual divisions? No.

Senator SANTORO—There will be no increase in expenditure by the ABC in those areas?

Mr Pendleton—On a like-for-like basis, on the volume of captioning, no; there will be a reduction in cost.

Senator SANTORO—For instance, will production units experience an increase in costs associated with transcriptions? Will there be increased reliance on ABC technical support resources or operational resources, such as branch master control or presentation facilities? What I am trying to get to is: is there some level of implicit cross-subsidisation of the new company's operation that was not there with the old one?

Mr Pendleton—No. There will be a difference in the rates that were formally charged by ACC for the various services that they provided. A new rate schedule has been provided. Looking at the activity levels of transcription that had taken place within the ABC benchmarked against the tendered submission, there will be a net saving to the ABC.

Senator SANTORO—There will be no increased reliance on the ABC's switchboard and complaints-handling resources, for example?

Mr Pendleton—No, I would not have thought so.

Senator SANTORO—Therefore, there will be no extra costs applying to any of those operational units?

Mr Pendleton—The quality of service of captioning will remain the same, if not be better.

Senator SANTORO—Mr Balding, CSI will be performing some of these services differently from the method the Australian Caption Centre currently uses. For instance, news programs which are produced in Perth, Adelaide, Darwin, Hobart and Melbourne will be captioned from eastern capital cities. Does this signal a general move by the ABC away from localised production services to more centralised east coast models?

Mr Balding—No, it does not. How another outside business conducts its affairs and where it chooses to provide that service from is a matter for that business.

Senator SANTORO—So that was not a consideration in terms of some work being performed locally as has previously been the case? There was no condition in the tendering documents to help preserve that local—

Mr Balding—Not that I am aware of, no.

Senator SANTORO—There was none?

Mr Balding—Not that I am aware of.

Senator SANTORO—Thank you. One of the partners of the CSI consortium is the British television facilities company, itfc, which provides a range of television facility services to the ITV network and others in the United Kingdom. Is awarding the captioning contract to CSI a foretaste of other operations within the ABC being outsourced to overseas owned companies?

Mr Balding—No, not necessarily. It is sending a very strong signal that, when the ABC require a service to be provided and we do not have the in-house expertise and that service is of a significant magnitude and expenditure, we do the right thing: we go to open tender and let the market prevail. That is what we have done. It does not send any other signal other than that we are prepared to go to the market and seek value for money for the national broadcaster.

Senator SANTORO—Accepting what you have just said, Mr Balding, that open tender is a desirable process in terms of cost savings and better service delivery, I refer you to clause 17 of the ABC general conditions of offer which states a preference for Australian and New Zealand suppliers. What consideration was given to the fact that the Australian Caption Centre is an Australian not-for-profit public benevolent institution while CSI is a commercial company owned by British and American interests?

Mr Balding—I will refer that to Mr Pendleton, who is across the details of the tender document more than I am.

Mr Pendleton—It is true to say that that is one of the criteria that we apply. It is one of a number of criteria that are applied to the evaluation of the respondents. I believe that CSI are partnering with an Australian based firm for the provision of staff resources in the delivery of the ABC contract.

Senator SANTORO—Can you quantify the extent of that partnering relationship?

Mr Balding—I will ask Mr Ward to answer that question. He was part of the tendering process.

Mr Ward—The clause that you referred to is part of the condition of offer; it is not part of the selection criteria. What it relates to is if the price is close between proponents then there is an ability there to go and consider that and give a preference—

Senator SANTORO—Under clause 17?

Mr Ward—Yes—to an Australian or New Zealand company. That was not the case here.

Senator SANTORO—So you are saying that the price differential was sufficiently big according to some criteria, which I would like you to outline, that you did not think there would be much benefit gained from invoking clause 17?

Mr Ward—That is right.

Senator SANTORO—How big was the differential? Was the successful company's differential 20 per cent less expensive? Was it 20, 30 or 50 per cent? What was the percentage?

Mr Ward—In relation to captioning there are various rates such as online rates, offline rates and encoding rates. The variation, from memory, was something between, depending on various rates, in the region of 35 to 50 per cent between various proponents.

Senator SANTORO—And you thought that was significant enough not to bring into play clause 17 provisions?

Mr Ward—That is right, Senator, we did. We also had meetings with individual proponents and the evaluation committee put issues of pricing and gained an understanding of the position of proponents in relation to what they have put on the table and where they wanted to go, whether it was the best price et cetera, during the process. We were very confident about the pricing structure that we were receiving from the various proponents.

Senator SANTORO—I think I know your answer to this next question, Mr Ward, but I will ask the question anyway. Why did the ABC not exercise its rights stated in section 1.1.2, a request for proposals, to negotiate further with the Australian Caption Centre after proposals were received? Was it again the cost differential that suggested that you would not want to invoke that right?

Mr Ward—The answer is essentially the same: we felt that we had a very clear understanding from the proponents in relation to their pricing and we had very clear differentials between the proponents in relation to the prices that were on offer.

Senator SANTORO—Mr Balding, the itfc web site contains a press release in which the following is stated:

The ABC contract success comes at a time when itfc and WordWave have successfully started to provide live captioning for ITV, the UK's main commercial channel, using Australian stenographic resources.

There seem to be some resource implications—the cross-subsidisation issue that I mentioned before—so I ask you again: are any ABC resources, including accommodation, being used to caption other broadcasters' programs?

Mr Balding—No.

Senator SANTORO—You can state that unequivocally?

Mr Balding—Not that I am aware of, and my colleagues are not aware of it either.

Senator SANTORO—Would you take that question on notice and provide an answer after you have had another look at that.

Mr Balding—I can, yes.

Senator SANTORO—That quote seems to be quite black and white—quite explicit in terms of—

Mr Balding—Thank you for that opportunity—I will take it on notice. Can I just reiterate: to the best of my knowledge the answer is no, from an ABC resource perspective. But when we are talking about cross-subsidisation—and as I mentioned in my correspondence to you, Senator—I was absolutely astounded again to find that the ABC apparently for some years now has been cross-subsidising other community service activities of the Australian Caption Centre. I find that of concern.

Senator SANTORO—In the arrangements that have been put in place with the successful tenderer, are you confident that ABC news material and other confidential information will not be conveyed to other broadcasters? I am just perhaps following up a little on what you have just stated. Are you confident of the technical security and integrity of the ABC systems?

Mr Pendleton—Yes, and appropriate contractual terms and conditions have been written into the contract with the new service provider.

Senator SANTORO—Did the ABC do a risk assessment with regard to changing from the Australian Caption Centre to CSI?

Mr Pendleton—Yes.

Senator SANTORO—What are the details of the risk assessment?

Mr Pendleton—A range of considerations was taken into account in changing from one provider to another. The highest risk factor, obviously, was program interruption and the changeover of equipment. All those risks were dealt with and mitigated within the handover strategy that we have in place.

Senator SANTORO—Would you be able to provide the details of the outcome of that risk assessment and the issues that were covered by it?

Mr Pendleton—Yes.

Mr Balding—Yes.

Senator SANTORO—I am grateful for that. CSI is a joint venture of two overseas companies—itfc and WordWave—neither of which has any experience providing captioning services in Australia. What steps did the ABC take to make itself secure that CSI had the wherewithal to supply the extensive services in Australia required by the ABC?

Mr Pendleton—The Australian partner for the new service provider has already done captioning services for the ABC.

Senator SANTORO—When was that?

Mr Pendleton—Within the context of the last contract—up until recently.

Senator SANTORO—So you are saying that within that partnership there is sufficient history of performance to satisfy the ABC in awarding the contract?

Mr Pendleton—Yes.

Senator SANTORO—In August 2003 the Australian Caption Centre proposed reducing fees charged to the ABC by five per cent in return for the security of a three-year agreement. This would have resulted in savings of several hundred thousand dollars a year. What are the reasons for the ABC declining to accept the Australian Caption Centre's proposal in 2003?

Mr Pendleton—We have been considering for some time the growing cost of captioning within the ABC, not only in terms of the number of hours that we are required to caption but also in terms of the cost of output. The ABC and the evaluation committee that we pulled together to consider the various options for the provision of captioning services determined that it was appropriate to visit the market to test at a level playing field the best way to go forward and what the most cost-effective ways to buy the services were.

Senator SANTORO—In 2003 you were beginning to think that perhaps there was a more cost-effective way for those services to be delivered?

Mr Pendleton—We were becoming aware of new players within the market that were capable of providing captioning services to the ABC, whereas in earlier years there had been only one provider who could reasonably have been expected to meet the ABC's needs.

Senator SANTORO—In August 2003, before or shortly after, had you had any contact with other providers, such as CSI, to try to ascertain whether they were able to provide captioning services in a more cost-effective way?

Mr Pendleton—I might have to check that, Senator.

Senator SANTORO—Would you mind informing the committee after checking whether any contact had been made prior to August 2003 or subsequently.

Mr Pendleton—Certainly we were aware of other providers in the market, Senator.

Senator SANTORO—Yes, but had contact been made is my question.

Mr Pendleton—I would have to check.

Senator SANTORO—Thank you very much. I will stop there in terms of CSI. I would like to move to some questions relating to bias. I am aware of the clean bill of health that the ABC's internal complaints system keeps awarding the corporation and of other mechanisms related to monitoring the recent federal election coverage that, historically, have similarly produced a good report sheet. However, Mr Balding, I continue to receive numerous reports from ABC listeners and viewers who identified bias and lack of balance in ABC current affairs and other areas. I would like to take you and your officers through two of them at this hearing and perhaps to place a few more on notice.

The first one I would like to refer to is the 'Lord of the Forests' *Four Corners* program. The Australian Broadcasting Authority has confirmed that a *Four Corners* episode in February 2004, the program 'Lord of the Forests', concerning logging in Tasmania, breached the ABC's code of practice by failing to present factual material accurately. You will be aware that this aspect of the affair has attracted some quite critical comment from the Minister for Fisheries, Forestry, and Conservation. You will also be aware that the Minister for the Environment and Heritage has written to the Australian Museum asking what action the museum will take in reconsidering the 2004 \$10,000 Peter Hunt Eureka Prize for Environmental Journalism, awarded to the program in which the reporting was done by journalist Ticky Fullerton. In that context, Mr Balding, does the ABC treat the rulings of the Independent Complaints Review Panel as significant and does it consider that it has an obligation in the public interest to act on them?

Mr Balding—The answer is yes, Senator.

Senator SANTORO—Do you ever dispute the rulings of that committee?

Mr Balding—No. I accept the umpire's decision. I do not necessarily at times agree with the umpire's decision, but I have been brought up in life to accept the umpire's decision and to move on. So I accepted that decision, yes.

Senator SANTORO—So if the ABC accepts the rulings of the Independent Complaints Review Panel, does it also accept that its audience has a legitimate interest in knowing about such findings?

Mr Balding—Yes. In fact I put out a public statement when that finding was handed down.

Senator SANTORO—I want to refer very specifically to that public statement but I just want to get my understanding of the general practice guidelines in place. What policies, then, does the ABC have in place for publicising such findings?

Mr Balding—I put out a public statement that goes on both our intranet and internet sites. Where there are errors of fact we correct those errors of fact and publish those corrections. In respect of this one, it was published on the *Four Corners* web site.

Senator SANTORO—I will skip a few questions and go directly to the matter of the *Four Corners* web site. At the last time that we checked it, which I think was yesterday afternoon, it did not contain any indication of the findings of the panel—is that correct?

Mr Balding—I would have to look at that. I was under the impression that it did—not the findings of the panel. Let me go back.

Senator SANTORO—I am aware of the public statement that you put out. I think that is commendable. I suppose I am rushing ahead. I do not want to take up much of the time of the committee, but this is an issue that is of enormous concern to a whole industry sector that feels it has been defamed and feels very aggrieved about the way in which it has been defamed. It does not believe that a serious correction of the record has taken place.

Mr Balding—Can I query that. Did you say that the industry was defamed?

Senator SANTORO—No. I said that there is an industry out there with people in it who feel that there is considerable defamation that is attached. I know that defamation cannot attach to a corporate body and an industry, if I can put it that way, but there are a lot of people who feel that what they do and what has happened has been greatly misrepresented. The *Four Corners* web site does correct an erroneous reference to Van Diemen's Land and provides a clearer map of Tasmania's forest reserves than the one used in the program. Do you believe that there is no need to indicate the independent complaints review findings on the *Four Corners* web site? If so, how do you justify continuing to present to its internet audience material that has been found wanting against its own editorial standards? You have already told me that you have accepted the judgment of the umpire.

Mr Balding—Yes.

Senator SANTORO—If presenting such deficient material is acceptable, what does that indicate about the level of respect that the ABC has for its editorial standards? I understand that you have put out a release and that there has been a correction of some of the technical

aspects of the data presented, but there is a determination that has not been publicised to the audience. Do you think that is acceptable?

Mr Balding—At the moment, as under our current provisions, yes, I believe that is acceptable. We put out a public statement and came out right upfront. Let us be quite clear that in respect of this particular program you are right: it is a very sensitive and emotional but very complex topic. But what is clearly demonstrated here is that our governance processes were working and, prior to any review of the program either by our complaints review executive or by the Independent Complaints Review Panel—ICRP—or even by the ABA, the ABC acknowledged right upfront that there were a number of factual inaccuracies contained within that program. We put our hand up, we apologised, we corrected those inaccuracies and we published them, as you referred to, on the *Four Corners* web site. On the handing down of the ICRP report, I put out a public statement. There still are a couple of complaints before the ABA. Pending the outcome of the ABA's reports, I will also be acting in respect of those reports.

Senator SANTORO—How do you reconcile the approach that you have just outlined in which you are not publishing the ruling of the Independent Complaints Review Panel on the particular web site? There is an established principle that corrections should receive publicity equivalent to the original errors. Do you accept that as a principle?

Mr Balding—I do accept that as a principle.

Senator SANTORO—So why isn't that determination—that ruling—by the Independent Complaints Review Panel put on the web site? There are people who have an interest in this issue— people who want to scrutinise the performance of your journalists in that particular *Four Corners* program; people from the industry that keep going back to the site, presumably for reference purposes or just to see whether in fact there has been some natural justice in terms of publicising the remedy to the original errors. So how can you say that not having the findings of the Independent Complaints Review Panel on the web site is in accord with those general principles?

Mr Balding—Let me have a look at that in respect of particular web sites, but from an Australian Broadcasting Corporation perspective we have published it.

Senator SANTORO—You put a media release out.

Mr Balding—Yes, I put a media statement out there.

Senator SANTORO—And you think that media release would have got into the valleys and mountains of Tasmania, Western Australia and Queensland and would have been listened to by people that had become aware of the defective commentary of and broadcasting by your corporation?

Mr Balding—Yes, I think the media reported that. But let me take that issue or suggestion on notice and have a look at that. As I have said to this committee many times, I am always looking at ways to improve our governance processes, so let me have a look at it.

Senator SANTORO—I appreciate your willingness to do so. I will communicate with you again by mail on that one. I look forward to your reply and further elaboration. Another issue I have raised with you previously is that of statements made by Richard Ackland. My question

on notice No. 136 was a follow-up to the question I asked at the February 2004 additional estimates about a comment Mr Richard Ackland made in the context of the British Hutton inquiry into the BBC's reporting of the weapons of mass destruction dossier. We have been going on with this since February 2004 so, as I think you gather, I just do not give up. When he was the stand-in Radio National *Summer* breakfast presenter in December 2003 his comment—and you will no doubt recall the circumstances—was: 'In Australia, if you lie, you get re-elected.' The ABC now says that Mr Ackland believes that he may have made such a comment but could not recall where and when. Has the ABC taken any steps to ensure that its own tapes of programs are complete records and include throwaway lines such as Mr Ackland's?

Mr Balding—Can I ask Mr Green to articulate to you what our procedures are.

Mr Green—All of our live programs and the programs that are transmitted—that is, radio transmissions, which is the case you were referring to—are kept for a period of six weeks. After that they may be kept. But the requirement is to keep them for a period of six weeks after broadcast.

CHAIR—Are they transcribed into a paper record?

Mr Green—Yes, in some cases, if it is an interview. But my understanding was that this was part of a presentation where Mr Ackland was acting as a presenter.

CHAIR—And that is not kept as a paper record?

Mr Green—No, that would only be kept in audio form.

CHAIR—For six weeks?

Mr Green—That is right. If there is a complaint about it within that period of time then, of course, the audio record would be retained while that complaint is being investigated.

Senator SANTORO—Did anyone at the ABC counsel Mr Ackland as a result of the comment he believes he may have made and which, as you know, was heard by quite a number of listeners?

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

Senator SANTORO—I am grateful for that. I want to refer to ABC guidelines. At the May budget estimates hearing the ABC answered, in response to a question I had asked in last February's additional estimates hearing, 'Yes, it is possible for groups not proscribed by the UN as terrorist organisations to commit terrorist acts.' I asked you whether consultations since giving that answer had helped inform discussion during the process of review of the ABC's editorial policies. In answering that question on notice, No. 140, the ABC said, 'Yes, the ABC board is currently considering a new editorial policy on the question of labelling of groups, organisations and individuals.' What stage has that process reached?

Mr Balding—I am in a position to advise that the ABC board has recently approved changes to the ABC editorial policies which make it very clear that, firstly, as a general rule the ABC does not label and, secondly, in cases where labelling is used, it is attributed to the person or the group ascribing the label.

Senator SANTORO—So you are confident that we are much closer to a situation where terrorists are described as such on the ABC rather than as militants or in similar friendly terms? Will terrorists be described as that rather than something regarded as softer and not representative of their true intent and activity?

Mr Balding—On the contrary. Under the editorial policies, as I said, it is a general rule that the ABC will not label. It is only where someone else ascribes that label that we will attribute that label to that person or group.

Senator SANTORO—And that attribution will be a clear one so that nobody can construe it as being the ABC making it?

Mr Balding—Correct. That is a very recent change to editorial policies which will be promulgated throughout the corporation.

Senator SANTORO—I want to go to the issue of anti-Semitism. I have maybe 20 or 30 questions on bias and about 20 or 30 questions on anti-Semitism still to ask you. In the interests of time, I will ask you a couple of those but I will place the rest on notice.

According to the 2003-04 annual report of the Executive Council of Australian Jewry on anti-Semitism in Australia, which was released on 19 January, there were 50 per cent more attacks on Jews in the 12 months to September last than the average figure for the past 14 years. As in the past six years, more than half of the reports come from New South Wales, while incidents were down in Queensland, South Australia and Western Australia. It seems to me—maybe I am picking it up anecdotally, but other people have—

Mr Balding—When you talk about reports, is that in respect of ABC coverage or coverage through the media?

Senator SANTORO—No, that is reports generally across the media, as commented on in the annual report of the Executive Council of Australian Jewry, which was released on 19 January.

Mr Balding—So they are not asserting that those comments are coming from the ABC?

Senator SANTORO—No, but there are some other assertions about the ABC which I am about to make and which I would like you to comment on. It is asserted that the ABC has been running stories about hate crimes against Arab Australians but seems to be silent on those against Jews or annual reports totalling such incidents. What is your comment on that?

Mr Balding—My comment is that I am not aware of any particular issue there. I am quite happy to take it on notice and have a look at it but, again, I am more than happy to look at whether there are specific examples.

Senator SANTORO—Would you be able to perhaps do a statistical analysis of the number of stories that the ABC has run about hate crimes against Australians and the stories that it has run in relation to hate crimes against Jews?

Mr Balding—Yes. Let me have a look at it.

Senator SANTORO—Would you also be able to inform the committee—perhaps you will want to take this question on notice also—on what ABC's news value judgment is hate crime considered and reported?

Mr Balding—I will take that on notice.

Senator SANTORO—I appreciate that that may be a little bit more subjective than my first question on this topic which you have taken on notice. Could you have a look at what news value judgment comes into play when your editors are considering their awareness of those crimes?

Mr Balding—I will take it on notice and provide this committee with a comprehensive answer.

Senator SANTORO—Thank you. I want to go to another question which touches on the tragic Israel-Palestine question. On the ABC evening news on 11 November, Geoff Sims reported, ‘Arafat became president of an elected Palestinian authority but Israel lurched to the right, a new infitada began, and the hopes of dialogue, let alone peace, disappeared.’ Similarly, on the ABC radio program *PM* that night, Mark Willacy stated:

Having arrived back in the Palestinian Territories after 27 years away, Yasser Arafat found himself without a partner in peace.

The assassination of Yitzhak Rabin by a right wing religious Jew shook the peace process. Israelis, unsure about Oslo, lurched to the right.

But the ageing and increasingly frail Yasser Arafat continued to cling to his vision.

He then played tape of Arafat saying, ‘The peace of the brave.’ Mr Balding, does the ABC hold Yasser Arafat or the Palestinian terror groups, as illustrated by that very precise, specific, running commentary and extract of voice recordings of the late Yasser Arafat, at all responsible or partly responsible for the failure up to now of the Oslo process? Or does that collection of quotes which are not out of context seem to suggest, ‘Blame it all on Israel’?

Mr Balding—The ABC would not have a position as to who is responsible and who is not responsible, but I am more than happy to take your question on notice and look at the context in which those reports were broadcast.

Senator SANTORO—If you have a look at the precise slant, which is very clear in that type of reporting, and take it from me at face value—subject to you looking more into the context of those statements, as you put it—do you think that listeners and viewers could come away with the opinion that the ABC is pushing that line?

Mr Balding—I am not in a position to comment because I have not listened to the program. I need to look at it in its total context.

Senator SANTORO—I look forward to some further comment from you.

Mr Balding—Thank you, Senator.

Senator SANTORO—I want to go back to national politics and the whole issue of bias. One irate ABC television news watcher whose emailed complaint to the ABC reached me says that the evening news on Sunday, 4 July 2004 really took the cake ‘in turning what was a bad day for Mark Latham into a good news story for the Labor leader’. Mr Latham had begun the day on Channel 9’s *Sunday* program and the issue was his time as mayor of Liverpool City Council. I have the entire text of the email and a couple of quotes from it will illustrate the point:

The ABC selectively showed only the Liberal manager of the Liverpool Council, who was a mate of Latham's, and failed to report the condemnation of him by all six previous mayors who gave him a demerit. The allegation is that Latham left the council with the recurring annual \$5 million and if that is true, Australians have a right to know that allegation. But no, the ABC cleans up the story to make it seem that Latham was admired even by the Liberals, that is, Latham's Liberal mate.

Mr Balding, I think most people understand that newsrooms always try to get a different angle on the story of the day, but I would have to say that what your newsroom did on that day sounds remarkably heroic. Would you have any comment on that or on the general principle? I would certainly be interested to see any ABC response to that email. Was one provided?

Mr Balding—I will take that question on notice.

Senator SANTORO—What do you think of that? It is a very precise quote. I remember ringing the person and saying that I also saw that interview and was amazed at the lack of balance. If the facts are as they are presented to your ABC and my ABC by that email, how would you react?

Mr Balding—If there is a lack of balance, then we have a problem with our editorial policies and our processes and need to have a look at them. I am not aware of any complaints that have come through specifically in respect of that matter which goes back a fair way, unless Mr Green is aware of any.

Mr Green—No, Senator, I am not aware of any complaints in relation to that.

Senator SANTORO—I will forward the email to you later this morning and, if I cannot forward it, I will fax it to your office. I would appreciate your comment. If you accept that there was bias, what steps have been put in place to avoid a recurrence?

My last question relates to Bali bombings intelligence. Mr Balding, on 2 July 2004 you issued a statement saying that media reports that day suggesting that the ABC had withdrawn a television promotion because of pressure exerted by the Minister for Foreign Affairs did not properly reflect the ABC's actions. You ended that statement with what many people found to be a gratuitous comment, which was:

This is a crucial period for the ABC. In the heightened atmosphere of a looming federal election, the public can be assured that the ABC will stand firm and protect its editorial independence.

You will remember the issue: it was the promotion of a BBC documentary on terrorism which was to be screened without qualification or a necessary Australian context as part of a series, despite the fact that the issue had moved on and that the facts established after its production seriously undermined its accuracy. You will also remember that I wrote to you about this. In the event, the promo was withdrawn and, to quote you, 'a decision was made to re-edit it, but time did not permit the re-editing to take place and therefore the promo could not be rescreened before the program went to air'. The promo was so inaccurate that once your attention had been drawn to it, it was necessary to take it off air. The documentary that was being promoted, however, was not judged to have been rendered inaccurate by events subsequent to its production. Could you explain how this conjunction of mutually exclusive facts came about?

Mr Balding—There are two issues here. There is the actual promo itself, and when we looked at the promo we viewed that the actual footage in the promo was out of context with the entirety of the program. When the matter was brought to our attention, in actual fact the director of television looked at it with television management and made the decision that the promo was out of context and, as you have outlined, took the decision to re-edit the promo, but time did not allow that. In respect of the program itself, it was viewed by the director of television and she was satisfied that it met all ABC editorial policies and guidelines and there was no problem in putting it to air.

Senator SANTORO—So you are still standing by the implied suggestion by you just now that the contents of that program were accurate?

Mr Balding—We believe the actual program itself, being a documentary program, put all sides of that issue.

Senator SANTORO—So you are saying that the contents of that program presented a balanced view of the issues.

Mr Balding—Yes.

Senator SANTORO—I could go on, because I actually have the transcript of the program, but I appreciate that time has come to move on. I will write to you separately, Mr Balding, and perhaps we may debate a little further the specifics of that program. We might come back—

Mr Balding—I am quite happy to have a look at it and outline to you the detail we went through to satisfy ourselves that it met editorial guidelines.

Senator SANTORO—Would you be able to provide me with that detail?

Mr Balding—Yes.

Senator SANTORO—I would be grateful for that. Thank you for your answers, Mr Balding, and to the other officers.

Senator GEORGE CAMPBELL—We are saying that balances are quite often in the eyes of the beholder. In the interest of balance, I also have a couple of questions relating to the last election. Is it true that the director of television, Sandra Levy, refused to allow ABC News to break into their programming schedule to broadcast the announcement of the recent federal election?

Mr Balding—No, that is not true.

Senator GEORGE CAMPBELL—It is not true?

Mr Balding—No.

Senator GEORGE CAMPBELL—Why did the ABC take a decision not to go live with the broadcast of the debate between John Howard and Mark Latham?

Mr Balding—The actual debate itself? Pretty well as I put out in my media statement of 9 September, that having reached the agreement with Channel 9 to broadcast its election debate at a delayed timeslot of 10 p.m., we were of the view that in broadcasting it simultaneously with Channel 9, there would be very little value in terms of providing a service to our audience. By running it later on in the evening, it would give an opportunity to attract a

broader audience to that debate. I just could not see the benefit in running exactly the same program at exactly the same time on two networks. I also had concerns about the editorial control. The ABC had no editorial input into the format of that debate. In taking a live feed from Channel 9 we would have been in no position to exercise any editorial control over what came out of that program.

Senator GEORGE CAMPBELL—Was there concern about the commercials aspect of it or not?

Mr Balding—There was a concern about a broader aspect; there were no commercial breaks during that debate. It was the format, what was said at the beginning of it and what might have been said at the end of it.

Senator GEORGE CAMPBELL—What was the audience that you attracted to the later program?

Mr Balding—We ran the Bradman series at 7.30 on that night and there was an audience of over 800,000 in the five capital cities in the metropolitan areas. In respect of the debate that ran at 10 p.m., we had an audience of 278,000. We are of the view that an extra 278,000 people were able to watch the debate than may have watched it if it went live simultaneously with Channel 9.

Senator GEORGE CAMPBELL—A lot of them might have been the political junkies that watched the first one, looking for mistakes in the second one.

Mr Balding—Maybe, but—

Senator Coonan—You could flip between the two and see if they were exactly the same.

Senator GEORGE CAMPBELL—Well, you could not because it was played later on.

Senator Coonan—No, but if they were played together.

Senator GEORGE CAMPBELL—Yes, but they were not played together; that is the point. Maybe they were looking for a different result the second time around. Getting back to the issue of the ABC news: why did ABC news not break into the program to broadcast the announcement of the federal election and the subsequent speeches or press conferences that were given?

Mr Balding—We were of the view that the actual news value of that was in the announcement of the date of the election itself. The date of the election, I believe, was of news value. We did break into our schedule. We broke into our schedule a number of times. We had confirmation of the date of the election at approximately 11.16 a.m. Australian eastern standard time. Twelve minutes later we went live on national television with that announcement, with the date. So we broke into our schedule at 11.28. We broke into our schedule again at 11.58 to provide a second update on the news announcing the date of the election. We also saw the news value, not so much in the entire press conference of the Prime Minister in announcing it but obviously in elements of that, and at 1.29 p.m. on that afternoon we broadcast another news update with the highlights of the Prime Minister's media conference.

Senator GEORGE CAMPBELL—Those timings that you gave would have been just before a news program?

Mr Balding—No. At that time we were not running news on the weekend, so it was breaking into the schedule.

Senator GEORGE CAMPBELL—Is it true that, in order to break into the TV schedule, the news department has to seek Ms Levy's permission on each and every occasion that it occurs?

Mr Balding—If there is a break-in like that, yes, the news department liaises with television management and ultimately it would be the director of news and current affairs talking to the director of television. That is the process and procedure we have in place.

Senator GEORGE CAMPBELL—What arrangements are in place in the case of a major breaking national or international story, whatever it might be, if the director of news is not available or cannot be contacted?

Mr Balding—There are a number of backups in place, including upward referral to me. If the director of news is not available, he will assign someone who is acting in his position with that editorial authority. There are protocols in place between news and current affairs and television management to address such issues as you are referring to.

Senator GEORGE CAMPBELL—Does that mean the head of news and current affairs has no capacity to make a decision to get something of major importance run unless it is approved?

Mr Balding—The director of news and current affairs, under the processes and procedures, would raise the matter with the director of television. If either of those directors could not agree on a matter then it would be upwardly referred to me.

Senator GEORGE CAMPBELL—What if it is on a weekend and the director of television cannot be contacted?

Mr Balding—Then there would be someone else designated from television. I think you will find that my directors are available 24 hours a day, seven days a week.

Senator GEORGE CAMPBELL—Good on them. So, at the end of the day, the ultimate decision about whether a story gets run will be up to the director of television?

Mr Balding—The ultimate decision, if it is upwardly referred, is up to me.

Senator GEORGE CAMPBELL—If there is a disagreement between both of them?

Mr Balding—Yes.

Senator GEORGE CAMPBELL—So that means you are on call 24/7?

Mr Balding—I am, for many things.

Senator GEORGE CAMPBELL—So you are not concerned that perhaps the ABC is running as a set of silos in respect of this issue?

Mr Balding—No, I am not. In actual fact there is very good and effective communication between my executive directors.

Senator GEORGE CAMPBELL—And you are happy that the ABC is getting there when the stories are breaking?

Mr Balding—I think it is evident that we were one of the first television networks, if not the first, to break into the schedule and announce the date of the election. That was at 11.28 a.m. Australian eastern standard time.

Senator GEORGE CAMPBELL—I know you were not the first to break in with the announcement of Mark Latham's resignation. I think there were quite a few who were not either. Mr Balding, page 36 of your annual report for 2003-04 states:

The Corporation's annual workers compensation premium increased by 63% to \$1.98 million in 2003-04, reflecting both general rises in the cost of claims across Commonwealth agencies and the increased incidence of claims, especially relating to psychological injuries. However, Comcare provided the ABC with a rebate of \$204 000 in recognition of the Corporation's effective case management that reduced the expected costs of claims.

Have you the figures of the costs of your workers compensation claims for the previous five years?

Mr Balding—We would be able to take that on notice and provide that to you.

Senator GEORGE CAMPBELL—There was a 63 per cent increase—I presume that was from 2002-03 to 2003-04. That is a very significant increase—over \$1 million—over that single period.

Mr Balding—I do not think were alone there.

Senator GEORGE CAMPBELL—I am trying to find out what the pattern was and whether that related to the jump because of the public liability issue generally or whether there were other factors. Was the \$204,000 rebate on top of the \$1.98 million, or was it off the \$1.98 million?

Mr Balding—Could you repeat what page you were quoting from the annual report?

Senator GEORGE CAMPBELL—Page 36.

Mr Pendleton—I will have to check, but I would have thought that the \$204,000 was off the \$1.98 million. But I can confirm that for you.

Senator GEORGE CAMPBELL—Can you take that on notice and confirm that.

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Were you provided with a report from Comcare addressing the increase in workers compensation claims at the ABC?

Mr Pendleton—There are a number of reasons. As Mr Balding pointed out, it is not just the ABC that is experiencing this level of increase in its—

Senator GEORGE CAMPBELL—No, but I am interested in the ABC.

Mr Pendleton—That is right. What we have seen over the last year to two years is a change in profile of the type of claim that is being incurred, and in particular the psychological injury claims that the ABC is experiencing, as is the APS and workplaces generally. It is to do with the cost of rehabilitating those staff back into the work force. That is

taking, on average, probably two to three times the time, and cost, that previous workplace injuries had been incurring. With overuse syndrome and physical workplace injuries it has been significantly cheaper and quicker to get staff back to work. Psychological injuries are demonstrating a much longer time taken to rehabilitate staff.

Senator GEORGE CAMPBELL—What has been the growth in psychological injuries claims at the ABC?

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

Senator GEORGE CAMPBELL—Do you have a rough idea, given the growth in the premium and the assessment that it is associated with psychological injuries?

Mr Pendleton—I would not like to guess. I would prefer to check that.

Senator GEORGE CAMPBELL—Does the report identify the nature of the psychological injuries, or are we talking here about stress generally?

Mr Pendleton—I think stress is a significant element of it. From my recollection of the analysis that has been done, it is not necessarily the volume of claims that have been made that has increased, rather the duration of those claims and the cost increase as a result of that. But I can take that on notice and provide further detail.

Senator GEORGE CAMPBELL—Do you know why they are taking longer?

Mr Pendleton—It is the nature of the injury. It is not that psychological claims are taking longer to resolve; it is that psychological injury in itself takes longer before staff can return to the workplace. It is a much more costly process.

Senator GEORGE CAMPBELL—Do you have a comparison of the growth in the psychological injury claims at the ABC with the growth of these claims in the Commonwealth generally?

Mr Pendleton—I think we would, yes.

Senator GEORGE CAMPBELL—Are they greater or lesser than the claims across the Commonwealth generally?

Mr Pendleton—I do not think that we are unique within the Commonwealth.

Senator GEORGE CAMPBELL—But are they greater or lesser as a percentage of your claims?

Mr Pendleton—I am not sure. I would have to take that on notice.

Senator GEORGE CAMPBELL—Can you take that on notice and let us know. Are there any particular areas, Mr Pendleton, in the ABC that have been identified where psychological injury claims are higher than elsewhere?

Mr Pendleton—Not to my knowledge. I think it is across the board.

Senator GEORGE CAMPBELL—So it is generally across all departments?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—And all areas of employment?

Mr Pendleton—I believe so.

Senator GEORGE CAMPBELL—So would it be as general across administration as across program making?

Mr Pendleton—I do not think psychological injury necessarily is higher in any particular area of the organisation.

Senator GEORGE CAMPBELL—Would you have figures to demonstrate that?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Could you take that on notice and provide us with those figures.

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Have you or the ABC taken any specific actions to try to identify these psychological injury type circumstances and to deal with the problem before it reaches a compensatable level?

Mr Pendleton—Yes. The ABC has a range of programs that it has initiated and is promulgating throughout the ABC on work-life balance, on the management of work pressures and stress. There are a range of support mechanisms that the ABC provides through its in-house counselling services that are made available to staff. There are a range of initiatives that the ABC has in order to, as best we can, mitigate any rise in psychological injury within the workplace.

Senator GEORGE CAMPBELL—Does that go to the issue of dealing with bullying?

Mr Pendleton—The ABC has policies with respect to workplace bullying and grievance-handling procedures.

Senator GEORGE CAMPBELL—Do you have policies in place?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Have you undertaken training of your staff and managers in these policies?

Mr Pendleton—Yes. We are undertaking an extensive policy of information and training of all our management and staff within the ABC.

Senator GEORGE CAMPBELL—How many claims have been raised under this policy?

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

Senator GEORGE CAMPBELL—But you are aware that there have been some.

Mr Pendleton—Claims of bullying? Yes.

Mr Balding—In respect of the training on workplace bullying and harassment, I have made it mandatory that over a period of time—HR is rolling this out—all ABC employees attend those training sessions.

Senator GEORGE CAMPBELL—Would you have any idea at this stage how many have been through those training sessions?

Mr Balding—They have only just begun to be rolled out.

Senator GEORGE CAMPBELL—What do they consist of?

Mr Balding—I am yet to attend my session.

Senator GEORGE CAMPBELL—So you are a potential candidate.

Mr Balding—I am a potential candidate; that is exactly right.

Senator GEORGE CAMPBELL—Mr Pendleton, do you know what the sessions contain?

Mr Pendleton—The program has only recently been pulled together. I have yet to see it as well.

Mr Balding—It is the responsibility of our HR division to bring it together, to formulate it and to roll it out throughout the corporation.

Proceedings suspended from 10.59 a.m. to 11.14 a.m.

Senator GEORGE CAMPBELL—Mr Pendleton, before the break I was asking you how many bullying claims had been raised under your policy and how many had been investigated.

Mr Pendleton—I am not sure how many have been raised, but all that have been raised have been or are being investigated.

Senator GEORGE CAMPBELL—Can you take on notice what the exact figures are.

Mr Pendleton—Yes, Senator.

Senator GEORGE CAMPBELL—You are saying that they have been raised. Does that relate also to claims from Western Australia?

Mr Pendleton—Which claims would they be, Senator?

Senator GEORGE CAMPBELL—I understand that claims were raised in Western Australia but the director of human resources was not prepared to accept the claims in the form they were presented.

Mr Pendleton—I am not aware of that, Senator. I would have to take that on notice.

Senator GEORGE CAMPBELL—Can you check it out, because I understand that that in itself generated a bullying atmosphere in that staff members felt too vulnerable to come forward.

Mr Pendleton—So a formal complaint—

Senator GEORGE CAMPBELL—I understand that, as it finished up, there was a collective complaint put in by half of the employees, made by the union because individuals were feeling too intimidated to put the claims in themselves.

Mr Balding—And this was rejected by the director of human resources?

Senator GEORGE CAMPBELL—Yes, in Western Australia.

Mr Balding—Sorry, the HR manager in Western Australia?

Senator GEORGE CAMPBELL—The advice I have is the director of HR. I presume it probably was in Western Australia.

Mr Balding—Let me look into that, please.

Senator GEORGE CAMPBELL—Can you check that one out.

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Are you aware of any disciplinary action that has been taken against any employees or managers of the ABC as a result of bullying claims?

Mr Balding—I am not aware of any. I cannot recall. There is nothing that comes to mind. There are a number of investigations into bullying that have taken place that may have resulted in some further training for staff or for management, but specifically I have no recollection.

Senator GEORGE CAMPBELL—Is it true that there have been press reports of bullying in the Victorian newsroom and also in the Adelaide newsroom?

Mr Balding—Is it true there have been press reports? I am not aware of any press reports.

Mr Green—There have been some issues in relation to people's performance that have got into the press, but whether we would accept them in the form that you are describing them is another question.

Senator GEORGE CAMPBELL—Were they investigated?

Mr Green—Which particular—

Senator GEORGE CAMPBELL—These reports that got into the press—no matter what form you describe them.

Mr Green—They certainly have been.

Senator GEORGE CAMPBELL—What is the result of those investigations?

Mr Green—I would have to get back to you on that.

Senator GEORGE CAMPBELL—You are not aware of what the outcomes of the investigations were?

Mr Green—No, because they were done in the context of the news division, so I would have to get back to you.

Mr Balding—Senator, I have been advised that there has been no formal complaint lodged in respect of the reports that you are referring to.

Senator GEORGE CAMPBELL—Which the Victorian—

Mr Balding—The Victorian newsroom, yes. But I am advised that there has been no formal complaint lodged. So, therefore, there has been no formal investigation of that issue.

Senator GEORGE CAMPBELL—But the fact that it got into the media, wouldn't that have been sufficient for you to have done some investigation into what was going on? Surely you do not wait for formal complaints if you know or hear of some set of circumstances—

Mr Balding—That is something that the news and current affairs divisional management would have taken up. But as far as a formal investigation, you would not be able to do that unless there was a formal complaint lodged.

Senator GEORGE CAMPBELL—Do you accept, Mr Balding, that the improper use of performance appraisal processes can be regarded as a form of bullying?

Mr Balding—I accept there may be either some misunderstanding in respect of how you apply performance management, and that is why I am very keen to ensure that all our staff and management are trained in respect of performance management. That is why I have made it mandatory that all staff, including all managers, and the managing director, attend training and workshops in respect of workplace bullying and workplace harassment—to understand what is the true application of what bullying means in respect of the workplace and how you manage it as a manager, as a supervisor.

Senator GEORGE CAMPBELL—Have there been circumstances where managers have been found to have improperly used the performance management processes against employees?

Mr Balding—I would need to take that on notice.

Senator GEORGE CAMPBELL—Can you also take on notice whether there have been any disciplinary or other types of action taken against any of those managers.

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Mr Balding, what remuneration, including allowances, bonuses and expense payments, is paid to the managing director in excess of the payment prescribed by the Remuneration Tribunal?

Mr Balding—In excess?

Senator GEORGE CAMPBELL—Yes.

Mr Balding—All my remuneration is governed by the Remuneration Tribunal.

Senator GEORGE CAMPBELL—It is all subject to the Remuneration Tribunal?

Mr Balding—Yes, it is. Since the position was moved over to the PEO structure, it is all subject to the Remuneration Tribunal.

Senator GEORGE CAMPBELL—So the position has changed since Mr Shier was there as managing director?

Mr Balding—It has, but I will go back in time to make it very clear. On my appointment as managing director in May 2002, I was appointed on the same remuneration terms as the then previous managing director. In other words, my base salary, my personal loading performance pay were all governed under the terms of the Remuneration Tribunal. In April 2004, when the change took place, my position was moved to the principal executive structure—the PEO structure—and therefore it is governed under that structure. But prior to that—and, as I said, on my appointment—my remuneration terms were exactly the same as the terms of the previous managing director.

Senator GEORGE CAMPBELL—The annual report shows that the remuneration increased by approximately 28 per cent.

Mr Balding—There are some peculiarities in the way that has been reported. Mr Pendleton might be in a position to go into a bit more detail. But I can assure you that I have not got an increase to that extent. In actual fact, over the last 2¾ years, since being appointed managing director of the ABC, my salary and remuneration have only increased some 3.7 per cent in gross terms.

Senator GEORGE CAMPBELL—Over what period?

Mr Balding—Since May 2002—2¾ years. I am aware of some public comment and speculation in respect of what has been reported in the annual report. I can assure this committee I have not received a 28 per cent pay increase. I can assure you that I have not eaten it or drunk it.

Senator GEORGE CAMPBELL—Perhaps somebody better explain exactly why it shows that there has been.

Mr Balding—Mr Pendleton is in a position to explain that to you.

Mr Pendleton—In the 2003-04 annual report we changed what was included within the disclosure in the note for the 2004 year. Those changes were not picked up for 2003. We should have had a note there disclosing the change in the method by which we were reporting the MD's remuneration and what was included within it. Primarily, the issue was to do with the recognition of FBT, which was not disclosed within the 2003 comparative data. So it gives the appearance, quite incorrectly, of a large salary increase when in fact that has not occurred on a like for like basis.

Senator GEORGE CAMPBELL—You can confirm that the real movement—the peak in the package—in wages, or remuneration, was 3.7 per cent?

Mr Balding—In respect of the salary increase, yes.

Senator GEORGE CAMPBELL—What about the other executives?

Mr Balding—Similar problems have arisen with the other executives in the way their remunerations have been reported as well. Mr Pendleton, again, can explain that.

Mr Pendleton—On a like for like basis—and I assume this arises from the publicity flier that had been circulated on executive remuneration, which quoted a figure of 6.3 per cent—within the data that is included for the executive remuneration would be a range of accruals that relate to individuals in terms of their period of service, their accumulated long service or recreation leave that they have had, which would translate to a one-off adjustment to the recognition within the financial year of any increase in salary benefit. Also, lost within those numbers are any restructures that take place within the executive structure of the agency.

Senator GEORGE CAMPBELL—Sorry, I did not quite understand what you meant by that last statement.

Mr Pendleton—Recognised within the financial year that is reported, on top of the salary increase that the executive would receive, would be a calculation of the one-off benefit that is received as a result of an increased salary figure being applied against accumulated leave

balances. If an executive had 40 days recreation leave and received a two per cent pay rise, there would be a lump sum adjustment in that particular reporting year to recognise the increased value of that recreation leave.

Senator GEORGE CAMPBELL—Why would that show against his salary remuneration? It would show against his accrual.

Mr Pendleton—It is part of the reporting standard. Within those reporting tables, those adjustments are recognised as well as part of that year's remuneration.

Mr Balding—It includes the calculation on long service leave as well.

Mr Pendleton—It is added as part of the remuneration.

Senator GEORGE CAMPBELL—But it would not show as part of your remuneration received.

Mr Pendleton—From a financial accounting point of view, within table 19 of the financial statements, the remuneration also recognises those accrued benefits. That is why the percentages that are drawn from raw numbers and applied and used the way they were are inappropriate.

Senator GEORGE CAMPBELL—If it is doing that, they are inappropriate.

Mr Pendleton—For comparative purposes.

Mr Balding—So if a person gets a two per cent pay increase and they have six, eight or twelve months long service leave, that two per cent is calculated on the long service leave to commute a value. That value is deemed to be a benefit receivable in that year and has to be reported in the annual report.

Mr Pendleton—Likewise, in the following year if there were not an increase and all else remained the same, it would look as though the executive had had a reduction in their remuneration the following year.

Mr Balding—It is a peculiarity of the way we have to report executive remuneration in the annual report.

Senator GEORGE CAMPBELL—It seems that some notes need to be added explaining that, otherwise it is understandable why people make miscalculations. It is not the normal practice in the way in which you would describe remuneration for the rest of your employees.

Mr Pendleton—The same benefit applies to the rest of the employees as well.

Mr Balding—It is just not reported.

Mr Pendleton—You do not see it.

Senator GEORGE CAMPBELL—That is right. They do not get the benefit until they actually take it.

Mr Pendleton—Nor do the senior executives. The executives do not and the staff do not. But if you are comparing a 3½ per cent EBA increase to staff in a year to a computed value of what it looked like the senior executive got, you are not comparing apples with apples.

Senator GEORGE CAMPBELL—I am sure the executives at Walters Construction company will be complaining they did not see their remuneration when it comes to settle those claims. I can understand how you got 28 per cent if that is the way in which it is being addressed. Perhaps you need to take it on board, if you have not already done so, in terms of how you do it.

Mr Balding—We are quite happy to take a question on notice and provide this committee with a detailed answer as to what makes up the differences.

Senator GEORGE CAMPBELL—It is probably good if you do that.

Mr Balding—Just to put it on the record.

Senator GEORGE CAMPBELL—Does the ABC still fill all its vacant positions through competitive merit selection?

Mr Balding—On the merit principle, yes, for a promotional position.

Senator GEORGE CAMPBELL—Does this require the establishment of selection panels?

Mr Balding—It depends on the number of applications received. If there is only one applicant then they may look at it on the basis of the CV received. But, in general, the answer is yes; it requires the establishment of a selection panel. We have documented processes and procedures to go through. They are like those of all organisations in the Commonwealth.

Senator GEORGE CAMPBELL—Are all senior executive positions filled through the competitive merit selection process?

Mr Balding—How do you classify senior executives? Are you talking about senior management or about executives reporting directly to me?

Senator GEORGE CAMPBELL—That is a good question. What do you define as senior executives these days? I suppose you classify them as people who would be department managers and above.

Mr Balding—In general, it applies to them, yes.

Senator GEORGE CAMPBELL—Was a new position of chief operating officer created as part of the recent restructure of the executive?

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Was the competitive merit selection process used for that position?

Mr Balding—No. I did a direct appointment to that, and I have the delegation to do that.

Senator GEORGE CAMPBELL—Was that an exception rather than the rule?

Mr Balding—Yes. That also went to the board, so the board was fully aware of that decision.

Senator GEORGE CAMPBELL—Why did you find it necessary to override your normal processes?

Mr Balding—Because I was very confident that the person I appointed to the chief operating officer's position could carry out the restructured role.

Senator GEORGE CAMPBELL—So this was a set of circumstances where in your view it would have been a waste of time calling for applications, because you had a person in mind to do the job?

Mr Balding—Exactly, but also the remuneration that we pay our senior executives is well below the market, and I believed that to go outside and advertise for this particular position would have been pretty well a waste of time and resources, so I chose to make a direct appointment—a very good direct appointment, I should say.

Senator GEORGE CAMPBELL—I am not querying the individual at all. Was the position advertised?

Mr Balding—No, it was not.

Senator GEORGE CAMPBELL—Was the salary increased?

Mr Balding—It was a new position.

Senator GEORGE CAMPBELL—So a new salary was created.

Mr Balding—It was a new position with a new salary, because the number of divisions now were consolidated to report to this one position. We should make it clear that the position we are talking about is Mr Pendleton's position.

Senator GEORGE CAMPBELL—I am aware of that. That is why I am talking about it in the third person. Presumably the salary was established by relativity to other positions.

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Did this affect any other salaries below the position? Were any other positions downgraded as a result of the appointment of Mr Pendleton?

Mr Balding—No. I will just make sure I have the question right. The restructure, which created the position of the chief operating officer, moved a number of existing divisional executives reporting through to Mr Pendleton. Those salaries were not impacted.

Senator GEORGE CAMPBELL—It did not impact upon their salaries and their positions were not downgraded as a result.

Mr Balding—That is correct.

Senator GEORGE CAMPBELL—How many employees commenced their employment at the ABC in 2003-04?

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

Senator GEORGE CAMPBELL—Please do that. Can you also indicate to us how many of those people went through the competitive merit selection process and how many did not.

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Do you employ any particular class of employees without going through the merit selection process?

Mr Balding—As far as an ongoing employee is concerned, other than the exceptional case that we are talking about—and, let me say, merit is always high on my agenda, and merit does not necessarily mean you have a selection panel—in general I cannot think of any.

Senator GEORGE CAMPBELL—You cannot think of any.

Mr Balding—Other than the exceptions that I have outlined here today.

Senator GEORGE CAMPBELL—What about persons who are employed as casual or fixed-term contract employees?

Mr Balding—I referred to ongoing employees. I made that clear.

Senator GEORGE CAMPBELL—Do they not become ongoing employees?

Mr Balding—It depends on the nature of the contract and how they are engaged. If it is a fixed-term contract, it could be to do with run of show in respect of a production or it could be a specific task that a person is engaged to do and when that task is finished the employment is finished.

Senator GEORGE CAMPBELL—I appreciate that you may not have the answer to this question, but could you go back and look at your records as to the number of employees who have commenced their employment as casuals or fixed-term contract employees who have become ongoing employees in the past three years.

Mr Balding—I will have a look at that. There would be a number of those.

Senator GEORGE CAMPBELL—Also find out whether they have been assessed as the most meritorious candidates or whether that is simply being used as a backdoor entry into the ABC.

Mr Balding—I can have a look at that for you.

Senator GEORGE CAMPBELL—In the period when Jonathan Shier was managing director, there were a significant number of redundancies at the ABC. In the past two years, how many redundancies have occurred at the ABC?

Mr Balding—I will see if Mr Pendleton has that information for you.

Mr Pendleton—For the current year to date there have been seven redundancies. For the 2003-04 period there were 38 redundancies.

Senator GEORGE CAMPBELL—In the past two years, has the ABC provided exit payments to employees that were not officially classified as redundancy payments?

Mr Balding—In the past two years?

Senator GEORGE CAMPBELL—So covering the same period as these 45 redundancies. I presume these 45 people were classified as redundancies and paid redundancy payments.

Mr Pendleton—That is correct.

Senator GEORGE CAMPBELL—Were there any other persons paid exit payments?

Mr Pendleton—Ex gratia payments?

Senator GEORGE CAMPBELL—Exit payments. You can classify them by whatever name you want to give them.

Mr Pendleton—I am not aware of any, but we could take that on notice and check.

Senator GEORGE CAMPBELL—Can you take it on notice.

Mr Balding—You are asking whether anyone was retrenched?

Senator GEORGE CAMPBELL—What I am asking is whether there are people, over and above the 45 who were clearly redundancies and were paid redundancy payments, who were paid exit payments to leave the organisation—

Mr Balding—Other than bona fide redundancies?

Senator GEORGE CAMPBELL—but were not classified as being redundant. In the past two years, Mr Pendleton, have any programs ceased production resulting in the displacement of staff with specialist skills?

Mr Pendleton—The past two years would have picked up part of the budget cuts we effected in 2002-03 which flowed on into the 2003-04 year. We made budget cuts in the order of \$26 million against the ABC's budget. During that process there were in the order of 100 positions removed from our structure and I think, flowing on from those changes, in the order of 20 to 25 redundancies occurred. So in amongst that there would have been a number of positions which you are referring to.

Senator GEORGE CAMPBELL—I am also talking about positions like those mentioned in your 2004 annual report on page 30-31. That two-page spread mentions Jaya Balendra, who was a Melbourne TV arts producer. I understand that Ms Balendra is now working as a producer on a quiz show. Is that correct?

Mr Balding—Yes, I believe she is working on the program called *The Einstein Factor*.

Senator GEORGE CAMPBELL—I was not aware of that.

Mr Balding—It is a quiz show.

Senator GEORGE CAMPBELL—Is that really the best use of her considerable skills?

Mr Balding—I would have to have a look at that. It would have been a decision taken in television, and presumably in production resources. I would need to have a look at that. I would be confident that it is.

Senator GEORGE CAMPBELL—Using someone who has specific skills in the area of the arts, and performance and ideas—it says on page 30 'promoting the arts, ideas, performance'—as a producer on a quiz show does not seem to me to quite relate to the way in which she is being promoted in your annual report.

Mr Balding—Let me take that question on notice and identify the actual circumstances.

Senator GEORGE CAMPBELL—Is it also true that some specialist subject units—TV religion, for example—are now being run by non-specialist executive producers?

Mr Balding—I am not aware of that. I will have to take that on notice.

Senator GEORGE CAMPBELL—It seems to me that there is a concern across the organisation that some of the most specialist units, people with particular skills, are being moved around and that people with non-core skills, I suppose, in those areas are taking over and that that may well impact upon the integrity and effectiveness of those particular programs—so perhaps I could put it in that more general sense to you. Are you aware of the news ticker screen that is being displayed on the outside of the Ultimo building?

Mr Balding—I am more than aware of it; I approved it.

Senator GEORGE CAMPBELL—Is there any particular reason why it can only be seen from the adjacent car park? Is there some secret strategy behind putting it where no-one can see it?

Mr Balding—It can be seen from a number of locations around Sydney. Where it is located is a major pedestrian thoroughfare, so obviously there is a lot of pedestrian movement there every day. Also, you can see that ticker from various parts: from Chinatown, the Paddy's Market area, the Haymarket area. It is quite visible.

Senator GEORGE CAMPBELL—How much did it cost?

Mr Balding—It cost \$120,000.

Senator GEORGE CAMPBELL—To install it?

Mr Balding—To install, yes. It has negligible running costs because the content is leveraged off ABC News Online, which comes out of Brisbane.

Senator GEORGE CAMPBELL—I understand that it does not present breaking news, that it is mainly advertising the existence of the ABC shops.

Mr Balding—Sometimes we take opportunities to put promotions on it, but also—

Senator GEORGE CAMPBELL—I do not blame you for doing that.

Mr Balding—We also advise the community where to get the news from, so it will promote ABC News Online, it will promote the 7 p.m. news. But, yes, if there is a breaking story, that will be on the ticker. But, remember, they are just headline grabs, not the details of the story.

Senator GEORGE CAMPBELL—I understand that. Why was the particular location chosen?

Mr Balding—It was the most cost effective. When we did the design of the new building, that was where it was going to be. That was the most practical place, if you like, to apply a news ticker to the side of the building—having regard, as I said, to the pedestrian thoroughfare that goes down there; there are a lot of university students who use that. There is a direct feed from Central Railway Station. Ultimately, that pedestrian thoroughfare will go all the way down to Darling Harbour, so in a number of years time, it will be a very busy pedestrian thoroughfare.

Senator GEORGE CAMPBELL—And you are happy you will get value for money?

Mr Balding—I am extremely happy with value for money, yes.

Senator GEORGE CAMPBELL—Is the ABC intending to make a TV series of the Shanghai to Paris car rally?

Mr Balding—I think there is a documentary. Yes, there is.

Senator GEORGE CAMPBELL—What part of the charter does that program seek to fulfil?

Mr Balding—It is about information. It is a whole range of things. It is a documentary. It will provide entertainment and information.

Senator GEORGE CAMPBELL—What is the cost of producing this program.

Mr Balding—I do not have that information with me. I can take that on notice.

Senator GEORGE CAMPBELL—You do not feel that the costs of producing something like that would be better spent on some of the other programs, like the shortfall on Radio National?

Mr Balding—These are decisions that not only television management have to make but radio and online have to make everyday as to the relativities and priorities of programming decisions.

Senator GEORGE CAMPBELL—Is the ABC committed to maintaining Radio National as a specialist network for the ABC?

Mr Balding—Yes, it is.

Senator GEORGE CAMPBELL—What distinguishes the output of Radio National as a network from the other ABC radio networks.

Mr Balding—Each are different and they have a different audience segment. Radio National has more of arts and culture, news and information where the local radio is exactly that—it is local radio with local issues, a lot of talk radio and a lot more sport as opposed to the national network of Classic FM, which is a fine music station, and the ABC NewsRadio station, which is a continuous news radio station.

Senator GEORGE CAMPBELL—Do you have a network brief for each of your radio networks?

Mr Balding—There would be a network brief, yes.

Senator GEORGE CAMPBELL—Can we get copies of those made available?

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Does the Radio National brief require more intensive resources than the other networks?

Mr Balding—There is a lot more research done in respect of the programs that go to air with Radio National. It does require a lot more resources in putting a program to air. If one was to look at the cost per hour of broadcast for Radio National, it would be significantly higher, for a number of justifiable reasons, than it would be for local radio, which is flow programming.

Senator GEORGE CAMPBELL—When you commission a radio schedule, does the commissioning process also set the resources that will be required to make those programs?

Mr Balding—Yes, it would.

Senator GEORGE CAMPBELL—Is there now a recognised budget problem within Radio National?

Mr Balding—Not that I am aware of, other than continual budget pressures across the corporation. I am not aware of any specific budget issue with Radio National. I am quite happy to take that on notice.

Senator GEORGE CAMPBELL—Are you aware of when the schedule for Radio National programs for 2005 was commissioned?

Mr Balding—Was I aware when they were commissioned?

Senator GEORGE CAMPBELL—Are you aware of when they were commissioned?

Mr Balding—They were commissioned towards the end of last year and the early part of this year. That is an annual event. All programs are reviewed.

Senator GEORGE CAMPBELL—I am told it was commissioned in November 2004.

Mr Balding—Yes, that is right, the end of last year.

Senator GEORGE CAMPBELL—And that in December 2004 suddenly it was found that there were insufficient funds available to meet the schedule.

Mr Balding—The schedule for the 2004-05 calendar year?

Senator GEORGE CAMPBELL—For that year, yes.

Mr Balding—I am not aware of that. I am more than happy to take that on notice.

Senator GEORGE CAMPBELL—Could you take that on notice and tell me why the budgeting process was out of synch with the programming process. That is what appears to have happened.

Mr Pendleton—But the budgeting process is always different from the scheduling process. The schedules run on a calendar year; our budgets run on a financial year. Inherently there is that difference anyway.

Senator GEORGE CAMPBELL—The advice I have is that the budgeting process was done in July.

Mr Pendleton—That is right.

Senator GEORGE CAMPBELL—And the commissioning process was done in November. And in December they found there were insufficient funds.

Mr Pendleton—My understanding of the scheduling process is that there are a number of iterations in going through what the scheduled requirements could be or what they are looking to do. That is reconciled against the funds that are available. There have been no reductions to funds to the Radio National network. That reconciliation process results in iterations of a schedule until it is balanced.

Senator GEORGE CAMPBELL—But it appears that what may have occurred here is that there were resources allocated and the schedule of programs went way beyond the resources that were allocated.

Mr Balding—That is something I am unaware of, but I am more than happy to have a look at that.

Senator GEORGE CAMPBELL—Mr Balding, is it true that the unofficial ABC management strategy is not to fund for salary increases through the enterprise bargaining agreements or salary increments?

Mr Balding—Could you repeat the question, Senator?

Senator GEORGE CAMPBELL—Is it unofficial ABC management strategy not to fund for salary increases through the enterprise bargaining agreements or salary increments?

Mr Balding—Contrary to that, our budget strategy is to fully fund enterprise bargaining agreement increases. They are fully funded and those funds are allocated to all the divisions. It is the priority of my chief operating officer when we start putting our budget strategy together. To the contrary: all agreed salary increases under enterprise bargaining are fully funded.

Senator GEORGE CAMPBELL—Across all divisions?

Mr Balding—Yes.

Senator TCHEN—I have a couple of very short questions. Firstly, Mr Balding, can I congratulate the ABC on its further extension of the NewsRadio service throughout Australia. It is not complete yet, but having put the question to you the last few estimates I am not going to ask you again when you are going to do it for the rest of Australia; I am sure you will do it.

Mr Balding—I think it just reflects the power this committee has over the minister and the coalition!

Senator TCHEN—I do suggest that, with the rich content of NewsRadio, perhaps ABC management might look at extending their funding a little bit so that they can expand the base of their collaborative stations. At the moment I think they take feeds from the US public radio service—

Mr Balding—We take a number of feeds, from radio Deutsche Welle—

Senator TCHEN—Deutsche Welle and Dutch radio—

Mr Balding—and the BBC.

Senator TCHEN—Perhaps that could gradually be expanded as well?

Mr Balding—Yes, those programs have proved to be very popular with our listeners.

Senator TCHEN—Mr Balding, I was in Sydney yesterday attending the Lunar New Year festival. Can I tell you that in Chinatown there are no complaints whatsoever about the ABC's coverage. They find the news service that you provide excellent—and it is highly visible. I am sure SBS would be quite happy to take that location from you if you gave them half a chance!

I have a question that follows on from Senator Santoro's first question to you, which you took on notice. It related to a particular program this morning. One of your presenters was apparently ignorant of the fact that the term '9-11' refers to a catastrophic event that happened in September 2001. Senator Santoro raised a number of issues with you about that, to do with ABC guidelines. I am not concerned about the guidelines as such—I am sure that it is well in hand and you will get to the bottom of it—but I would like to ask you as the CEO of this publicly funded media unit, the ABC: are you comfortable with the fact that one of your presenters is ignorant of what the term '9-11' means—of when it happened?

Mr Balding—If that were the case, I would be very concerned. I think 9-11 was an event that the world knows quite clearly and will remember for many years.

Senator TCHEN—Yet this gentleman referred to November as being the month.

Mr Balding—As I said, I am not in a position to comment any further on that, because I did not, obviously, hear the program. But if the situation were as you have put it I would be very concerned.

Senator TCHEN—Does it reflect on the ABC's selection guidelines rather than your management guidelines; are you selecting people to present who are knowledgeable?

Mr Balding—It would be wrong to even comment or speculate on that area without first hearing what was said and looking into that matter.

Senator TCHEN—All right. In that case can I ask you that, when you look into it, you also look into those aspects of it as well?

Mr Balding—Certainly.

Senator TCHEN—Thank you very much, Mr Balding. That is all I have.

Senator CONROY—Minister, I wanted to briefly go back to the issue we were talking about a little earlier—the Ashes—and get a sense of whether you realise how crucial the position that the government takes on this issue is to getting an outcome for the ABC or a free-to-air network. The delisting is critical, because, if you do not delist it, they cannot show it. You are in an incredibly important position in terms of influencing where this ends up. It is not just a question of there being a process; you are actually the key determinant as to whether or not the English cricket board decide to play ball—no pun intended—and reach a negotiation in good faith settlement with the ABC or any other free-to-air broadcaster. So if the government were to choose not to delist then Fox Sports and Foxtel could not show it. That should be an important point to be made to the test board, and you have the power to make sure that does not happen or, in the case of wanting it to come on, does happen. I wanted to get your view on whether you understood exactly how critical your position is.

Senator Coonan—I think I understand the operation of the scheme very well. Prior to taking any decision to delist, all of the circumstances would be taken into account and weighed very critically. I might say—and I do not know the outcome of this—when the application to delist was made I do not know whether the ECB had received any interest at all. It may have been quite a genuine motivation. I would not impute bad motives to the ECB. I think it is important to make that point. But I am aware of how important this is to a number

of both interest and industry segments, so obviously all of the circumstances would be very carefully weighed in coming to any view.

Senator CONROY—I wanted to ask some questions about the election monitoring report. I think you released it last December.

Mr Balding—We did.

Senator CONROY—I understand the report is the work of the ABC's Election Coverage Review Committee and Rehame—is that right?

Mr Balding—There were a number of reports, which Mr Green will be able to go into a lot more detail on. Mr Green is the chairman of the Election Coverage Review Committee.

Senator CONROY—Lucky man!

Mr Green—The Rehame contribution is just one component that goes into the Election Coverage Review Committee. When an election is called the ABC convenes the ECRC. The ECRC is currently working on the Western Australian election, just as it did on the federal election. We rely on our own internal analysis as well as engaging some external analysis as well. But it is the committee that comes to a view about the coverage, not solely relying on what an external consultant might say.

Senator CONROY—You said Rehame is a component; what are all the components?

Mr Green—When an election is called a briefing note is sent out to all editorial staff outlining expectations in terms of covering the election. That is the first step. Then I brief editorial teams about components of our expectations and we go through the charter of editorial practice. That is part of the ABC's editorial policies. Any questions and scenarios are discussed in the context of that. We also internally monitor the share of voice of candidates and party officials. The expectation is that each program strand provide equal coverage and equal treatment for government and opposition. For other parties and independents the coverage is based on user value. That is the brief of editorial staff right across the corporation—from the large teams that are working in some of our national programs through to the one-person operations in rural towns. We assess that on a week by week basis.

This is a very blunt instrument. All it is is a means of alerting us to any possible difficulties in terms of coverage so that we can go back and take a second look. We meet at least weekly during an election campaign when all this material comes in and in addition to that we engage an external monitoring company. We have doing that since 1998. They do a similar external analysis so we have an external benchmark for what we are doing internally. The further component of our coverage is that we also pay particular attention to audience feedback—complaints from the general public, from political parties and from candidates. This is monitored on a weekly basis as well. At the end of all that, we make an assessment about how competent and how fair the coverage has been.

Senator CONROY—You are doing this weekly. You have got to report. How does that feed into the actual ABC reporting—as it is happening or is this purely retrospective? Let us say that I suddenly got a miraculously good run and appeared every day during the election campaign. Do you then say to them, 'Look, Labor's ahead at the moment. You've got to even it up.' Is there a process like that?

Mr Green—That is right. Each week—usually at the end of the week—that sort of analysis would come in program by program, network by network and, if there is a gap between government and opposition, there would be some examination of that gap. There may be a very good reason for it. Some of our networks tried assiduously to get people to appear, and they refused.

Senator CONROY—I want to come to one of those points.

Mr Green—So that does not mean to say they have to compensate for that. As long as the overture and the opportunity has been made—

Senator CONROY—Can I follow you up on that because, unfortunately, I had the opposite experience to the one I previously described. I visited various places during the election campaign and your local ABC radios did not want to talk to me on the basis that the Liberal MP for the area did not want to come on. They said, ‘We’ve got a fifty-fifty balance situation if we cannot get a spokesperson from the other party on, then we’re not going to take you at all.’ I encountered that on a number of occasions—and I know some of my colleagues did and some of the candidates did. The fifty-fifty situation presented to us was: ‘We have to have the two of you on radio talking at the same time. If the MP for the area refuses to come on radio, then we can you.’

Mr Green—That is not the position that is outlined in terms of expectations. What is outlined in terms of expectations is that the opportunity be provided. If the opportunity is not taken up by one or other of the parties, then in many cases the interview will proceed. A classic example of that is how *Insiders* went about their program. Opportunities were given to both government and opposition. There was a choice on the part of one of those parties not to appear, which is entirely their choice, but the program went ahead anyway. All the requirement was was for that opportunity to be made initially, and all our reporters have kept extensive notes in terms of their contacts.

Senator CONROY—How do you deal with it then if one party goes to ground and, after one week, all of a sudden because one party has gone to ground, it looks like the other party is being favoured? How do you then redress that?

Mr Green—It may not be redressed, as long as that other party which has chosen not to appear has been invited to do so. As I said, our reporters keep quite detailed records of all their contacts, and so when it comes to the report at the end of week, the gap would be there and then the explanation given. The committee is very happy with that sort of explanation: ‘We have asked. They have said no.’ That is fine.

Senator LUNDY—Does that include, for example, somewhere like the ACT where you might have representatives of either party in the ACT government when tallying up against the opportunities presented to members of federal government?

Mr Green—Do you mean in terms of appearing in the context of the federal election campaign?

Senator LUNDY—No, generally. We had two campaigns running consecutively here.

Mr Green—No, they were run as separate accounting exercises in terms of this analysis. I had two ECRCs running—one for the federal campaign; one for the ACT campaign. They met

separately. They were separate committees, they reported separately and we reported separately to the board.

Senator LUNDY—So one could not cross-subsidise the other.

Mr Green—No.

Senator LUNDY—What about outside of the campaign period—do you persist with that sort of monitoring?

Mr Green—The managing director made the decision that after the federal budget we would do periodic monitoring, not ongoing monitoring, leading up to the formal announcement of the campaign. That is the managing director's call to initiate such a regime in terms of our analysis, if that is appropriate.

Senator LUNDY—What has happened since the election?

Mr Green—We have not done any monitoring in terms of share of voice of political parties or anything like that, apart from in the context of the current Western Australian election campaign.

Senator GEORGE CAMPBELL—It is true that the ABC for some considerable period of time—at least back to 1998, to my knowledge, and probably before then—gives no recognition or coverage to candidates in seats, only to the sitting members, until the time the election is called? Why has that policy been put in place?

Mr Green—That is not the policy, Senator, with respect.

Senator GEORGE CAMPBELL—That is what is being applied, I am sorry, Mr Green.

Mr Green—In what context?

Senator GEORGE CAMPBELL—In all of the regional seats around the country. Local candidates from the Labor Party have been denied access to your local radio on the basis that no election is called. They only talk to the sitting member, which gives the sitting member enormous advantage. I presume it is applied equally the other way—or I hope it is. But the experience that I have had has been where it has been a sitting National Party member and an ALP candidate. They do not recognise the fact that the person is a candidate until the election is called.

Mr Balding—This matter was raised at a previous Senate estimates committee hearing and I had correspondence in respect of that. It was the candidate for the seat of Richmond, from memory. I addressed that matter by way of correspondence and made it clear that the fact that you are an endorsed candidate and there is no election does not mean you do not come on ABC radio. It gets back to the newsworthiness of the item you want to talk about. I made that very clear to our editorial staff and I responded to the persons concerned.

Senator GEORGE CAMPBELL—Has that been happening, Mr Balding, since you have made it clear?

Mr Balding—I have not had any further complaints since I have corrected various interpretations of the policy.

Senator GEORGE CAMPBELL—What about a set of circumstances whereby a local member may have a periodic slot on one of your stations? During the election campaign period, is that also accounted for the granting of equal time to the other side?

Mr Green—Most certainly.

Senator CONROY—I want to come back to how you correct an imbalance and how it feeds into your editorial processes. Do you send a letter out saying, ‘We note that on the *7.30 Report* this week there does not seem to have been any government spokespeople or Labor spokespeople’? How do you actually do it?

Mr Green—It is a far more active process than that.

Senator CONROY—Okay, you get Kerry in and get the stick out.

Mr Green—The senior people from each of the editorial divisions are part of the ECRC group. So if there is an issue that comes up in terms of our review and appraisal then there is the opportunity there for immediate response. There are not emails or notes being written.

Senator CONROY—It is all verbal, is it?

Mr Green—It is all part of the active process of keeping on the pace and progress of the campaign.

Senator CONROY—So it is drawn to their attention and the fifty-fifty policy of the organisation is pointed out.

Mr Green—Yes, but I just want to underline the point I was making before. At the end of the campaign, it may well be that some of our program outlets are unbalanced. We are not running this campaign by mathematics. It is the news story and news value of the campaign in terms of its progress that is being analysed, reported on and followed.

Mr Balding—And the availability of the various spokespersons.

Mr Green—That is right. We have many examples. Triple J, for example, wanted to get both leaders of the parties on the program. One agreed and one said that they would not take up the invitation. So that meant that Triple J was out of balance. But they did make the approach—some 17 times, I believe—in order to get this opportunity.

Senator CONROY—Why do you think the PM hates Triple J?

Mr Green—I have no evidence that the Prime Minister hates Triple J.

Senator Coonan—Senator Conroy, fair go!

Senator CONROY—Okay. I accept your admonishment, Minister. Who was on the election coverage review committee for the last campaign?

Mr Green—I was the chair. We had colleagues from news and current affairs. Steven Alward, who is the head of policy for news and current affairs, represented that division. Michael Ward, who is head of policy for television, represented the television division. The head of Radio National, the head of Local Radio and the head of National Talk Radio were there representing the diversity of radio. The manager of ABC News Online represented that part of our business. In addition to that, the head of Government and Parliamentary Relations, the manager of Audience Research, the head of Audience and Consumer Affairs—

Senator CONROY—You had a huge committee.

Mr Green—We are an active committee.

CHAIR—It is very commendable.

Mr Green—We take it seriously.

Senator CONROY—Do you have to hire a meeting room somewhere, or a hall?

Mr Green—No, this is all done through the capacity of our telecommunications system.

Senator CONROY—Excellent. The report states that the ABC has been doing the monitoring since 1998, which I think Senator George Campbell also mentioned. How do these results compare to previous campaigns?

Mr Green—This result for 2004 is particularly remarkable in that, to the best of my recollection, it is the first time that we did not have a complaint from either government or opposition party headquarters during the progress of the campaign.

Mr Balding—Also, the complaints that we received from the public were down quite significantly compared to the previous federal election.

Senator GEORGE CAMPBELL—How many complaints did you get from Senator Santoro?

Senator CONROY—Richard has gone, so we are safe. That must be a huge relief. Minister, you did not put in any complaints to the ABC this week about the election campaign?

Senator Coonan—Not that I am aware of, although I did have an occasion when your predecessor, Mr Tanner, got precedence over me in a certain electorate.

Senator CONROY—Disgraceful!

Senator Coonan—It was. I thought so.

Senator GEORGE CAMPBELL—Did you complain?

Senator Coonan—I did not complain. I took it on the chin.

Senator GEORGE CAMPBELL—Why not.

Senator Coonan—I thought maybe the airwaves had had enough of me.

Senator TCHEN—I think Senator Conroy probably has the same complaint about Mr Tanner.

Senator CONROY—Never about my good friend. Is it possible to get copies of those previous reports?

Mr Green—Yes. This is the first time we have actually done a public report, but I can give you on notice some dot points that relate to our performance in previous federal elections.

Senator CONROY—I will leave the states to my state colleagues. In evaluating coverage across all platforms—TV, radio and online—are the platforms weighted?

Mr Green—No.

Senator CONROY—So getting five mentions online is the equivalent of getting five mentions on the *7.30 Report*?

Mr Green—Yes, but the announcers are not aggregated in that way. Each program strand has to meet the requirements that were outlined before of equal coverage and equal treatment to government and opposition plus other parties and Independents on the basis of news value. So if you take a local radio station, it is not just a total station. The morning program has to meet that commitment and the drive program has to meet that commitment—similarly, for standalone programs like the *7.30 Report* or *Lateline*.

Senator CONROY—I would like to discuss the table on page 2 of the report, which deals with the share of voice for each party. The table shows that the coalition got 5.9 per cent more air time than the ALP on television.

Mr Green—That is right.

Senator CONROY—That is a reasonable disparity.

Mr Green—It is a disparity that would not be accounted for in the circumstances of the campaign where there were a number of events that were not strictly related to what was being debated in terms of the future of the country. Early in the campaign we had the Beslan massacre, there was the bombing in Jakarta, there was suspicion that some Australians had been kidnapped in Iraq and there were allegations of al-Qaeda tapes involving Australian interests. In those circumstances it is reasonable to expect that the caretaker minister of the day, whether that be the defence minister, the foreign affairs minister or, indeed, the Prime Minister, would be in a position of being able to make more comment about what was going on than the person who might be the opposition spokesperson.

Senator CONROY—I think you are being very unkind to Kevin Rudd there. I have never known Kevin to be shy about wanting to get onto the ABC. I am just surprised that he did not manage to sneak into those stories in some way.

CHAIR—We are all shocked.

Mr Green—I think we gave Mr Rudd very fair coverage on his trip to both Singapore and Jakarta in the context of the Jakarta bombing.

Senator CONROY—It may be fair to say that he was overseas for some part of the time.

Senator GEORGE CAMPBELL—He would never accept that it was fair.

Senator TCHEN—Probably too fair to some of my colleagues.

Senator GEORGE CAMPBELL—If you gave him his own program he may say it was fair.

Senator CONROY—Your report, as you have indicated, suggests that the foreign news events affected the share of voice on TV. Why didn't they have the same effect on radio and the internet?

Mr Green—Because there is more capacity in terms of time. The great challenge and frustration with a lot of TV news reporting is that the amount of time that one has is very limited. That limits what can be put into a story and, indeed, a bulletin. When news breaks

along the lines of the events I have described, it will always have a greater impact on the percentages that we have been talking about than it would on a media platform like radio or online, where there is far more capacity to cover stories like that.

Senator CONROY—How much extra time on TV does the 5.9 per cent differential between Labor and the coalition's share of voice actually equate to? Is that two minutes, 10 minutes, an hour?

Mr Green—Can I take that on notice and get back to you.

Senator CONROY—Sure. On the ABC's flagship current affairs program the *7.30 Report* the coalition received an additional 4.4 per cent share of voice compared to Labor. Was this explained by foreign news, or has Kerry O'Brien been getting a beating behind the scenes that we do not know about?

Mr Green—I think that, for any differential in coverage, to start talking about segments of five per cent is not something that the ECRC was particularly concerned about. Given that everyone was available, anything that blew out over 10 per cent we would certainly want to look at very seriously.

Senator CONROY—So your tolerance is 10 per cent?

Mr Green—Within that range. As I said, we are not running our campaign coverage by mathematics.

Senator CONROY—Excellent. Can you take on notice how much extra time that 4.4 per cent differential in the party share of voice equates to—is it three shows or two minutes in the overall coverage.

Mr Green—Yes.

Senator CONROY—Minister, does the report give you confidence that any perception of anticoalition bias at the ABC is not valid?

Senator Coonan—I think the report stands on its own feet—a report is a report.

Senator CONROY—But if any of your colleagues were to stand up and say, 'The ABC is biased,' you will be able to stand up and say, 'That's not right. Here, look at the report.'

Senator Coonan—It would depend in what circumstances somebody wanted to argue various aspects of the report. The report is a report. It says what it says, and I do not know that it is really a matter for opinions to be expressed about, unless somebody wants to raise a specific example. Then you might have some comment.

Senator CONROY—Your predecessor expressed views about it all the time. I am glad you are feeling more demure about it. Your predecessor and some of the senators around the table have been quite vocal in their pursuit of the bias of the ABC.

Senator Coonan—As was said in the discussion, there is a lot of rough justice in the way in which bias works. You have heard explanations and you have the report. Unless you want to put some specific example to me, I would not want to make any generalisations.

Mr Balding—I think the thing to take note of here, which Mr Green has alluded to, is that it is unprecedented that the ABC received no formal complaints from either of the major political parties in respect of the ABC's coverage of the campaign. That speaks for itself.

Senator GEORGE CAMPBELL—Because Richard Alston had already retired.

Senator CONROY—Santo is still here, to be fair. If anything, the report shows there is a slight bias against the Labor Party nowadays. They are the raw statistics. I appreciate that we are not—

Mr Green—1.1 per cent.

Senator CONROY—You have aggregated it now. You said you were not going to do that. You cannot really say 1.1 per cent unless you have done an aggregation that involves trying to pretend that five mentions on the *7.30 Report* is as good as five mentions on ABC Online. You cannot really do the aggregation; you said so yourself.

Mr Green—With respect, you were making a general statement and I was giving you a general response.

Senator CONROY—We will move on. I want to ask about the National Interest Initiative. Is there a single report that details how NII funds are being dispersed in the ABC?

Mr Pendleton—There was a review undertaken by the ABC, in conjunction with the department, leading up to the last budget of the ABC's performance with NII and its expenditure. Likewise, I believe there was a report prepared by the department, feeding into the budget process, on NII expenditure and performance.

Senator CONROY—If NII funding was to cease, would all staff employed for the NII be terminated, and what programs would be affected?

Mr Balding—That would have a significant impact on the ABC's output as well as the staff, obviously. The program has been renewed for a further three years as part of the budget process—the May budget. The coalition approved the extension of the NII for a further three years. The current year we are in is the last year of the initial period, which was a four-year period. From next financial year onwards, the NII money is \$17.7 million, then indexed for the next two years after that.

Senator CONROY—So this is the last year of it.

Mr Balding—It is the last year of the initial period. As part of last year's May budget, the NII was extended for a further three years, with the base funding starting at \$17.7 million, which is a slight reduction on what was there previously—\$100,000 in real terms—but it will be indexed for the next couple of years. After the completion of this year, there is another three years of the NII. The disappointing thing is that that money was not rolled into our base funding. To answer your question more precisely, it would have a significant impact on employment and programs in the corporation if it was not renewed. The ABC will have to come back to the government of the day again—I will be seeking not only renewal of the program but for that program to be absorbed into the ABC's operations.

Senator CONROY—I was hoping to get a more detailed response—it is not a reflection on you, Mr Balding—from perhaps Ms Howard and Ms Levy. Are they with us today?

Mr Balding—No.

Senator CONROY—Are they away?

Mr Balding—No.

Senator CONROY—I usually see them here. I certainly see Ms Levy regularly sitting at the table.

Mr Balding—They are not here today. I chose to share the fun around and invited Mr Green.

Senator CONROY—I would not want them to miss out on the fun all the time.

Mr Balding—We can provide details of the split of NII, the programs that have resulted from this initiative and the benefits of those programs. We have provided that information before and I have no problem in providing this committee with a detailed analysis of how the NII funds have been allocated, the programs and the benefits that have been derived from those programs.

Senator CONROY—That would be very useful.

Senator GEORGE CAMPBELL—When the NII funding was first allocated, was there a set of criteria set down for the use of that funding and what that funding could promote?

Mr Balding—The origin of the National Interest Initiative was that the board chose to put a submission to government that outlined the various programs and initiatives that the ABC would undertake in the event that funding was provided. The emphasis was on regional and rural Australia—some education and some business programming. So it was the board that, in a submission to government, outlined what they would do with that funding. The allocation of that funding has been in accordance with the spirit of what the ABC board sought that money for. It is the ABC board that has oversight of the allocation of those funds.

Senator GEORGE CAMPBELL—So there is a set of criteria?

Mr Balding—There is.

Senator GEORGE CAMPBELL—There are a couple of pretty famous programs that have been axed or changed around because they somehow or other got into the criteria and then fell out of the criteria.

Mr Balding—I would dispute that.

Senator GEORGE CAMPBELL—It is a pretty well-known dispute in the public arena—*Gardening Australia*, the George Negus programs.

Mr Balding—*Gardening Australia* has never been funded by the NII and continues without NII funding. One of the main criteria of the NII was that it had to be a new program. You could not just apply it to something you were already doing. *Gardening Australia* has been around for 14 or 15 years or thereabouts and so was never funded by the NII. That is why I had to go on the public record last year and make that very clear.

Senator GEORGE CAMPBELL—I will come back to that. There is another part of my question in terms of the new funding—has there been any change in the criteria from the

original criteria put forward by the board and is that criteria public? Can we have copies of both sets of criteria or the one set of criteria if it is the one set of criteria?

Mr Balding—There has been no change, but remember we have not allocated any of the new NII money as yet because that will come into play next financial year.

Senator GEORGE CAMPBELL—I understand. I was also going to ask you for the list of programs that were funded under the original—

Mr Balding—We are more than happy to provide a list of all the programs and the projects that have been funded by the NII. At this stage I do not envisage any significant change, if any change at all, to the criteria for the allocation of the NII funding.

Senator GEORGE CAMPBELL—And you say that there was no funding from the NII for *Gardening Australia*.

Mr Balding—No, because *Gardening Australia* was a program that existed before the NII funding came along.

Senator GEORGE CAMPBELL—Why was a decision made to shift *Gardening Australia* out of Tasmania into Victoria?

Mr Balding—There were a number of issues caught up in that. It was all about making sure that we utilise ABC resources throughout the corporation and also to increase our television production output from cities other than Sydney and Melbourne. We took it from Hobart but, can I say, television production has now more than doubled in Hobart. What was a half-hour weekly show is now two half-hour shows coming out of Tasmania, including what will be the required segments of *Gardening Australia*.

So television production in Hobart has actually more than doubled, and so has the output in respect of Brisbane, Perth and Adelaide as part of the replacement of the George Negus program. So what was essentially a four-day a week program coming out of Melbourne, which was a national program, will now be five days a week—two days will be coming out of Hobart and the remaining three will be coming out of Brisbane, Adelaide and Perth. So we are not only making better utilisation of ABC resources throughout Australia but also increasing television production outside of Sydney and Melbourne.

Senator GEORGE CAMPBELL—How long has *Gardening Australia* been produced out of Hobart?

Mr Balding—Since its inception, which was 14 or 15 years ago—at least 14 years.

Senator GEORGE CAMPBELL—And you have suddenly taken a decision to shift it from Hobart to Melbourne and put something else in its place in Hobart.

Mr Balding—It was not a sudden decision; you do not just make these decisions overnight. Again, it is balancing off the issue to ensure that there is a maximum utilisation of our resources. Also I have been encouraging—

Senator GEORGE CAMPBELL—I think the decision was pretty sudden for the people who were working on the program.

Mr Balding—Senator, the announcement had to come in a certain way. When various things appear in the press, sometimes you have to short cut what would be a normal consultation process. But, having said that, I do not apologise for looking to put additional production in centres other than Sydney and Melbourne, and this is what it is all about. It is about increasing television output from our centres other than Sydney and Melbourne and it is about ensuring that our production resources that are located throughout Australia are utilised to the maximum extent.

Senator GEORGE CAMPBELL—I do not think anyone would argue with that. But why would you take a program out of Hobart—a program that has been there for 14 or 15 years—in order to achieve that outcome?

Mr Balding—It was an opportunity to bring other programs into Hobart, as well as utilising the resources. So, at the end of the day, when *George Negus Tonight* ceased production out of Melbourne, I had spare capacity in Melbourne. It is a national program. I want to make sure that those resources are used. To me it is a terrific outcome. We are doubling the production in Hobart, and we are increasing output in centres other than Sydney and Melbourne.

Senator GEORGE CAMPBELL—With all due respect to you, Mr Balding, it seems totally irrational to me.

Mr Balding—We all have our views on that.

Senator GEORGE CAMPBELL—I am sure.

Mr Balding—I have recently visited Hobart. I have spoken to the staff down there, and I can assure you that the staff are quite happy working on their new programs. They are very keen.

Senator O'BRIEN—I want to ask about an advertisement last year by ABC Enterprises for expressions of interest in developing a program for toddlers, or slightly older girls, which was accompanied by the rider that the program should be commercially saleable intellectual property for the ABC. It further required that the program have broad international potential in respect of both TV program sales and ancillary rights exploitation. Does that give us an indication that the programs children will see in future on ABC television will be determined by the marketability and profitability of spin-off products, such as videos, DVDs, books, toys and other merchandise?

Mr Balding—No. From memory I have answered a similar question at previous estimates committee hearings, when I gave this committee the assurance that the commissioning of content is driven by editorial demands and requirements. In respect of children's television, the television division is the driving factor there, and their requirement for the schedule, ahead of the commercial outcomes. The project that you are referring to is a matter that is driven by television. If television do not want that program then the ABC will not be entering into that arrangement.

Senator O'BRIEN—But it will not get to the production stage, unless it has those ancillary aspects to it?

Mr Balding—No. I will take a step back. It will not get to the production stage if television does not want it. The driving factor here is the editorial and creative requirements of the director of television, in particular the head of children's television.

Senator O'BRIEN—What is the relevance of the rider that the program needs to have the 'potential for ancillary rights exploitation'. How important is that in selecting programs?

Mr Balding—As I said, it is secondary to the requirements of television. We are looking here at owning some intellectual property in an asset—and I do not apologise—that hopefully will have a revenue generation stream down the track. The ABC is very much dependent upon its commercial operations to supplement its revenue. I am looking at hopefully investing in an asset, a property that television requires—and they are the people who have the right knowledge and ideas as to whether it is good for children's television—then to capitalise on that and go forward. That is no different from what we currently do with *Bananas in Pyjamas* and other children's product.

Senator O'BRIEN—I am interested in the selection process as to the importance of the criteria relating to ancillary rights. If two programs are proposed, will that criteria tip one over the edge as against the other?

Mr Balding—If two programs are proposed and they are both of equal importance from a television perspective—television would be happy with either one—then, yes, we would be looking at the commercial value of those ancillary rights.

Senator O'BRIEN—And they will then become a driver for what you show on TV.

Mr Balding—No.

Senator O'BRIEN—Inevitably if that is the thing that tips over the production of one program against another—

Mr Balding—No, I said that if television sees it as a program they want to air on children's television and the programs are equal then you come back to your next level of evaluation criteria—and if that next level of evaluation criteria is the commercial value of ancillary rights then, yes, the one with the highest potential value of ancillary rights would get the nod.

Senator O'BRIEN—So if you want them both, the one that has the better ancillary rights exploitation potential gets up and the other one hits the wall.

Mr Balding—If you can only afford one, yes.

Senator O'BRIEN—So realistically we can expect that to be effectively a weeding-in or weeding-out factor in the selection of programming.

Mr Balding—At the next level of criteria, yes.

Senator O'BRIEN—Is that a matter that the board has made any determination about?

Mr Balding—There has been no determination, as a matter of fact, with respect to these projects. The board is generally aware of what we are doing here. This is a long-term project that we are looking at. As I said earlier, what I am looking to do is to start to build up our

assets, in particular those assets that have a potential revenue stream. We are very dependent on

Senator O'BRIEN—So this process is an ABC management decision?

Mr Balding—Yes.

Senator O'BRIEN—And there has not been a board determination of policy?

Mr Balding—There has been no determination, no.

Senator O'BRIEN—Do you think it is a matter that the board should consider—

Mr Balding—It depends on the external investment. It depends on the amount invested in the project itself. It comes back to a delegation issue.

Senator O'BRIEN—But, rather than on a project by project basis, the principle that lies behind this process—

Mr Balding—The board will be kept fully informed if we proceed down this path.

Senator O'BRIEN—But you are proceeding down this path, aren't you?

Mr Balding—We have not made any decision. There are a number of projects that we are looking at evaluating. Ultimately, if we choose to go down this path, a paper will go to the board for the board's consideration. We have not got to that stage.

Senator O'BRIEN—Do I understand that to mean that, if you have projects which are quality projects and some have better ancillary rights exploitation potential, the board will make a decision as to whether that criteria becomes a determining criteria or will the management make that decision?

Mr Balding—If we confine this project to the issue we are talking about—that is, investment by ABC enterprises—then, as I said, the overriding factor is its suitability for children's television. If television is of the view that it is not suitable then it goes no further. If television decides that it is suitable for children's television and that it is financially viable from a business case perspective then we will be taking that proposal to the board.

Senator O'BRIEN—But you will have made a decision about selecting a program and rejecting others before it gets to the board.

Mr Balding—It is a project. It would be up to the board to either run with this investment or not to approve the investment.

Senator O'BRIEN—Sure, but the ones that do not get to the board may be the ones that did not have the level of ancillary rights exploitation available.

Mr Balding—Yes but, again, the overriding factor is the suitability for children's television.

Senator O'BRIEN—Suitability is a broad characteristic. The judgment of the qualities of one program against another would be the key, wouldn't they?

Mr Balding—From a program editorial point of view, that comes back to the head of children's television. As I said previously, and I reiterate to the committee, the overriding factor is the editorial content and the suitability to go on television. If it does not get past that

first hurdle, it does not go anywhere, irrespective—and I stress ‘irrespective’—of the potential commercial return to the corporation.

Senator O’BRIEN—I understand what you are saying: if it is not a quality project but it has got some exploitation factors, it will not get up. The point I am seeking to make, and I think you are confirming it, is that if two programs are potentially good quality programs and one has better ancillary rights exploitation potential then the one with the ancillary rights exploitation potential will get up.

Mr Balding—Most probably, yes—if I can only afford to invest in one of those two projects.

CHAIR—Mr Balding, you mentioned additional production in centres other than Sydney or Melbourne. Can you provide the committee, on notice if necessary, with some details of what production is being located in other cities?

Mr Balding—I can do it in further detail. With regard to the actual replacement for the *George Negus Tonight* program, what was four half-hour programs a week is now five. Two of those half-hour programs are coming out of Hobart, one is coming out of Brisbane, one is coming out of Adelaide and one is coming out of Perth, whereas previously the four programs came out of Melbourne.

CHAIR—Are they of a similar ilk or are they different sorts of programs?

Mr Balding—Each program will be different and the actual details of those programs will be announced very shortly when they are launched.

CHAIR—My other question is about the extension of NewsRadio—you usually get asked this at every second estimates. What progress is there in the extension of NewsRadio around Australia?

Mr Balding—Following the announcement as part of the coalition broadcast policy, the ABC has been working with the ABA to identify those areas where spectrum is now available, with a view to rolling out NewsRadio to population centres greater than 10,000 as soon as possible and in accordance with the forward funds flow that has been indicated. But it does not happen overnight unfortunately. There is a lot of equipment to procure and we are working with the transmission industry as well. But the first hurdle we have to face is the freeing up and the allocation of spectrum. We are working very closely with the ABA on that now.

CHAIR—I accept that, but what is the problem with transmission, though, because you do have a transmission system around Australia? What additional requirements are there to add another channel?

Mr Balding—It depends whether there is a transmitter available in that population centre.

CHAIR—Assuming you have got a network in the cities, and you do have a network around this country—I am not talking about new facilities but adding on to older facilities.

Mr Balding—Then the limiting factor could be the availability of spectrum.

CHAIR—So it is not really new equipment—it is spectrum essentially that is the issue.

Mr Balding—That is the critical factor at the moment. Mr Knowles might be able to give you a bit more detail of where we are at and the hurdles we face in rolling this out as soon as we can.

Mr Knowles—For each network we require a separate, individual transmitter. We do not have spare transmitters for the network sitting around waiting for this. Part of the funding proposal will in fact establish new transmitters at those locations where there are frequencies. They will share the towers as far as is possible but they still need new extra devices on the ground and new distribution into those transmitters. So it is the same as setting up a new network.

CHAIR—So it not just a matter of having a satellite dish and something to feed it into the tower?

Mr Knowles—No. It may well use the existing satellite dish, but there is a need for a new transmitter and upgrades and, in some cases, the buildings need to be extended and sometimes the antennas need to be modified as well.

Senator BARTLETT—I want to go back to some of the election coverage questions that Senator Conroy was asking earlier. I did hear most of his questions by watching the television—it kept me awake for every minute but I might have missed a little here and there, so feel free to say so if I am doubling up. You mentioned before about no formal complaints from any of the major parties. Were there any informal complaints? I imagine an informal complaint can mean anything, but do you have any definition of what constitutes a formal complaint and a measure of keeping track of other complaints or concerns expressed?

Mr Balding—We do keep a track of all audience contacts. In respect of complaints, a formal complaint would be a written complaint or an email complaint, but they are all tracked through audience areas there. They are not only tracked but also categorised in respect of the nature of the complaint: if it is biased, is it political bias or is it some form of other bias? There is no difference during this campaign. Mr Green may have some more detailed information in this regard, Senator.

Mr Green—In terms of complaints, we are not just focusing on written complaints by letters or emails. It can be a phone call as well. The description that I gave before stands for that as well.

Senator BARTLETT—I think I got your words right when you said you had not received any formal complaints from either of the major parties.

Mr Green—That is right.

Senator BARTLETT—Did you receive any informal complaints from them?

Mr Green—Certainly not to me.

Senator BARTLETT—So there is no separating out of complaints from parties between some sense of formal and informal?

Mr Green—All complaints are regarded as formal complaints. If somebody rocks up to you in a corridor and says something, that may not be regarded as a formal complaint. But if

they ring up specifically complaining about a particular matter that they seek action on then that would be.

Senator BARTLETT—I just wanted to question the word ‘formal’ there. So, in a general sense, you could say that you received no substantive complaints from either major party?

Mr Green—That is right.

Senator BARTLETT—Did you receive any from smaller parties or Independents?

Mr Green—Yes, there were some complaints from other parties during the campaign.

Senator CONROY—Did they not cover your bungee jump, Andrew?

Senator BARTLETT—I am just trying to remember. I did not put in a complaint about it if they did not.

CHAIR—Perhaps you should have.

Senator GEORGE CAMPBELL—We did!

Senator BARTLETT—You were saying that you received some complaints from other parties. What is the process when you receive those complaints? I presume the process you follow is the same as if they came from the larger parties.

Mr Green—That is right. There is no difference in terms of how they are handled. In the context of an election campaign, because time is of the essence, we attempt to turn them around in days rather than weeks and try to get back to people as soon as possible.

Senator BARTLETT—Is there any sort of detail you can provide to us about the number and nature of those complaints and how they were resolved without breaching privacy?

Mr Green—We certainly had a complaint about the appearance of Pauline Hanson on *Enough Rope* from a member of another party. We also had a complaint from another minor party about the allocation of ABC party election broadcasts. We had a complaint from an Independent candidate saying that their policies were not covered adequately. We had another complaint from a smaller party arguing the same. That gives you a flavour of the sort of complaints we received.

Senator BARTLETT—In answer to a question on notice asked by another senator for the supplementary budget estimates at the end of last year you gave a breakdown of favourability for two of the minor parties represented in parliament. It asked for a breakdown of favourability, which was provided. Apologies if this was covered before, but in the answer here it talks about favourability measures and how party spokespeople used their air time—whether to speak favourably about themselves or unfavourably about other people. So it is not actually an assessment of whether the coverage of the party by the ABC is positive or negative coverage; it is a different measure. Is that right?

Mr Green—That is right.

Senator BARTLETT—In those figures you had, for example, three per cent of coverage favourable and 0.8 per cent unfavourable—I am talking about the Greens here—for television coverage. Where is the other 96.2 per cent—or does 100 per cent equal the total coverage and

three per cent of that was the Greens saying favourable things about themselves and 0.8 per cent was them saying negative things about others?

Mr Green—That is right. The balance is the other parties in the campaign.

Senator BARTLETT—So, in that sense, you could say that, for example, the Greens coverage on television was three per cent favourable and 0.8 per cent unfavourable, so the total amount of coverage that the Greens got was 3.8 per cent? Would that be accurate?

Mr Green—No, because that is only on the issue of favourability or unfavourability. The issue of how much coverage they got would be measured in a different way in terms of the amount of candidate voice time that would have been analysed. There is a relationship between the two, but they do not necessarily equate.

Senator BARTLETT—The candidate voice time is in the main report that is published?

Mr Green—That is right.

Senator BARTLETT—I am trying to make sure that I get the figures right here. I am referring to question No. 6 that was provided from the supplementary budget estimates at the end of last year. You had Democrat coverage, favourable 1.8 per cent, unfavourable 0.1 per cent, which meant that the Democrats did not complain about other people very much.

Mr Green—No, the 0.1 per cent refers to other people complaining about the Democrats.

Senator BARTLETT—So it is not what the party uses its air time for; it is what other people use—

Mr Green—It is in a favourable sense, not an in unfavourable sense.

Senator BARTLETT—Eight times more people—0.8 per cent—bagged the Greens than bagged the Democrats. They could not find anything wrong with the Democrats to criticise, or they just could not be bothered talking about us at all, perhaps. The ‘favourable’ component of that is self-praise, if you like?

Mr Green—That is right.

Senator BARTLETT—And the ‘unfavourable’ component is other people’s uncharitable commentary about others?

Mr Green—That is right.

Senator BARTLETT—I think I understand now. Also in that answer you said that the Election Coverage Review Committee uses external research to assess whether the coverage of a party has been unduly positive or negative. That is a separate thing again, is it?

Mr Green—No, that is the favourability-unfavourability analysis you have just been alluding to.

Senator BARTLETT—I made an assumption from the words ‘unduly positive or negative’ that someone external assesses that it is unfair, over the top or biased. But that is not what that means?

Mr Green—No, that is not the case. The favourability-unfavourability test provides us with an opportunity to take a second look at a particular week, a story or sequence of stories

to see whether there is any reason. If we look at that material and data over time and we see something that stands out, apart from the trend, then we would go back and have a second look.

Senator BARTLETT—You did not feel the need to go back and have a second look?

Mr Green—Not in terms of the analysis for the federal election.

Senator BARTLETT—I am just trying to understand the connection between those favourable-unfavourable figures and the material that is in the published report. Sticking to television coverage for a minute, for the Democrats you have favourable, 1.8 per cent and unfavourable, 0.1 per cent. For the Greens you have favourable, three per cent and unfavourable, 0.8 per cent. Is there any other coverage of the two parties? Do you have a neutral category?

Mr Green—No, it is either favourable or unfavourable.

Senator BARTLETT—That would mean, in a sense, that you could have the total coverage by adding the figures for the two parties together.

Mr Green—Yes, but the more reliable indicator is to go and have a look at the candidate share of voice.

Senator BARTLETT—I guess the figures for both the share of voice and the favourable-unfavourable record just mentions rather than the length of time that is made available. If you have a 20-minute story that gives great praise or great condemnation, is that—

Mr Green—That would be reflected in the percentages. There is a function of time in that.

Senator BARTLETT—So the percentage takes that into account. Does the length of the piece apply to online as well?

Mr Green—That is right.

Senator BARTLETT—Is Rebase the external research provider that you use to assess the coverage of a party?

Mr Green—That is right.

Senator CONROY—I want to talk about the documentary called *Punished not Protected*. Who made the decision that politically sensitive material should not be sold or licensed to a program maker making the documentary on refugees called *Punished not Protected*?

Mr Balding—The initial decision was taken by the director of enterprises.

Senator CONROY—Who is that?

Mr Balding—Robyn Watts.

Senator CONROY—There was some suggestion that it was taken by a corporate manager—I think Mr Crawford.

Mr Balding—It was referred to Mr Crawford, as I understand it.

Senator CONROY—Does the ABC maintain that it took the correct decision in refusing to license the material before the election?

Mr Balding—I believe so, yes.

Senator CONROY—So you do not allow any use?

Mr Balding—This situation was the exception rather than the norm.

Senator CONROY—What were the exceptional circumstances?

Mr Balding—The director of enterprises at the time, in interpreting the editorial policies, was very concerned to protect the editorial integrity of the actual content itself.

Senator CONROY—What was the content, just for information?

Mr Balding—From memory, it was footage of—

Mr Green—There were two segments: one an interview with the Prime Minister and another an interview with Mr Ruddock.

Senator CONROY—These were public broadcasts willingly entered into by the Prime Minister and the Attorney-General. What they said is not a secret and was widely reported afterwards. I presume that the PM's and the Attorney-General's comments were widely reported afterwards?

Mr Balding—Yes.

Senator CONROY—You did not do a tape and not show it?

Mr Balding—No. It is the issue of what one does with that and to what extent does one change the editorial content.

Senator CONROY—You broadcast it.

Mr Balding—No. It is footage, and the director of enterprises was concerned that the editorial integrity of that product be maintained. She chose to take that decision.

Senator CONROY—How do you mean 'the editorial content'? Explain what you mean.

Mr Balding—To make sure that it is not used out of context and is not interfered with in any way.

Senator CONROY—And you can make that judgment without knowing how it is going to be used?

Mr Balding—I am not across the full detail of it, but I got the impression that they had a fairly good idea of how it was going to be used.

Senator CONROY—Were they planning on cutting it in half? Were they planning on showing it upside down? Were they planning on adding a red nose?

Mr Balding—I am not aware of the detail of that.

Senator CONROY—It just seems odd that this is a one-off situation. That is what concerns me. What if I contacted you and said, 'I want to get what was on the *7.30 Report* last night; the PM made some pretty outrageous statements and I want to splice them into a show I'm doing or put them on the net'?

Mr Balding—In general it would be sold, yes, provided we were guaranteed that the editorial integrity would not be compromised.

Senator CONROY—How do you get a guarantee of that?

Mr Balding—From the actual program maker themselves we find out what they intend to do with it and how they intend to use it.

Senator CONROY—I appreciate that you indicated you were not across all the details.

Mr Balding—I am not, but I would be happy to take it on notice. Can I just say that a fair degree of concern was raised by staff in respect of this decision. My undertaking to staff was that the editorial policy in this regard would be reviewed, and it will be reviewed in the next review of editorial policies. There was also a problem with the licensing terms and conditions and, as part of our annual review of those licensing terms and conditions, the clause that was causing the problem has been deleted.

Senator CONROY—This is the ‘politicians must agree to the release of the tape’ clause.

Mr Balding—Clause 2.2 of the library sales terms and conditions. That has been deleted.

Senator CONROY—Is that that clause?

Mr Balding—I believe it is.

Senator CONROY—It is just a slightly unusual clause.

Mr Balding—That clause is contained in our editorial policies in respect of the use of footage in political advertisements. I think that is where there is confusion.

Senator CONROY—This show was not a political advertisement, was it?

Mr Balding—No, but the director of enterprises was relying on the editorial policies. I am the first to say that I think there is an issue of confusion.

Senator CONROY—It sounds like it was wrong.

Mr Balding—It could have been wrong, but we need to look at it in its entirety.

Senator CONROY—You are making the point quite clearly that the clause refers to approval for election advertising. This clearly was not an election ad.

Mr Balding—No, but it was deemed to be party political.

Senator CONROY—Why was it deemed to be party political? I do not actually know who was making it. Was the Labor Party making it?

Mr Balding—Judy Rymer, I think it was.

Senator CONROY—Is Ms Rymer a member of the Labor Party, the Democrats, the Greens or any other political party?

Mr Balding—I am more than happy to take it on notice and provide the detail.

Proceedings suspended from 1.01 p.m. to 1.59 p.m.

Senator CONROY—I noticed a press release this morning about Roy and HG signing up for the ABC again. Tell us all about it.

Mr Balding—We are absolutely delighted to have Roy and HG back where they rightfully belong, on the ABC.

Senator CONROY—Hear, hear!

Mr Balding—We are looking forward to their new program, which goes to air on Saturday, 12 March at 9.30 p.m.

Senator CONROY—Saturday evenings?

Mr Balding—Saturday evening, 9.30 p.m.

Senator CONROY—Excellent.

CHAIR—I do hope there will be a little censorship of them.

Mr Balding—They are always subject to our editorial policies.

CHAIR—I remember last time there were some very unfortunate remarks about Asians in Australia. I must say I am not a total fan of those two.

Mr Balding—I am sure we can convert you.

Senator CONROY—It takes all kinds.

CHAIR—Doubtless, but they do need to be censored and their scripts read through, I think. They were following people around the streets with a camera.

Mr Balding—No, that is the chasers.

CHAIR—No, this was Roy and HG.

Mr Balding—Roy and HG as well?

CHAIR—It was not very edifying.

Senator TCHEN—I did not think Roy and HG would be into chasing people. They would not catch up.

Senator CONROY—That is probably true.

CHAIR—Let us proceed.

Senator CONROY—Before lunch we talked about the editorial policy with regard to politicians getting the right to say that others could not use their appearances on the ABC. You commented about the political nature of the program that these were to be used for, and that guided some of the thinking. Given that it was not an election ad, on what basis was it deemed to be too political for the ABC to supply some materials?

Mr Balding—As I indicated earlier, I am happy to take it on notice and provide this committee with a full, detailed response to that. It was a decision taken by an ABC executive director, and I would like the opportunity to articulate that in an answer.

Senator CONROY—You can take these questions on notice as well then. Are you saying the existing policy is under review?

Mr Balding—The actual clause that was in the library sales terms and conditions has been withdrawn. But I will be looking at it as part of the overall review of our editorial policies to make it abundantly clear what can and cannot be sold, and under what terms and conditions.

Senator CONROY—I do not want to put words in your mouth, but I think you suggested that that section which says politicians have the right to say no has gone. Is that what you said?

Mr Balding—No. I would have to get the actual wording of 2.2, but the clause in respect of your needing third party endorsement is our editorial policy clause, and that was in relation to political advertisements. I just do not have with me the detail about whether or not that wording was replicated in the licensing clause. Mr Green may be aware.

Mr Green—That particular clause in 2.2 has been removed. In terms of our editorial policy, there is still the requirement that, if you are actually seeking material for a political advertisement, the subjects of that advertisement need to give their consent. But the requirement in relation to somebody who is making advocacy or a program that might have political implications or express political perspectives has been removed from 2.2.

Senator CONROY—So it is now very clearly understood—though I have to say I am a little confused, but I will await your written response—your previously existing editorial policy talked about election advertising?

Mr Green—It still does, and that is the requirement.

Mr Balding—This is at 5.6.

Senator CONROY—Where did political advocacy come in? Where is that in the editorial policy?

Mr Green—The argument was made from the notion that the ABC must protect the integrity of its content. The argument was made that there were problems with releasing this content in that context. As Mr Balding has said, we will get back to you with some further background on that.

Mr Balding—The section in the editorial policies applicable to political advertisements has been there for quite some time.

Mr Green—That is right, since 2002. In fact, it predates even that date.

Senator CONROY—Why is that? I know I have jumped a bit there, but I would like to investigate why I have the right to veto my public statements on a public broadcast from being available if someone else wants to use them.

Mr Balding—For a political advertisement. This particular section of the editorial policies is in respect of a political advertisement.

Senator CONROY—But, if I have said it publicly, why does it make a difference whether or not it is for a political ad?

Mr Green—Because in the context of a political campaign there has to be an even playing field in how material is sought and bought. In making it absolutely clear that the ABC is not an agent supporting one or other of the particular parties, this requirement in 5.6 of our editorial policies is that, in a campaign or where there is a political advertisement, if somebody is seeking you, for argument's sake, in a particularly unfavourable light, they need to get your permission.

Senator CONROY—Surely this is buyer beware. Politicians voluntarily go on these shows. If they are outfoxed by Tony Jones, Kerry O'Brien or anybody else, it does not matter which party they are from, why should it be censored? Why should they have the final say about censoring it?

Mr Green—This is only in the context of a formal political campaign.

Senator CONROY—But, even in a formal political ad for a formal political campaign, why? You mentioned the words 'level playing field'. I am trying to understand why, if I go on TV and say something stupid, I have the right then to say that that cannot be used.

Mr Green—The issue is the ABC cannot be seen to be supporting the political efforts of one particular party in the context of a formal campaign. It arises from that.

Senator CONROY—The person who uttered the words is the politician.

Mr Green—Yes, but it is our content.

Senator CONROY—But it is publicly broadcast.

Mr Green—That may be the case.

Senator CONROY—Say I made a video of it—I mean off the screen rather than my plugging into your broadcast—albeit the video would be of low quality, I could use that, couldn't I?

Mr Green—Not if it were for an advertisement. If it were in the context of a documentary, you could probably pick it up through the fair dealing provisions of the Copyright Act, but that is a separate matter.

Senator CONROY—Why does it make a difference there? You said 'for everything but an election'. I still do not see where the difference is in terms of the right to free speech/the law. If I videotape John Howard making a dopey statement on the *7.30 Report* and then I want to use it in an election ad, why do you think you can stop me?

Mr Green—No, we are not trying to stop you. If your opposing party are trying to buy you in that performance, we are asking them to get your authority to release the material.

Senator CONROY—But why should my authority influence whether you hand it over?

Mr Green—The editorial policies are a board document. The judgment is that during a formal election campaign the ABC cannot be seen to be an agent of one or other of the parties that may be contesting in that campaign.

Senator CONROY—It is not being an agent. It is being a public broadcaster.

Mr Green—No, we are engaged in a commercial deal where we are selling you the content.

Mr Balding—As opposed to your taping it off air.

Senator CONROY—Yes. If I just taped it off the screen, I could use it, although it would be of pretty low quality. I do not think there is any law that could stop my doing that.

Mr Balding—There are various terms and conditions under the copyright law.

Senator CONROY—If you broadcast it into the public domain, it is in the public domain.

Mr Balding—But it is how you use that. The ABC owns the copyright to that content.

Senator CONROY—So you would consider suing somebody who videotaped your show off the TV screen? You would look pretty silly.

Mr Balding—In theory, they cannot use it for a commercial basis.

Senator CONROY—Election advertising is not a commercial basis. We are not for-profits and we are not considered to be commercial organisations.

Mr Balding—No, but you have to make sure that steps are in place to ensure you protect your own copyright.

Senator CONROY—But you are not protecting copyright; you are protecting the politician. That is the point. If I wanted to buy it off you, then it is a commercial negotiation. But that is not what the policy is. Your policy is that I have veto rights over my appearances on your show, which is quite extraordinary.

Mr Green—During an election campaign.

Senator CONROY—Yes. That is quite an extraordinary proposition.

Mr Balding—As Mr Green pointed out, the editorial policies are a document of the board. The ABC board approves those policies. I have undertaken to do a major review of those policies this year.

Senator CONROY—If they are board policies, I will not harass you. You are the only person I can harass because the board do not turn up. Is Mr McDonald available?

Mr Balding—Not today, no. I can assure you that in respect of this matter I received, as I said before lunch, a lot of concern from ABC staff from an editorial integrity point of view in respect of how we manage our library and I am inviting the staff to come forward as part of the consultation process when I review those policies.

Senator CONROY—Would you have made the same judgment?

Mr Balding—That is a hypothetical situation.

Senator CONROY—You are the boss. It was for political advocacy. Did that fall within your integrity guidelines, in your view?

Mr Balding—I think the committee would benefit from a detailed response by my taking it on notice, because it was not a simple matter.

Senator CONROY—I asked you for your opinion. I did not ask you for the explanation of what happened.

Mr Balding—I will be going back over all the documentation, but the way I was briefed, after the event, chances are I would have made the same decision, in accordance with the way I was briefed.

Senator CONROY—I am very disappointed to hear that, but I will await your brief before I take it up further with you. I want to talk about the ABC Advisory Council. Does the ABC value the advice that it is provided by the ABC Advisory Council?

Mr Balding—Yes, it does. The advisory council is a council set up under the ABC Act. It is an advisory council to the board. A subcommittee of the board meets quite regularly with the chair of the advisory council and meets with the advisory council. The full board meets with the advisory council at least once a year. The subcommittee of the board receives reports from the advisory council. As I said, the chair of the advisory council comes along to the subcommittee of the board and addresses the board.

Senator CONROY—I am just looking at the ABC's own annual report for the year ended 30 June 2004, appendix 17, page 167, where a whole string of recommendations, responses and comments are made by the advisory council. The director of television has not responded to any of them. It is quite a lengthy list. It is a very impressive list. You would never try to get away with that if you were coming before estimates, Mr Balding. I was just wondering what is going on.

Mr Balding—In what way?

Senator CONROY—The fact that there is no answer. It just seems like you are totally ignoring the advisory council, to the extent of not even responding to them, never mind actually implementing—

Mr Balding—No. The actual response, as I said, is ultimately through the board, because this is an advisory council to the board. A lot of the suggestions from the advisory council are very valued suggestions, but ultimately a lot of them come back to resources. The ABC would love to do a lot more. We get some wonderful ideas coming through.

Senator CONROY—You could have a form letter saying 'Resources do not allow this'. Then you would not have all these 'No response provided'. A simple format along those lines would be—

Mr Balding—Sorry, with a lot of those the response may not have come from the director of television; the response may have come from the director of development, who was speaking on their behalf. Remember, a lot of these questions are ideas questions. Some of these ideas are already in train through our development. At that stage I had my director of development addressing those questions from the advisory council.

Senator CONROY—It is just that the director of television is getting dobbed in here. That is Ms Levy, is it not?

Mr Balding—Yes.

Senator CONROY—I am sure she would not be excited to see that she has had the finger pointed at her extensively for not providing responses.

Mr Balding—There is a lot of interest in television.

Senator CONROY—I just think it is a bit unfair on Ms Levy to be carrying the can if it is other people who have not responded.

Mr Balding—Other people may have responded on her behalf as well. But can I just say in general a lot of it has to do with resourcing.

Senator CONROY—As I said, a standard form letter back to them might at least mean they could not write 'No response'. But I will leave you to handle that aspect of it.

Mr Balding—Thank you.

Senator CONROY—Finally, Minister, there are two vacancies on the board at the moment; is that right?

Senator Coonan—Yes, that is right.

Senator CONROY—And two more coming up shortly, I understand.

Senator Coonan—Two more coming up shortly.

Senator CONROY—I heard a rumour just recently that cabinet might have got around to making a selection. Is an announcement pending?

Senator Coonan—I do not comment on rumours, but the government is conscious of the current vacancies and the need to fill them.

Senator CONROY—Any ballpark timing when we might see any names emerge? It cannot take that long to search the Liberal Party membership base. It is not that big.

Senator Coonan—If it were that easy, maybe there would not have been vacancies for very long. But the point is that the government is conscious of the fact that there are vacancies. We will fill them, because otherwise there would be a statutory problem. So we are conscious of the fact that we need to move.

Senator CONROY—What is the process that you have been undergoing? There was an ad and people have applied?

Senator Coonan—The process is that numbers—I mean literally; I think I have had about two dozen different names put—

Senator CONROY—Expressions of interest?

Senator Coonan—Expressions of interest.

Senator CONROY—Do the people contact you direct?

Senator Coonan—Some have contacted me directly; others have come through other sources. But obviously we need to choose people who come within the criteria specified in the act.

Senator CONROY—Richard Alston has not applied? He is busy, though.

Senator Coonan—I do not think I really need to dignify that with an answer.

Senator CONROY—You dignified it enough to appoint him to London.

Senator Coonan—We are talking about the ABC board.

Senator CONROY—Any indicative timing on an announcement of some new names—before Christmas?

Senator Coonan—The government has it under close consideration, shall I put it that way.

Senator CONROY—You are in charge of it ultimately, though, aren't you? You make the announcements.

Senator Coonan—It is a cabinet appointment.

Senator CONROY—But the PM does not make it; you make it?

Senator Coonan—I gather I will be making it.

CHAIR—There being no further questions for the ABC, I thank the ABC for appearing here today. We look forward to seeing you in May for budget estimates.

[2.17 p.m.]

Special Broadcasting Service Corporation

CHAIR—Mr Milan, we welcome you and your staff to this hearing. I am sorry we are a little later than we thought we were going to be, but that is the way estimates go.

Senator CONROY—I would like to start with an issue concerning the antisiphoning list, which has been a matter of some discussion this morning already. I am sure you have been monitoring it in the other rooms.

Mr Milan—Yes.

Senator CONROY—Was SBS disappointed that the 2010 FIFA World Cup soccer tournament was left off the revised list the government released last year?

Mr Milan—Yes, we were.

Senator CONROY—Have you raised this matter with the government since that time?

Mr Milan—Yes, we have.

Senator CONROY—What response have you got?

Mr Milan—Thus far we are yet to receive a positive response.

Senator CONROY—Minister, what was behind the government's decision to drop the 2010 FIFA World Cup tournament off the antisiphoning list?

Senator Coonan—The decision not to include the cup recognised the need to limit the list to events that fit the criteria of national importance and cultural significance. Whilst I appreciate that many people might think that the World Cup would fit that category, there are a large number of international events that do attract a level of audience interest that probably come into the same kind of category—perhaps the Tour de France, the World Athletics Championships, world swimming—

Senator CONROY—You are not serious! You are not trying to suggest that the Tour de France in any way is comparable to the FIFA World Cup?

Senator Coonan—What I am saying is it may be anathema to you, but—

Senator CONROY—I love the Tour de France, but I do have a perspective on what is the biggest sporting event in the world.

Senator Coonan—The point I am making is that the criteria is reserved for events of national importance and cultural significance. If you really sought to add every event that has a large viewing audience and a lot of people interested, you would have a list of quite extraordinary length. There is a need to balance the extent—

Senator CONROY—It was on the list.

Senator Coonan—Can I just finish responding to your question. There is a need, when you are looking at the list, to balance the level of regulatory intervention aimed at keeping events on free-to-air TV with allowing both the market to operate and pay to have an opportunity to buy events. While SBS has regularly shown the event, the national importance and cultural significance of an event in which Australia rarely participates and which frequently occurs in time zones that are not convenient to many Australian viewers are obviously some of the factors that you take into account. The matter was obviously given very careful thought.

Senator CONROY—So the criteria were: national interest?

Senator Coonan—Yes.

Senator CONROY—And?

Senator Coonan—Events of cultural significance and national importance are the two criteria.

Senator CONROY—National importance and cultural significance?

Senator Coonan—Yes.

Senator CONROY—Would the Olympics fall into that category of national importance and cultural significance?

Senator Coonan—The Olympics are on the list.

Senator CONROY—There is always a bit of debate about whether or not the Olympics or the World Cup is the single largest sporting event in the world. I lean to the fact that the World Cup, because of its qualification processes, is the largest single sporting event over a lengthy period in the world.

Senator Coonan—I agree that Australians do have a wide range of views about the sports they like to watch on TV. The list is designed to protect a limited range of events which are considered to come within that category. For other events, it is open to both free-to-air and pay to negotiate the acquisition of broadcasting rights according to their own commercial interests, which include these difficult issues of programming that we talked about earlier this morning.

Senator CONROY—But one of your excuses a moment ago was that it is at inhospitable hours. Did you have a conflict programming the soccer against a Danoz ad?

Mr Milan—Put it this way: if we had the World Cup rights—and, indeed, we have for the next one, as you know—the whole schedule would be built around the World Cup.

Senator CONROY—I appreciate, to be fair to the minister, that it was actually in our time zone for the first time in a long time, which made us all very happy. What sort of viewing audience have you had during the last couple?

Mr Milan—The single largest audience we have ever achieved at SBS was for a World Cup qualifier, which was Australia against Iraq. So you can assume that the audiences have always been substantial.

Senator CONROY—So it was your single largest audience ever?

Mr Milan—Yes. For us, the last World Cup, in 2002, a total of 14.8 million people.

Senator CONROY—That sounds like a few Australians, Senator?

Senator Coonan—That does not in any way prohibit SBS or anyone else from bidding for the rights.

Senator CONROY—You are being a little disingenuous, Minister.

Senator Coonan—It is a commercial decision for broadcasters and—

Senator CONROY—You are being a little disingenuous. You deleted it from the list.

Senator Coonan—Senator Conroy, I cannot answer a question if you are going to speak as well. If you want to make a comment, please do, and then I will try to do my best to respond to you.

Senator CONROY—You are being a little disingenuous in the fact that you actually deleted it from the existing list.

Senator Coonan—The government's rationale for not including it, even though we are talking about the current rights, I have outlined. I have just explained to you what the rationale was.

Senator CONROY—I shared your outrage last year when I think the US Open golf was on and it was not put to air at the advertised time. From recollection, we got to watch Clint Eastwood instead. I do remember your taking umbrage at and being justifiably concerned over Channel 9 not showing a golf tournament—something that does not have the national importance or cultural significance of the soccer World Cup.

Senator Coonan—That matter had been acquired under the list, as I understood it. It was an issue as to whether or not it was shown, not whether it was acquired and whether it was on the list.

Senator CONROY—You have taken it off the list, and it would have been acquired if it were on the list. It may still be acquired, but it would certainly have been acquired if it were on the list.

Senator Coonan—It was never on the list.

Senator CONROY—I think again there is a disingenuous answer there, Minister. The World Cup has been on the list since the list was introduced.

Senator Coonan—2002 and 2006 are on the list; 2010 is not on the new list, which starts on 1 January 2006.

Senator CONROY—Yes, that is my point.

Senator Coonan—I have given you the rationale for that.

Senator CONROY—How many world cups has SBS covered?

Mr Milan—1990, 1994, 1998, 2002; so a total of four so far. In 1990 there were 52 games. The same in 1994. In 1998 there were 64. In 2002 all 64 games were broadcast. We showed 48 and the Nine Network showed 16.

Senator CONROY—So what is the potential effect of non-listing on the ability of SBS to acquire the rights?

Mr Milan—Given that the rights have already become a property for free-to-air television, that has significantly increased the price. If the rights were off the antisiphoning list, pay television could bid openly against the free-to-air networks. You can assume that the price would go up even more, maybe by as much as 100 per cent.

Senator CONROY—When are the rights for the 2010 World Cup being negotiated?

Mr Milan—Given the delisting, they are bringing the negotiations forward and they are telling us that they are going to hold the negotiations in the next couple of months.

Senator CONROY—Imminent, was my understanding. How do you assess your prospects for obtaining the broadcast rights of the next World Cup, given the delisting?

Mr Milan—We are always optimistic, as you appreciate, but you would have to say the odds on us being successful have reduced considerably.

Senator CONROY—The pay TV industry has said that FIFA gives priority to free-to-air broadcasters when it is selling the World Cup rights and that therefore the event does not need to be on the antisiphoning list. What is your response to that argument?

Mr Milan—In reality, it is meaningless. FIFA gives priority to only a certain number of games. You can assume that in, say, 2002 the FIFA priority may well have been the 16 that were hived off to Channel 9. The reality of SBS is, because of the pattern of migration to Australia and the various sizes of the communities, the top billing games are not necessarily the games determining who goes into the finals and the games of greatest interest to the Australian community. In reality, if it were only a limited package that went to free-to-air television, many people would miss out.

Mr Brown—Just a couple more points about the FIFA policy. One is that it is a current policy, and I think one has to be aware of the potential risk that by 2010 that may change. Certainly SBS's experience of the English Premier League would indicate that attempts to protect sports events for the benefit of free-to-air viewers become overtaken by the cash offered by pay TV. The reason SBS does not have the English Premier League on any more is that the English Premier League's attempt to unbundle the rights and create two separate packages for free-to-air and pay were frustrated by Fox's response to that, saying they would only take all or nothing, so that they could control the market.

The final reason why it is a bit tricky if only a part of it is reserved for free-to-air is that the free-to-air economic model requires a degree of exclusivity and volume in order to generate sufficient sponsorship and advertising to justify the bid.

Senator CONROY—That worked when you had the combined Channel 9-SBS? You still generated the volume and the sponsorship you needed?

Mr Brown—That was two free-to-air partners both generating. Even if one or two did it, it was still the same mass. It is more appropriate perhaps to look at 2006, and that is where our model comes into play. We have all 64 games exclusive, and that is enough to drive the sponsorship and advertising dollars to justify it.

Senator CONROY—In the past Fox and pay TV companies have often complained about the hoarding of free-to-air. They say, ‘We cannot bid for these rights,’ but then they bid for them, get them and then do not show it. I have some sympathy for that view, and I am sure the minister does. Have many matches from the World Cup not been shown?

Mr Milan—We have always shown everything that we have had.

Senator CONROY—Every single match?

Mr Milan—Every single match. When there have been two played simultaneously, we have shown the second one on delay.

Senator CONROY—On delay straight afterwards?

Mr Milan—Yes.

Senator CONROY—So it is not possible to mount the case that this is one of these situations where pay TV are being unfairly treated, the free-to-air are ganging up and hoarding content and not showing it?

Mr Milan—No.

Senator CONROY—It just does not apply in this case, does it?

Mr Milan—No, that certainly does not apply.

Senator CONROY—It appears the minister has a cold heart towards Australian soccer viewers. I want to talk about SBS Independent, if I could. The SBSI program has been running for 10 years now. When does that program run out?

Mr Milan—It runs out 2006-07.

Senator CONROY—Has the operation of the program recently been evaluated?

Mr Milan—Yes, it has. It has been through the lapsing programs review.

Senator CONROY—What would be the effect on the program’s operation if a renewed funding commitment were not given this year? Obviously you have to plan in advance.

Mr Milan—Correct. The lead time on production averages about two years. So in fact, unless we get renewal this year, to all intents and purposes major commissioning will cease. We have not pre-spent the money, because we give the money out only if the works actually get completed and come to SBS. But, because of the lead time, we have actually already spent the allocation for the next two years—commissioned rather than spent.

Senator CONROY—How much extra funding do you need?

Mr Milan—We have asked the government for \$15 million per annum.

Senator CONROY—Minister, how are they going?

Senator Coonan—That is subject to the budget process and confidential.

Senator CONROY—Are you sympathetic to the need to maintain this program?

Senator Coonan—I am going through the proper steps of a budget process.

Senator CONROY—I understand that. I am not asking you to guarantee success. I am just asking whether you are sympathetic.

Senator Coonan—Does it matter whether or not I am sympathetic? There is a process.

Senator CONROY—I have confidence that, if you batted hard for it, it would get there.

Senator Coonan—There is a process, and I have told you what it is.

Senator CONROY—What would you be able to do with the \$15 million if you got it?

Mr Milan—I think SBSI has proved to be the most successful film commissioning body in Australia. Indeed, the *Independent Film Magazine* in its current issue has attested to that. But particularly what we could do with additional funding is to make strip programs. At the moment everything you see on SBS is invariably a one-off. The very few series we have made have been extraordinarily successful. I think when I first joined the organisation the average SBSI audience for an SBSI product was about 50,000 Australians. Tuesday week ago *The Colony* opened with three-quarters of a million Australians actually viewing it. Indeed, it is becoming one of the most successful programs that we have ever made. Of course, it has the advantage of being a series, so the audience can make an appointment and actually see something regularly. So certainly we would like to see more series on SBS.

But, importantly, we have had an extraordinarily positive impact on the local production industry, which is in some difficulty at the moment, as you would be aware, Senator. The great thing about SBSI is that every dollar that the government puts into it probably generates \$3 more in terms of revenue that goes into the industry. We fund only the first-time rights on television, so we buy only its run on television—we do not own the property—which means invariably we put in somewhere between a quarter and a third of the funding. The producer then goes out and finds other money, both from the private sector and from other film commissioning bodies. Some of that money now is beginning to come from overseas. We made *The Colony* with an Irish network.

So it is a great way of both gearing up and giving the independent film production industry a boost, and it does that with great quality control. I think you would be aware, Senator, that last year we won the first Oscar that an Australian television network has ever won, for *Harvie Krumpet*. We backed one movie last year, *Somersault*, and it won 17 AFI awards. So it has been an extraordinary and successful organisation.

I have to say in the minister's—not defence, as she is more than capable of defending herself, but it would be fair to say the minister did come last year to our party to celebrate SBSI's 10-year anniversary and gave a very encouraging speech.

Senator Coonan—It was titled, Senator Conroy, for your information, 'A little crumpet goes a long way'. I am enormously enamoured of what SBSI produces. It does extremely well, and I am very supportive.

Senator CONROY—My congratulations to your office for their press release and speech. Mr Milan, had you finished detailing the extraordinarily positive achievements of SBSI?

Mr Milan—I think I got the commercial out. We are up to 720 hours of Australian production, and over 500 national and international awards. It is singularly the most successful film commissioning body in Australia.

Senator CONROY—I guess we are in there batting with you, Senator Coonan, in that process.

Senator Coonan—Thank you.

Senator CONROY—If you like, I will have a chat with Senator Minchin.

Senator Coonan—Thank you. I will pass on your support for this program.

Senator CONROY—Could I just go back to what we were talking about before: the soccer World Cup. You mentioned the Tour de France. Does Australia have a national team entered in the Tour de France?

Senator Coonan—I can tell you about the list. I cannot tell you about Australian participation in the Tour de France, but I will take it on notice.

Senator CONROY—It is easy. There is not an Australian team. It is a team event. It is not a nationality event.

Senator Coonan—There we are.

Senator CONROY—Is there an Australian team entered in the World Cup process? They are called the Socceroos.

Senator Coonan—Australia has little participation.

Senator CONROY—We are in it every four years.

Senator Coonan—One of the problems is that Australia does not have very much participation, or has very small participation, in the cup.

Senator CONROY—In the soccer World Cup?

Senator Coonan—No, in the programs in the World Cup.

Senator CONROY—That is more by accident than choice, I assure you. The accident against Iran was very significant.

Senator Coonan—I am sure that is right. But, in terms of the criteria about national importance and cultural significance, one of the indicia is that your country participates.

Senator CONROY—We did participate in the actual overall process.

Senator Coonan—Yes, I know that. But it is not quite at the same level as the top teams.

Senator CONROY—If Sepp Blatter were successful in restoring Australia to almost automatic qualification via the Oceania automatic qualification so that we were a regular participant, and if Australia were to qualify, are you saying that would thaw that cold heart of yours?

Senator Coonan—Given that the open tender process as part of the allocation of Asian and Oceanic broadcast rights is likely to happen this year, it would have to be very fast.

Senator CONROY—They are working on it. They are working hard to qualify. Do you agree then that, even on your own criteria, it would be very disappointing if Australia were able to make it through and qualify, and suddenly in 2010 the World Cup is not on free-to-air

because it would then fail your national importance and cultural significance—an Australian national team qualifying for only the second time ever?

Senator Coonan—I am not quite sure what you are asking me. I am sorry.

Senator CONROY—I am trying to understand that if the criteria is the fact that they do not—

Senator Coonan—There seems to be a bit of a stream of consciousness here. I am just not quite sure whether you are asking me a question or you are making a comment. I will do my best to respond to you, as I always do, but I just cannot quite follow whether you are just making a comment.

Senator CONROY—I know that. I appreciate that. The criteria seem very woolly and ill-defined. I am seeking to ascertain your stream of consciousness on what those criteria mean. You seem to suggest to me that the lack of qualification by the Australian Socceroos was behind your decision or was a factor in your decision.

Senator Coonan—No. What I in fact said was that one of the criteria or one of the factors of an event of national significance or cultural importance could be that the particular nationality participates, and Australia does not have a high level of participation in that particular match.

Senator CONROY—What do you define as a high level of participation?

Senator Coonan—They are obviously not in the top matches, are they, so far?

Senator CONROY—What are you defining as the top matches?

Senator Coonan—If they have not qualified they are not going to be in the finals.

Senator CONROY—What is the qualification process?

Senator Coonan—The qualification process for what?

Senator CONROY—The World Cup.

Senator Coonan—You have to enter and you have to win certain zone matches.

Senator CONROY—Are you aware how far we have progressed in those zone matches in the last two tournaments?

Senator Coonan—I am not here as a sports commentator.

Senator CONROY—It is your call.

Senator Coonan—The point about it is that it is not my call. The list has been settled by the government. It has been a revised list, and that list has been settled. It is not a matter that is open to further negotiation at this stage.

Senator CONROY—You were part of the decision making process that decided, as part of your deliberations, that—

Senator Coonan—I was not. I was not the minister.

Senator CONROY—Sorry, my apologies. But you were part of cabinet then, were you not?

Senator Coonan—No.

Senator CONROY—You get to carry the can as the minister now.

Senator Coonan—That is a can I assume with pleasure in the sense that it is difficult to satisfy all Australians with every potential game that might be of some interest. The government tries to settle the list by balancing the interests in an appropriate way so that you do not have a list of extraordinary length. The market has to operate somewhere in here. I had attempted a bit earlier on in my answer to give you the rationale as I understood it for how the list was very recently revised and settled.

Senator CONROY—You do have a pay TV monopoly. General economic theory is that, when you have a monopoly, it does require a little bit more government intervention to ensure that monopoly rents are not extorted from the average punter. That is just general economic theory. You do have a monopoly in pay TV in this country. So it really is an issue where the government does have a role.

Senator Coonan—That is why we have an antisiphoning list for the items that are considered to be important because of national significance or cultural significance. That list does need to get revised so that, if the rights are not acquired or are not properly used, there is obviously a process then to look at whether or not they should stay on the list. It is something that is fluid. It does not just sit there and never get looked at.

Senator CONROY—I made the point earlier—and you indicated that you agreed—that, where free-to-air hoard and do not show it or it is not properly used, I think there is a very fair argument.

Senator Coonan—That is one of the things that you do need to continually monitor and look at. Indeed, I think I did say particularly in relation to the golf incident that it is appropriate that we monitor.

Senator CONROY—The reason for my earlier questions was to try to ascertain whether anybody in the government at the time the decision was made in cabinet—not you, as you were not there, as you said—actually understood the qualification process of the World Cup.

Senator Coonan—Obviously you act on advice. I am sure the briefs would have looked very carefully at how you qualify, participation—all of those sorts of factors that are important in deciding the list.

Senator CONROY—Ms Williams, are you aware of the qualification process for the World Cup?

Ms Williams—Broadly, but I can assure you that people in the department who advise would have been very clearly aware, because of course we have the Arts and Sports Division in the department.

Senator CONROY—Will those people be with us later today?

Senator Coonan—Tomorrow, I think.

Senator CONROY—Minister, would you object to my seeking to clarify some of these issues with the department later today? I do not want to hold up SBS.

Senator Coonan—It is tomorrow, I think, that we have the Sports people and Senator Kemp; so by all means.

Senator CONROY—It was the department of communications that recommended it be deleted from the list, though, was it not, or was it Sports?

Ms Williams—It was definitely the department. Certainly it would be in the broadcasting side of the department; it is just we obviously consult with the Sports side.

Senator Coonan—The people who provide advice to the department—

Senator CONROY—So it is Senator Kemp. You just dropped Senator Kemp in it. He is going to hear about this, you know.

Senator Coonan—No, I said he would be here tomorrow. I did not drop him in it. I said that people who had the particular expertise as to this event would be presumably available tomorrow.

Senator CONROY—So nobody in the department of communications, which was the coordinating department for the recommendation, would be available to have a discussion?

Ms Williams—The people who discussed the scheme with the previous minister are certainly here now. We have DCITA output 3.2, where those people will be available.

Senator CONROY—I will come back to that later this afternoon, or possibly after I have let Senator Kemp know you have dropped him in it there, Minister. I will have a chat with him tomorrow.

Senator Coonan—I am sure he will be looking forward to it.

Senator CONROY—Mr Milan, I understand SBS commissioned a review of the television operations in 2004—is that correct?

Mr Milan—Correct.

Senator CONROY—How much did it cost SBS?

Mr Torpy—I do not have the figures. I will have to take that on notice.

Senator CONROY—Roughly? Are we talking \$10 million? Are we talking \$10,000?

Mr Milan—No, we are talking in the order of \$30,000 or \$40,000.

Senator CONROY—Ballpark figure?

Mr Milan—Yes.

Senator CONROY—Can the SBS make available to the committee a copy of the review?

Mr Milan—It is obviously an internal management document. We would consider a lot of the information in it with commercial-in-confidence. So I think that we would be asking our minister that, if we did lodge it with you, it be on a commercial-in-confidence basis—if you are comfortable with that, Minister. There are other aspects of the report which cover personnel matters. Can we take it on notice, if you would not mind, Senator, and we will get back to you.

Senator CONROY—What was the outcome of the review broadly, without going into any commercially sensitive issues?

Mr Milan—Basically the review identified some weaknesses in our operational structure which we moved very quickly to rectify as an organisation.

Senator CONROY—What were the changes that flowed from it?

Mr Brown—Probably the most significant change is that part of the operations was peeled off and dedicated specifically to news and current affairs as a self-contained portion of operations.

Senator CONROY—You created a news and current affairs department—is that right?

Mr Brown—There is a news and current affairs department.

Senator CONROY—That is what I assumed.

Mr Brown—Added to the department is an operations segment, which is the field crew and tape editors, who previously had worked for the big operations sector. They were taken out of that operations unit and placed inside the news and current affairs unit. That was one of the recommendations of the report. It was acted on last year. The other one was a reorganisation of management within operations to provide greater clarity, greater focus to some of the areas that were deemed to be not performing as strongly as we would wish. That includes areas like studio operation and tape editing.

Senator CONROY—Were all the recommended changes undertaken?

Mr Brown—My recollection is that certainly the major ones were. There may be some odd smaller ones which are still being looked at now. But, once the restructuring of the management of operations occurred, the implementation of any smaller issues became their responsibility. As they were taken over at only the end of last year, it is probably a bit early to have all the i's dotted on that one.

Senator CONROY—Were other changes made that were not recommended by the review?

Mr Brown—Not that I can think of.

Senator CONROY—If you do think of any, if you take that on notice and just confirm that and let us know.

Mr Brown—Yes.

Senator SANTORO—I have questions on a variety of issues, and maybe I will start with one of my favourites, *Desperately Seeking Susan*. At the budget estimates I asked what stage the reality TV show *Desperately Seeking Susan* had reached and whether SBS still considered its investment would make a profit for SBS. It had previously been disclosed that the total cost of production on the show was \$2,380,398, of which SBS contributed \$150,000, or 21.4 per cent of the total. I see from your answer to my question No. 153 that, like all SBS Independent commissioned programs, the decision to pre-purchase the free-to-air broadcast rights was not based on commercial returns of profit. Will *Desperately Seeking Susan* make a profit for SBS or not, or has it made a profit? If these financial calculations are still being

made, is there or is there not an expectation that SBS will profit from the program rather than lose money on it?

Mr Milan—The program's name is *Desperately Seeking Sheila*—

Senator SANTORO—That is the one.

Mr Milan—not *Desperately Seeking Susan*.

Senator SANTORO—Is it going to make a profit?

Mr Milan—SBS is not a profit making organisation.

Senator SANTORO—I understand that. I accept your explanation in your answer to my question.

Mr Milan—I cannot possibly answer the question because it is not one that is ever posed at SBS. We are a public broadcaster.

Mr Brown—It is fair to say that no program on SBS that I can think of makes a profit in terms of investment in the actual production. SBSI in particular supports a large range of quite expensive and high-quality programs. It is never done on the basis of making an individual profit on a program; it is done on the basis of delivering a service to the audience.

Senator SANTORO—How did the costs come in for that particular program? Did they come in close to what you estimated?

Mr Brown—I believe they came in exactly on budget. Certainly there has been no request for any additional funding.

Senator SANTORO—I want to go to the Daybreak in Detention event and Mr Quang Luu. First of all, Mr Quang Luu, thank you very much for your very full answer to my question No. 158 placed on notice at the budget estimates hearings. I preface this question by saying that Mr Quang Luu, as head of SBS Radio, and I have a very good working relationship with regard to SBS Radio's reasonable plans for expansion of non-English language radio services, and I am very happy to do whatever I can to help SBS and Mr Luu achieve their objectives in that regard. So this question should not be construed as being in any way critical of Mr Luu in his professional capacity.

I note from the answer to my follow-up question asked last May that Mr Luu reported on 23 January 2004 his attendance at the Daybreak in Detention event held at Bondi Beach on 13 December 2003 to 'draw attention to the inhumanity of Australia's mandatory policy' of detaining illegal arrivals. I note that you, Mr Milan, are his manager for the purposes of the SBS employee code of conduct and that SBS considers that Mr Luu has complied with the code of conduct in this instance.

I assume from the answer to the question—that is to that part of the question relating to whether Mr Luu sought advice from his manager, which is left swinging vacantly in the breeze in that answer—that he did not in fact do so prior to participating in the event. I note that the answer states, 'In relation to the last question, the interpretation of the Codes of Conduct will depend on the circumstances in each case.' Mr Milan, given that high-profile participation in the Daybreak in Detention event, such as being locked in a cage on Bondi Beach, is inevitably a political statement, is this in your view, in hindsight, an event at which

it would have been wiser for a senior public corporation employee—whatever his personal views, and I stress Mr Luu is entitled to hold any personal views he wishes on any matter, of course—to avoid becoming a public spectacle?

Mr Milan—For me the decision would hinge on whether Mr Luu had identified himself as an employee of SBS and was there giving SBS's imprimatur. Under the circumstance, this was not the case. The relevant employee code, which I am happy to read to you, states:

There may be occasions when public comment on non-SBS matters by an employee acting as a private individual could be detrimental to public perceptions of SBS's independence, particularly when the employee has a high public profile.

It is the responsibility of the employee to determine where there is the potential for such a situation to arise and to ensure that their status as a private individual is clearly established before any public comment is made. If the employee is in any doubt, they should seek advice from their manager.

I have taken the view on this that, though I was not informed in advance, Mr Luu was there as an individual person not representing SBS and made no representations to represent himself as an SBS manager. Therefore, on balance, I think he complied with the code.

Senator SANTORO—If advice had been sought from you as his manager prior to the event, would you have advised him not to take part in the stunt with the cage?

Mr Milan—I cannot answer a hypothetical question. I do not know what the surrounding circumstances would have been. I do not know what sort of profile the event would have had.

Senator SANTORO—In a situation like the one that we have been talking about for the last minute or two, where the identification of a senior SBS employee or manager is inevitable and perhaps even encouraged by some of the other participants and/or organisers of such an event, do you see any risk in such a situation where a high-profile or a high-ranking manager is identified? Do you see any risk to the integrity of an organisation such as SBS being compromised by such an identification? Let's use that as an example. Do you see any risk? Should that risk be avoided perhaps by an amendment to the code of practice which maybe can expect a little bit more judgment to be applied in such circumstances?

Mr Milan—Again, you are asking a hypothetical question, which I think is impossible—

Senator SANTORO—I am actually using this as a specific example. Of course, you and I have the benefit of hindsight in this particular case, where we are dealing with a specific individual participating in a specific event. All the facts are there for us to see. There may be other events that, according to judgment being applied, may be equally controversial.

Mr Milan—As you say, we are dealing with a specific event. On the specifics, I am not aware of any adverse comment that was attributed to SBS because of Mr Luu's appearance at the event. I am not aware of its receiving any publicity. I am not aware of any adverse comment about SBS. So I would say in this particular practical example that it has not happened that way.

Senator SANTORO—You see no need for an amendment to the code of conduct which may require one of your managers, by applying his or her judgment, to inform you of participation in what is obviously a very political activity, such as the one that we are talking about today?

Mr Milan—No, I do not think we need a draconian set of rules that assumes that our managers, particularly senior managers of the level of Mr Luu, are not capable of making that sort of decision for themselves.

Senator SANTORO—I fundamentally disagree with you in terms of the judgment that you are applying in this particular instance specifically and as it generally applies to other similar circumstances. We will have to agree to disagree.

Mr Milan—Thank you.

Senator SANTORO—In terms of bias—and I asked the ABC a similar question—apparently there are still problems for some SBS viewers in relation to the language used in reports about activities and organisations that are clearly terroristic in their nature. For example, I continue to receive reports from many sources about the difficulty SBS seems to have in describing as terrorists people around the world who commit terrorist acts and of reporting that obscures the real facts of the situation because of the language used. A primary focus of this problem continues to be the Israeli-Palestinian issue, although there are situations, too, in which SBS news reporting and current affairs programs skew the stories. I will mention one or two instances.

In a 17 December story about the UN building new houses in the Jenin refugee camp, Ross Cameron of SBS News adopted Palestinian propaganda, in my view. He stated:

A flash point of Palestinian resistance, the refugee camp in the West Bank town was reduced to rubble during heavy fighting two years ago.

‘Resistance’ is the Palestinian term for the violence and, in fact, only a small minority of the camp’s buildings, in a couple of blocks, was reduced to rubble. Similarly adopting Palestinian terms, on 19 December, Mr Cameron referred to ‘the Palestinian uprising against Israeli occupation’. Mr Milan, is it SBS policy to adopt the frames of reference of one of the sides to this conflict?

Mr Milan—No, it is not.

Senator SANTORO—So why is that particular reference being used regularly, as I have just indicated, by that particular reporter?

Mr Milan—Senator, I am happy to take that question on notice, but without seeing the full context of the piece it is impossible to answer that question.

Senator SANTORO—I would be grateful if you would take that on notice and provide us with your view as to whether or not you think that that is an accidental or random use of the Palestinians’ term. On 13 January, in a report on SBS news, Richard Mason claimed:

It’s been revealed that it—

US weapons inspector Charles Duelfer’s upcoming report—

contains no new substantial information and will reiterate that there’s no evidence of hidden weapons or of a plan by Saddam to revive his weapons programme.

In fact, if it has no new information, it will state, as Duelfer’s previous report did, that Saddam did indeed have plans to revive his weapons program as soon as inspections were

over and was already developing illegal missiles. Does it not concern you, Mr Milan, or SBS generally, that such flagrant misrepresentation of crucial facts occurs during its news service?

Mr Milan—Again, Senator, I would want to see the full bulletin and the full context of the piece. I am happy to take it on notice.

Senator SANTORO—On 19 November, SBS newsreader Mary Kostakidis announced:

[Ariel Sharon] says disarming so-called terrorist groups would be a complex process that couldn't be achieved overnight.

Doesn't SBS accept that those who randomly murder Israeli civilians for political purposes are terrorists?

Mr Milan—Again—I think they were referred to as terrorists—

Senator SANTORO—‘So-called terrorists’.

Mr Brown—There is a guideline within news and current affairs not to assign—pretty much the same as with the ABC—labels to groups like that unless there is an attribution source for that particular allegation, because both parties in those sorts of events end up calling each other terrorists. It is not the role of SBS to determine whether one person is a terrorist and another is not, particularly in a charged political environment.

Senator SANTORO—And are those particular guidelines applied equally in terms of the two sides to that conflict?

Mr Brown—They should be. I have seen no evidence that they are not.

Senator SANTORO—I ask the question again: doesn't SBS accept that those who randomly murder Israeli civilians for political purposes are terrorists?

Mr Brown—SBS does not have a position on declaring who is a terrorist and who is not, particularly in its news and current affairs coverage.

Senator SANTORO—SBS similarly refrained from referring to those who carried out the subway bombing in Moscow, the Australian embassy bombing in Jakarta, the school atrocity in Beslan and the multiple bombings in Iraq as terrorists. Does SBS believe that none of those attackers are terrorists?

Mr Brown—I am not familiar with that story and will have to take that on notice.

Senator SANTORO—Would you take that on notice and have a look at the reporting of all of those particular incidents and give us your view as to whether or not the word ‘terrorist’ could have been used to describe those particular situations?

Mr Brown—Yes.

Senator SANTORO—On 13 October, *Dateline* celebrated its 20th year anniversary by looking at how its stories are compiled. One story featured was Bronwyn Adcock's report on Mamdouh Habib which infamously concentrated almost exclusively on allegations that he had been mistreated, all but ignoring evidence against him. The program showed that the report was rushed to air when it was discovered that the ABC's *Four Corners* had interviewed some of the same people. Ironically, Adcock had not interviewed many that *Four Corners*

had—those with evidence detrimental to Habib. Later in the same program, David O’Shea, who compiled the special, stated:

No *Dateline* story has ever generated as much controversy as this one, Mark [Davis’s] report on the plot to assassinate Zimbabwe’s President Robert Mugabe. Before this report aired, opposition leader Morgan Tsvangirai was portrayed as the country’s great democratic hope. Exposing the conspiracy to overthrow Mugabe won Mark few friends.

O’Shea mentioned the man behind the allegations against Tsvangirai, Israeli conman Ari ben-Menashe, but not that he was working for Mugabe at the time he made the allegations and aired the video. He also failed to mention that *Dateline* somehow managed to secure an exclusive interview with Mugabe within months of the report or that Tsvangirai had sued them for defamation. Two days after this program, Zimbabwe’s Supreme Court dismissed the charges against Tsvangirai, stating that there was no evidence of such a plot. Does SBS still not accept that its *Dateline* reports on Habib or Tsvangirai were flawed?

Mr Milan—We would certainly not put the two of them together.

Senator SANTORO—I just use those as two examples within the same question.

Mr Milan—The correct pronunciation of Tsvangirai is ‘Changirai’.

Senator SANTORO—I appreciate you correcting me on my pronunciation, but would you address the substance of my question, Mr Milan?

Mr Milan—The substance of your question as far as Mr Tsvangirai is concerned is still potentially a matter of legal action, although I would have to say it is unlikely because the action against SBS that you referred to was actually withdrawn, or de-listed—struck out, is that the right term—struck out from the New South Wales court. So there is no pending legal action, but there is always the potential. They might try and bring a case back on, so I would rather not elaborate on the legal matters surrounding the Tsvangirai case, other than to say that we do absolutely stand by the story. We would not have published it in the first place had we not.

Senator SANTORO—What you are saying is that you still say that the story that you published, which was considerably contradicted by the Zimbabwe Supreme Court in dismissing charges against the gentlemen concerned, you stand totally by that story?

Mr Milan—The decision to publish the story was not based on the testimony of Mr ben-Menashe. It was based on the physical evidence of a video tape at Mr Tsvangirai’s appearance within Mr ben-Menashe’s offices and what was said on that tape by Mr Tsvangirai. I do not want to say more than that for legal reasons, because, as you point out, there is potential they could bring the case back. But the story itself was true. That meeting took place, that video tape was real, those things were said. We were only telling a story of one aspect—the legal action that Mr Mugabe and his government brought on, but against a whole range of different criteria. All I can say to you is that we certainly still stand by the story.

I do not have the same first-hand knowledge of Mr Habib’s story as I do the Tsvangirai action, because obviously it did not result in a legal action. I am happy to take it on notice and look into it.

Senator SANTORO—I would be grateful if you would thank you very much, Mr Milan. Mr Chairman, I just have a few questions on the new codes of practice, and I note that the new SBS codes of practice and editorial guidelines have been published. You communicated them to me and I thank you, Mr Milan, for providing me with a copy of the codes ahead of these estimates hearings. I am still studying them closely, but there are a few questions that I can ask you at this time. Obviously, the new complaints handling process that you have put in place will be bedding down—and I acknowledge here that SBS has clearly taken on board the need for a much speedier, more direct and, I hope, more accountable system—but could you give the committee some idea of the timelines proposed to be set for initially responding to and then answering complaints, a primary focus of your new Audience Affairs Manager, Sally Begbie?

Ms Eisenberg—The final timeline is, in fact, set by the Broadcasting Services Act, section 150, so we are not in a position obviously to modify that. But the new codes set an aspirational timeline of 30 days in which SBS will attempt to respond to the substance of complaints, and that will be a response from the audience affairs manager.

Senator SANTORO—You are committed to meeting that timeline?

Ms Eisenberg—It is in the codes of practice.

Senator SANTORO—In the introduction to the codes, SBS notes that its new media content is also selected and developed in accordance with the codes and that online material is excluded from the jurisdiction of the Australian Broadcasting Authority for the purposes of complaints investigation. This is primarily an issue for another time, but I wonder if you could give the committee some understanding of the efforts SBS makes to ensure that, even though it is exempt from ABA complaints investigation and SBS states it ‘does not publish material on the website that it would not be prepared to broadcast’, its online contents and particularly content sourced from third parties meets or exceeds the standard set out in the codes?

Mr Berryman—We treat our online material in exactly the same way within the new audience complaints processes as we would a television and radio complaint. It will be investigated in exactly the same way as we would investigate any other type of programming. With it being a new technology in terms of the history of broadcast, we continually look at ways of making sure the processes are relevant. There are other issues with online—for example, the longevity of content, which is very different from a television and radio broadcast—so we are looking at ways of modifying to make sure that things get equal value.

Within SBS as well, most of the material published online is a reflection of television and radio, and the same editorial practices that go into publishing something for television and radio inevitably are applied online as they are a reflection. So even though the ABA rules may be different, within our organisation we treat it the same way.

Senator SANTORO—Thank you, Mr Berryman, I do appreciate your answer. Answering my question No. 154 from the budget estimates hearing, SBS says that a broader review of the codes of practice is planned to commence following introduction of the codes of practice and editorial guidelines. Will this broader review be informed by direct participation from the public?

Mr Milan—Yes.

Senator SANTORO—How do you propose that that participation be encouraged?

Mr Milan—We will call for direct submissions through a combination of advertising on all the media available to us, which is of course our TV channel, our web site and our radio channel.

Senator SANTORO—I note too that SBS believes that its audiences are best served by exposure to a wide range of cultures, values and perspectives and that, as a result, SBS's programming can be controversial and provocative and may at times be distasteful or offensive to some. I think that in our community today there would be very wide acceptance of the fact that broadcast material can offend some people while not offending others. But it goes beyond entertainment and contentious documentaries. I see that the new codes at 2.4.3 say that SBS will now base decisions on whether to introduce a new substantially unedited news program for a particular language group on criteria including 'a careful assessment of all available programming sources in that language to determine which, if any, is best suited to serving the community's particular needs'. That is a quote from your codes. How far will the new codes go towards eliminating problems such as that SBS had with the Australian Vietnamese community over its decision—rescinded by the SBS board—to direct feed Hanoi government propaganda into the Vietnamese news service it briefly ran on the *WorldWatch* program in 2003?

Mr Milan—That is precisely why that code was put in place. It was in recognition by the board that we may have been in error in the case of putting the VM4 news to air, not I might say because we necessarily considered it propaganda, but clearly there was a very large section of the Vietnamese community that found the program offensive. Bearing in mind we put those programs to air as a community service, the board took the view that a community service that was not wanted by a substantial number within that community was not much of a community service, and that is why it was suspended.

Senator SANTORO—You said in your answer there, Mr Milan, something along the lines that it was not necessarily because it was considered propaganda. Did you consider, after listening to submissions from the community generally and particularly from sections of the Vietnamese community—let alone submissions made to you by members of this committee at several hearings—what SBS was broadcasting was propaganda from the Hanoi government? Did you consider that to be propaganda?

Mr Milan—No more so than many of the other news services we put to air. In fact, from what I understand from talking to the Vietnamese community, even those who opposed the VM4 news would concede that it was actually a watered-down version—in other words, it was somewhat sanitised and made more acceptable—

Senator SANTORO—So it was watered-down propaganda, was it?

Mr Milan—but we actually take news services from a whole range of regimes and many of them are totalitarian governments—many of the broadcasters are state controlled. But you must bear in mind that they come to the audience here within a democracy where there are many other points of reference to most major international news stories. So, no, I personally

do not accept your interpretation. I certainly do not think that is a reason for not publishing a news service whether it be VM4 or the Chinese news services that we put to air, for instance.

Senator SANTORO—So are you saying that other programs SBS publishes are of a similarly one-sided nature as that particular SBS program?

Mr Milan—There has been a very interesting group piece of research done by Harvard University recently, and they reckon that the Fox news service is a propaganda service. It is an evocative theatrical term. The question is: does it have a value to the community which it is intended to serve? Clearly, in the case of the Vietnamese community here, a minority—personally I think it is a minority, but a very significant minority of members of that community—found that service incredibly offensive, to the point that it was causing them real physical distress, and the board took the view that it should withdraw the program on that basis. It did not withdraw the program on editorial grounds.

Senator SANTORO—Mr Milan, I think that you are missing the point about my line of questioning, not just today but previously. Like you, I have also had people suggest that the programs broadcast on Fox TV represent propaganda for one side of an argument. The difference is that Fox TV is not subsidised by the Australian taxpayer. That is the reason, I suppose, that we have estimates hearings to question whether or not taxpayers' moneys are being spent wisely or according to, as we have been talking about today, a code of practice—in your case a new code of practice. So I do not accept your analogy to Fox TV. You could make that same argument about Channel Seven and Channel Nine. There are all sorts of programs that people are not funding, at least directly, through their taxpayers' dollars.

I ask you the question again: are there any other programs that you feel fall within the same category as that particular program that was coming out of the Hanoi government's public relations/propaganda/information—call it whatever you want—machine? Are there any other programs, in your view, that fit within that category? I do not think I am going to be able to get you to agree with me that that was Hanoi government propaganda. But are there any other programs that maybe fit within that same category?

Mr Milan—With respect, Senator, you are setting up a straw man, because you are making a premise that I do not agree with in the first place and then asking whether anything else fits within that category.

Senator SANTORO—No, I was repeating—

Mr Milan—If I do not agree with the first premise, I cannot answer the question.

Senator SANTORO—I was just simply reflecting on the words that you used in one of your answers and I was trying to draw you out as to whether you thought that that was propaganda or not. But I remember you saying a few minutes ago—and I would have to check *Hansard* and maybe make comments about this either in a letter to you or elsewhere in this place—that the program was removed, and not necessarily because it was regarded as propaganda. I am using your words, and I am just querying—

Mr Milan—If this helps you, let me say that there was no cost to the taxpayer for the VM4 news. No taxpayer moneys were paid to Vietnamese—

Senator SANTORO—That is not the issue. The issue that I have been pursuing in relation to that particular program is that it was offensive to members of the Vietnamese community. By the way, as you know, quite a number of members of the Vietnamese community offered to pay for the production of a balanced program, and they have gone about the job of seeking other sources of material that you can broadcast. So it is not about payment; it is about content and where that content was derived and whether or not it was offensive because of its bias that was overwhelming according to a great number of Australians and people of Vietnamese origin. It is not about money.

Mr Milan—Sorry, you were the one that raised the matter of taxpayers' funds being used.

Senator SANTORO—No—

Mr Milan—I just wanted to reassure you that no taxpayers' funds were paid to VM4.

Senator SANTORO—Forgive me if I was not clear. I mentioned that the reason why I am raising these issues in relation to SBS broadcasting practices is that SBS is funded by the taxpayer, unlike Fox TV. That is a red herring that you threw in there, with respect, Mr Milan.

Mr Milan—Let me also say then that because of the experience with the Vietnamese community, we now put a disclaimer before each one of those programs in the *WorldWatch* series saying that it is not an SBS product and it does not come with our editorial endorsement. But I would say to you again, Senator, that they are received in a very different environment from that of their own countries because even those that come from regimes that are less democratic than our own are contextualised by the news media of the democratic society in which we live.

I do not want to go back and relitigate the Vietnamese decision, because the board has made a decision and we have withdrawn the program but, whether you are a Chinese Australian or a Russian Australian, you get the benefit not only of the news from your country of origin in the language that you speak at home but also of a myriad of other news bulletins on SBS, within our newspapers and other media that are from democratic sources. Those bulletins are contextualised, so I cannot accept your point.

Senator SANTORO—I do not want to continue the exchange with the Managing Director of SBS, but I do have other questions that I will place on notice. In conclusion, I just mention to you that I come from a community where some members rely almost exclusively on SBS TV for news in their own language. You mentioned that a great number of members of any ethnic community are able to enjoy the balance of programs because there are other news outlets available to them—I am talking about ethnic TV. I understand that there are also radio programs that derive material from a wider range of sources. I acknowledge that, but we are talking about TV here, Mr Milan.

Mr Milan—With respect, you have to take a holistic view of SBS. You are quite right—we have a significant amount of radio programming. I would put it to you that the people that are getting their news exclusively from SBS would be listening to a radio service in Vietnamese as well as watching any television program. The radio service would take a very different view of the news from Vietnam, as you would be aware.

Senator SANTORO—Mr Milan, we are talking about SBS TV which members of the Vietnamese community found offensive because they were getting an overwhelmingly offensive feed from the Hanoi communist government in their news, and a different or a broader point of view was not being put. As I said, I acknowledge that there is greater access from a greater number of sources for radio news. I thank you for reminding me that I did that, but we are talking about SBS TV. Chair, I think I will stop there and will continue the exchange with Mr Milan—and I promise him we will—in other forums. Thank you, Mr Milan.

CHAIR—Thank you, Senator Santoro. Senator Tchen has some questions and then I think we will conclude SBS's appearance.

Senator TCHEN—Mr Milan, my colleague Senator Santoro just raised the issue about Mr Luu attending some commemorative gathering in Bondi in Sydney. I want to put this in perspective. I know that Mr Luu has been a longtime human rights activist in issues across the world, particularly in Vietnam. I think it is perfectly understandable that he felt some sort of kinship with this particular gathering. Personally, I think it was probably unwise for him to be sucked into participating in a particular promotional event, but from my point of view I believe that he is totally within his rights, as an individual and regardless of what position he holds with SBS, to participate in any legal activity he wishes. I think that it is probably fair to say that Senator Santoro just raised this issue because it has been brought to his attention. I do not think—he can correct me if he wishes—that he wishes to challenge the integrity of either Mr Luu or the SBS management in this regard.

Senator SANTORO—I made that perfectly clear at the beginning of my statement.

Senator TCHEN—I just thought that was worth repeating. Mr Milan, I have a few questions for you. The first relates to your response to a question from Senator Conroy. You talked about the audience that SBS has achieved. I understand the commercial and the general public radio and television rating system has recently changed, which has put a different picture on how various public television stations rate. Can you tell the committee how SBS has fared recently in the ratings game?

Mr Milan—Last year our average across the year was 5.1, which was exactly the same as the year before. I am delighted to say, though, that over Christmas we did extraordinarily well. We achieved some of the best ratings we have ever achieved. We were pulling sevens, and I think I said in answer to an earlier question that *The Colony*, for instance, our new living history series, debuted with an audience of three-quarters of a million, which I suppose would equate to about a nine or a 10 in the ratings, so it has been very successful. Right now, I have to say, with the launch of all the Channel 7 new megaseries, we are all doing it a bit tougher, but I am very confident that the programming that we have lined up for this year will be very successful, and we will have another strong year.

Senator TCHEN—These ratings are not done on a national basis?

Mr Milan—Yes, they are. They are done city by city, and from that they have what they call a five-city average, and then occasionally they research regional areas.

Senator TCHEN—Does it put the SBS at any disadvantage if you do not have a regional broadcast network?

Mr Milan—Yes, but it disadvantages us more against the ABC, in a sense, as a public broadcaster. We are not chasing advertising revenue deliberately. We like to actually get it when we can. The most important thing is to deliver our charter base services to the maximum number of Australians and, hence, we are always encouraging the government to put more transmitters in so the SBS message can be received by more and more Australians.

Senator TCHEN—How does SBS compare with the ABC, in terms of audience ratings?

Mr Milan—To be fair to the government, they have been very generous with us in recent times, because there has been quite a significant expansion of our network for television, but every community above 5,000 now has television. My sense is that the ABC is probably down to about 2,000.

Senator TCHEN—I am sorry, I did not hear the last bit.

Mr Milan—The ABC is in 2,000-plus communities, where we are down to 5,000-plus communities, but obviously those communities between 2,000 and 5,000 are getting an ABC service, but not currently getting an SBS service for television. In radio, we have two signals in both Sydney and Melbourne, but for the other metropolitan centres we only have one. We have been encouraging the government to provide funds to expand our radio network to all the other major cities, so we have two frequencies in every major metropolitan centre. Our regional radio coverage is very patchy indeed and we are really relying on a self-help scheme, which is where the communities are determined to have SBS, and the local councils are prepared to sustain it, though we will actually fund the installation of a transmitter.

Senator TCHEN—You said you are looking for government support for this second radio frequency outside of Melbourne and Sydney. Can you expand on that?

Mr Milan—I think Mr Luu could answer that.

Mr Luu—I would like to thank Senator Tsebin Tchen for the question and I would also like to take this opportunity to thank Senator Santoro for his support, because Senator Santoro supported this extension very strongly in 2004. SBS radio is celebrating its 30th anniversary this year. During the past 30 years it has been and still remains a very trusted, credible source of information for its listeners. We are currently broadcasting in 68 languages, in two frequencies in Melbourne and in Sydney. But outside Melbourne and Sydney, through the other capital cities we broadcast only on one frequency. So we produce, for example, 36 news bulletins a day. Our listeners can enjoy 36 news bulletins in Sydney and Melbourne, but outside Sydney and Melbourne they can enjoy listening to only 18 news bulletins. So, on an equity basis, I think Australians from a culturally diverse background outside Sydney and Melbourne are at a disadvantage.

Secondly, Senator Tchen, you congratulated the ABC this morning for the extension of NewsRadio. We wish we could be part of that kind of enhancing of our service for our listeners. There are of course, as you are aware, 2.7 million Australians speaking a language other than English at home in those capital cities. We have some 400,000 in regional Australia and rural Australia. That means the number of potential listeners to SBS Radio is more than

three million people. With a very modest cost, estimated in today's dollars at an annual cost of, say, \$1.76 million—\$1,760,000 a year—when it is fully operational we could reach everyone from Melbourne and Sydney to all the capital cities. That is very important for SBS—to be able to serve more than half a million people speaking a language other than English outside Sydney and Melbourne, including more than 142,000 in Brisbane and, as the chair would know, many hundreds of thousands in Perth too. If we could be extended then we could provide access to SBS programs in those 14 languages which are not now being broadcast to listeners outside Sydney and Melbourne. They are the Albanian, Assyrian, Bengali, Bosnian, Bulgarian, Maori, Fijian, Finnish, Gujarati, Kannada, Kurdish, Nepali, Norwegian and Samoan language programs.

Thirdly, if we can provide a second frequency then we can bring the essential services to our culturally diverse community, because of their relatively small numbers outside Sydney and Melbourne. They do not enjoy a whole infrastructure, or other facilities, like the communities within Sydney and Melbourne. We all know, for example, that most of the community language newspapers are in fact published in Sydney and Melbourne; there are hardly any in Brisbane and certainly none exist in Perth. So the further outside Sydney and Melbourne and the smaller the numbers, the greater the need for much quicker and much bigger services to be provided by SBS Radio.

Fourthly, we think that if we can extend SBS Radio to other capital cities then we can strengthen federally funded facilities, particularly for new arrivals in states other than New South Wales and Victoria and since I believe that the policy of the government is to encourage new arrivals to resettle outside Sydney and Melbourne. So, to strengthen SBS Radio outside Sydney and Melbourne would be, I believe, a very attractive proposal for those people who choose not to go to Sydney or Melbourne.

Lastly, the fifth reason we say in our submission that SBS Radio should be extended is that it certainly would benefit federally funded service providers in terms of bringing their information to potential listeners, the way we have been doing that for many years in Sydney and Melbourne. For those reasons, we hope that the extension of SBS Radio by way of a second frequency for air space would receive consideration by the government.

Senator TCHEN—I am very pleased to hear that, Mr Luu, and I am sure you will make a very good case, with good support from SBS management. I am sure the government will look at it kindly. You mentioned NewsRadio on ABC; that campaign was actually started by Senator Jocelyn Newman many years ago. When she retired after she had done all the heavy lifting, I picked it up and it is bearing fruit. So it is a long process, and I am sure that your project probably would not take as long. You make some very good points about the benefits of such services. Thank you very much, Mr Luu.

Mr Milan—Senator, my contacts think I might have failed to answer a question you asked. Did you ask for a comparison on ratings between SBS and the ABC?

Senator TCHEN—Yes, that is right. I thought you did not want to be—how should I say it?—political about it!

Mr Milan—No, I think it is a terrific story, because I can say to you that the last time SBS rated as well as it does now was for a period in 2001-02. It was during the Shier years at the

ABC, when the ABC was actually going through quite a lot of difficulty and was achieving quite low ratings, and a lot of the ABC audience came to SBS at that time. I think the great success of today is that both public broadcasters are firing on all cylinders. I think Ms Levy is doing a very fine job with programming the ABC, just as Mr Brown is doing a very fine job at SBS, and the combined ratings of the public broadcasters are better than they have ever been, so it is a good news story. If you do a direct comparison, it varies from night to night, but they have got much more money than we have and they normally do a bit better.

Senator TCHEN—I will draw the attention of Mr Balding to the first part of your answer. We are talking about the second frequency for radio. May I ask you about the digital television side. I understand you have run trials on digital broadcasting. Where do you go from here, or should I direct my question to Mr Brown?

Mr Milan—Put it to me in the first instance and if you want more detail I will defer to others. But you would say that we are doing more than trialling digital broadcasting; we do run the only digital channel, which is our World News Service. We also have a second channel which is SBS Essential, which is an electronic programming guide but we have run some interesting enhancements on that. So, for instance, when we run a soccer match we have a soccer information service running on that channel. We ran the results on the night of the federal election, for instance. We are actively using our spectrum but of course we are not funded for it, as you would be aware, Senator, so it is fairly thin.

Senator TCHEN—That is the second channel I can pick up in Parliament House but not at home.

Mr Berryman—Just to give you a context of the roll-out, we are currently on air in 95 different markets on digital television and we have contracted for 118. Between now and the retiring of the analog spectrum we will roll out well over 140 other sites. So, in terms of infrastructure and transmission, it is a very majestic roll-out in its scale but, in terms of actually furnishing extra content, there has been no allowance made to the organisation to do that. The little bits of content that we have done with our World News Channel and our electronic program guide, as Nigel mentioned, have been found through efficiencies within the organisation. But, if there were to be substantial growth in order to create something genuinely compelling and attractive to make that majestic infrastructure that has been rolled out very fruitful, we would need some form of injection into the organisation to do that.

Senator TCHEN—Does Mr Brown wish to say something?

Mr Brown—Only that the unused channel is really dependent on some funding because I think managing the World News Channel out of our existing resources is probably as far as we can go, stretching the few dollars that we have. The thoughts that we have had for the second multi-channel low-cost option would be to introduce a world music channel which genuinely traversed the vast range of music around the world and turn it into a full scale channel.

Mr Milan—It is as long as a piece of string. The more money available to us the richer programming stream we could run on digital. I would say though that we have consistently been a supporter of multi-channelling because we have recognised that there is such a wide brief in the large number of communities that expect a service from SBS. Obviously multi-

channelling is an answer for us in terms of distribution, but the problem is we need funding to go with it.

Senator TCHEN—About funding then, one of the great, I suppose obvious, distinctions between broadcast services on ABC and SBS is that on SBS periodically at the end and the beginning of the program you see advertisements. Firstly, what sort of contribution are you able to achieve through obtaining advertisement to your funding?

Mr Milan—Jon what is the net figure?

Mr Torpy—About \$30 million a year.

Senator TCHEN—I am sorry; I am not quite sure what your total funding is. What proportion is that?

Mr Torpy—It is about 15 per cent.

Senator TCHEN—Is there any opportunity for expanding it?

Mr Milan—We are always hopeful. You are unlikely to see a mega-leap in advertising revenue, because the market is getting progressively more competitive. Pay television is now taking a substantial chunk out of the market as well and we have had the impact of web based advertising over the last few years, so it is a very competitive marketplace.

Senator TCHEN—You have been getting a steady increase?

Mr Milan—Yes.

Senator TCHEN—I suppose you are getting competition from Channel 31 as well now!

Mr Milan—I would not say that Channel 31 was our major competitor! But, yes, everyone is asking for a piece of the same pie.

Senator TCHEN—You have had a number of years of experience of having advertising now. Can you tell the committee whether, in your experience, the acceptance of commercial advertisements has inhibited your programming or program content in any way?

Mr Milan—My view of that would be no.

Senator TCHEN—Has it jeopardised your integrity in any way?

Mr Milan—No, I have the strong view that that is not the case. It certainly has not compromised our integrity in any way.

Senator TCHEN—Are you making that as a general statement? Or do you believe is it only through special diligence on your part!

Mr Milan—The non-advertising public broadcasting model is an accident of history, because of our affiliation with the United Kingdom at the time. Most other public broadcasters throughout the world take some form of advertising. It is really only the UK, Canada, New Zealand and us—no, Canada now takes commercials, sorry. So it is only the UK, us, and New Zealand—on public radio but not on television any more—that have a commercial-free service. Maybe the Norwegians, but by and large most public broadcasters actually do take advertising.

Senator TCHEN—Thank you.

CHAIR—Are there any further questions on SBS? If not, we thank SBS for appearing and we call the Australian Broadcasting Authority.

[3.43 p.m.]

Australian Broadcasting Authority

CHAIR—I welcome the officers from the Australian Broadcasting Authority. Senator McLucas has some questions for you.

Senator McLUCAS—I want to go to the question of the regional licences and the change to licence provisions that occurred just over 12 months ago. I had a question on notice, No. 2750, which I thank the minister for answering. I want to go back over those issues, given that we are now 12 months down the track. I wonder if I could start by asking you: under the changed provisions, has each of the licensees complied with those changes?

Ms Maddock—Yes.

Senator McLUCAS—Have they sent in their compliance documentation? I understand that has to be provided every six months.

Ms Maddock—They have certainly sent in the one that was required in the middle of 2004. I understand that they have sent in the one that was required about the December period which they had to put in by the end of January. We have not processed the details of that yet. Can I just add, as my colleague has reminded me, that we are currently doing an audit of those returns that they have given us, because it is a process that is self-reporting on their part and, in the early years of this scheme, we want to make sure that it is working properly and that the material that is being claimed is appropriate et cetera—that it is not being overstated or understated. So we are doing an audit at the moment.

Senator McLUCAS—When do you expect that to finish?

Ms Maddock—June.

Senator McLUCAS—Will it be public?

Ms Maddock—We have not put our minds to that. I would imagine that, in some form, public comment will be made. I do not know the extent to which we would give all the detail, but I would envisage that we would make known the findings of it.

Senator McLUCAS—Why did you decide to do that? It was not in the original licence regulations.

Ms Maddock—Just out of good governance. One of the things we have been trying to do as an organisation is, where we rely upon self-reporting of schemes, make sure that we run an audit every now and again to make sure they are working as they should. In the same way, we have done one recently on a series of licence fees, so it is part of that process at our initiative of good governance. We did not have any indications to us that it was not working; we just thought we should do it.

Senator McLUCAS—Going back to the information you would have received from licensees post 30 June 2004, what did you do then when you received the documentation from the licensees to ascertain that they were complying?

Ms Maddock—We checked that the amount of hours that they were claiming were what they were required to put to air.

Senator McLUCAS—Just the hours?

Ms Maddock—I think so, yes.

Senator McLUCAS—So not the content?

Ms Maddock—The audit is about making sure that the content is the appropriate sort of content.

Senator McLUCAS—So we have done nothing about the content until now?

Ms Maddock—They asserted it. We have taken their assertions as honourable and we are now doing an audit to make sure that those assertions were honourable.

Senator McLUCAS—I was given to understand by the ABA that there would be very close scrutiny, especially in the first six months, of both the amount of hours of production and the content. The issue is regionally relevant content. That is a contentious issue. That is a subjective judgment that I think someone more than the licensee should be making a judgment about.

Ms Maddock—That is why we are doing the audit.

Mr Tanner—Senator, I have given information to the Senate in the past about this. I am not aware that we have provided the information in the past that we would be necessarily auditing the first six months. We are currently conducting an audit of some licence areas. That is clearly an extremely important assurance that there is value in the points being claimed. I think we have always indicated that there are three stages, if you like, to reviewing the efficacy of this condition. The first is to make sure that the licensees have mechanisms in place and are claiming the hours. In fact, most are over-claiming, I should say.

Ms Maddock—They are not over-claiming; they are more than meeting the requirements.

Mr Tanner—They are more than meeting. I apologise—at least, a number of them are. Secondly, we need to ensure that they are actually understanding the requirement of the condition and implementing it. That is the purpose of audits, and Ms Maddock has talked about the reason for that. The third is to look at the actual effect or effectiveness of the condition. We have indicated that that might be something for about two years down the track. This has always been a staged process, both for the industry, which has had to put quite a bit of work into delivering this in areas where there was not actually facilities for local production, and for the regulator.

Senator McLUCAS—In your answer to the question 12 months ago, you actually say two points per minute for local news and one point per minute for other types of local content.

Mr Tanner—That is correct.

Senator McLUCAS—You are telling me that you do monitor the two points per minute but you do not necessarily know that it is local news.

Mr Tanner—What we are looking at is the broadcaster's records of compliance. What we are now auditing is to go back and look at the programs and ensure that we would assess them as compliant.

Senator McLUCAS—I am pleased it is happening, but I am concerned that it is now 12 months down the track and that licensees are now of a view that what they have been doing may be okay. Can you tell me how Southern Cross Broadcasting is complying?

Ms Maddock—It has met the standard it is required to. It has reintroduced news updates and local community information programs, as I understand it, as its contribution. It is getting 123 points in each of the local areas when it is required to get 120.

Senator McLUCAS—It would be the closest to the wire, would it not?

Ms Maddock—Yes. The other two groups met it handsomely.

Senator McLUCAS—Yes. I imagine WIN TV—

Ms Maddock—WIN and NBN—

Senator McLUCAS—and Channel 7 did, in the viewing areas that I am most aware of, because they have gone back to, essentially, a local news production. I am going to be very interested in seeing the audit when it is complete. Can we go to the issue of complaints. Has the ABA received complaints from viewers in the regional licence areas about compliance with the new provisions?

Ms Maddock—I am not aware of any complaints we have received. We will check and if there have been we will get back to you on it, but I am not aware of any.

Senator McLUCAS—Which leads me to the next question: what is the ABA's view about the level of understanding of viewer audiences of the changed requirements for licensees?

Ms Maddock—We made an effort to publicise what we were doing and to give a fair bit of media attention to it. We are relying upon that for people to be conscious of what is required. If I can go back to the audit, one of the areas in which we are always most concerned to do audits et cetera is where breaches would not necessarily be transparent to the audience.

Senator McLUCAS—That is correct.

Ms Maddock—That is particularly where we would do audits in this type of investigation, and that is why we are doing it in this case.

Senator McLUCAS—So you are saying you advertised the changed licence conditions. That would be about 12 months ago or maybe even more.

Ms Maddock—I think we did it then. I think we made more comment on it at the time we received the June 2004 results. So we have done it on a sort of semi regular basis.

Senator McLUCAS—But you have not done any assessment of community understanding or awareness of the licence provisions?

Ms Maddock—Not to this stage.

Senator McLUCAS—I put it to you that there would be fairly limited understanding in regional Queensland, the only area that I am very close to, of what the licence provisions are.

Ms Maddock—I have got no way of saying yes or no to that.

Senator McLUCAS—Thank you. Can we go to the issue of local content and, in particular, the compliance of Southern Cross Broadcasting. Southern Cross Broadcasting produce news updates, but they also produce a weekly program—ostensibly a current affairs program. I suppose the audit will go to whether or not that is deemed to be local content. How will you judge, say, an article or an item on that program that has to do with the dipping of cattle in western Queensland? How relevant is that to Mackay?

Ms Maddock—If you let me—unless Andree can speak in detail about it—I will get back to you with the absolute details of what is required. We went through a lot of toing-and-froing at the time, because how wide is the relevance of cattle dipping in western Queensland or the performance of the Townsville Cowboys? How broadly is that deemed locally relevant? We issued some informal guidelines to attempt to guide people through that. Again, that is the type of thing the progress of which we are hoping to check in the audit.

Senator McLUCAS—The Cowboys are a fine example, actually, because it is broadcast into somewhere like Toowoomba. I think there is a real question that needs to be asked about the regional relevance in Toowoomba of an article about the success or not of the Cowboys.

Ms Maddock—I read about it in Sydney.

Senator McLUCAS—It was actually a national issue.

Ms Maddock—I know your point.

Mr Tanner—This is really the centre of how we make the conditions stick and how we interpret the conditions. We did discuss the Cowboys scenario a fair bit. I am speaking about the staff. There is plenty of news which is of relevance and interest to regional Australians but which is not local or regional in character. We are looking for sufficient relevance to the area to be able to identify it as of local or of regional significance. So we would be looking for a local or regional angle. It is not enough that it is about the problems of drought in the bush. It has got to have a sufficient tie to either the licence area or the local area within that licence area to be able to count. This is one of the reasons why we are interested to audit. We really would like to understand how that is being interpreted and whether we think that is within the terms and the spirit of the condition.

Senator McLUCAS—I am pleased that you are looking at the spirit of the condition as well. I think that is important. For example, I recall an item that went to the impact on regional Queensland of the changes to Medicare. I would have called that a national issue, and the ability for it to be extrapolated to a regional story is, I suggest, fairly limited.

Ms Maddock—That is precisely the sort of story we debated at length, and we think we have made it clear that if it is to count for the condition it needs to have that proper local link. If, as a consequence of that, something closes down in Rockhampton, then that would be a suitable local link. But if it is just a general story, then we would look askance, I think.

Senator McLUCAS—What is the methodology of the audit to make those sorts of judgments?

Ms Wright—I understand that we are sampling them, Senator, but I do not have the exact information with me. It is easy for us to provide that to you. We have commissioned an independent audit and we can give you the terms of reference for that.

Senator McLUCAS—So you have outsourced the audit—

Ms Wright—That is correct. We want it to be independent.

Senator McLUCAS—To whom did you outsource it?

Ms Maddock—Valerie Hardy Productions.

Senator McLUCAS—And they have got experience in this sort of work?

Ms Maddock—Yes, they very experienced in the industry. They were also one of the people who provided advice to us at the time we did the original studies as to what was, from a practitioner's point of view, a workable sort of condition to apply. We thought that that continuity was useful.

Senator McLUCAS—So there will be a sampling of material. Who makes the decision about the sample?

Mr Tanner—There are a couple of levels to it. We need to sample markets. There are quite a few local areas. We are not looking at every one, but we are dealing with quite a small number of regional affiliates, even if there is a large number of local areas. I would have to take on notice the question about how, within a six-week period of compliant material, the sampling is then done, or whether the entire output is looked at.

Senator McLUCAS—So you are looking at a six-week block.

Mr Tanner—That is the unit of compliance. You have to achieve 720 points over six weeks, not 120 points a week. You can average 120 points a week, but the compliance period is six weeks, so that is what we have to look over.

Senator McLUCAS—Within that six weeks, you will request the licensee to provide you all broadcast material that is relevant to the licence, and then your auditor will select from that? Or are you allowing the licensee to provide you—

Mr Tanner—I believe so, Senator, but I think we would need to take that on notice.

Ms Wright—My understanding is that they are providing all material and then we will select from that.

Senator McLUCAS—And the ABA has identified which six-week block we are talking about?

Ms Maddock—That is my understanding, but can we get back to you on the methodology of the audit.

Senator McLUCAS—Thank you. Once you have got that six weeks worth of content, how do you make a judgment? Is there a checklist? It is a fairly subjective judgment about whether this is regionally relevant—I think that is the term. How do you do that?

Ms Maddock—I would envisage that what will happen is that the person will make that assessment against our criteria—the guidelines that we put out. They will come back to the

board as to how things are panning out. If things are panning out well, that may be as far as it goes. If things look to be dodgy then we would, I assume, enter into some conversation with the people to test our assessment of the material and make a judgment following that contribution from the licensee.

Proceedings suspended from 4.00 p.m. to 4.14 p.m.

Senator McLUCAS—I have only got a few more questions that I need to ask on this issue. Ms Maddock, you did say you would provide us with a copy of the terms of reference—

Ms Maddock—Yes.

Senator McLUCAS—I thank you for that; that would be good—and the criteria. The term is not regional relevance, it is local significance, so could you provide us with those criteria by which you ascertain what is locally significant.

Ms Maddock—Yes.

Senator McLUCAS—Finally, on the issue of noncompliance: if licensees of TV broadcasters are found to be non-complying, can you tell the committee what happens after that?

Ms Maddock—It is a condition which ultimately, through a number of steps, if you pursued it that way, could lead to loss of licence. I am not on top of what intermediary sanctions might be available so, if you are comfortable, I will take that on notice and will give you the full list of sanctions that might be available.

Senator McLUCAS—I am also interested in how you would proceed working with a potentially noncompliant licensee. You explained before, Ms Maddock, that there would be an opportunity for a licensee who was deemed to be noncompliant to have an opportunity to respond—and that is quite just, that is fair. If the ABA at that point deemed that the licensee was noncompliant, what would happen after that?

Mr Tanner—If I can just comment on that, the ABA has tiered sanctions. It does not have to apply a sanction for a breach because, as Ms Maddock has described, natural justice would require us to go to them before we found a breach finding. What happens by the time we make the breach finding is we are in a dialogue with the licensee. A quite frequent upshot of that—just talking generally, not about this condition—is that we are aware of what action the licensee is taking to address the problem. Depending on the seriousness of the breach, and our awareness of what action is occurring, we can then examine whether it is appropriate to put on further sanctions.

I guess in the case of a breach of the condition, the sanctions tree looks a bit like this, beyond condition: there are notices to comply within a statutory period; suspension and revocation is one direction and there are fines; court imposed penalties is another. But you generally expect to find us starting out lower down on the sanctions tree, because those latter two are pretty severe. Obviously, in deciding where we were going, we would be looking at the issues that have come out of that natural justice process, what we are aware the broadcaster is doing or not doing, and the general issue of the seriousness of the breach. At this stage we are all coming to terms with a fairly complex condition, so I would not like to

make presumptions or define how we will react to it until we have had a chance to consider the circumstances.

Senator McLUCAS—Sure. I am pleased that the ABA is not just looking at the actual compliance but the spirit of compliance as well, because it is evident to me that some licensees have truly engaged in the spirit of the changed conditions and others have to a lesser extent.

Ms Maddock—That is the reason we wanted to review the whole scheme after two years, to see whether it is achieving the true objectives that we established it for.

Senator McLUCAS—Has the ABA a plan for ongoing monitoring of compliance, or you will review that after the audit process is completed?

Ms Maddock—The latter.

Senator McLUCAS—Thank you very much.

Senator HARRADINE—I have some questions that I want to put to the ABA. First of all, the ABA investigation into satellite delivered pornography, television pornography, still seems to be on foot. Is that true? Wasn't it supposed to be concluded by October last year, and then by Christmas? Is it still on foot?

Ms Maddock—There are processes going through with notifying service providers as well as the content providers of their obligations. The outcome to date, though, has been that all the adult satellite services into Australia have ceased, so our interests are about making sure that we have got the powers and the right approach to make sure that if they resurface we can act quickly in those circumstances.

Senator HARRADINE—When do you expect to make public your report on this matter or publish your findings?

Ms Maddock—We have not made a decision yet. I think we are currently waiting for a response from the broadcasting service provider about some of the services, which we expect by late February. At that stage we will consider their response and what our timing will be.

Senator HARRADINE—I am not sure that I understand what you are saying.

Mr Tanner—It is possible that their response will be, 'We're ceasing to provide the service,' but I guess time will tell.

Senator HARRADINE—I see. So you already have a guarantee from them that they will cease to provide—

Ms Maddock—They have done that.

Mr Tanner—No, we understand that they have ceased providing a service. We understand that all the services we were looking at in the year of the investigation are no longer available.

Senator HARRADINE—So there is no satellite pornography being beamed into Australia at the moment?

Ms Maddock—As far as we are aware.

Mr Tanner—To my knowledge, no, but certainly the services that were drawn to our attention and that we became aware of have all ceased.

Senator HARRADINE—I noticed that in response to earlier questions on notice the authority said that the Internet Industry Association intends to enhance its codes of practice to further promote awareness of available internet filtering technologies. How has the new draft public consultation code been enhanced? I refer to a public consultation version of the code, as amended, November 2004.

Ms Wright—Yes, that is correct. Some of the things that that draft code has focused on include annual independent testing for filters that to wish to be accredited filters and a wider range of tests, including efficiency of the filter. When the filter list was first drawn up it was very much focused on taking the ABA's notifications. That continues to be obligatory. However, we have discussed with the IIA that we expect an emphasis on the general effectiveness of filters over and above that. They have met that, as I said, by introducing an annual test. When the filter product is upgraded and there is a new version, it has to be tested at that time, and also any filter that wants to be included on the list for the first time must be tested. So I think it is the independence of the testing, the frequency of the testing and the greater range of criteria which is being tested.

Senator HARRADINE—Who is running that program?

Ms Wright—It has been independently commissioned and I understand it is being run by RMIT, who was the successful tenderer.

Senator HARRADINE—You have not answered who is actually in charge of this particular program—who decides which filters have to be annually tested et cetera—and what is the register?

Ms Wright—I can answer that. I understand that any filter that wishes to be included—

Senator HARRADINE—Included in what?

Ms Wright—Ultimately included in the list, needs to be tested.

Senator HARRADINE—Is that the Internet Industry Association list?

Ms Wright—Yes, which is attached to the code of practice.

Senator HARRADINE—Let us get it very clear: this is a self-regulatory system, with very few incentives to the Internet Industry Association to face up.

Ms Wright—Under the legislation they must have a mechanism to meet the requirements of schedule 5. They are arguing that they want an independent process—and they have done this by outsourcing that, if you like, to a reputable company from a competitive tender—and that any filter that wishes to be considered can approach IIA, and then their product must be tested.

Senator HARRADINE—So in fact it is run by the internet industry?

Ms Wright—They have let the tender. But as part of the negotiation on the code of practice there is now an expanded range of criteria that we consider should be tested and there should be more frequent testing, so that you cannot be tested once and then stay on the list

automatically. You must be tested at least annually or when you upgrade your product. And there are a greater range of factors, so the efficiency of the filter will now be directly tested.

Senator HARRADINE—What incentives have internet service providers got to provide these filtering services to the end users without charge?

Ms Wright—Currently the code says ‘at cost’, not ‘without charge’. The concern that has always been around ‘without charge’ is that that would skew the market to the oldest and least effective filters. So we have wanted to maintain—

Senator HARRADINE—Not if it was on the register it would not. You have just said that the register would have to be kept updated and only the tested filtering devices would be able to go on the register. Presumably, they are not the older types of filtering systems; they are the newer ones, which according to you have to have an annual independent test.

Ms Wright—Nevertheless, it would be fair to say that, while products may be found to be effective, it could be that the latest product is particularly effective for a particular market. We have always been aware that when parents choose a filter the type of filter that they choose if they have a primary school aged child is likely to differ from the one that they will choose if they have a child in secondary school or from the type of filter they may choose if they have both.

It is fair to say that the newer filters will still probably cost the ISP more. At the moment, the code allows the ISP to charge for the cost to supply that filter but no more than that. They cannot charge to make a profit out of that provision. They may have contracted, for example, to an older filter which meets the tests but the concern has always been to ensure that the newest filters can be considered and actively encouraged for take-up. In looking at the draft code of practice, we have moved to ask IIA to provide us with more information in addition to the draft codes which have been out for public consultation.

Senator HARRADINE—What areas are they?

Ms Wright—We have also asked them to make very clear to us and to people who are registering for a filter that the registration process must require the user to select an option for obtaining a filter and that must happen before the registration process can be completed. So we think there is an obligation on the ISPs to provide an effective filter because we have asked them to clarify for us at the time they come back with the code for registration that their offer of filters is a robust process and should be completed, for example, before the registration process takes place or shortly after.

Senator HARRADINE—But originally we started off with a view that the ISPs would be required to provide the end user with a filtering system free of charge.

Ms Wright—I am not aware that we ever obliged them to provide it free of charge.

Senator HARRADINE—No, I am not suggesting we were obligated. That was the issue that was under debate at that time. The Internet Industry Association put paid to that by refusing constantly, at every meeting that they attended where this matter was considered, to be involved in providing filters free of charge. I will just follow up one thing. Don’t you recall that there was a decision to have the telco NetAlert and others involved in deciding the

latency or otherwise of filtering products? Isn't it a fact that what was found from that particular investigation was that latency was almost negligible? Is that not a fact?

Ms Wright—My understanding is that for the life of the first code—this is going to the cost issue—there was no requirement written into that code of practice that specified the costs or otherwise of the provision of the filter to the end user. When we considered redrafted codes in the first iteration, I think in 2001-02, at that stage the ABA wanted to make clear that we were moving from a position which was silent on the cost of filters that were to be provided to end users to one that would ensure that they would not make a profit and that they must pass the cost only on. In some cases, we understood that some ISPs went beyond that and did provide a filter without charging for it. I am aware that there have been discussions about the cost to industry of having a blanket or server-end filter, but at the moment the legislation allows for the provision of both a server-end filter and end-user filtering.

Senator HARRADINE—With respect, that is not answering to the question. The question was based on the well-known opposition of the Internet Industry Association to server-end filters. Isn't it a fact that their concern as expressed at that time was mainly because of the possible latency, the tie-on effect, that that would have on the ISP providing the service? Isn't it a fact that the analysis that was done on filters at that particular time reported that the question of latency was not a major issue?

Ms Wright—Do I understand that you are referring to the research that was undertaken as part of the review of the scheme for the minister? There was research into filters and there were comments about the cost and the latency issues there.

Senator HARRADINE—Yes.

Ms Wright—Our understanding of that process is that, rather than requesting the ABA to consider server-end filtering as a blanket response, in our dealings with the internet industry we have been asked to work with IIA to determine the costs and the feasibility of providing end-user filters on an opt-out basis. We have asked them to provide that information to us when they come back from their public consultation period on these codes. The reason that we have done so is that we thought it important to pick up on the extra safeguards that the internet industry is offering and to have codes in place for a 12-month period only, while the extra work is being evaluated that they are doing on the cost and feasibility of providing end-user filters. Also, as you would be aware, NetAlert is conducting the Launceston broadband trials, which should be completed by midyear, and we have ABA input on that steering committee. We will also be considering that information, so that is all in play, if you like, over the 12-month period to come, following registration.

Senator HARRADINE—Would that be the server-end filters in the Launceston program that you are talking about?

Mr Fraser—Yes, the Launceston broadband project, or the filtering study, will be looking at the performance of filters in a broadband environment and focusing on server-end filters. But there is scope for the study to include user-end filters as well.

Senator HARRADINE—There are concerns that come to members of parliament and others about the totally inappropriate material that is coming through servers to their home

PCs. Even the ABA annual report shows that there has been a substantial increase, though not many people are aware of the existence of the complaints. Not many people are aware of the complaints procedures that need to be gone through with the ABA. What are you doing to make sure that more people are aware of the existence of a place to complain to about the content that is coming from the ISPs?

Ms Wright—Yes, there are a number of ways that we are responding to this. One is an obligation under the codes for industry and another is through the community awareness work. Recently, ABA staff spent a day with NetAlert looking at the programs that they will be rolling out under their new funding arrangements post Operation Auxin and looking at ways very actively through all their campaigns promoting the ABA's hotline directly. As I said, this is a two-part process, one is through the awareness and the other is through increased requirements in the codes for ISPs to publicise the process. We are confirming with them that there will be internet safety information on their homepage or a button that clicks through to it. You are probably aware that recently we audited the 10 biggest ISPs in Australia to see how they were meeting their compliance under the codes. We found that eight out of 10 were fully compliant. However, we have decided that we will lift the bar higher and we have asked them to even more clearly label that button on their homepage and to better promote it.

Senator HARRADINE—The Internet Industry Association has made a great deal of the friendly filters and how certain ISPs have signed up to it. How many ISPs have now signed up to this ladybird signal? I think it was 118 last time.

Ms Wright—We would need to check that information again with the IIA. However, we take an interest in the ladybird seal, and one of the things that we have asked them to come back to us with is that we consider the seal would be more effective if rather than just having the symbol of the ladybird it was also clearly labelled to indicate that it links to internet safety information.

Senator HARRADINE—Could you get the numbers that are involved with that? How many filters have been supplied by the ISPs to customers at the present moment?

Ms Wright—Do you mean the particular products on offer or the overall number of filters that they supplied?

Senator HARRADINE—The overall number. We want to know whether this voluntary system is working.

Ms Wright—I do not have that material with me. We would have to take that on notice.

Senator HARRADINE—Could you, please. I am sure the Internet Industry Association would have that material, I expect. Thank you. This next question may not be for the ABA but it is to do with a similar subject. I hope you do not mind, Senator Conroy.

Senator CONROY—Give it a burl, Senator.

Senator HARRADINE—The Department of Communications, Information Technology and the Arts has advised me that with regard to protecting children with mobile phones—and anybody that has kids know that there are a lot of mobile phones around the place—Telstra has advised the government that where additional audio visual services are provided on the 190 premium rate services without access controls it will act to block those devices. Telstra

has also advised that it has taken such action in the past. If that is so—and I suppose this is for the DCITA—would it also be quite feasible for Telstra to block internet pornography to its customers unless they specified they want to access it? Wouldn't that also be a good way to protect children from unwanted pornography from ISPs?

Mr Cameron—The services that you refer to there are services supplied over telephone lines—19X number range services—and they are not services delivered via the internet. So Telstra has a commercial relationship with the relevant content provider, and where they become aware that the content provider is offering services as you have described they cease that commercial relationship allowing that number to be used. That is a different scenario than filtering information delivered over the internet.

Senator HARRADINE—Are children still able to access adult content using a mobile phone?

Mr Cameron—The minister has issued a direction to the ACA requiring it to establish a service provider determination which would regulate carriage service providers in the telecommunications industry which would limit the availability of multi-media material delivered over mobile phones where content which is classified as MA or above would not be available without an appropriate age verification arrangement. Those service provider arrangements are a necessary precondition to the allocation of numbers to allow MMS services to be delivered. The circumstances you were referring to before relate to the use of general premium rate numbers—

Senator HARRADINE—I understand that.

Mr Cameron—and, as you have indicated, Telstra has voluntarily indicated it does not allow such services to be delivered.

Senator HARRADINE—That is right, but we are getting on to this next question. I just simply want to know: are children still able to access adult content using mobile phones? You mentioned the ministerial direction, but I also note there are various reviews and, of course, ministerial directions. But the simple question is: are our children still at risk?

Mr Cameron—Most mobile providers have established age verification arrangements for the delivery of any services that might be deemed adult content, and those arrangements will be supplemented by the service provider rule that the ACA is currently in the final stages of consulting with industry on.

Senator HARRADINE—Is there somebody from ACA who might be able to confirm that?

Mr Cameron—The ACA will be here later in the evening.

Senator HARRADINE—They are not here now?

Mr Cameron—Not that I am aware of, no.

Ms Williams—They will be along later.

Senator HARRADINE—Thank you.

Senator CONROY—There was a lot of commentary in January about a possible move by Fairfax to acquire CanWest—or to acquire the CanWest stake in the Ten Network. Has the ABA done any work on this matter?

Ms Maddock—We have made sure that we have been in contact with the parties concerned, to remind them of their obligations and to remind them of the need to keep in touch with us and keep us up to date.

Senator CONROY—In the ABA's view, could CanWest's 57.5 per cent stake in Ten, made up of shares and convertible debentures, be transferred to a new owner without triggering a breach of the cross-media ownership rules?

Ms Maddock—I think our general position would be that, if they replicated the structure and circumstances of the CanWest deal, it would be okay, but we would need to make sure that both the structure and the circumstances were being replicated.

Senator CONROY—Sorry, I could not quite hear you.

Mr Tanner—If I could just explain the use of the word 'circumstances'.

Senator CONROY—I did not quite hear what Ms Maddock said; she is very softly spoken. If you could take us through it again.

Mr Tanner—Ms Maddock said that the initial view of the ABA would be that if another person were to replicate the structure and circumstances of the CanWest deal then that would be compliant. I was just going to explain what we mean there by 'circumstances'. The last time the ABA considered the issue, which was in 1998 from memory, it ruled that the financial interests held by CanWest and Ten of themselves did not confer control and that, looking at all the facts that were known to the ABA—because the ABA can look much more widely; there is a factual test of control—the ABA was not aware of circumstances that would cause it to conclude that CanWest were in control. So, if you like, the last time the ABA looked at this issue it concluded that those financial interests of themselves did not confer control; however, the ABA would look at the totality of the facts. So it is really going to depend on the situation. In fact, our position to date, as Ms Maddock indicated, is that we are seeking to make contact and stay in close touch with the market any time we become aware—

Ms Maddock—Can I put it more simply: we would want to make sure that the spirit of the law was being adhered to.

Senator CONROY—Okay. What is the ABA's definition of the concept of beneficial ownership?

Ms Maddock—I am going to take that on notice.

Senator CONROY—It is a pretty straightforward thing.

Ms Maddock—I am going to take it on notice so that I do not misstate what it might be.

Senator CONROY—Okay. I look forward to reading it. I think you were drawing the distinction that, if another entity kept roughly the same structure, it would not be in breach. I think that is what you were suggesting, given that you have ruled that this structure as it exists at the moment is not in breach. Is that what you are saying?

Ms Maddock—No, I think we were saying that it has to meet both the structure and circumstances, which means that it has to meet the spirit of the obligation.

Senator CONROY—Could Fairfax taking it over do that?

Ms Maddock—I am not going to speculate on individual cases.

Senator CONROY—It is actually a matter of law.

Mr Tanner—There are a series of tests of control in the act—for example, that on major management issues facing the company the person is not able to determine the outcome of those decisions. The ABA is going to have to look at any potential purchaser of those CanWest interests to consider whether, in all of the circumstances, any of those tests of control are made out. All we have decided which is relevant to this is that back in 1998 we looked at the structure and said that those interests in the circumstances that existed between CanWest and Channel 10 in 1998 do not confer control under this test. If anybody else seeks to buy those interests or if circumstances change more generally in relation to CanWest and Channel 10, the ABA has the job of looking at the tests of control in schedule 1, and it may choose to inform itself on whether or not those facts give rise to control.

Senator CONROY—If I was to ask the average Australian out there on the street who owns and controls Channel 10, what do you think they would say to me? Who would they point to?

Ms Maddock—I cannot speculate on that.

Senator CONROY—I am not asking for the strict legal definition that you have applied. I am asking: if I was to say to the average Australian who owns and controls Channel 10, what would they say? You must have met some ordinary Australians.

Ms Maddock—I am sure I have met lots of them, but again I am not going to speculate on what I do not know scientifically.

Senator CONROY—So you think that they would not understand who owns Channel 10?

Ms Maddock—I am just not going there, because I do not have any information that would enable me to answer that objectively and across the board.

Senator CONROY—From your observation of the media commentary, who do the media commentators believe owns and controls Channel 10?

Mr Tanner—I think there is a wide awareness in the media that there is a somewhat over 50 per cent economic interest in Channel 10 held by CanWest.

Senator CONROY—That sort of comes to my beneficial ownership test, which clearly you guys do not know much about. I do look forward to your definition of it. So the average media commentator out there would think that Channel 10 is owned and controlled by CanWest?

Mr Tanner—That is not what I said.

Senator CONROY—Sorry, what did you say? Please refresh my memory.

Mr Tanner—I said there was an awareness in the financial pages that I had noticed that there is an economic interest of something over 50 per cent held by CanWest in Channel 10.

Senator CONROY—From that, do those same financial pages draw the conclusion that CanWest is in control, on your observation of what you have read about what they say?

Ms Maddock—I think they understand the terms of the law.

Senator CONROY—That is not what I asked. On your reading of their commentary—you are either incredibly unable to read their commentary or you can draw a conclusion from their commentary. I am not asking you to give the what the legal position is; I am asking you to tell me what you think the average media commentator defines and describes as who controls Channel 10.

Ms Maddock—I do not think we are going to generalise.

Senator CONROY—There are not that many of them—or don't you read the financial media on the ownership of television stations?

Ms Maddock—I do not think we are going to generalise on what they say. As I said, I think that the informed media know the obligations under the law—they know the requirements of the ownership and control provisions and what has been the analysis of them in the past.

Senator CONROY—I think you are being bashful on this matter.

Ms Maddock—It is not germane to me what they might be assuming at any point, unless there is a breach.

Senator CONROY—I was not asking you about the law. I was asking you about your perception and your interpretation of the perception of the media commentators, who are somewhat informed on this matter—perhaps not as well informed as you—as to the ownership or control of Channel 10.

Ms Maddock—I am not going to generalise.

CHAIR—To be fair, I think Ms Maddock has answered the question by saying that the media commentators are informed.

Senator CONROY—Thank you for putting words in her mouth, Chair. I appreciate you assisting Ms Maddock!

CHAIR—I am just concerned that we seem to be going around in circles. Perhaps we could move on.

Senator CONROY—If I want to spend my time going around in circles, Senator Eggleston, I am entitled to, but I appreciate you trying to assist in this matter. I ask that because, upon my reading of the so-called expert reading commentary, it seems that there is a fairly clear understanding that Channel 10 is controlled by CanWest. Am I just totally stupid in misreading it?

Ms Maddock—My obligation is to administer the law.

Senator CONROY—That is not what I asked. When I read those articles that say Channel 10 is controlled by CanWest, am I an idiot because I am just misunderstanding what they are all writing? Senator Coonan is nodding, so she obviously thinks I am.

Senator Coonan—I am not nodding, Senator Conroy. With respect, what the officers think about media commentary probably is not relevant. What you and I think about it no doubt is riveting.

Senator CONROY—I think you are being a little cute there, Senator Coonan. It is actually relevant because what may be okay to get by now and everyone looks the other way may or may not be okay in a different set of circumstances, and I think you have made the point that it has to be on each individual case. I am not seeking to challenge the future case; what I am seeking to do is gain an understanding of where things are at now—that is all. But you seem to be unable to help me interpret the general perception out there in the broader community.

Ms Maddock—As I have said a number of times, our obligation is to administer the law, not what people might think is the law.

Senator CONROY—I have not asked you to—

Ms Maddock—and we will take into account the structure and circumstances.

Senator CONROY—I have not asked you to interpret whether they are right or wrong in that perception; I have just asked you what that perception is.

Ms Maddock—I think there is a wide range of perceptions.

Senator CONROY—I have never met anybody who does not think Channel 10 is owned and controlled by CanWest but maybe I do not get out enough.

Ms Maddock—That is your view; I am not commenting.

Senator Coonan—We can introduce you around.

Senator CONROY—You have offered, as I said earlier, for me to be a handbag at various functions, so clearly I am going to need to take up that offer.

Senator Coonan—It was meant to be a kind offer.

Senator CONROY—It was and I appreciate it. I think you were there, Ms Maddock, when the offer was made.

Ms Maddock—I was but I was not telling.

Senator CONROY—I appreciate you cannot move into the realm of speculation, but it is a factual question of whether or not the cross-media laws would apply in the case of Fairfax or one of the other media companies seeking to replicate CanWest's economic interest—I think were the words used—and whether that would comply. That is actually a factual question; it is not a speculation. Can Fairfax replicate the CanWest situation or are there other factors that would come into play? That is really the nub of the question I am trying to ask, without wanting to draw you into a lengthy discussion about who owns what. Is it possible for them to keep the identical economic structure, to try and borrow Mr Tanner's phrase?

Mr Tanner—I think we have answered that question. I think the answer is yes, depending on the circumstances.

Senator CONROY—What circumstances would they be?

Mr Tanner—The facts—whether or not the ABA becomes aware of any circumstances that would mean that the person, Fairfax say, was in a position to exercise control.

Senator CONROY—So there does come a point where people are prepared to nod and muse about the definition of economic ownership and economic beneficial ownership and whether or not people can maintain a fiction credibly for how long a period. You have done pretty well so far, I confess, and we all want Channel 10 to stay afloat and not go belly up, but this is a different set of circumstances. I am not opposed to it; I do not want you to misunderstand. I just want to know whether you think it would credibly pass the spirit of the law, never mind the text of the law.

Ms Maddock—If they replicated the exact same structure? I think there has got to be a situation where you take all things into account. I do not think that you can take it apart and just look at the structure without looking at the circumstances which is why I am reluctant to speculate on the future. I do not think you can do what you are talking about because I think both bits fit in together.

Senator Coonan—I think a lot of the commentators have suggested that the CanWest situation is probably a one-off.

Senator CONROY—I think that is a very fair description of the commentary, Senator Coonan. I think that is a very balanced view to take. Thank you for that. That is very helpful. How long would it take to investigate? Forget Fairfax—if one of the other media players decided to move in, what are the processes that you would undertake to try and ascertain this? Let us say the market was notified today that someone has moved on Channel 10: what would you then do? I am actually just interested in the process—that is all.

Mr Tanner—Once again, it depends. We would begin informal contacts immediately. Depending on the circumstances, we would commence an investigation and issue notices—those sorts of things. But the ABA's mode of operation in the past has been to move very quickly and to seek to obtain maximum information it can voluntarily at once, rather than waiting for ABA board members to commence investigations and issue notices. We tend to come in behind that, depending on the circumstances. It is quite interesting—

Senator CONROY—How long do you reckon it would take? These things potentially move very quickly, hopefully not before any media changes.

Ms Maddock—Without putting a figure on it, because I cannot—

Senator CONROY—Sure.

Ms Maddock—we would make sure we are as geared up as possible to move quickly if anything happens. So we have been doing a range of things internally to make sure we are. We have potential teams in place—we have got potential sources of legal advice available et cetera—so that we can move very quickly.

Senator CONROY—Thank you. Are you concerned that, given all the speculation about potential changes to the cross-media law, someone may jump the gun and then say to you, 'Look, it is going to be changed in a few months?'

Ms Maddock—We have been very careful that we are making it clear to anyone who asks that we enforce the law as it stands.

Senator CONROY—Minister, have you sought advice from the ABA on the manoeuvrings at the moment?

Senator Coonan—I seek advice from the ABA on a number of matters, Senator Conroy. You will understand if I do not specify what.

Senator CONROY—No, I just asked if you have had any advice. Have any of the media players sought your advice on this issue at this stage?

Senator Coonan—Sought my advice?

Senator CONROY—Yes.

Senator Coonan—I have a number of confidential conversations with all sorts of industry groups and individuals who are interested in the activities of this portfolio, but I do not think it is appropriate that I detail them.

Senator CONROY—It is perfectly reasonable. I just want to move on to one of our favourite topics of the day—antisiphoning. You are actually responsible for monitoring the antisiphoning list I understand—is that right?

Ms Maddock—Yes.

Senator CONROY—Excellent. Is the ABA aware that the Senate communications committee is currently conducting an inquiry into the provisions of the Broadcasting Services Amendment (Anti-siphoning) Bill 2004?

Ms Maddock—Yes.

Senator CONROY—Given you are in charge of monitoring the operation lists, I understand you have not put in a submission to the inquiry.

Ms Maddock—It is primarily concerned about policy. We made our advice to the previous minister some time ago.

Senator CONROY—You do not want to come along for a chat?

Ms Maddock—It had not been anticipated, but if you wish us to then by all means call us and we will turn up.

Senator CONROY—You know I want to, given you are in charge of monitoring it and we are discussing it—we are feeling lonely.

Ms Maddock—We took the view—we are happy to revisit it—that it was primarily a policy discussion and policies for others rather than us.

Senator CONROY—I am sure you will have some useful insights as the expert body who looks after it. I just wanted to refer back to your investigation into the events on the antisiphoning list published in June 2001. Can you recall what recommendation the ABA made in relation to whether the FIFA World Cup tournament should be listed?

Ms Maddock—No, I can't.

Senator CONROY—Anybody? I am hoping someone can remember. Mr Tanner, you are nodding vaguely.

Mr Tanner—Yes, I recall that we recommended.

Senator CONROY—I think your recommendation said:

The ABA recommended that the list include each match in the Federation Internationale de Football Association (FIFA) World Cup tournament.

That was the actual quote. On what basis did you make that recommendation?

Mr Tanner—I understand the report is on our web site. I do not recall.

Senator CONROY—Is there anyone with you that worked on that?

Ms Maddock—We can refresh our memories and get back to you on it.

Senator CONROY—Okay. What were the criteria that were used for any event, soccer included? What were the criteria that you examined and made your recommendations based on?

Mr Tanner—I am sorry, Senator, but as this is a matter which, I understand, is already in the public domain I have not backgrounded myself on this for today. I will have to take this on notice.

Senator CONROY—I appreciate that it was three or four years ago now. I think you have been with the ABA a while though, Mr Tanner.

Mr Tanner—I have—absolutely.

Senator CONROY—You are our resident expert, Ms Maddock. How long have you been here?

Ms Maddock—I was there when that was done.

Senator CONROY—Okay.

Ms Maddock—But I cannot remember the detail of it. It was four years ago. But I am more than happy to have a look at it and try to refresh our memories.

Senator CONROY—If you could give us a breakdown of the criteria which you used to decide which sports or which events should be on the list.

Ms Maddock—Bearing in mind that it was advice to the government and the government made its own decisions on—

Senator CONROY—Sure. It is entirely the minister's responsibility. I am doing my best to ensure that everyone knows that. In particular, I am interested in the analysis you did around the soccer World Cup.

Ms Maddock—We probably did not want to see Uruguay revisited!

Senator CONROY—A tragedy—Iran hurt more!

Ms Maddock—But I will find out, Senator.

Senator CONROY—As you know, the government has listed the 2006 but not the 2010 World Cup in its revised list released last year. Do you stand by your recommendation that the World Cup should be included?

Ms Maddock—I would want to go back and look at why we decided that at that time and whether anything has changed.

Senator CONROY—I do not think anything has changed. It happens every four years. Australia still try to qualify. They have a national team in it.

Ms Maddock—I am quite aware of that—they always fail.

Senator CONROY—I do not think there is much changed about the actual tournament. So you are not prepared to stand by your recommendation?

Ms Maddock—I am not prepared to say yes or no.

Senator CONROY—Presumably it was a well thought through recommendation at the time.

Ms Maddock—I am sure it was.

Senator CONROY—And it was a recommendation for this review that has taken place.

Ms Maddock—I am sure it was.

Senator CONROY—It might have taken the government a long time to reach a conclusion but—

Mr Tanner—I recall our report had a fairly short-term focus, having just discussed it with Andree.

Senator CONROY—In what sense?

Mr Tanner—I better take this on notice because I am working from dim recollection. As I have said, I was not prepared for this line of questioning.

Senator CONROY—The ABA also recommended that the list should include each international soccer match involving the senior Australian representative team and the senior representative team of another country. Does that ring a bell?

Ms Maddock—Yes.

Senator CONROY—Why did you make that recommendation?

Ms Maddock—It is the same answer to that: I can recall having made that recommendation at the time but I would want to go back and look at what criteria we used, as you are asking for us to do.

Senator CONROY—Okay. The government have not recommended that either, I don't think.

Ms Maddock—Good—I will bear that in mind!

Senator CONROY—I am hoping you will give us fearless professional advice, Ms Maddock.

Ms Maddock—I shall, Senator.

Senator CONROY—Senator Coonan, is that right? You have not listed, on the antisiphoning list, Australia's soccer matches against other countries?

Senator Coonan—That is correct.

Senator CONROY—The ABA's 2001 report also considered the issue of whether there is a loophole in the antisiphoning regime, because it does not apply to related companies or associates of pay TV licensees. You will be aware that this is an issue that has come to prominence in discussion about whether the Ashes coverage will be shown on free-to-air television this year. I am sure you have seen some of the media on that. In 2001, the ABA stated that it did not recommend action to close this so-called loophole. That is one of the issues that will be before the Senate committee, which is one of the reasons why it would be valuable for the committee if you were there, so I appreciate your offer to turn up.

Ms Maddock—Thank you.

Senator CONROY—You did, however, say that the issue should be reviewed if future monitoring of the antisiphoning list revealed that the role of third parties had become problematic. Has the ABA done any work on the role of the pay TV related parties acquiring sports rights since 2001?

Ms Maddock—We have not done any explicit work looking at that. Obviously we are keeping an eye on what is happening with the Ashes, and it is obviously a question there.

Senator CONROY—So you have not detected any trends at this stage?

Ms Maddock—None that have been drawn to my attention, no.

Senator CONROY—I think Mark will have you coming back to the same things. I think pay TV have done a deal with the Australian Soccer Association to take up the national league plus Australian Socceros matches. I am happy to be corrected on that one—I hope that is not the case, but I suspect I am right—and I suspect that Fox Sports probably bought that as well. So by the time you appear, hopefully, before our committee next week, you might have been able to do a bit of an assessment about what Fox Sports or other entities, related or otherwise, have been able to purchase and give us some updated advice.

Ms Maddock—I am sure we will have a look and see what we can do. My comments are in the context also that, if there are problematic issues, there is usually somebody out there who finds them problematic and draws them to our attention, and that has not happened.

Senator CONROY—I am a problematic sort of person—

Ms Maddock—You are!

Senator CONROY—but I am sure you did not need me to draw it to your attention.

Ms Maddock—As I said, I am not aware that it has been drawn to our attention with regard to the soccer national league.

Senator CONROY—No, I think people are just happy that it is going to be on any television and that there will be a league. Again, it is one of those circumstances where you will take anything to get it on its feet, but after that the rules have to start applying. I will ask you this question now, but obviously it will be more relevant in a week's time when you have

had a chance to consider it: do you believe that the case for closing the loophole has been strengthened in the light of the events surrounding the Ashes, particularly, and any other cases?

Ms Maddock—I will take that on notice.

Senator CONROY—As I said, I am happy for you to take that on notice, in the sense that you will now be appearing before us next week, and you will have a chance to consider that as one of the issues. The free-to-air organisation have now extensively canvassed this in the media, so I am surprised you have not thought about it in any way. They have been shouting loudly about it for some time—I know I am going deaf—but obviously you have less sensitive ears than I do.

Ms Maddock—As I said, I am very aware that it has been at the forefront of lots of discussion in the case of the Ashes.

Mr Tanner—We are examining the circumstances around the Ashes. I should make that quite clear.

Senator CONROY—You are actually having a look at it at the moment?

Mr Tanner—Yes.

Senator CONROY—Would you like a copy of your report? No? I want to talk about Australian content on subscription television. Back in 2002, the ABA was directed to conduct a review of Australian content on subscription television. Has the ABA completed that review?

Ms Maddock—Yes.

Senator CONROY—Do you have any idea roughly when?

Ms Maddock—I would have thought it was 2002 or 2003. It is certainly some time ago.

Senator CONROY—I believe the requirement was to pass it on to the minister. Did that happen?

Ms Maddock—Yes.

Senator CONROY—It has happened? Some time ago?

Mr Tanner—Yes.

Senator CONROY—Has that report been released, Minister?

Senator Coonan—It has not actually been released yet. It is still under consideration.

Senator CONROY—Are you aware that section 103ZJ of the Broadcasting Services Act requires that a copy of the report should be tabled within 15 sitting days after it is completed?

Senator Coonan—I do not actually have the section in front of me. I will take that on notice.

Senator CONROY—We are here for a few hours. I am sure someone from your department can have a quick look. I am sure Ms Williams or someone will have a copy of the act handy. I have a copy if you would like to have look at it to save time.

Senator Coonan—I may be incorrect about this because it largely concerned my predecessor—

Senator CONROY—I think we are dealing with a couple of predecessors ago, to be fair.

Senator Coonan—but it may have been taken up with the FTA negotiations. That may be an explanation. My officers have now given me the information. Apparently the ABA report was an investigation. When I have finished my deliberations, according to the section, that is when it would be a report—to which the section refers.

Senator CONROY—So the ABA's investigation was not a report; it was a piece of paper. Did you call it a report, Ms Maddock?

Ms Maddock—I do not know what it was. It was three years ago—whether it was an investigation or a report; it was work.

Senator Coonan—I am prepared to call it a report once I have it ready, Senator Conroy.

Senator CONROY—So you have a document from the ABA that you received two years ago—and I am being kind in saying it was only two years ago—and you are working on that and your completed work would be the report as per the definition of the act. Is that the interpretation you are taking?

Senator Coonan—That is my understanding of the interpretation of the act. I am usually quite a dab hand at statutory interpretation. I will have a look and, if I have a different answer, I will let you know obviously. That is my advice.

Senator COONAN—I will read the section out for you and you can give us interpretation right now. Section 103ZJ of the Broadcasting Services Act says:

Review before 31 March 2003

- 1) Before 31 March 2003, the Minister must cause to be conducted a review relating to Australian and New Zealand content on subscription television broadcasting services.

Who are you causing that review to be conducted with?

Mr Cameron—At the time, the then minister directed the ABA to conduct an investigation into matters relating to Australian content.

Senator CONROY—So who was conducting the review then?

Mr Cameron—The review is formally being conducted by the department. The ABA's investigation was a contribution to that review process. The ABA's report of its investigation is a significant component of that review exercise.

Senator CONROY—So you are actually conducting the review, Mr Cameron?

Mr Cameron—That is correct.

Senator CONROY—You are off the hook, Ms Maddock. You can breathe easy. When did you receive the report from Ms Maddock towards your review?

Mr Cameron—I do not have the specific date.

Senator CONROY—When was it, roughly? You do not have to give me an exact date.

Mr Cameron—I believe it was about the first half of 2004 around about April 2004. I would need to take that on notice.

Senator CONROY—That seems to be a bit later than you thought, Ms Maddock. You are thinking it was in 2003. That seems to be a good six or 12 months later than you thought it was passed over.

Ms Maddock—I would need to check and find out.

Senator CONROY—If you could, that would be great. So you are conducting the review. I will continue reading the second and third clause of that section. It says:

(2) The Minister must cause to be prepared a report of a review under subsection (1)—

which we agree has commenced. It continues:

(3) The Minister must cause copies of a report under this section to be laid before each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report.

So your proposition to us is that it has not been completed yet?

Senator Coonan—That is true.

Senator CONROY—Do you have any idea when that might be completed?

Senator Coonan—I can say this from personal experience since I have been in the portfolio: it is under close consideration, so I would anticipate that it may be shortly.

Senator CONROY—You are trying to keep me busy, aren't you? Without giving too much away, are you preparing any legislative changes following your near completion of the report? Do you think anything there will merit change?

Senator Coonan—I know you would like a sneak preview.

Senator CONROY—You can't blame a guy for trying.

Senator Coonan—I do not think it is appropriate that I pre-empt what the recommendations were and how government is handling them.

Senator CONROY—Does the ABA believe that the existing requirement that licensees spend 10 per cent of total program expenditure on Australian drama is appropriate?

Ms Maddock—I do not think it is for us to consider whether it is appropriate or not—

Senator CONROY—It is a policy question rather than an administrative question. Do you think the pay TV industry are meeting this benchmark at the moment?

Ms Maddock—They are meeting their obligation, yes.

Senator CONROY—So you do not think they are underspending or carrying forward for future years? There is a carry forward condition.

Ms Maddock—But it is part of the scheme and they are meeting the scheme requirements.

Senator CONROY—So they do underspend and carry forward in given years?

Mr Tanner—When I say yes they are meeting the condition, I am referring to the condition which allows for expenditure either in the year or to make up in the following year.

Now they are complying with that condition and that is a component of makeup and a component of first year expenditure there, but that is what the condition requires and that is what they are complying with.

Senator CONROY—Have you recommended any changes?

Mr Tanner—This is a confidential report that we have provided on request to the minister and whether or not the minister chooses to publish it is within her remit.

Senator CONROY—Good answer.

Mr Tanner—It is the correct answer.

Senator CONROY—I did not say it wasn't. What is the status of the ABA's investigation into the complaints by former Senator Alston, now the High Commissioner in London? Has he left yet, Senator Coonan? I know you had dinner with him recently. Has he actually gone? Have we got him out of the country yet?

Senator Coonan—Senator Conroy you have got spies everywhere.

Senator CONROY—He is a Collingwood fan; we have a connection.

Senator Coonan—There was a lot of us and he had some DFAT briefings, but I think it is a couple of weeks away before he is able to present his—

Senator CONROY—He may be able to get to the Wizard Cup match on Friday night before he goes. What is the status of the investigation into complaints by Senator Alston that the ABC AM program's coverage of the Iraq war?

Ms Maddock—We are in the process of taking submissions from the ABC and other parties.

Senator CONROY—It is taking longer that the war took! They conquered the country quicker than this.

Ms Maddock—Natural justice sometimes takes some time.

Senator CONROY—So what is the final report date?

Ms Maddock—I would anticipate that it is soon.

Senator CONROY—'Soon' is a much used word today. Natural justice is the reason it is taking so long, is it?

Ms Maddock—It has been a lengthy process to receive submissions from the ABC—

Senator CONROY—Are they cooperating?

Mr Tanner—There has been a component of natural justice, to be technical about it, and a component of section 180 comments on draft reports. Section 180 is an obligation on us to show people that might be aggrieved by the contents of the report what we are proposing to publish before we do so. We have received and are considering quite an amount of comment.

Senator CONROY—How many ABA officers are involved in this investigation? How many people have you actually got wasting your time?

Ms Maddock—I think the number of people who have been working on it has varied; it is very difficult to answer.

Senator CONROY—Full resources are involved, are they, in this?

Ms Maddock—We are doing this as fast as we can and with as many resources as we can.

Senator CONROY—So are we talking two, three or one individual?

Ms Maddock—It is a couple of people who have been on and off on the exercise.

Senator CONROY—Can we send Senator Alston a bill if you find it to be totally spurious—dock his pay maybe.

Ms Maddock—We have a lot of very large inquiries which we carry out in the same sort of way.

Senator CONROY—So two or three on and off over the period. We will not put them in charge of the next invasion then. I have a few quick questions in relation to children's television standards which regulate TV food advertising. What do these standards require?

Ms Maddock—The code has been amended, as part of the recent rewrite, to require that food and beverage advertisements directed at children should not encourage or promote an inactive lifestyle or unhealthy eating and drinking habits and should not contain misleading information about the nutritional value of products.

Senator CONROY—Can the ABA confirm that it only seeks to enforce these standards if it receives a complaint?

Ms Maddock—The ABA's general method of operation is by reacting to complaint. If we think that there is a type of offence being committed that would not be transparent to the viewers or listeners—and we have—then we might take steps to initiate action ourselves, but we adhere with a fair degree of rigour to the requirement that there be a complaint first. I think that if we do not—

Senator CONROY—So who gets nominated to watch *The Wiggles* and *Play School*?

Ms Maddock—Oh, we all take it turns.

Senator CONROY—That is what I like to hear. So you do not do any real monitoring of your own at all. You might hear about or suspect something yourselves but, in general, you do not monitor?

Ms Maddock—In general, our whole approach to all the guidelines and code requirements—

Senator CONROY—It is just that the kids might not notice that they are being misled, because they are probably not old enough to understand.

Ms Maddock—But their parents are also there.

Senator CONROY—I am not sure that parents have that much time to spend sitting with their kids and checking TV ads.

Ms Maddock—I think that the requirement that there is a complaint gives parents lots of opportunity.

Senator CONROY—Is it an economic decision that causes you to structure it like that or, even if you had more money and there were 200 extra people on your staff, would you still do it the same way?

Ms Maddock—The underpinnings of the act are about a coregulatory approach, which is fundamentally about the first port of call for complaints being to be the broadcaster.

Mr Tanner—More generally, we are set up on a philosophy, which I think has proved quite successful, of regulation by exception. The art is to work out where the exceptions occur and to ensure that, where it is appropriate to actually monitor, you do. In the case of compliance with standards and codes on advertising for children, I am aware that there is a history of complaints. There are certainly people that do watch and complain.

Ms Maddock—I may have put it too simply in that it does not merely require parents of a particular child to have done it. The complaints process is open to anyone in the community including those who take a particular interest in child nutrition issues.

Senator CONROY—What work does the ABA do to inform the community, especially parents, about the standards?

Ms Maddock—About the conditions in the code?

Senator CONROY—Yes.

Ms Maddock—We require the broadcasters to make the code known and available, and to advertise its availability.

Mr Tanner—Because of the results of negotiation in this issue there is a substantial amount of publicity for the existence of the code and the complaints regime.

Senator CONROY—That was my next question. Are TV networks required to inform viewers about the existence of the regulation standards or whatever you describe them as?

Ms Maddock—Yes. The codes of practice for free TV promote the standards in relation to children's programming. There are also provisions in those codes for a certain number of spots, if you like, to be used to promote those codes, the availability of them and contact details for how you can obtain them.

Mr Tanner—I might add a little clarification. We have been using the terms of codes and standards interchangeably. There are mandatory standards on children's content which are made by the ABA. If a person believes that there has been a breach of those standards they have a right to complain to the ABA at once and have that complaint investigated. In the case of a breach of a code developed by industry, on the other hand, there is no such right and, in general, we would expect they ought to go first to the broadcaster and if they are dissatisfied with the response they should come to us. I only say that because there are actually rules governing children and advertising in both standards and codes.

CHAIR—I thank the ABA for appearing today.

[5.30 p.m.]

CHAIR—I call for questions on output 3.2.

Senator CONROY—Do some other senators have questions in this area?

CHAIR—David Johnston does and we have asked for him to be called. I presume that you do.

Senator CONROY—I have got some questions that I can start with.

CHAIR—If you would proceed, that would be fine.

Senator CONROY—Can the department update the committee on the progress of the digital reviews that were to be conducted before 1 January 2005?

Mr Cameron—There were four reviews.

Senator CONROY—You are a busy man. How many reviews are you conducting at the same time?

Senator Coonan—A considerable number.

Senator CONROY—I hope you are paying him well.

Mr Cameron—There were four reviews commenced in 2004: one relating to the capacity of broadcasters to offer services other than simulcasting on their digital spectrum; one relating to the regulatory arrangements that would apply beyond 2006 in relation to the regulation of commercial television—2006 being the current end date for the moratorium on new commercial TV licences; one relating to the spectrum planning operations of the ABA in finding spectrum for digital television purposes to date; and one looking at issues specific to what we call underserved markets—that is, those markets that have less than three commercial television services available to them. Public consultation on all those four reviews has been completed and the department is currently in the process of preparing and providing advice to the minister on those reviews.

Senator CONROY—Did that include the one we were talking about before as well?

Mr Cameron—That includes all four. I probably should mention that there is one other related review into the viability of creating an Indigenous television broadcasting service and that is in a similar position.

Senator CONROY—When do you anticipate them being completed and passed up to the minister? I know there is a length of period for consultation et cetera, so where are you at in that sort of process?

Mr Cameron—The reviews are being conducted on a staggered basis. We are progressively providing advice to the minister on each of those. The date for submissions only finished immediately before Christmas, so it depends on each review.

Senator CONROY—Is the government still accepting submissions on any of these reviews?

Mr Cameron—The formal consultation process has completed but it is not the department's policy to ignore submissions that have been received after the due date. Clearly, however, we can only give them as much consideration as the time would allow.

Senator CONROY—Does the government intend to release its response at the same time as the reviews? It may be a question for the minister rather than for you.

Senator Coonan—I have not decided whether or not it should be separate. As you would appreciate, there are various very complex interlocking issues. My thinking is that it would certainly be of some benefit if one could at least get out of the reviews a clear direction to look in a comprehensive way at the whole of media reform rather than, as I said a little earlier, trying to do it in bits, because once you start looking at these they all sort of lead to each other. They have overlapping and interlocking strands.

Senator CONROY—Can you confirm if you intend any legislative response to the reviews? Is it too early to tell?

Senator Coonan—I think it is a bit too early to say, but, in the context of the whole of media ownership reform, I would expect that as part of that there would probably be a need, if one were to make some moves in terms of digital, for some legislative responses.

Senator CONROY—I just want to come back to the ABC board vacancies that we were chatting about a little earlier. As I indicated and you confirmed, Mr Newman resigned on 30 June 2004 and Mr Gallagher's term expired in December. So you have two vacancies at the moment.

Senator Coonan—Yes.

Senator CONROY—The terms of Professor Sloan and Mr McLean expire at the end of this month.

Senator Coonan—On 28 February.

Senator CONROY—Would you hope to announce replacements before their terms expire?

Senator Coonan—Yes.

Senator CONROY—Good.

Senator Coonan—I would have to make some appointments—I would not say they are replacements.

Senator CONROY—I understand the point you are making, thanks.

Senator Coonan—It is confusing.

Senator CONROY—Does the government plan any changes to the existing procedure for appointing board members?

Senator Coonan—No.

Senator CONROY—Will the government advertise ABC board positions?

Senator Coonan—We consult very widely in relation to ABC appointments. You do not always get the best outcome by advertising. Sometimes we do with appointments but currently that has not been the process.

Senator CONROY—Which have been the bad ones? You have gone through a transparent process; you said you do not always get the best outcomes. Can you point to an example where we have had a bad outcome?

Senator Coonan—No. I am not saying that they are bad. I am not nominating any process as bad.

Senator CONROY—Was it the High Commissioner in London that was advertised? That is not one of the ones you are referring to?

Senator Coonan—You would have to ask DFAT about that.

Senator CONROY—Okay. Will the government consider publishing a clear merit based selection criteria?

Senator Coonan—The requirements are in the act.

Senator CONROY—But you could flesh them out a bit if you really wanted to.

Senator Coonan—There is a legislative expression of suitable candidates.

Senator CONROY—Do you agree that public confidence in the independence of the ABC—something that I know many of your backbench colleagues, and even yourself at times, have expressed a view about—would be enhanced by a transparent appointment system?

Senator Coonan—I think that the current appointment system serves the Australian public well. There have been certainly no complaints brought to me about the process since I have been the minister.

Senator CONROY—Just the outcome?

Senator Coonan—Nobody has complained about the outcome to me either.

Senator CONROY—You have got to get out more, Senator Coonan. You can be my handbag maybe sometime!

Senator Coonan—I might take you up on that, Senator Conroy. You have got to stop making these rash offers!

Senator CONROY—I have some questions about the children's drama quota that commercial networks are subject to. Is the department aware of concerns expressed by the Australian Children's Television Foundation that the ABC and commercial networks are sharing the costs of new children's drama productions?

Mr Cameron—I am not aware of specific concerns in relation to children's productions. I am aware of issues raised by some organisations in relation to the fact that a lot of productions are co-productions between a number of broadcasters, and the costs are shared between those organisations.

Senator CONROY—Minister, the ACTF states that under these deals a commercial broadcaster has the first run of the series, thereby meeting its C drama—children's drama—obligation, while the ABC has repeat runs. Does the government have any concerns about this practice? Is it really meeting the law or the spirit of the law?

Senator Coonan—I have not been advised that it is not. That is the most accurate answer I can give you. Nobody has brought any concerns to my attention. I assume in those circumstances that it is not causing great concern or else that would be agitated with me.

Senator CONROY—The ACTF says the practice:

... effectively means that the ABC has assisted the commercial broadcaster to meet its quota requirement as cheaply as possible, and that the child audience is provided with the same series on two networks instead of a different series on each network. The ACTF is very concerned that this trend will ultimately reduce the diversity of Australian children's drama available to the child audience.

Do you know how widespread this practice is, Mr Cameron?

Mr Cameron—The use of coproductions is something reasonably common in broadcasting and film production, where a number of organisations contribute funds given the expensive nature of the product. In this particular area there are no specific obligations on the ABC in relation to children's productions, so the use of the coproduction does contribute to the capacity of both broadcasters to show programs aimed at children.

Senator CONROY—Yes, but it is the same one. It is not like there is new drama there. Just from a lay observation it seems that they are finding a way to sneakily get around the actual intent of the legislation. It seems to stare at me and say, 'This is a bit of a tricky way to get around it.'

Mr Cameron—The use of coproductions allows new content to be produced by a group of organisations where they may not have had the capacity to produce that level of content on their own.

Senator CONROY—Would the government consider imposing a children's drama quota on the ABC if these production sharing arrangements continue, Minister?

Senator Coonan—As Mr Cameron said, one has to take a balanced view about whether you can get anything produced at all if you do not have these coproductions.

Senator CONROY—If the production is a requirement and there is a quota, they have to.

Senator Coonan—If there is a concern about this that the foundation wishes to agitate, obviously I will get some advice about it.

Senator CONROY—I became aware of the practice recently, and I am just raising it. Hopefully you can get some advice, and if it is actually just being used as a tricky device to get around what we are all trying to achieve then hopefully we can encourage people to engage in a less sharp practice. That is all from me for this part of the department.

Senator JOHNSTON—I have some questions, but I think Ms Williams is going to tell me that this is not the agency that I want to speak to.

CHAIR—Ask your questions and see.

Senator JOHNSTON—Ms Williams, I am looking to ask questions about the unauthorised use of frequency bands in remote controlled plant and equipment. I suspect that they are for the Australian Communications Authority.

Ms Williams—Yes.

Senator JOHNSTON—And they will obviously be on much later tonight.

Ms Williams—Yes, after Telstra.

Senator JOHNSTON—Okay. Thank you.

Senator CONROY—You have hung around all day to ask that.

Senator JOHNSTON—I have some good questions.

Senator CONROY—I have no doubt they are good questions, but who have you got to go and torture?

CHAIR—I thank the department. We will call Telstra for 15 minutes and then get them on the road.

[5.45 p.m.]

Telstra

CHAIR—I welcome the officers from Telstra to the table. Mr Scales, it is very nice to see you.

Mr Scales—It is very nice to see you, too.

CHAIR—Senator Tierney.

Senator TIERNEY—My questions are to Mr Scales. My questions relate to the Telstra sponsorship of Lifeline. How long has Telstra sponsored Lifeline, Mr Scales?

Mr Scales—For 10 years. By the way, we did actually hear the PM's commentary.

Senator TIERNEY—I will be getting to that.

Mr Scales—I thought I might help you—

Senator TIERNEY—Mr Scales, I am asking questions; could you please just wait.

Mr Scales—We do appreciate that this is an important issue for you. You contacted me out in the corridor, as you know, and asked me whether we had changed our opinion.

Senator TIERNEY—I asked you what your position was; that is what I asked you.

Mr Scales—I said we were considering our situation. I think you said to me, 'Well, if you don't ...'

Senator TIERNEY—I did not use—Mr Scales, if you are going to quote me, quote me accurately.

Mr Scales—Maybe you should tell me what you said.

Senator TIERNEY—I am here to ask you questions; it is not for you to ask me questions about a private conversation with you.

Mr Scales—We noted what the PM had said. I think from our point of view, given what the PM has said, it is appropriate for Telstra to consider what the PM has said, and we will be certainly doing so. We certainly take very seriously any comments the PM might make about an issue like this. We know that the PM and the government have made some quite substantial investments in Lifeline. You can take it as read from me that, as a result of what the PM has said, we will look at those comments very seriously.

Senator TIERNEY—Let us look at the comments that the Prime Minister made in question time. The Prime Minister said that the government is asking Telstra to 'take pause and reconsider its position'. What is your interpretation of the Prime Minister's comment?

Mr Scales—I think it was a thoughtful commentary by the Prime Minister, and we will do exactly that.

Senator TIERNEY—If the Prime Minister is asking you to reconsider your position, what is your current position that you have been asked to reconsider?

Mr Scales—What I interpret the Prime Minister to say is this. We currently—as you well know, Senator, because you have taken a long interest in this issue and spoken to a number of our staff about it on a number of occasions, sometimes not complementarily—

Senator TIERNEY—Can you explain what you mean by that?

Mr Scales—Some of our staff have told us that you have rung them a number of times about this particular sponsorship. I have a number of file notes on that just to make sure that our staff—

Senator TIERNEY—I would like to see those file notes. I rarely contacted Telstra directly about this matter. I have sat in discussions with Lifeline and Telstra on two different occasions.

Mr Scales—What we interpret that the Prime Minister was saying, quite appropriately, is that we should consider it, and we are; and we will do as the Prime Minister has asked us to do. The only thing that I would say about it—and it is why I cannot give you an answer to your question today, which I am sure is where you are trying to get us to—is that there are implications for us from reconsidering what we are doing. As you know, after a long association with Lifeline, we advised Lifeline some three years ago that we were intending to change our relationship with Lifeline. We also then entered some discussions with other not-for-profit organisations. We will need to go back to those other not-for-profit organisations and let them know that our relationship will probably need to change if we have to change what we are deciding to do with Lifeline. We do not mind doing that, but there are implications that go beyond Lifeline. All we need to do is to be able to have time to talk to those organisations, to explain to them the circumstances in which we now find ourselves and to help them to understand why it is that what we thought we might be able to do with those other not-for-profit organisations we now will not be able to do.

Over the next day or so we will do as the Prime Minister has asked, and that is to reconsider our position. We will do it very seriously. We do not take at all lightly a comment made by a Prime Minister. Nobody would. We understand the Prime Minister is talking on behalf of the government. We will do that, and we will do it honestly, sincerely and taking all the issues into account.

Senator TIERNEY—If we go back to my original question relating to the position that Telstra currently has—the position that has been reported widely in the press—could you state for the *Hansard* record what the current position of Telstra is relating to the Lifeline sponsorship?

Mr Scales—Telstra's current position is that we have taken into account the Prime Minister's statement—

Senator TIERNEY—Let us say what your current position was up to two o'clock today. There has been a lot commentary in the press up to two o'clock today on this. What position are they commenting on, if you could just put that on the *Hansard* record?

Mr Scales—The position up to two o'clock today is no longer relevant. We are taking into account what the Prime Minister has asked us to do. It is quite appropriate for the Prime Minister to do that, and we will; we will seriously consider the comments that he has made.

Senator TIERNEY—You did announce at the end of the last period of sponsorship that you would be completing the sponsorship of Lifeline at the end of this period, which is June 2005. Could you just explain to us why Telstra made that decision at that point in time?

Mr Scales—We have had a long sponsorship arrangement with Lifeline. They are a fine organisation, as you well know. It has been a relationship that has gone on for almost 12 years. In most cases what we try and do with not-for-profit organisations is this. We deal with many of them, as I am sure you are aware. Just for the record, Telstra is probably an organisation that has more relationships with not-for-profits than any other corporation in this country. Part of the reason by which we do that is to try and build up their capability, to build their strength, to build their ability to be able to work with other corporates so that they can grow and prosper as we would hope they all would. We had felt that, after 12 years of our arrangement with Lifeline, it was time for us to work with other not-for-profit organisations and give them exactly the same opportunity which we had tried to give to Lifeline. Three years ago, as you quite rightly said, we spoke to Lifeline about this. We did it so that they could gradually phase themselves out of their relationship with Telstra, so that they could look for other corporations that could work with them; not because there was any dissatisfaction with our relationship with Lifeline—far from it—but because we felt it was time to do similarly with other organisations what we have been able to do with Lifeline.

Senator TIERNEY—But Lifeline is a bit different from other organisations that you sponsor, isn't it? There is a unique synergy between Lifeline and Telstra; you are the major telecommunications company in this country and Lifeline is the only 24-hour crisis telephone service. It is not just any old sponsorship, is it? It is a special sponsorship where both sides coming together have a very natural synergy. Why on earth would you end that, given the incredibly serious ramifications for Lifeline of the ending of that sponsorship?

Mr Scales—As I was saying, from our point of view we felt that there were other very important organisations around the country that also deserved our support. Lifeline, of course, is not only about telephones; it is also about IT systems. It is as much about IT today as it is about telecommunications.

Senator TIERNEY—When it finally updates its systems—which was another area of neglect by Telstra—it will be.

Mr Scales—The government have been remarkably generous, I think, in terms of their aid.

Senator TIERNEY—They have—\$10 million.

Mr Scales—There are a number of other crisis organisations around.

Senator TIERNEY—How many are 24-hour?

Mr Scales—I do not know the exact number.

Senator TIERNEY—A crisis service open to all Australians in need?

Mr Scales—I do not know the answer to that.

Senator TIERNEY—None. It is the only one. I thought you would have known it is the only one. Doesn't that indicate that there could be a special relationship between this telephone company and this crisis telephone counselling service?

Mr Scales—There are special relationships between Telstra and almost every organisation in Australia.

Senator TIERNEY—Come on, Mr Scales, this is very special.

Mr Scales—No, it is no more special than the other relationships we have.

Senator TIERNEY—All right, tell me a few others that are as special as this.

Mr Scales—Very special. We have a million-dollar relationship with the Victor Chang institute, where they are using telemedicine and other forms of medicine to be able to determine elements of heart disease. We have a very special relationship with the Peter Mac. Peter Mac, for example, has a very important program which we are sponsoring to support young people in rural and regional Victoria who have cancer—a very important relationship which we have with Peter Mac.

Senator TIERNEY—If you withdraw sponsorship from any of these organisations—

Mr Scales—Senator, can I just—

Senator TIERNEY—how many will actually be in danger of collapse by removing that assistance?

Mr Scales—Another relationship which we have—just so that you are aware of it—is with the burns centre in Perth. It is a very close relationship we have just developed as a result of the Bali bombing. We have established that relationship because one of our staff was severely burnt in the Bali bombing, and we are contributing to that as well. These are very special relationships.

Senator TIERNEY—They are all very commendable, but none of them are 24-hour telephone crisis counselling services. As a telephone company, even though you are doing very commendable work with other charities, I am trying to indicate to you that this is a very special relationship and your withdrawal of support is likely to result in, if not the collapse of the whole system, then at least a scale back of its services. Does Telstra have any conscience about any of that?

Mr Scales—The point I made earlier was that we are considering very carefully the comments that the PM has raised, so your comments about withdrawing, I think, are far too premature. We have taken into account—

Senator TIERNEY—Hang about—three years ago you said you were going to do it, and you are only now reconsidering in the light of comments from the Prime Minister.

Mr Scales—It is appropriate for us to reconsider in the light of the comments made by the PM.

Senator TIERNEY—Not reconsidering according to what is being put forward to you as the nature of the situation, with all the press that occurred over the weekend—which I have here: 34 pages through the media monitoring organisations—and with people Australia wide outraged that Telstra is prepared to do this. That did not seem to have budged you up to two o'clock today.

Mr Scales—No, that is not quite right. We had a meeting with the minister on Friday. The minister asked us to consider this issue. It has been reinforced by the Prime Minister today. We have been considering this, so it was not a result of the press commentary on the weekend. I do not think a corporation like ours, and particularly a large corporation like Telstra that is used to criticism, as you would see every day of the week, can respond necessarily to that form of criticism. We will respond to logical, sensible argument like the minister and the Prime Minister have put to us.

Senator TIERNEY—You have had a logical and sensible argument from Lifeline as well over many years, and your only response was to offer that they find another sponsor. I would like you to comment on this aspect, because it has been reported to me by the heads of Lifeline that, when they went to Telstra and asked for assistance with sponsorship last August, they came away believing that they would get no help—there were no offers of any plans, there were no alternative strategies, there were no other sponsors suggested and not one dollar was going to be contributed to this process. If you have put that position again, why would Lifeline have any confidence that you would do it this time when you did not do it last time?

Mr Scales—I do not know why you have come to that conclusion, nor do I know why—

Senator TIERNEY—I have been advised by the heads of Lifeline that is what happened.

Mr Scales—Senator, if you would allow me to finish. I do not know why you have come to that conclusion. I was at that meeting and I can tell you that the offer was made to Lifeline most honestly, most sincerely, that we would help them to find another sponsor. I was there.

Senator TIERNEY—All right. But you made the offer a lot earlier as well. So what had you done between the start of this sponsorship and August last year to do anything about it?

Mr Scales—It is very difficult to try to debate and discuss conversations between individuals of this kind, but let me say to you that Telstra has always stood ready to be able to try and help Lifeline to find another sponsor, and we still stand ready to do that.

Senator TIERNEY—Even though you have done nothing in the last 2½ years about it, when you gave notice you would.

Mr Scales—We gave a long period of notice to Lifeline. There was an offer of support. We cannot force people to take up our offer.

Senator TIERNEY—Sorry, you mean alternate sponsors?

Mr Scales—Our offer of support.

Senator TIERNEY—You are talking about alternate sponsors?

Mr Scales—Yes.

Senator TIERNEY—So you had actually approached—

Mr Scales—Lifeline.

Senator TIERNEY—No, you had approached certain other alternates?

Mr Scales—No, Lifeline. I am talking about support to Lifeline to try and help them to find other sponsors.

Senator TIERNEY—Right. What help did you—

Mr Scales—For example, what we said to Lifeline at the time was that I would be quite happy to sign a letter of commendation, if you like, encouraging other corporates to support Lifeline. One minor issue, I accept, but it was that sort of debate and discussion we were having between us. We still stand ready to support Lifeline in that sense.

Senator TIERNEY—Why should they have any confidence you will do it, given you have not done anything for 2½ years?

Mr Scales—I do not know; you will have to ask Lifeline that. I cannot answer that question.

Senator TIERNEY—I did. They said you had no strategies, no suggestions, and they came away feeling they were not going to get any help.

Mr Scales—I cannot answer on their behalf.

Senator TIERNEY—This is August last year. Moving on, there has been a lot of comment about this in the media. I assume you have a media monitoring service in Telstra.

Mr Scales—Yes, we do.

Senator TIERNEY—So you have followed what is in the comments on your actions in the newspapers, on the radio and on television across Australia.

Mr Scales—Yes.

Senator TIERNEY—I will just quote to you some of these transcripts, because I would like to put these on the *Hansard* record. ABC 702 Sydney:

Many are wondering why Telstra can not maintain the service considering the huge profits it is recording.

ABC Melbourne:

JobWatch takes about 20,000 calls and often have to refer clients to LifeLine.

ABC Ballarat:

Deborah says Telstra makes billions of dollars profit so it should not be hard to support an important service like Lifeline.

The breakfast show on 6PR Perth, referring to compere Tony McManus:

Comperes closing comments ‘fair go Telstra’.

Grant Goldman on 2SM:

Goldman says ‘Lifeline’ faces closure following a decision by Telstra to stop providing free phone calls for the charity. He says the claim by Telstra that the service costs them \$1M in costs is ‘bull’ and claims ‘it costs them nothing’. Goldman says Lifeline receives around 1300 calls every single day and ‘is not a

service that should be dumped by a cash-minded Telstra who are improving the bottom line ahead of a sale'. That's what it's all about,' he adds 'bugger everyone else'.

Breakfast program ABC Tasmania:

Telstra has announced it will withdraw this service and Jenny Donnelly says thousands of callers will face paying for long distance calls which are usually longer than 30 minutes.

George Moore on 2UE

Caller Anne has some comments about Lifeline and Telstra. George thinks it strange that they have withdrawn support and have not yet decided which new charity they will give the money to.

You can comment on that a bit later.

On 2UE in Sydney:

George thinks it does not make sense why Telstra has pulled the plug on Lifeline. Paul notes they have just made a \$2.8 billion profit.

He says \$2.8 billion but it is \$2.4 billion. On Channel 7 News:

Telstra has defended its decision to stop funding the Lifeline telephone counselling service. The NSW Opposition says this is an unacceptable decision, particularly in light of Telstra posting another big profit this week.

There are lots more of these, but the final one I will read out here is Channel 10 News:

The future of Aust's largest telephone crisis service hangs in the balance as Telstra winds up its funding program to Lifeline Australia. The move ends a 12 year relationship and may also spell the end for a number of Lifeline's 42 national call centres. Dawn Smith says Lifeline is now desperate for funding.

In the light of all that, I just wonder why you would still proceed with this decision.

Mr Scales—I think I mentioned earlier that the Prime Minister has made a statement today. We are seriously considering the Prime Minister's statement, and once we have had a chance to—

Senator CONROY—I must have missed it.

Senator TIERNEY—I will quote it to you, Senator, because I want to raise it again and come back to that—

CHAIR—At the risk of sounding like a spoiler—

Senator CONROY—We are past 6 o'clock.

CHAIR—we have to stop for the dinner break.

Senator TIERNEY—I realise that. Could I just ask this one question?

CHAIR—Just one more, Senator Tierney.

Senator TIERNEY—Thank you.

Senator CONROY—You asked the same question 10 times and, believe me, Mr Scales has given you the same answer 50 times.

Senator TIERNEY—Isn't that surprising in the estimates process!

Senator CONROY—Now you know how we feel.

CHAIR—Just one more because we do have a dinner break and people have made arrangements in relation to that. We can resume at seven and you can continue the questioning at that point.

Senator TIERNEY—The government is asking Telstra to take a pause and reconsider its position, so let us just go to what you think ‘reconsider your position’ is, in the light of what we have just discussed.

Mr Scales—I do not have any comment on that at this point. We will go away—this has only happened this afternoon—and I think it is appropriate to give us time to thoughtfully, carefully reconsider what is appropriate in the circumstances. Senator, I hope you will give us the courtesy of being able to do that.

Senator TIERNEY—Let us just take those words.

CHAIR—Senator Tierney, that actually was your question.

Senator TIERNEY—It is just a supplementary: a definition of ‘reconsider its position’.

Senator CONROY—Make him come back like everybody else.

CHAIR—Mr Scales has given an answer and I think we should respect that. We will come back at seven and you can continue.

Senator CONROY—I am happy for him to keep going but—

CHAIR—We will resume at seven with Senator Tierney and Telstra.

Proceedings suspended from 6.07 p.m. to 7.00 p.m.

CHAIR—I reconvene this meeting. Senator Tierney, do you have further questions?

Senator TIERNEY—Mr Scales, before we broke I was putting a particular proposition to you in relation to the Prime Minister’s statement. I would like to now return to that. What the Prime Minister said was that the government was asking Telstra to take pause and reconsider its position. So what do you think you are being asked to do?

Mr Scales—To pause and reconsider our position.

Senator TIERNEY—Right. So reconsider your position. From what point to what point do you think you are being asked?

Mr Scales—Just to reconsider our position, Senator. To me that is relatively straightforward.

Senator TIERNEY—No, it is not. You are not answering the question. If he is asking you to reconsider your position, you had a position and the Prime Minister is asking you to consider another position.

Mr Scales—That is correct.

Senator TIERNEY—What do you think he is asking you to move from to?

Mr Scales—He is asking us to reconsider our position.

Senator TIERNEY—So what is the position you are being asked to reconsider?

Mr Scales—We are being asked to reconsider whether we completely terminate our relationship with Lifeline.

Senator TIERNEY—Right. That is your position up to recently. Obviously the corollary of that is to ask you to consider continuing your funding of Lifeline. So that is what the Prime Minister is asking of you?

Mr Scales—And I think the minister. The minister has asked us the same thing, Senator. Just for completeness, I think I mentioned prior to when we adjourned for dinner that it was both the minister and the Prime Minister who asked us to do that and we said we would.

Senator TIERNEY—So when are we likely to hear an answer?

Mr Scales—As I also said prior to the dinner adjournment, we need to go away and try and see what this means for us and see what it means for the other organisations we had been in discussions with. We will do as the Prime Minister has asked and reconsider our position.

Senator TIERNEY—Reconsider your position. This sort of line of answer would not be just to slip past the estimates process, would it—without stating a definite position?

Mr Scales—I am sorry, Senator. I thought you were asking me whether I will be doing as the Prime Minister has asked, and that is to reconsider our position. My answer is yes.

Senator TIERNEY—Right. But we do not get any response to what Telstra's intentions are likely to be and the estimates will be over for Telstra tonight.

Mr Scales—That is certainly true, Senator, that, as you know, this came up today. It is hard for me to give you a more direct answer than yes, we will do as the Prime Minister has asked and reconsider our position.

Senator TIERNEY—It is a pretty simple proposition, though, isn't it? There has been enormous media scrutiny of this. The Prime Minister has made a statement in the House. We are not really talking about a lot of money in terms of Telstra's profits, for example. So what is going to take so long?

Mr Scales—As I said, Senator, there are other people involved. There are other organisations involved. We will now need to go back to them and help them to understand the situation. We will do as the Prime Minister has asked and reconsider our position.

Senator TIERNEY—So you are saying that if Telstra is going to fund Lifeline you would take that from some proposed funding from someone else?

Mr Scales—It was the funding that we had been using with Lifeline for some 12 years. As you know, Senator, we advised Lifeline three years ago that that is what we were intending to do. Lifeline were aware that we were certainly going to redistribute that to other organisations, as I understand it. So all we were doing was following through on the discussions we had had with Lifeline. However, as a result of the discussion we had with the minister and subsequently comments made by the Prime Minister we will reconsider our position.

Senator TIERNEY—We are talking about around \$1 million. Telstra has just announced a half-yearly profit of \$2.34 billion. Don't you have any budget flexibility to possibly expand sponsorship by \$1 million?

Senator CONROY—Vote against the sale and you'll be right.

Senator TIERNEY—Thank you for your helpful interjection, Senator Conroy. I am asking Mr Scales.

Senator Coonan—Are you still against it, Senator Conroy?

Senator CONROY—I'm afraid so.

Mr Scales—Senator, like every other organisation Telstra has budgets. The analogy about the profitability and the distribution of profit in the way you are describing it is probably not quite appropriate in that, as you are probably aware and would have read in the press, Telstra actually distributes the largest proportion of its profit to its shareholders, including the government of course. Part of the reason we distribute it to shareholders is so that shareholders, including the government, can make choices themselves about how they distribute that money. So Telstra does not use the majority of its profitability for itself. It actually distributes it.

Senator TIERNEY—You do not think you could nudge the figure \$1 million given the profits of Telstra?

Mr Scales—This has arisen only today. The Prime Minister made his statement only today. It is hard for me to go much further than I have, and that is to respond in the very strong affirmative that we will do what the minister and the Prime Minister have asked, and that is reconsider our position.

Senator TIERNEY—I just wonder why you would not do it anyway, given the natural synergies between Telstra and Lifeline. I am still at a total loss as to why you would want to end this sponsorship. Could you just explain briefly what the rationale is, because I just cannot understand it.

Mr Scales—Telstra has synergies with a large number of organisations.

Senator TIERNEY—We have been through that. I think we have established pretty clearly that there is a special synergy between Lifeline and Telstra.

Mr Scales—No, Senator. We have not established that.

Senator TIERNEY—Let us focus on that synergy and say why, when you are a major telco and this is a lifesaving telephone service, you would not see that synergy and run with it. Why don't you get on the front foot with it, for example? You have had the sponsorship for 10 years. I cannot see a lot of evidence that you have gone out on the front foot and tried to prove what great guys you are by sponsoring Lifeline. You have a great story to tell. I have not seen anywhere where you have actually told that.

Mr Scales—We have synergies with a whole range of organisations. Let me give you a few others so you are aware of those similar synergies. We have recently supported the Melbourne 2005 Deaflympic Games. It would be quite clear to you that the whole question about communication in the deaf community is an important synergy. We also support the Deafness Forum education scholarships. We support the Deafness Forum captioning awards. We support the Royal Blind Society and their training program because of the synergies there. The general point I am making here is that there is no doubt that the community says that

Lifeline is an important constituency, but there are literally millions of people in Australia that Telstra feels an affinity with and we try not to differentiate between those.

Senator TIERNEY—You don't try to differentiate? I find that fascinating. You are a telephone service. This is a telephone crisis counselling system. Volunteers sit in centres right around Australia, 24 hours a day, answering phone calls, using the Telstra system. There are natural synergies. Let me give you an example coming out of Saturday's *Age* on page 3. In a side box it sets out what one of the call centres does in 24 hours. It handled six mental health calls, four depression calls, four relationship issues calls, two domestic violence calls, six grief and loss calls, two suicide interventions, four suicide related calls, two child abuse calls and two child access issues. I cannot see how any of your other sponsorship arrangements have such a close synergy and are actually saving lives on a daily basis. The ending of your sponsorship is about to threaten that.

Mr Scales—Senator, we also support the Royal District Nursing Service, which I think most people in this room believe is also a wonderful lifesaving organisation. That is not in any way to suggest the points that you make are not important, but I am simply making the point that Telstra is supporting a large number of organisations of which Lifeline was one.

Senator TIERNEY—Given the work that goes forward across your lines, you have not really answered the question that I asked, which is: why do you not lead with the front foot and make a really positive thing out of it for Telstra?

Senator CONROY—I raise a point of order. I was just wondering if you are aware of the standing order about repetitious questions. I think we have heard the same question about 27 times.

Senator TIERNEY—I learnt that from Senator Carr.

Senator CONROY—I readily accept that explanation, but I think we are being a little repetitive.

Senator TIERNEY—If you do not get a sensible answer, you keep asking the question.

CHAIR—I am very glad you asked that question, Senator Conroy, because I did notice circular questions earlier today.

Senator CONROY—I would not want to cut Senator Tierney off. It might be his last act in public life to save this.

Senator TIERNEY—It might be.

CHAIR—I think we need to be fairly reasonable about this line of questioning because obviously Telstra has to consult with other people in making a decision, and I think you have made your point very well, in fact.

Senator TIERNEY—But I did not get an answer to the question, so if I could just ask that question again. Why does Telstra not get on the front foot with its sponsorship and sell itself with the positive good that it does through such a sponsorship to the community?

Mr Scales—I tried to answer your question as best I could. I am sorry if my answer is not adequate, but the point I have made is that we have had this relationship with Lifeline for over 12 years. We believe it is appropriate for us to work with other organisations. As part of our

relationship, we believe we have given Lifeline the opportunity to position itself remarkably well to be able to find support within the community. Now we think it is time for us to provide that support to other organisations. That is the primary purpose, Senator.

Senator TIERNEY—You think you have helped them position themselves remarkably well, have you? In what way?

Mr Scales—Well, the very fact that we have provided \$12 million over 12 years, Senator.

Senator TIERNEY—No, but I mean from this time on.

Mr Scales—That is a matter for Lifeline, Senator.

Senator TIERNEY—I thought that is what you were referring to.

Mr Scales—I was referring to the fact that we have provided \$12 million over 12 years.

Senator TIERNEY—And you do not have any attitude about the fact that the withdrawal after that period of time will create a major crisis?

Mr Scales—Not when you have given an organisation three years notice, Senator. We deal with organisations all of the time, both private and public, both in the public sector and the not-for-profit sector. Most organisations understand that relationships do come to an end for all sorts of reasons and, as long as sufficient notice is given to those relationships, people move on. They make alternative arrangements. That is what we hoped would have happened in this circumstance. As it has turned out, the minister and the Prime Minister have asked us to reconsider. We have said that we would and we will.

Senator TIERNEY—The fundraising world out there is a very difficult world. Lifeline also has some additional problems at this point in time because the telephone service system that you have been providing over those years has not been adequate in terms of the flow-on or the level of technology. When this was pointed out to Telstra three years ago, when we were doing these negotiations last time, to Telstra's credit, it went in and assisted Lifeline and now they are getting that system up to scratch. But this is a \$20 million program. The program very generously has provided \$10 million of that and Lifeline has to raise the additional money. Now, it has to do that very quickly on top of the fact that they will then have to raise money for the call system that your sponsorship covered. So do you not think it is unreasonable withdrawing a sponsorship at this point in time given the very difficult situation they are in because of technological changes?

Mr Scales—Senator, that is why three years ago we talked to Lifeline and advised them of what our intentions were, because we knew that like any organisation they would need to make alternative arrangements. They are clever people. They operate in the same world as the other not-for-profits. They know what it means to obtain sponsorships and so on. That is why we gave them what is effectively one-third of a decade to make those alternative arrangements.

Senator CONROY—Minister, have either you or the Prime Minister been advised by Telstra of any plans to float, sell off or spin off Sensis?

Senator Coonan—I certainly have not and my understanding is that the Prime Minister has not.

Senator CONROY—Has the Telstra board considered the possibility of floating, selling or spinning off Sensis?

Mr Scales—Senator, the Telstra board considers these things all of the time. I think the CEO has been on the record to say that a number of merchant banks have raised this issue not only within the company but also within the board, so this is not unusual. They have raised the same thing around CSL. They raised the same thing around some of our operations elsewhere, so that is not unusual.

Senator CONROY—Have you had any discussions with the department? Obviously the minister and the Prime Minister have been ruled out, but any discussions with—

Mr Scales—Have I had any discussions?

Senator CONROY—Telstra.

Mr Scales—No, we have not had any with the department—not that I am aware of. The only point I would make about that is no discussions other than the fact that I have mentioned to the department that merchant banks have raised this, so it is in that context that any discussion would have been held.

Senator CONROY—Sure. Just a few questions about Telstra's conduct or its defence of a competition notice issued against Telstra in March of last year in relation to its pricing conduct of wholesale broadband services. How much has Telstra spent on legal fees to date in responding to this notice?

Mr Scales—That is a tough one. I cannot answer that, but I will take it on notice. The reason I make that comment is that we spent a lot of time debating/discussing this issue. As you would imagine, it is a serious one for the company. The very moment that the ACCC decided to impose the competition notice on us we had to take that extremely seriously. We had to try to find the very best legal advice we could. We had to get our team together and it has taken up a lot of our time, but it is a serious issue and we take it seriously. As you would have seen, we have tried to respond appropriately.

Senator CONROY—How many legal staff, both within the internal legal directorate and within any external legal firms, have been engaged on this matter?

Mr Scales—On that particular matter?

Senator CONROY—Yes. I have a general question about how many you have. I have some on notice which I flagged last week.

Mr Scales—I will have to take that on notice. I am talking generally now, but I will find out the details for you. At any one time there might be three or four lawyers involved, and from time to time we might have another two or three external lawyers involved. In general, we often have one external lawyer involved with us all the time. If I can put some bookends around that, you might have three internal lawyers and one external and that might expand from time to time. Depending on the issue which we are involved in, we might have some more than that. It would not be more than 10 in total at any one time, I would think.

It is difficult to answer that question as precisely as you would want. For example, when 155 notices are issued, as they have been, against the company, that then requires very

significant trawling of information so that we can provide that to the ACCC. That will require us putting together a team of people who can look at that information, assess it in the context of what is required by the ACCC and then deliver that in a relatively short time frame. It is one of those issues which fluctuates from time to time, but I will get the answer to it as best I can.

Senator CONROY—I know lawyers are fairly precious things. Senator Coonan, do not take that personally— not just the actual lawyers, but lawyers and support staff.

Mr Scales—You mean for the competition notice?

Senator CONROY—Yes.

Mr Scales—Again, let me give you a sense of that, but then I will have to try to get a more precise answer for you. On the competition notice there could be a third of the regulatory team involved. My regulatory team would be about 35 or so. We could have anything up to between eight and 10 of those involved at any one time.

Senator CONROY—That is as well as the legal department?

Mr Scales—As well as the legal team. We would then have support structures to go with that. There would be executive assistants, personal assistants and so on. That would probably about cover it. So it would be the legal team and part of the regulatory team and that would vary from time to time. For example, we have some of the regulatory team involved on the wholesale side—they would be involved in this issue because it involves wholesale issues—and part of the regulatory team involved in the BigPond areas. So it fluctuates from time to time.

Senator CONROY—Sounds like a cast of thousands with all the different divisions. Do you have a large room where they all congregate?

Mr Scales—It is a bit like an ALP conference.

Senator CONROY—I would hope for your sake that it would never be that bad. You were going to get some figures for me. If I could break it up into how many were engaged at the beginning and how many are engaged now.

Mr Scales—Sure.

Senator CONROY—Presumably it is a fair way down the track, so you have been able to—

Mr Scales—Yes, the largest proportion of both the legal and the regulatory teams were involved when the company was involved in collecting information for 155 notices.

Senator CONROY—Sure. So it would have been bigger at the beginning.

Mr Scales—No, this was really in the middle of the process.

Senator CONROY—So can you give me the stages: beginning, middle, end.

Mr Scales—It was relatively small in the beginning until we understood the complexity of the tasks which we were involved in. It became more complex around about the middle of the process and has gradually dropped off.

Senator CONROY—If you can just break it up into the beginning, middle and end. That would be useful for me. I keep hearing these stories about how Telstra has more lawyers employed than any other company in the country. I am hoping that you can help me put that to bed. Is that one of those urban myths that are out there?

Mr Scales—I will do my best. Yes, we have 80 lawyers on staff—80.

Senator CONROY—Right.

Mr Scales—This needs to be seen in the context of Telstra being one of the largest companies in this country—three per cent of the economy and so on. That is 40,000 staff, of course, of which 80 are lawyers. We have a panel of legal firms that we do not use all of the time, but that panel consists of 12 legal firms and those legal firms—

Senator CONROY—Is anyone left? Are there any large firms left?

Senator Coonan—It just gives you a choice.

Senator CONROY—It means that your opponent does not have any choice, either.

Mr Scales—As you know, a number of those firms have their own specialities, so we draw more on the specialities. I can give you a bit of a run-down—and thanks for signalling in the *Australian Financial Review* this morning some of the questions that you might be asking.

Senator CONROY—I spoke to them weeks ago.

Mr Scales—Compliance law is around about 2½ per cent of their activity. Contract law is the largest proportion, which is 34 per cent of the work of the legal team. Corporate governance is around four per cent; dispute resolution issues, 14 per cent; employment law a little over five per cent; and environmental law, around about one, one and a half per cent. These finance, borrowing and credit and insolvency issues are a little over six per cent. The general insurance claims are about two per cent. Intellectual property law is a little under three per cent. Mergers and acquisitions, joint ventures and strategic alliances are a little over four per cent. Property law is two per cent. Telecommunications law, which is I presume the area that you are interested in here, is a little over five per cent. Trade practices law, which is an element of telecommunications law, but not only in that area, is nearly eight per cent, and there is an undefined area, which is about seven per cent.

Senator CONROY—Thank you very much for that. Could I just add into those figures that you were getting for me about the competition notice any external economic consultants.

Mr Scales—Sure.

Senator CONROY—The figures that you have talked about or that you are going to provide—would that include Sensis and other subsidiaries?

Mr Scales—No, Sensis is included.

Senator CONROY—They are included.

Mr Scales—As part of our legal team.

Senator CONROY—Secondees from legal firms—where would they fall? Would they be in that category of Telstra employees or would they be in the external legal consultants? How would you classify them?

Mr Scales—I would have to check that, but more likely they would be included in our in-house lawyers to the extent that they were—

Senator CONROY—As long as they are included; that is all right. I did not want them to fall between the stalls.

Mr Scales—No, we would not do that.

Senator CONROY—What steps has Telstra taken to disclose to the market the \$300 million plus contingent liability that Telstra is subject to as a result of the notice?

Mr Scales—Geoff might be able to help me with this one, but as far as we know, we are not required to disclose it in the sense in which I think you are describing it as a contingent liability. Again, I would have to stand corrected here, but if it went to the next stage, then it might be necessary to disclose it. At the moment, the ACCC has to decide whether, in fact, it takes it to the next stage and takes us to court. That might change.

Senator CONROY—But a settlement that involves cash may also—

Mr Scales—To the extent that we know what that figure might be, and when it is known, it would need to be disclosed and it will be disclosed.

Senator CONROY—But if you were actually negotiating with the ACCC about a potential figure, then surely there is some obligation to inform the market that there is a potential.

Mr Scales—It depends on the materiality of it.

Senator CONROY—I know Telstra is a big company, but the materiality of up to \$300 million—and I am not for a moment suggesting that you could be anywhere near that—but potentiality—

Mr Scales—The only point about that is that the extent of the materiality depends on the robustness of the legal debate as to what extent one might be subject to anything near that sort of amount. The legal advice which we have had almost from day one was Telstra would not be required to have anything like that sort of liability as a result of the competition notice—much, much less significant than that—and then it got to the point of trying to understand whether that was sufficiently material to have to declare. We have come to the view that it was not necessarily sufficiently material to declare.

Senator CONROY—That is the penalty provided for under the act, though.

Mr Scales—Yes, it is, but it is under the act if proven to have contravened the act. Of course, what that requires is a detailed understanding and assessment of the extent to which Telstra itself regards itself as liable under the act and our legal opinion has been very strongly of the view that Telstra is not liable for anything like that under the act.

Senator CONROY—If your legal opinion did not say that, you would be looking to sack your lawyers by now, would you not, given that they would have helped you into this debacle?

Mr Scales—We take very seriously the advice of our lawyers. We find our lawyers to be both honest and reputable, as you would expect that they would be, and they give us good,

reasonable advice. Not in all cases do they take this view. In a number of cases they would say to us, 'You should settle', and this is the likely cost of settlement.

Senator CONROY—But you are potentially liable for the whole lot.

Mr Scales—If you simply take the \$1 million per day multiplied by the number of days since the introduction of the competition notice, then you are right.

Senator CONROY—\$1 million a day.

Mr Scales—But you cannot simply take that view. That is the point I am making. You will have to superimpose that view with the best legal advice that you can get about the extent to which you would be liable.

Senator CONROY—What do the accounting standards say? I actually thought the accounting standards were a bit more robust.

Mr Scales—No, it is not about accounting standards being robust; it is about being robust to the point that you do not overstate nor understate a liability. Geoff would be able to help me here on this one, but my understanding of it is that we would be overstating the case if our legal advice was suggesting that our liability was nothing like that and it turned out that we were to suggest that there was a contingent liability of anything like you are—

Senator CONROY—Sure. If you like, the act prescribes it. I am not suggesting any fine.

Mr Nicholson—Telstra needs to be reasonably certain of the liability, and obviously then it is contingent on a certain event. Our view is that the certainty of that was a matter of opinion, and that is why we chose the course of action that we did.

Senator CONROY—But are you going to sit there and tell a parliamentary committee that you anticipate that you will pay no fine?

Mr Scales—No, we are not suggesting that. With regard to the competition notice—and this has been in the press so it is not new—we are entering into bona fide discussions and negotiations with the ACCC.

Senator CONROY—That is what I mean. It had been in the media, but there has not been a notification to the stock exchange, for instance, that—

Mr Scales—No, again it is about materiality. We have been entering into dialogue with the ACCC. That dialogue has not been completed. We are still negotiating.

Senator CONROY—What sort of figure would you define as material, Mr Scales? I appreciate you are one of the biggest companies in the country.

Mr Scales—Quite frankly, I am not sure of the answer to that. We make judgments about that, and it depends on the circumstances and depends on what the issue is.

Senator CONROY—But the question of materiality does not depend on the circumstances. The question of materiality is a dollar figure.

Mr Scales—Certainly, if this was in the area of \$100 million, we would regard that as material—clearly material. If it was in the area that you are talking about of \$300 million, there is no question that is material.

Senator CONROY—No, in the area that is the potential liability according to the act, not that I am talking about. I am not trying to sit here and say that you are up for \$300 million. I am saying that is the actual calculation based on the act.

Mr Scales—I understand that, but I thought you were asking us about a figure of \$300 million. I was simply responding to that figure that you asked about, not whether it was material.

Mr Nicholson—At our half year, materiality would be broadly defined as around \$150 million.

Senator CONROY—Right. That is where I was coming from. It does not really matter about the circumstances; it is really a dollar issue. That is why I was just seeking the debt.

Senator Coonan—It is also contested liability.

Senator CONROY—No, I was not suggesting that. As I said, I do not think for a moment Telstra will come anywhere near any of these figures when you finally settle. I will not pressure you on that. As you say, that is a matter for your ongoing good faith negotiations. I now want to ask about the network upgrade.

Mr Scales—Yes.

Senator CONROY—Can Telstra confirm media reports of a major network upgrade known as broadband multiservices?

Mr Scales—I am not familiar with that, but I will ask Greg Adcock. Sorry, but I will ask Denis Mullane to answer.

Senator CONROY—BMS for short is how I think some people have been referring to it.

Mr Mullane—That is how we refer to that particular initiative internally—broadband multiservices network. It is a potential project at this stage to look at how we might increase the capacity of the Telstra broadband network to carry higher bandwidths and new applications and to put in place the appropriate operations and support processes to go with that. With regard to where that internal project is at at this stage, we have asked the industry to give us some submissions on what sorts of opportunities they see they could assist us with. The next stage will be to go to a business case assessment of the opportunity, and we are hopeful that we might have that concluded by about midyear.

Senator CONROY—How much money is being invested potentially?

Mr Mullane—The business case is not complete or even well formed at this stage.

Senator CONROY—What sorts of technologies are you rolling out or potentially rolling out?

Mr Mullane—This would be a combination of some additional capabilities in the access portion of the network, so it could be higher speed DSL type accessibility. We could increase the bandwidth capabilities of our HFC network—hybrid fibre coax network. There would be potential for some fibre developments in the access network. But it is not just about access. The core of the network would need to be substantially beefed up to carry very much greater volumes of traffic and the quality of service aspects would need to receive very close attention

as well. So there would be operational support systems, developments et cetera. So it is a totality of network upgrade that we would be looking at.

Senator CONROY—Is Telstra building any fibre?

Mr Mullane—We roll out extensive amounts of fibre every year.

Senator CONROY—Whereabouts?

Mr Mullane—In many locations. Our interexchange network is very largely a fibre network now with—

Senator CONROY—What was that?

Mr Mullane—The interexchange network between the telephone exchanges—that is, our long haul networks, our metropolitan urban type networks. We also have some radio network, of course. But in terms of fibre, the interexchange network is almost solely fibre except where it is radio. In the access network, today around about 10 per cent of our lines are served by a fibre plus other equipment fed by the fibre out closer to the customer. A lot of our corporate customers have direct fibre feeds into their corporate locations.

Senator CONROY—Do they request that or do you suggest that? How does that work, particularly with business? I will come to retail later, but first let us deal with your business customers.

Mr Mullane—We would normally provide those sorts of corporate services as a part of a solution requirement to satisfy that customer's particular business needs. The products that tend to be provided require high bandwidth capabilities usually.

Senator CONROY—Okay. So what percentage of your business connections would be fibre? Appreciating that probably the economic size of them is a determining factor, the percentage might sound quite low but you are actually covering a majority of economic activity.

Mr Mullane—It would be something of an educated guess at this stage. The majority of business connections in central business districts certainly would be fibre based and also in metropolitan business districts. Depending on the size of the customer installation that we are servicing, we have fibre connections at various places.

Senator CONROY—What about retail? I think you had a couple of fibre test projects in a couple of new suburbs. I think one is in Melbourne and one is in Queensland. Where are we at with those? How are they going? I will move on from there.

Mr Mullane—Mr Pinel has been closely involved with those projects. I will let him talk to those.

Mr Pinel—Yes, there are a couple of pilot programs under way. They are our initial toe in the water, I suppose you could describe them as, in terms of fibre to customer premises.

Senator CONROY—Is that all the way to premises or are they shortened with a bit of copper at the end?

Mr Pinel—No, there is no copper at the end. The fibre terminates in these instances on an optical terminating unit at the premises, and from that we derive the services that the customer needs in the house. As I say, there are a very small number of these projects under way.

Senator CONROY—Are there a couple of streets in a couple of suburbs?

Mr Pinel—It is probably a little bit more than that. I cannot quote you specifically the length of fibre, but we have this running at Springfield in Queensland and also at Emerald Lakes on the Gold Coast. They are the two that I am most familiar with. We are working with the developers there. They are assisting us in trialling the technology to see—

Senator CONROY—How is it going?

Mr Pinel—So far the actual number of connections is quite small. You would understand that at Springfield, which is a new estate, there are lots of blocks chopped up. Some are sold, but the actual building of houses takes some time. But we have customer connections. To date, the services are performing well, but it is early days. There are a host of issues around moving to a new technology like that.

Senator CONROY—Sure. What is the extra cost of rolling out fibre rather than copper?

Mr Pinel—Part of the pilot is to establish the cost base. If you are talking about the cost to roll out, the cost to operate and various other elements, then part of the pilot is to establish the financial parameters. I would be misleading you if I quoted you figures tonight.

Senator CONROY—I was hoping you could help me, because I am trying to get an understanding of this because I am relatively new to the portfolio and some of the issues in the portfolio. I am assuming that the trench you have to dig for a copper cable is not significantly different to that for a fibre cable?

Mr Pinel—That is fundamentally correct, yes.

Senator CONROY—In terms of the costs of copper versus fibre, the trench component is basically the same; is that right?

Mr Pinel—Incremental costs occur at both ends. I referred before to the optical terminating unit in the customer's premises. That is a piece of electronics that costs many hundreds of dollars. Similarly, we need additional electronics in the exchange where the optic fibre interfaces with the switching network. On top of that there are operational systems to support that. It is fairly complex to work out exactly the economics of it.

Senator CONROY—So the trench is the same. I am told that the fibre cable is coming down in price so that its reasonably comparable—not as cheap as yet—to copper. So the labour cost is the same, the pipe cost is the same and the trench cost is the same. You make a point about the computer equipment—is that what it is called?

Mr Pinel—It is called an optical terminating unit.

Senator CONROY—That is clearly a substantive difference in cost.

Mr Pinel—Incremental cost, yes.

Senator CONROY—Though you did say it is by a couple of hundred dollars; it was not as though it was \$10,000 or \$5,000 or \$1,000.

Mr Pinel—It would be between \$500 and \$1,000. It depends on volumes, of course.

Senator CONROY—Ultimately, if you were into higher volumes, the price of those would come down.

Mr Pinel—We would expect to see pricing falling over time with both better production and bigger volumes if we were to go down that path.

Senator CONROY—You said the real differentials in cost are at each end. We have talked about the cost at the retail end. I presume you are upgrading your exchanges all the time and that you would be upgrading them into the more fibre related age as a matter of course?

Mr Pinel—Exchanges are in a constant state of upgrade.

Senator CONROY—Your CBD and metropolitan ones, from what you have described before, are all fibre now.

Mr Pinel—They are, but the electronics on the end in the exchange may be different. We are talking about CBD exchanges that service a large corporate and there is an extremely high bandwidth in that case. In a suburban area the bandwidth is not as high. Once you choose a manufacturer you are really looking at having the same manufacturer at each end to match it up. It is not quite as simple as saying that we are doing that anyhow because it is different, if I can make that obvious commentary.

Senator CONROY—How are we going with wireless broadband?

Mr Scales—Before we go off that there is one other—

Senator CONROY—I am coming back to small fibre questions, if it is okay.

Mr Scales—There is a power supply issue as well. It is a bit different.

Mr Pinel—The OTUs, the optical terminating units, at the customer end require power to power the electronics. Obviously for continuity of service they also require a battery backup. So that is also an incremental cost.

Senator CONROY—Have they got large Energiser batteries there, have they?

Mr Pinel—Something like that. They are probably a little bit different. It is the sort of battery you would find in a home security system—that is, a low-maintenance, long-life battery. It will require replacement over time as they do not have an indefinite life.

Senator CONROY—I will hopefully be seeing one of these soon. We are trying to organise a date of mutual convenience.

Mr Pinel—I will happily take you there.

Senator CONROY—That is under way, I assure you.

Mr Pinel—I will be delighted.

Senator CONROY—I will not make the mistake of calling the station or an exchange in the future. You do not have to worry.

Senator Coonan—You are not going to the country are you, Senator?

Senator CONROY—No, I am following in your footsteps. With the larger exchanges or where you have a lot of fibre coming in, does each one require an individual cable? Are 10 cables being plugged into one? Are there economies because you have lots of pipes coming in? That is what I am trying to ascertain.

Mr Pinel—I am not quite sure I understand the question. In a CBD environment, if that is what you are comparing it to, we may lay cables with multiple fibres in it in one sheath for a range of reasons such as to provide redundancy and obviously higher bandwidth and multiple services. Whilst we still lay multiple fibres in a sheath in a residential area, it would not be the same number of fibres in a sheath; it is a relatively small fibre count. It is a different application; it has different economics. It has different elements to it than what we do for a large corporate in the CBD of Brisbane.

Mr Mullane—If I can make an important additional point—with the new residential network architecture we actually share the fibre that comes from the head end point, if I can call it that, and it splits up to 32 different residential locations. So it is what we call a passive optical network—one fibre drives multiples.

Senator CONROY—It is not like pair gains? We will not have to go to pair gains, will we?

Mr Mullane—We could have various analogies, but I do not think we will use that one.

Mr Pinel—I do not think it is profitable to go down that path. No, I think it would be stretching the definitions considerably to describe it in that way.

Senator CONROY—I am very pleased to hear that. You have no idea how pleased I am to hear that. Even more pleased is Senator Lundy, let me tell you.

Mr Mullane—The other important point about the passive optical network for residential type applications is that it does not necessarily come back to the nearest exchange. The distance of transmission can be considerably longer than the copper network design that was out there. We could drive it 20 kilometres or so if you like. We will probably be changing some of the architecture in the fundamental network out there as we evolve into this new network.

Senator CONROY—I was just asking about wireless broadband before.

Mr Pinel—Once again it depends on your definitions. Within the context that you are talking about, a product called EVDO, evolution data optimised, is part of the CDMA network. It provides a broadband service over the CDMA network in places where it has been rolled out. That is quite a restricted roll out at this stage.

Senator CONROY—What speed is that?

Mr Pinel—The speed is somewhat variable depending on a range of parameters. Experience shows that it can go up to one meg or more. The expectation should probably be around 600 kilobits per second downlink and about 80 kilobits per second uplink. That is how I would describe the expectation.

Senator CONROY—And that falls into the category of broadband? I would like a technical definition as opposed to the more colloquial one. Broadband seems to cover everything at the moment. I understand that there is a technical definition.

Mr Pinel—In a general sense a download speed of greater than 200 kilobits a second is considered to be broadband.

Senator LUNDY—Says who?

Mr Pinel—That is the advice that I have. If you have a different definition, I will put it in that context.

Senator CONROY—Which technical body determines the definition of that?

Mr Pinel—The technical body that sets standards for the communications industries around the world is the ITU. I am not aware of the normal ITU definition, but I can find it for you if you like.

Senator CONROY—Yes, out of interest. I am learning as I go.

Mr Pinel—Perhaps I should read it myself.

Senator CONROY—I noticed just recently some reports—and I am going to check one of these out soon—about broadband and telephony over high voltage electricity lines. Are you aware of that? Are you following that development?

Mr Pinel—We see some discussion about it from time to time in—

Senator CONROY—There is some successful trialling in Newcastle and, I think, in Queanbeyan just outside Canberra.

Mr Pinel—I am not aware of any successful—I suppose success is in how you define it, Senator, but it has certainly been talked about in the parent industry for a long time.

Mr Mullane—There are technical deployments of it in limited areas in Europe in particular. I am not particularly aware of any here in Australia, to be honest, but the equipment exists and you can deploy it. Once again, it always gets back to economics. The issues tend to be around how close you have to get to the customer's premises to put the head end equipment. You have high voltage transformers and things to work through. There is a longstanding issue with potential interference to certain radio systems.

Senator CONROY—Ham radio operators, I understand, get a little bit of interference et cetera.

Mr Mullane—Telstra research labs have been looking at this on and off over many years. We think the economics are still not—

Senator CONROY—Not there yet?

Mr Mullane—Not there yet.

Senator CONROY—But the technology is there, or close to being there, you reckon?

Mr Mullane—There are lots of technologies, but it is a question of us having to make decisions about technology changes with great care because we have to invest lots of money

when we do make those decisions. We would not be persuaded, at this point of time, that powerline broadband is really close to carrier grade mass market capability.

Senator CONROY—Sure. I am learning as I go, but it seems an attractive proposition, particularly for some isolated properties where it might be cheaper. Ultimately, I appreciate overall that it may not be for the mass market, but it would be cheaper to use that if it was viable than to dig a trench to connect somebody.

Mr Mullane—There are many choices. There are lots of technologies that we are talking about here. We have mentioned three already: there is copper, fibre and wireless, and here is a fourth one. HFC is a fibre optic driving coaxial cable which both Telstra and Optus have deployed. There are satellites as well, so there is no shortage of technology. The real trick is to get the business model that works for both the provider and the customers.

Senator ALLISON—Is there a useful or up-to-date estimate of the cost of making broadband universally available?

Mr Mullane—It depends what you mean by ‘universally available’—speed and capability et cetera. Today Telstra has three main platforms, and an emerging fourth main platform, for broadband, which is ADSL, hybrid fibre coax cable and cable modem, satellite and EVDO, and the wireless base, as Mr Pinel was outlining. Through those technologies you can get to broadband in any location in this country. Because the cost bases of the platforms are somewhat different, the end prices vary a little, but technically you can do it today.

Senator ALLISON—If we put aside ADSL, which is not very satisfactory, as a lot of people in country areas would have argued—

Mr Mullane—I am not sure that is a good statement. We have a very great number of customers—

Senator ALLISON—You get no complaints from anybody about broadband services?

Mr Mullane—Let me say this. In the half-year results just published by Telstra, we announced Telstra broadband services of 1.228 million, if I recall the number, of roughly 50-50 wholesale and retail. That is a—

Senator ALLISON—What was that figure?

Mr Mullane—Some 1.2 million.

Senator ALLISON—What does it relate to?

Mr Mullane—Telstra network broadband services.

Mr Pinel—Retail plus wholesale.

Senator ALLISON—I am sorry, I do not understand.

Mr Mullane—Broadband services provided to customers over Telstra broadband networks.

Mr Pinel—Our retail provider is—

Senator ALLISON—I do not know whether that is impressive or not, I am sorry.

Mr Mullane—Some 1.2 million. It is not like the customers are saying, ‘We don’t want it.’ They are buying it in large quantities.

Senator ALLISON—There are 20 million Australians. Given that the average size of a household is just less than two, there are an awful lot of people who do not get it.

Mr Mullane—There are about 10 million telephone lines, Senator.

Senator ALLISON—I am just trying to get a grasp on the scale of the infrastructure need in this area. If we were to be competitive with countries that have very high standards of broadband, in your view what would be the investment that would be needed? Do you ever go to the government and say, ‘We think this is a public responsibility. It ought to be funded by government’?

Mr Mullane—I would say that with the current major deployment of broadband that we have today, Telstra is working closely with the government’s HiBIS scheme to extend the reach of the service to many places that would otherwise have been waiting a lot longer to get it. I think that has already been demonstrated to be an operable scheme.

Senator ALLISON—HiBIS reaches a fraction of the need, I would have thought.

Mr Mullane—It is expanding all the time. We are rolling out a lot more broadband coverage every week in this country, facilitated to some extent by HiBIS.

Senator ALLISON—In your view, there is no problem with broadband. This country is chugging along okay, and as long as Telstra keeps putting in a bit of money there is no need for us to be concerned about the level of infrastructure being rolled out.

Mr Mullane—We generally provide services to meet customer demand. That is the sort of operating model that we pursue. In some cases there are technical limitations that sometimes cause higher costs or longer lead times to provide such, but we are doing that today.

Senator ALLISON—The reason I am asking you this is I have heard figures from \$5 billion to \$60 billion to equip Australia with a telecommunications system in broadband that would allow us to compete with other countries in this arena.

Mr Pinel—I think that we are back to what we were discussing before, the definition of broadband. We have had an interchange about whether broadband is 200 kilobits and higher or whether there is some other definition. In order to look at the economic sums, we need to define, firstly, what are we looking at in terms of deliverable bandwidths to customers. That expectation of customers, as Mr Mullane said, changes over time.

Senator ALLISON—Do you have an estimate of the number of customers who would subscribe to broadband— however you define it—if it was more affordable? There are plenty of parts of Australia where the connection is still extremely expensive, is it not?

Mr Pinel—Once again, I guess expense is in the eye of the consumer and it is about the value they see from it. Under the HiBIS scheme—

Senator ALLISON—But have you done any surveys? Do you have any data that demonstrates what you are saying?

Mr Pintel—We have data on current connection rates and the availability of the various types of broadband service. We know where it can be provided and we know at what price. I am not quite sure that that meets your needs, though, in terms of an answer.

Mr Scales—Senator, maybe I can help. It does not, from our perspective, look as though price is actually the issue. The reason I say this—

Senator ALLISON—What is the issue, Mr Scales?

Mr Scales—I am sorry, I am just going to continue. The reason I say that is that there are a number of suppliers of what we might describe very broadly as broadband at, for example, \$19.95 a month. There are others that provide it, as we do, for \$29.95 a month. There is a lot of competition in the market and there is quite attractive pricing in the market. Currently the broadband demand is really literally going through the roof. For example, Telstra is provisioning—and Denis might be able to be more precise with this—and the provisioning is literally enormous on a weekly basis. There is demand there. That demand seems to be generated by relatively high levels of competition in the market, which is also generating quite competitive pricing. So on the face of it, at least in urban areas, it looks as though not only Telstra but also other suppliers are meeting the demand.

Senator ALLISON—I realise that it is urban areas that are well served, and that is where your growth is. But I guess I should point out I am asking for the rest of Australia, where it is not so cheap to deliver and it is not so easy to access

Mr Mullane—I would just say that, in terms of the fundamental broadband services Telstra is supplying the market today, we have uniform pricing across the country. So price is not the issue.

Senator ALLISON—What happens if you are half a kilometre away from the nearest ADSL line?

Mr Mullane—If you cannot get ADSL you cannot get ADSL. There are other options that we suggest customers look at, and we help them to go and find the right opportunity. The situation with ADSL is that it is the biggest mechanism by which Telstra is servicing this market. Demand levels are extremely high. We are connecting many thousands every week.

Senator ALLISON—Do you have a long-range plan for upgrading ADSL to something that is faster—faster than 200—

Mr Mullane—That brings us back to where we started with Senator Conroy. I am not sure whether you were in the room at the time, but we were talking about the broadband, multimedia services type network upgrade that we are looking at at the moment. No decision has been made up to this point.

Mr Pintel—Perhaps I could correct one thing. ADSL delivers far more than 200 kilobits per second. It delivers up to 1½ megabits per second. So it is well in excess of what I define as the boundary of broadband. It is quite a high-speed service. HFC provides similar bandwidth speeds. Satellite has a range of capabilities but not at the top end that you might get from ADSL or HFC. Wireless broadband once again has a different set of capabilities. I think the point is that customers generally have different expectations and different needs. There are customers who do not want an internet connection at all and amongst the rest there are a range

of people. We get those who are happy with a dial-up connection at a reasonable speed, we get those who want broadband but at 200 kilobits per second and then we will get some who want a gigabit per second or higher. There is quite a broad spectrum of customer demand out there.

Senator ALLISON—Is there a map of the country—state by state, region by region—that shows what areas are covered by what broadband provision?

Mr Mullane—Maps are quite difficult things to produce in this space. You can have an area that is broadband enabled by having, say, ADSL capability in the exchange but then there is a small percentage of lines that are beyond the technical transmission limit of ADSL so how do you depict that on a map? You will have other equipment in the access network that may require to be upgraded before you can provide ADSL capability in that particular set of streets, and we have a program ongoing to do a lot of upgrading work, so it is changing all the time. You need to get right down to the street level to make sense of it. So to do a map of Australia would not really cut the mustard.

Mr Scales—The point that was made by Denis is that, in effect, broadband can be obtained pretty well anywhere. It depends on the technology that is used to deliver it. Getting back to your other point about the way by which the bush is being serviced, that is the purpose of HiBIS, which is this combined relationship between Telstra and other service providers and the government. Maybe I should just give you a few examples of it. There have been 259 Telstra exchanges ADSL enabled as a direct result of HiBIS. There are a further 260 exchanges approved for ADSL enablement as a direct result of HiBIS. So an additional 259 communities now have ADSL broadband, with that part of delivery as a direct result of HiBIS.

Senator ALLISON—How many exchanges do not have it?

Mr Scales—You mean in terms of broadband capability?

Senator LUNDY—About 4,000.

Mr Scales—The question about exchanges of course is that it depends on whether the exchange is one that supplies a large community or not. Again, Denis might want to give us some specific details about the coverage of the existing exchanges, but the fact is that broadband is obtainable through a number of technologies, of which ADSL is simply one.

Senator ALLISON—What is Telstra's budget over the coming 10 years for infrastructure in this broadband area?

Mr Scales—We do not project our capital expenditure program out 10 years.

Senator ALLISON—What is your budgetary period?

Mr Scales—We have given a guidance over the next 12 months of what our likely capital expenditure is and our guidance is between \$3 billion and \$3.3 billion. Some of that relates to establishing ADSL inside regional exchanges.

Senator ALLISON—Can you tell us how much that would be, out of that \$3 billion?

Mr Scales—Maybe Denis might want to cover that.

Mr Mullane—There are various components required to broadband-enable an area. You require the access network, which are the customer and the exchange. You require additional capacity in the interexchange network to take the signal back to ISPs et cetera. Typically in this current year we would be spending between \$900 million and \$1 billion in the access network, which would encompass all of our access technologies. So it would be ADSL, PSDN, ISDN, HFC—

Senator ALLISON—So that \$900 million or \$1 billion is all broadband related?

Mr Mullane—No. It is access network related. You need a lot of that access network capability to carry broadband. If you are going to do ADSL you will need copper cable network infrastructure. If you are going to do HFC—if we extend into a new block of home units somewhere—you will need to extend that network in there with coaxial type equipment. That is the fibre to the premises activity that Mr Pinel described. Once we decide to extend that beyond trials then that will be another expenditure in this budget area.

Senator ALLISON—So after \$1 billion has been spent over the next 12 months, what percentage of the yet-to- be enabled broadband enabled network will have been dealt with and how much will remain to be done?

Mr Mullane—In line with ADSL, we will extend the ADSL network further in line with customer demand.

Senator ALLISON—That was not my question.

Mr Mullane—But that is how we will do it.

Senator ALLISON—So you will wait and see what the demand is?

Mr Mullane—We do not have a target to say, ‘We must do another four per cent of coverage next year.’ We will do what the customers ask for, basically.

Senator ALLISON—How many customers do you need before you broadband-enable an exchange?

Mr Mullane—It depends on the cost to enable that exchange. We have a process whereby the customers can register their interest and we calculate the costs and we say what the level of demand is. Many communities are now achieving broadband through that process. It is working very well.

Senator LUNDY—Can I just ask a question on that? One of the issues of feedback I have been getting from a lot of constituents around the country is the flexible state of the goals set within your broadband register about how many people need to want broadband before you will actually make that investment. It seems to me to be not a number that you can accurately give to potential customers. If you do give a number, it is subject to consistent changes.

Mr Mullane—I think there is a bit of confusion here, Senator Lundy. There is an initial level of demand, which we have specified in the demand register and so on. If we get registrations at that level, we will then go away and calculate the cost to enable that particular exchange.

Senator LUNDY—But I do not think that is explained to people. I think they have an expectation that once they reach that demand level it will actually be done.

Mr Mullane—Well, that is what the process is. I am trying to get people to understand that it is not a question—

Senator LUNDY—Well, don't you think it is an important question?

Mr Mullane—It is important. It is absolutely important. I am not trying to be light with it. I am just explaining how the process works and then we will come back and talk about the communication. If it is a HiBIS area, the level of demand to analyse the cost and set a threshold required for enablement is 30 registrations. If a community gets 30, we will go away and calculate the—

Senator LUNDY—That is a new number again from last year.

Mr Mullane—It is a well-understood number that we have been communicating to the marketplace through the HiBIS arrangements. TCW people are quite clear about that and very active with it.

Senator ALLISON—At what point, if I might ask, do you stop upgrading copper wire systems and move to fibre? Surely, that approach is technologically Dark Ages, is it not?

Mr Mullane—You mean an upgrade?

Mr Pinel—It is still a mainstream provision in technology around the world, using copper wires.

Senator ALLISON—How long do you think this will be the case?

Mr Mullane—There are various types of DSL capabilities. The issue with DSL or one of the opportunities with DSL is that the closer you are to the point of the ADSL model, the higher the bandwidth speed you can receive. So Telstra would see that one opportunity here to bring new services and higher capabilities to some portions of the Australian community out there is through higher DSL speeds. Equally, we see fibre as being another mechanism to do that where it makes economic sense to provide the fibre.

Senator ALLISON—Can you describe a situation where you would not quite make it for fibre cable but copper would be a fall back, if you like? How many customers? What area? Over what distances? Is there a formula?

Mr Mullane—It is a very complex topic, but let me try to give you a sense of it. If you run fibre out to a point, say, within the middle of an urban community, for example, and at that point you install an ADSL multiplexer, let us say, the latest generation of ADSL equipment, which they call ADSL 2 Plus, you can then deliver 12 or 13 megabits of downstream capability to customers within a kilometre or a kilometre and a half of that particular multiplexer. So the concept would be fibre to a cabinet of some sort in the middle of a development and ADSL 2 Plus multiplexer high speeds then to the customer's premises on copper. That is one model. You would do that where it was most economic to do that. Another model is upgrade the HFC network that we have got to deliver higher bandwidths than it does today. As we move all the analogue frequencies off that network, then we will have some capabilities to examine that. The third opportunity is fibre to the premises, as we have talked about before. So it is a mixture. There will not be one absolute 'This is the blanket mechanism we use' would be my informed opinion.

Senator ALLISON—Overall, is it the case that Telstra has reduced its infrastructure investment in broadband?

Mr Mullane—No, not at all.

Senator LUNDY—They just get more taxpayer subsidy for it now than they used to.

Mr Scales—Can I just make a comment about copper? Copper could be with us for at least 20 years and it certainly is not right to suggest that it is Dark Ages technology—far from it. In many applications it is exactly what you require.

Senator ALLISON—So are you suggesting that in 20 years time all the copper will be replaced with something else?

Mr Scales—No, no, it still could be—

Senator CONROY—Not at all—not unless we are prepared to put a lot of money—

Senator ALLISON—So what is the 20-year time frame? I do not understand.

Mr Scales—I am simply saying that we could be laying copper for another 20 years and that would give an extended—

Senator CONROY—That would be an outrage.

Mr Scales—A period beyond that in some circumstances. I am simply trying to make the point that there seems to be a suggestion at the moment around the room that the only technology that is likely to be able to meet customers' demands is fibre. That is not necessarily the case and part of the—

Senator ALLISON—So why not go on putting copper down forever? What is the 20-year time frame?

Mr Scales—We might do in some circumstances. The other point of that is part of the trials that we have been talking about earlier is to try to understand the extent to which people need to have fibre to meet their even immediate or future needs. For the reasons that Mr Pinel was saying before, it is not necessarily a cheap solution. In some circumstances it might be, but in many cases, for the foreseeable future, a copper network might be completely adequate for the needs of most consumers. For all organisations—whether it is us or anybody else—you do not want to overlay the community with an expensive network when it is not necessarily going to meet their needs. In some cases we will. It is not one size fits all.

Mr Pinel—I think the point we are making is that this is a very dynamic industry from a number of dimensions, including the technological dimension, and we need to keep this under constant review going forward and projections that you make today might change fairly dramatically in 12 months time because of where technology is going, and trying to prejudge out to what it would be close to looking like in 10 years is really not helpful.

Senator ALLISON—So how does Australia compare with the UK or the United States in this respect?

Mr Mullane—We are not very dissimilar from the UK. The networks are not too dissimilar. In the US in a couple of locations they have begun a more active roll-out of fibre in a couple of different models. On the east coast they tend to do some selective fibre to the

premises in parallel with their existing copper network. On the west coast they are doing more of what I was describing as fibre to a point in a neighbourhood and then going copper from there. Even that model—fibre to the point; the node, if you like—that can be expanded in 10 years time, if it needs to be, to go fibre further on. It is not the end of the road. It does not block you off from future evolution. So this is a big journey that every country is going to embark on in different ways.

CHAIR—Can I interrupt and ask about the Canadian comparison? Is there any comment that you would like to make about that, because they are very similar to us geographically.

Mr Mullane—I am not very familiar—

CHAIR—They have broadband available universally, I am told.

Mr Mullane—I am sorry, I did not catch that.

CHAIR—They do have universal broadband across Canada, which I believe—

Mr Mullane—I think the government has undertaken some initiatives in Canada at a number of levels which I am not that familiar with so I will not try to espouse them here. Canada is a large land mass similar to Australia. I think their cities are a bit more concentrated than we have here. We have got a lot of smaller townships, particularly on the eastern side of Australia, which have a lot more points of smaller presence, if I can put it that way. But there are some parallels between Canada and Australia.

Senator LUNDY—I find it quite extraordinary that your knowledge of the networks in Canada is not more extensive given that it does present one of the best examples of what can happen if, in their case, a government decides to make a sizeable investment in a fibre network.

Mr Mullane—I am bereft of the knowledge, I am sorry.

Senator LUNDY—That is all right. It says a lot.

Mr Scales—Not all countries are the same, no matter how one might—

Senator LUNDY—No, I know that. But I think there probably —

Mr Scales—And not all policy frameworks are the same. Not all business models are the same. Yes, we have extensive discussion with Bell Canada, for example. They are a partner of ours in a range of our networking comparisons. So we do understand it and it would be quite inappropriate to suggest that we do not keep a close eye on what is going on in other parts of the world, because we do.

Senator LUNDY—I am glad you clarified that, because your share price probably would have dropped if you had not.

Senator CONROY—I think I was just asking you about wireless and then I was talking about the electricity cables. Just going back to your BMS, to what extent will these network extensions and enhancements be accessible by competitors or would it be Telstra-specific technology?

Mr Mullane—I think at this very early stage that subject has not been explored to any depth where we have a view on it.

Senator CONROY—I would find that an extraordinary proposition, Mr Mullane.

Mr Mullane—Put it this way, it is not that we have not thought about it—

Senator CONROY—I am sure you have thought about it. You could not have not thought about it.

Mr Mullane—Put it this way, as we undertake the business case that I referred to—

Senator CONROY—You would be commercially irresponsible if you did not think about it.

Mr Mullane—We will have to build in a regulatory model of market outcomes into the business case. But we have not undertaken the considerations to get to that point at this stage. We were only just getting in some equipment costs. That is all.

Mr Scales—The whole issue of cable is complex, as you began to discuss today. At the very least, it requires literally tens of billions of dollars of investment. It is true that I do not think anybody has as yet fully defined the extent of the cost associated with replacing copper—if that is what is to happen over the medium to long term—and what the cost of doing so might be. But it is true to say that what we do know is that if we go to an all-fibre world that will change the dynamics of the industry quite remarkably.

Senator CONROY—Sure.

Mr Scales—I think it is also true that there are some parts of the world, particularly in the US, where some companies have made decisions to go almost full fibre over the next 20 years, and there have been some quite remarkable estimates of what the cost might be.

For Telstra to get involved in that, there are a number of hurdles which it has to jump. First of all, it does require a substantial investment—in the very least, tens of billions. For the board to make that decision it will need to understand the regulatory environment that it is going to be operating within, because it is quite different to make a choice today to spend \$20 billion than it is to establish a regulatory environment that gives people access to an already existing set of infrastructures. So those issues are ones which will have to be addressed before we can come to a view as a company about whether we decide to fully invest in fibre.

The second issue is the one that we were alluding to earlier. There are a number of technical questions which we have to address, and they are issues which you may wish to discuss with the ACA, for example. For example, what is the liability of companies like ours in the event that there is a power failure and people cannot get 000 over their fibre network? That is one trivial point but it is the sort of thing which we have to tick off one by one as we are trying to understand the implications of moving to a full-fibre world. So all of these things are in the mix and you are absolutely right: one of the key questions exercising our mind is this whole question of if, and when, to move to a full-fibre world.

The other thing that is impinging upon our considerations at this point in time is to what extent fibre—although popular and, to some extent, seen by people as the preferred approach—is likely to be replaced by a wireless world. There are people who are making quite bold predictions about what the world would look like in 10 years time and suggesting

that the world will be a full wireless world, and there are those who are currently talking about 3G and arguing the reason why 3G is so important is that it is a harbinger of the future. Therefore, you can see again the dilemma for a company like Telstra. If we decide today to spend literally tens of billions of dollars only to find in the relatively near future that the world is not a fibre world but a full wireless world, they are the things which we are trying to balance and understand. This is why, to some extent, we have a number of trials going on—some about fibre, some about wireless, some about 3G, 2½G and so on.

Senator CONROY—I think this will be part of the presentation which Telstra is going to talk to me about in the near future, but in layman's terms what are the pros and cons of wireless 3G versus fibre? Without taking up too much time, is that something you could give us a quick examination of so we can understand this dilemma that you are faced with?

Mr Scales—I will let my colleagues take the detail of that. They all have different economics, for a start. There are almost pluses and minuses with each one of the technologies. For example, if you go 3G, there are significant benefits in terms of omissions that might flow from that, but you need much more density in terms of the number of stations that one needs to develop and so on.

Senator CONROY—Can I ask a silly question? Is wireless more secure or less secure than fibre? Is there a security issue?

Mr Scales—No, security is not really the issue.

Mr Pinel—It depends on the way you implement a wireless solution. Security can be an issue, but with most of the carrier grade services it is not. The level of encryption is such that it is considered to be secure for all intents and purposes. There are degrees of security, obviously, and there are obligations on the interception act and other things that come into play when you start talking about that.

Mr Scales—Before I turn it over to my colleagues, there is one other point about this question. For example, it depends on your view what the future looks like. The future might be one in which so much of the activity of society operates in the home and a big channel into the home will give you all of that— whether it is TV, video, security; all of the things you might want. Whether that is the world that is likely to eventuate soon or whether it is a different world I cannot say. Not only is there a technological issue that we are trying to grapple with here; there is an issue about which way society is developing.

Senator Coonan—Because, for instance, people might prefer to be mobile or portable, so that gives you an idea.

Mr Pinel—Having said that, with a radio based service you can get shadows from difficult terrain. That means you will get shadows and it will be very difficult to get penetration of signal into some places. It is about the technology for the application, I suppose, and they both have pluses. The minister mentioned mobility and portability as being a plus for a wireless type solution.

Senator CONROY—Is there a difference in speed between fibre and wireless?

Mr Pinel—At this stage, yes, you would have to say that today we can deliver higher speeds on fibre than we can on wireless. Whether that will continue to be the case in a few

years time, I do not know. You will get a range of opinions on that, not much of which is substantiated by very factual information.

Senator CONROY—Everyone has a barrel to push.

Mr Pinel—Well, certainly you get a range of opinions depending on which perspective people come from.

Senator CONROY—I want to talk about whether there is any HiBIS money being used to support this network upgrade that we were talking about earlier.

Mr Mullane—Not at this stage. We are at a very early stage in this BMS thing. We have not got to looking at the revenue side of anything yet. We are just getting the costs in for equipment at this point.

Mr Pinel—HiBIS money is being used to extend the availability of ADSL and satellite services. So, in terms of the current network, there is money from the HiBIS program doing that but not in terms of future networks.

Senator CONROY—That was the BMS we were talking about?

Mr Pinel—Yes.

Senator CONROY—So it is quarantined and there is no HiBIS money in the BMS?

Mr Mullane—A lot of the issues around the BMS concept which we are thinking about is how you would technically extend it over a very wide area, because the equipment is looking for direct fibre type capabilities which gives you very high bandwidth but only goes 40 to 50 kilometres. So to go hundreds of kilometres you have bigger issues.

Senator CONROY—I am sure, Mr Scales, you jumped ahead of my questions and you cascaded your answers already into some of my questions, so I wanted to come back to some of the issues you just raised. I suspect that is because Dr Switkowski appears to have done an interview with the *Australian* today which I am sure you have read. I am sure you knew about the interview before it was published, but he made a number of comments about the roll-out of fibre optic cable to replace Telstra's existing copper wire network. I think you have made a number of those points today. From the tone of Dr Switkowski's comments—and to a degree your own—it sounds like Telstra is using the pace of its fibre roll-out as a lever in terms of the future regulatory environment from the ACCC or the government. Specifically, Dr Switkowski states that a key assumption for fibre roll-out by Telstra is around the regulatory rules and they are not in place. Is Telstra's roll-out of a cable fibre network contingent on the Australian telecommunications regulatory regime being amended according to Telstra's wishes?

Mr Scales—This is not a trivial point, as I am sure you are aware.

Senator CONROY—No, I understand. It is a very substantial point.

Mr Scales—For the reasons I mentioned earlier, if any corporation is going to roll out literally tens of billions of dollars or spend tens of billions of dollars on an infrastructure roll-out, it has to understand what are the likely returns it can get from that roll-out. If the regulatory environment says that the moment infrastructure is put down then any wholesale customer is able to have access to that at what is effectively marginal cost, that affects the

economics quite considerably. It does not necessarily mean Telstra would not do it, but we need to know about that. We need to know what that environment is, because without having that deep understanding it is not possible for us to even build a business case to put to the board as to what might be the appropriate returns and over what time frame those returns might be realised.

There is no doubt that this is a very difficult question. We also understand that this is a tricky question from a regulator's point of view because on the one hand you do want to encourage investment and on the other hand you do want to, in an environment like Australia, provide access. So you do not want to undermine those general principles, but you have to find a way by which you at least give companies such as Telstra the ability to make a fair and reasonable profit. So all of those things are yet to be addressed.

There are some existing elements of the current regulatory environment which may need to be rethought. For example, as you would well know from some of the debates around Foxtel, Telstra was able to achieve what is sometimes described in the literature as a safe harbour for its investment. But in the context of fibre those safe harbour arrangements may not be appropriate because what they tend to protect are services. Some of the current services which will move over the fibre cable are already regulated and are already subject to a form of regulatory undertakings. So there are a range of quite important and, to some extent, complex issues here which are certainly not trivial. We would just have to understand the environment in which we were operating before we could even think about putting a business case to the board.

Senator CONROY—Dr Switkowski also states that where they (incumbent telcos) go out and build fibre networks, particularly in greenfield environments, they are either not compelled to offer access to competitors or have formulae for rates of return that actually will make their business cases. Does Telstra really expect that a fibre network constructed by Telstra should be exempt from the access obligations imposed by part XIC of the Trade Practices Act?

Mr Scales—I think that is the point we are raising. Is it appropriate to consider that? The difference we were trying to make in the reference you have just mentioned is that other companies are able to put down relatively small pieces of copper and they are not required to be the ubiquitous supplier of infrastructure that Telstra is. If Telstra in the future is required to be that ubiquitous provider and, as part of its licence condition, is required to provide access to its infrastructure, that is different from encouraging competition against Telstra's existing network by other providers who do not have those same obligations. So we were trying to separate out those two obligations.

Senator CONROY—In the same interview Dr Switkowski also states that Telstra is probably the only company with the resources to embark on such a project. This sounds like natural monopoly infrastructure to me, so why should it not be subject to access obligations in the same way as other natural monopoly infrastructure?

Mr Scales—Because it will not be built otherwise. That is the point I was trying to make earlier. This is not a debating point. Nor is it a point of leverage, as I think you were trying to suggest. It is not. It is trying to put on the public record in a public policy context an

environment which we are all now facing that says, ‘There is an opportunity to think about a new infrastructure.’ No corporation, whether it is us or anybody else, can do that unless they understand the likely returns.

At the moment it is not possible for us—any of the senior management of Telstra—to make any clear decision or give any clear guidance to the board about what will be the likely return from that literally tens of billions of dollars worth of investment. We are not arguing this from a leverage perspective. We are putting on the public record an important issue for this country—a non-trivial question for this country—that may require some reconsideration of the regulatory framework in which we are all operating, including Telstra. We are not moving away from any suggestion that it means we would not be required to provide access, but the question is at what price and under what conditions.

Senator CONROY—What are the pricing principles that you would require to be applied by the ACCC to an access regime for a fibre network for Telstra to oblige in constructing over fibre?

Mr Scales—That is why we are trying to raise this relatively early in this debate. I would not want for one minute to suggest to you that we have all of the answers, because we do not. A debate like this will require, to some extent I think, bipartisan political acceptance of what might be the outcome. It will require significant discussion with likely users of such a network. It will require the regulators to quite appropriately work out how they can ensure that there is, as we have seen with the current arrangements, a flow-through of some of the productivity gains. These are prickly issues, but I think we already know some of the principles that will encourage both the build and the ability to drive productivity growth. First of all, if an organisation is to spend those sorts of dollars then I think it does need to at least get what would be a normal rate of return, at minimum, and the—

Senator CONROY—What is the definition of a normal rate of return?

Mr Scales—There are in fact almost economic definitions of normal rates of return.

Senator CONROY—Sure, but you are not an investment bank. You do not need 20 plus.

Mr Scales—One can debate what that might be. I do not want to try to put some parameters around what that might be. That should be subject to an appropriate debate. Again, if we take it one step further, what we know is that, even under state regulatory arrangements, where state regulators try and understand what is the appropriate access price they wrestle with that very question. I am not going to trivialise it by suggesting to you here tonight that I would want to put on the table what that figure might be—that would be quite inappropriate—but I think that is one bookend of the issue.

The other part of it is that I think in an environment like this you also have to find a way whereby you give the organisation that in fact invests in the infrastructure the ability to make above that if they are clever enough to do so. I am not suggesting they do it because of their monopoly state. I am not suggesting that at all. But if they are doing it because they are capable and very clever at what they do, then we have to find a way by which we allow them to make above normal profits. I think they are the sorts of issues that should be part of the framing of the debate.

Senator CONROY—Are you thinking about partnering?

Mr Scales—Yes, that is a possibility. Yes, it is.

Senator LUNDY—I just want to go back to HiBIS. Earlier you mentioned that 259 exchanges have been enabled, funded through HiBIS. Are you able to put a dollar figure on how much funding you have received from the federal government to enable those exchanges?

Mr Pintel—It is a bit of a moving feast, because we are progressively lodging our returns to the government and progressively getting paid. My understanding, Senator—I will have to confirm this later—is that the figure currently received by Telstra is about \$5.9 million. I qualify that by saying that that is from recollection. As I say, there are timing issues associated with this as we go forward. As more exchanges come in we lodge our records with the government and we get paid progressively. It probably needs more definition than that to be perfectly clear but that, as I understand it, is the amount we have physically received at this stage.

Senator LUNDY—Can you give an average dollar figure on what it costs the government to upgrade an exchange to be ADSL enabled?

Mr Mullane—It does not cost the government anything because Telstra pays for the upgrading of the infrastructure. As the retail services are connected the HiBIS claims are then lodged with the government and the payments are made retrospectively. So the way that Telstra handles that is that we make an assumption in setting the threshold levels on the demand register as to the expected level of HiBIS subsidy payments that would flow as a result of that enablement, and that allows us to lower those threshold levels. But Telstra pays all the capital itself.

Senator LUNDY—What is the figure that you get back for each customer you connect to ADSL?

Mr Mullane—There is a standard HiBIS amount. It depends if it is for a satellite service or for an ADSL service.

Senator LUNDY—What about for an ADSL service?

Mr Mullane—I think it is in the region of \$1,400 from memory.

Senator LUNDY—You mentioned there were still 260 that were on track to be ADSL enabled. Can you provide the committee with those exchanges and the names of those exchanges?

Mr Mullane—It would be a list that would be current today but next week it would have some more added to it, I can assure you. So we can give you a list as of today's date if you like.

Senator LUNDY—As long as you can give it to me next week and not next year. I think it is probably a timely moment to mention that—and I do not know if this is Telstra's fault or the government's—so many of the questions that were placed on notice in May last year literally only came through to my office in the last week relating to these issues. I do not know if you can help me there, Minister, or Mr Scales.

Senator Coonan—I think it is a fair point. When I became aware of it, we had a good hunt around and I think we are down now to just literally a couple that have not been cleared for a couple of reasons.

Senator LUNDY—It is a year ago, Minister, that these questions were asked.

Senator Coonan—Yes, I understand that.

Senator LUNDY—Do you have an explanation?

Senator Coonan—I was not the minister at the time.

Senator LUNDY—No, and I appreciate that.

Senator Coonan—I have now cleared the lot. They are all here, apart from I think three that are coming, and I think Senator Kemp has a couple.

Senator LUNDY—So was that because in the changeover of ministers they were left in a pile in the corner? What is the story?

Senator Coonan—A lot of them involved more than one agency. That is the way it goes. Anyway, I think it is a fair point. I hope we have now dealt with it appropriately, but I take your point.

Senator LUNDY—So when were the Telstra ones provided to your office?

Senator Coonan—I really do not know. As I say, we just checked them all and got them out.

Senator LUNDY—Perhaps I could ask Telstra that. Do you think you satisfied your obligations?

Mr Scales—We will find that out for you. I do not have that available at the moment.

Senator LUNDY—Was it last year or this year? This is obviously an issue. The minister has obviously been onto it, so I would expect you to know.

Mr Scales—From recollection it was last year, but I will check that out.

Senator LUNDY—I know the minister has taken the point, but I presume that perhaps a private meeting of the committee can take this issue up formally. It is not quite a year, but it was May last year that these questions were placed on notice and a significant number have only just come through.

CHAIR—The minister has given an explanation.

Senator LUNDY—I appreciate that, but I think the minister understands only too well that we have obligations as a committee to follow through with the accountability mechanism that the Senate estimates committee represents.

CHAIR—That is true; I agree with that. But, nevertheless, the minister has said that she is attending to it.

Senator LUNDY—One of the questions that did come back very belatedly was of course the status of certain regions under the HiBIS program. Because the questions were so old, I am presuming that it got resolved some time ago.

Senator Coonan—Sorry, Senator. Can you just help me with the status of—

Senator LUNDY—Whether or not certain areas, in particular the Gold Coast, constituted a region or an urban area and therefore their eligibility to apply for HiBIS funding.

Senator Coonan—It must have been resolved because no-one has been complaining to me about it, and I am sure I would have heard. If you like, I will just go into that answer and make sure that it is current and up to date.

Senator LUNDY—Thank you. I have a number of specific complaints relating to ADSL services that I think characterise some of the problems that customers or potential customers are still experiencing. There are about three or four that I would just like to run through, and I am trying to rely on as much detail from the individuals as possible. I have picked a couple out of an ongoing large number that really sum up some of the problems, so I am hoping that you can help me resolve them. The first one relates to a resident who accesses the Ourimbah exchange in New South Wales on the Central Coast. They engaged in a toing and froing exercise talking to Telstra, because when they originally applied for ADSL they were told that they were on a pair gain with the fastest speed they could receive at 26.4 kilobits per second. I will quote:

I have spoken to Telstra who have been less than helpful; in fact they implied it was my fault for buying a house in a neighbourhood with this wiring. They told me that it was none of their (Telstra's) fault, but entirely that of the developer of the estate and that I should talk to the developer(s), whoever he or they may be, if I have a problem with it.

This gentleman did assert and found that, according to the telstra wholesale.com MiniMux upgrade list, their street was due to have a MiniMux installed to service it. By that I am presuming they are on a RIM. But Telstra did not say whether or not the MiniMux would assist this gentleman's problem and that he still does not know what is happening with this service and clearly has been unable to find out whether a MiniMux has been installed and, if it has, whether or not that makes him eligible to get an ADSL service via the RIM in the suburb of Lisarow.

Mr Mullane—We could very easily check that out fairly quickly, but it would be terribly helpful if we had the phone number.

Senator LUNDY—I have his name and email address. He has given me permission to contact him. He has also provided his phone number to Telstra and details on many occasions. So I can provide his name— Mr Farrell—and his phone number to you if you could follow up that complaint. But I make the point— and I know we have had this discussion before about estates—about developers who engage with Telstra to wire up the estate. Can I ask Telstra again: does Telstra still install RIMs on new estates if requested by the developer?

Mr Mullane—The answer is, no, we do not. As I have said previously in this forum, we use a device called a CMUX-AU typically in new estates these days where they are of some size. Those devices are ADSL capable. We have installed approximately 450-odd since we have been installing those devices and virtually no more RIMs. I think there are a couple of special situations where occasionally we have a long line or whatever situation that requires a RIM.

Senator LUNDY—Sorry? Occasionally some places—

Mr Mullane—A RIM has a long line card whereas a CMUX-AU does not. So if we are out in a place where we have very long customer lines, on one or two occasions they have had to install a RIM to actually get the telephony service to customers in those environments. But it is an absolutely rare occasion. It is one or two occasions and that is it.

Senator LUNDY—But it explains why I am getting emails from people who are saying that you are still installing RIMs.

Mr Mullane—I do not think it does, really. No, I do not. There is a lot of misunderstanding in this whole area because of the complexities of the nature of the equipment that has been there and the rate of change of upgrades that are going on. Even the term ‘MiniMux’ is one that we do not really use anymore because we have moved past MiniMuxes to—

Senator LUNDY—Then why is it on your web site?

Mr Mullane—We still have some installed, but we are not installing them anymore. We use a newer and higher capacity device these days.

Senator LUNDY—So if this potential customer is able to research the fact that his local exchange has had MiniMux units installed in the RIMs off that exchange, surely that would mean if he made an inquiry he would be on the register and he would be advised by Telstra when that service became available. Is that not how it is supposed to work?

Mr Mullane—If there is a broadband capability installed. Basically, customers should apply for the service with their ISP of their choice and the order should be processed and it should be connected. I have heard occasionally there are some ISPs that, if the service order gets rejected because it strikes a pair gain system of some sort, then the order should be, in the wholesale market, returned to Telstra Wholesale. If they have not got the automatic access themselves, then Telstra Wholesale will go and seek a transposition on to the MiniMux or the NEC device—whatever it is—and the order will proceed. Some ISPs, I understand, when they get that rejection do not take it any further. So that causes some problems.

Senator LUNDY—Is it your policy when you install services or upgrade services to automatically notify people in that location that have registered an interest on your broadband register?

Mr Mullane—In Telstra Country Wide areas they are pretty active in doing that, yes.

Senator LUNDY—What about in urban areas—and I figured this is an estate, so an outer-urban area.

Mr Mullane—Lisarow is in the Telstra Country Wide environment.

Senator LUNDY—Is it?

Mr Mullane—Yes.

Mr Pinel—On that point, you do concern me when you say that this is a small number of a large number of issues that you have received from people. I would encourage you, if you have those, if they are retail customers, to at least forward them to Telstra Country Wide—those that are in our footprint— and to us, anyhow, so that we can deal with them. We do have

a high commitment to customer service and we would like to be able to address some of those issues that you raise. So I could only encourage you to deal either with your local Country Wide people here in Canberra who will action it for you or through some other entry into Telstra.

Senator LUNDY—With all due respect, Mr Pinel, my experience with Country Wide here and in other places is that they are very keen to do that except I am the one who hears about it if the service is not completed and it is not always followed up. We had just recently the local Country Wide manager here in Canberra on local radio conceding that they had not fulfilled the promises that they had made when they first set up here in Canberra and that they were still promising to resolve the ADSL problems in Gungahlin, in Jerrabomberra, and the Lanyon Valley. We found here in Canberra that the problem was actually not with the network—you will like this story—it was with Telstra's records. Telstra kept an inaccurate database which showed the wiring relating to an old exchange, which meant that when people made inquiries through Telstra's web site they were given information that they could not access ADSL when in fact the infrastructure was there and they could have and it caused several delays and severely disrupted a small business in the area. So it is not perfect.

Mr Pinel—I know it is not perfect.

Senator LUNDY—When you say that, it sounds nice for customers—and warm and fuzzy and all the rest of it—but I have to tell you, they are not very satisfied.

Mr Pinel—Believe me, we will use every effort that we have to improve. The biggest contribution to that would be to provide us with the information that you are able to so that we can work through the issues.

Mr Mullane—Equally, we can pass that appropriate information on to Telstra Wholesale, to the wholesale orders that might be involved.

Senator LUNDY—The chair has just advised me that he wants to break, so I will come back with my other couple of specific complaints after the break.

CHAIR—We have a scheduled break at 9 o'clock for 10 minutes, which means people can stretch their legs and powder their noses.

Proceedings suspended from 8.59 p.m. to 9.11 p.m.

Senator LUNDY—The next constituent who forwarded me a complaint comes from Wynnum North.

Mr Pinel—That could be Brisbane, Senator. There is Wynnum and Manly there.

Senator LUNDY—Is there a Manly in Brisbane as well?

Mr Pinel—There is a suburb of Manly in Brisbane. There is also one in Sydney. We would need some more details to know for sure.

Senator LUNDY—It definitely comes from Wynnum North. I have seen Manly and thought it must be Sydney. We have now sorted that out. This constituent only gets between 12 and 14 kilobits per second. That is below the government guaranteed 19.2. For some reason she has been unable to get that access or support through the Internet Access Program or after having contact with the minister's office and Telstra. This woman's name is Fay. I am

happy to convey the details to you, but, again, I would like to go through them. That is the first issue. What is the current status of the Internet Access Program which is designed to effectively pay for any upgrade necessary to get people on to a minimum of 19.2 kilobits per second dial-up internet?

Mr Pinel—There is no change. It is still functioning as it was designed to. I am surprised and concerned. Let me say that a range of issues come into play such as the Telstra network, ISPs and the equipment in the customer's home. Whatever the issues are the ISP is charged with helping the customer resolve them.

Senator LUNDY—If Telstra was to contact this constituent would you be able to provide the necessary advice for this person to get IAP funding to help her get her wiring upgraded?

Mr Pinel—We need to understand the issue. If it comes back to the sort of equipment in the customer's home then that is outside the ambit of the program, but if you give me the details—

Senator LUNDY—I suspect it is not.

Mr Pinel—I suspect it is not, too. However, I just need to qualify the answer to that extent.

Senator LUNDY—It seems that this customer is not on an ADSL enabled exchange but her near neighbours are. In deciphering her toings and froings with Telstra it seems that she is on an old pair gain because she was told that she would be able to have a transposition through TPG and ISP and then when that was undertaken she was told that it was unsuccessful. She was told that Telstra had cable in the area and therefore they were less inclined to undertake a transposition if cable internet was available in the area. Can you respond to that? I think I am interpreting her complaint accurately.

Mr Pinel—It probably needs to go to Telstra Wholesale if she is a TPG customer. Mr Mullane would be the appropriate person to take that rather than me. We will take it on and keep you informed of what we find.

Senator LUNDY—Is it Telstra policy that you are less inclined to approve ADSL transpositions if you have a cable service available in an area?

Mr Mullane—I do not think we have a formal policy, but we have scarce resources. If there is HFC at the address then we would prefer to spend the money on customers who cannot get any solution. But that is not to say that we will not do it.

Senator LUNDY—She does cite her socioeconomic situation as the reason cable is not an option for her and her family. So I would be concerned if that were used as a reason not to proceed with a transposition. She also wonders—and this is certainly something I have raised before—whether the transposition request was rejected because she is not a Telstra customer. This suspicion was fuelled because the person over the back does have ADSL.

Mr Mullane—The only comment I can make is that I have heard some ISPs do not proceed to seek transpositions. I do not want to make any further comment.

Senator LUNDY—Clearly she has already said that TPG tried to get a transposition done and for some reason was not able.

Mr Mullane—We will take it on notice and have a look at it.

Senator LUNDY—With those sorts of speeds, I suspect that she has some sort of old pair gain.

Mr Pinel—Sounds like it.

Senator LUNDY—In which case you should be able to fix it.

Mr Mullane—It depends on the situation. I am sure we will use our very best endeavours.

Senator LUNDY—I will pass that one on to you as well.

Mr Scales—The minister had pointed out to me that in her briefing documents it was suggested that Telstra has actually received \$8.8 million under HiBIS. I think Mr Mullane might have mentioned that it was \$5 million or thereabouts. We cannot reconcile either of those figures. The only reason I raise it is that we will go and look at it and if it turns out that the figure we have given you is incorrect we will correct it. It will be somewhere between \$5 million and \$8.8 million. We will get back to you on that.

Senator Coonan—This might also be an appropriate time to tell you that I have been able to check your particular query about the Gold Coast area. I think it related to question No. 69 which was supplied on 12 July last year. My understanding is that the information is still correct. The only difference may be that the government has now announced a metropolitan Black Spot Program. I cannot give precise information about whether that would apply to this area yet. Obviously that is being designed now.

Senator LUNDY—Thank you. It caused a lot of angst at the time.

Mr Scales—I am also able to give you a bit more information about when questions were answered. The majority of our questions were answered before the election. I understand that there were a small number that came as a result of there being no Senate estimates in November. I think Senator Conroy put a number of questions on notice. We delivered the answers before Christmas.

Senator LUNDY—So all of your answers were in the minister's office?

Mr Scales—That is my understanding of that. We are relying on people's memories and certainly my memory. I remember going through Senator Conroy's questions. There were not a large number of them but they were there. I certainly remember that we went through the majority of questions from last May before the election. I am pretty sure they were all done. If there is any change to that I will get back to you.

Senator LUNDY—Thank you for that, Mr Scales. Could you formally take on notice providing that information. The next issue is pretty straightforward. A consumer in the town of Wangaratta moved house, applied to get ADSL and was told by their ISP and Telstra that the transpositioning would take between four to six weeks. Is that the standard time for a transposition? He was advised that there was a 14-day turnaround.

Mr Mullane—That is certainly not my understanding. Early on with transpositions it was running at those times, but I do not believe that is the case now. Maybe Mr Adcock may have a view on that. It sounds unusually long to me.

Mr Scales—When was that complaint made? Was it recent or are we talking about six months ago or 12 months ago?

Senator LUNDY—I received this particular complaint two weeks ago.

Mr Scales—So it is recent. Thank you, that is helpful.

Mr Mullane—Can I just clarify something? This customer would have been moving house and therefore moving their PSTN service as well?

Senator LUNDY—I do not know.

Mr Mullane—If so, that is a slight complication because a PSTN service has to move first before the ADSL service can be provisioned.

Senator LUNDY—So what does that involve?

Mr Mullane—You just have to finish one before you do the other, but if there is a transposition involved because of the way—

Senator LUNDY—Isn't changing the PSTN just transferring the phone number?

Mr Mullane—That depends if it is on the same exchange. It can be that simple but it may not be. If the service or the address to which they have moved did have a pair gain situation, then the transposition would have then been required but it may have taken some time to get to that point to make that determination. Anyway, once again, we will have a look at it and see if we can fill in the blanks.

Senator LUNDY—Can I say I have had quite a few complaints from Wangaratta and the region, and I notice that on the government's demand register site not so much the Wangaratta region but the region very close to the east of Wangaratta has a very high number of registered interests. I was wondering if there was a problem in that area.

Mr Mullane—I have not heard of Wangaratta at all in recent times.

Senator LUNDY—Okay. I have just had quite a number—enough to notice and mention it. Again, I can provide you with the contact details of these constituents.

Mr Mullane—Okay.

Senator LUNDY—I have one from Turrumurra, Sydney. This person—Mr Smith—whose house is less than three kilometres via the shortest street route to the Pymble telephone exchange, which is ADSL enabled, is unable to obtain it as 'the route of the phone wires places me 12 kilometres from the exchange'. There must be many hundreds of thousands who are similarly disadvantaged, yet figures published indicate a very high percentage of city dwellers are covered. I wanted to raise this because this is the first time I had heard this excuse. Telstra has put out a lot of material about radial distance. Is it at all conceivable that there could be 12 kilometres of wiring between this customer and the exchange, therefore rendering them ineligible?

Mr Mullane—It sounds to me to be unlikely. I know that area of Sydney. Turrumurra is an adjacent suburb to Pymble. I imagine the main cables run up the Pacific Highway and then branch off towards whatever street the customer is in.

Mr Pinel—However, Senator, the definition is in terms of cable kilometres rather than straight distance.

Senator LUNDY—I appreciate that. I have had many complaints, but I have never had that specific complaint given to a customer and then relayed to me.

Mr Pinel—Certainly not to that extent. There are certainly people here within 4½ kilometres radially of an exchange but their cable distance could be 5½, for example. But 12 kilometres sounds an interesting distance.

Mr Mullane—But there are some very long streets that run down towards Bobin Head in that Turramurra area, so it is not impossible.

Senator LUNDY—He says that he is physically within three kilometres, but I take your point. Going back to the presence of cable, his attempt to obtain broadband cable was also unsuccessful as ‘the location of the cable box in my street rendered connection uneconomical’. Can you explain what is going on there?

Mr Mullane—Sorry, I did not catch the last part of what you said.

Senator LUNDY—His attempt to obtain broadband by cable was also unsuccessful as the location of the cable box in his street rendered connection uneconomical for Telstra. So I am presuming that has been the reason provided to this—

Mr Mullane—We have a policy that you can connect to the HFC network but it is at cost. So typically you would be doing it with developers extending the network into town house developments or home unit developments. In the case of an individual customer, depending on how far away that cable termination is, it could well be several thousand dollars worth of cost.

Senator LUNDY—So would that be enough of a reason for you just to say no?

Mr Mullane—No, if they wanted to pay the money we would do it.

Senator LUNDY—How close do they have to be for you to cover the infrastructure costs and not just the standard connection fee?

Mr Mullane—There is a policy about the first premise at an address. So where you get multidwelling type set-ups, where you get recycling of real estate, there is a standard service available to one address, and others in the same redevelopment would have to pay to get the service on. How far would we extend it as a standard network? We would run a lead-in, basically. I do not know off the top of my head what the limit to that lead-in would be, but there is a difference between a lead-in and extending the cable further down the street.

Senator LUNDY—Can you give an idea of how many metres there have to be between you and the box for you not to have to pay any extra money?

Mr Mullane—Normally the cable would have to have a presence in front of your property, so the lead-in runs across the property boundary and into the premise. But we can have a look at that specific case either as we look at these other ones you have raised or you can take it on notice, whatever suits you best.

Senator LUNDY—It is worth mentioning that this constituent, Mr Smith, also has a son who lives in Narwee, which is apparently near Beverley Hills. The maximum speed he ever receives is about 43 kilobits per second, which in dial-up these days still sadly looks good but he experiences drop-outs all of the time and the speed—this I think is a cracker—declines to a

level that the ISP does not even recognise that he is on the line. Now, what would be going on there? Would that be a pair gain? Because if he is getting 43 he is not on an older pair gain anyway.

Mr Mullane—No, there is something that is unstable in the set-up either in his premises or in the network. Again, we would have to have a look at it.

Senator LUNDY—If we cannot get ADSL he could be on a RIM, particularly if his speed is fluctuating. Isn't that a symptom of a RIM?

Mr Mullane—No, RIMs are solid. They do not fluctuate. It could be a bad joint in the cable. It could be a bad joint in his house wiring. It could be a problem with the modem. Is he interested in ADSL? Is that the point?

Senator LUNDY—I think he is unable to access it.

Mr Mullane—If you have a phone number, I will have a look at that one, too.

Senator LUNDY—Yes, I have contact details. I will pass them on to you.

Senator McLucas—I want to ask some questions about civil construction contracts provided to small operators in regional Australia. Mr Pinel would obviously think that I am talking about Queensland, but I am also aware that these are pretty well Australia-wide concerns that are being raised with me. I suppose I want to go back historically over what has happened. There has been enormous growth in Telstra contracting to small civil construction companies, I understand, and my understanding was that initially there was a process by which these contractors became preferred contractors and that happened in the late nineties. Is that correct?

Mr Adcock—Senator, I am Greg Adcock, head of Business and Commercial Operations in our Infrastructure Services Division.

Senator McLucas—Mr Adcock, on preferred contractors, I understand there was a process that civil construction companies had to go through to become a preferred contractor and that happened in the late nineties; is that correct?

Mr Adcock—The actual vote—I was not in that department at the time but, yes, there was a preferred contractor process.

Senator McLucas—What is the status of that? If you become a preferred contractor now, does that still have some status with Telstra?

Mr Adcock—We have a panel of contractors, yes.

Senator McLucas—Sorry, we had?

Mr Adcock—We do have a panel of contractors, yes, under civil construction contractors.

Senator McLucas—That language, 'a panel of contractors', is that the same as being a preferred contractor?

Mr Adcock—Yes.

Senator McLucas—Thank you. Can you tell me when the schedule B rates came in?

Mr Adcock—The schedule B rates were part of the ANC process, which was, I think, around 2000.

Senator McLucas—Can you just give me, a mere layperson, an understanding of what the schedule B rates were meant to be?

Mr Adcock—It was a schedule of rates for certain parcels of work.

Senator McLucas—Right.

Mr Adcock—Define a parcel of work and scheduled breaks.

Senator McLucas—Is it true that preferred contractors would be the only contractors to sign up to those schedule B rates? Is that right?

Mr Adcock—I just want to put it in context. We had our ANC contractors, who were schedule B rate contractors. They may have then brought in subcontractors to support those schedule B rates that they had quoted to Telstra.

Senator McLucas—Sorry, you are losing me.

Mr Adcock—I am trying to get to the context here. Telstra had access contractors who had provided a schedule of rates on a preferred contractor basis to Telstra by which we got certain scopes of work done. I am just trying to make the link between your earlier position on small contractors.

Senator McLucas—There are small businesses all over Australia who do all sorts of construction work.

Mr Pinel—I think the point is that the prime contractors were significant companies—large companies. They in turn engaged subcontractors, but the contractual arrangement was between Telstra and the ANC contractor.

Senator McLucas—And ANC means?

Mr Pinel—Access network contract.

Senator McLucas—So small operators would have been contracting to ANC if they were receiving schedule B rates?

Mr Adcock—If it was in relation to those access network contracts, yes.

Senator McLucas—Could there be a situation where somebody accessed the schedule B rates but was not contracting to ANC? Sorry, I know it seems vague, but I have specifics. I am trying to get the bigger understanding.

Mr Adcock—Okay. For access contractors we had large contractors and they would have had arrangements with smaller contractors, right? There may have been instances where, in regional Australia, we dealt directly with the smaller contractors.

Senator McLucas—I think that might be the case.

Mr Adcock—But that would not have been, to my understanding, under schedule B rates; that would have been under arrangements with the smaller contractors.

Senator McLucas—My constituents have said very clearly that they were on schedule B rates.

Mr Pinel—They may have aligned with schedule B rates, but I am struggling also, Senator, to put this in the context of where you are taking it. I understand why—

Senator McLucas—No garden paths here, Mr Pinel.

Mr Pinel—I would like to answer the question.

Senator McLucas—Yes, I understand that.

Mr Pinel—But it is always difficult without knowing the direction that we are going in.

Mr Scales—This is in the context that at that stage Telstra was moving through a period where it was creating what was described as contestability with some of its own internal network providers. So it is not only the historic issue but also an organisational context that we are trying to get our heads around here and trying to understand whether the questions you are asking now are relating to today or whether they are something of an historical artefact.

Senator McLucas—No, they are historical at the moment. We will get to today shortly. Maybe it is a small contractor who is dealing directly with Telstra rather than through ANC. Would there have been a contract if they were working under schedule B rates?

Mr Adcock—The contract under schedule B would have been with the prime contractors. There would have been a form of engagement with the smaller contractor, but probably not to the extent of the ANC contract, no.

Senator McLucas—Was there an agreement that schedule B levels would be reviewed over time?

Mr Adcock—Sorry, I missed the question.

Senator McLucas—Was there an agreement between contractors, whomever they may have been, and Telstra that the rates under schedule B would be reviewed periodically—

Mr Adcock—Yes.

Senator McLucas—Maybe annually, CPI adjusted.

Mr Adcock—Yes.

Senator McLucas—Were they?

Mr Adcock—Were they?

Senator McLucas—Yes.

Mr Adcock—Yes, there were annual rate reviews with the ANC contractors.

Senator McLucas—Is there any requirement for an ANC to pass on those increases to their subcontractors?

Mr Adcock—Sorry, once again, the context. Was there a requirement for the ANC contractors to—it was not a requirement of ours.

Senator McLucas—Are these ANC contractors people like Vision Stream, Kilpatrick Green, STCJB?

Mr Adcock—Yes.

Senator McLucas—Right. Now we are on the track.

Mr Adcock—I would not call Vision Stream a small contractor.

Senator McLucas—No, no.

Mr Adcock—These are the ANC contractors.

Senator McLucas—That is that level. I am talking about this level. So there was no requirement by the ANC contractors to pass on to their subcontractors increases in schedule B rates at all?

Mr Adcock—That would have to be a commercial arrangement between the ANC contractors and their subcontractors.

Senator McLucas—Does Telstra think about the impact of that sort of project management in regional areas and the potential for competition to be diminished to the point of monopoly because of the inability of very small operators to work within a contract that does not have any change in the rates, I am advised, for five years? Telstra is a corporate citizen. You have subcontracted to ANC type contractors. These contractors are Vision Stream, Kilpatrick Green and now there is one called Alstom and now called Areva, I understand.

Mr Adcock—Yes.

Senator McLucas—You do not have any agreement with them when you have a contract that says that increases in schedule B rates must be passed on to subcontractors?

Mr Adcock—No. As I said, that is a commercial arrangement between a contractor and the subcontractors, as with decreases. The rate reviews go both ways, depending on market conditions.

Senator McLucas—I think Mr Pinel understands what I am getting at.

Mr Pinel—I can see the direction that you are going, yes. There is an awareness in the company that that is a very competitive business at that end and that some subcontractors have found it difficult over time. But in terms of the specifics about passing on the rates, I am not familiar with the details of the contract.

Senator McLucas—When you let these ANC contracts, do you require the administrators of the ANC contractors to contract to Telstra preferred providers?

Mr Adcock—No, but we do have stipulated quality levels that have to be maintained and contract performance indicators.

Senator McLucas—How do you maintain those? How do you assure yourself that that has occurred?

Mr Adcock—Business as usual—monthly meetings, contractual meetings, review of those KPIs.

Senator McLucas—Are you happy that the quality of work performed, particularly in regional Australia, has been maintained over the period of time that ANC contractors have been used?

Mr Adcock—It varies from contractor to contractor. Wherever there are issues there are remedial plans and agreements put in place with the ANC contractors.

Senator McLucas—Could you provide the committee an understanding of where there has been a lack of success in ANC contracts in terms of quality assurance?

Mr Adcock—The one specific I can give is when we have a change of contractor. Invariably there is a ramp-up period and there is a period where at times the quality suffers, but remediation plans are put in place with the contractors and then managed back to appropriate levels.

Senator McLucas—Has Telstra reviewed the suitability of contracting to ANC contractors as opposed to direct contract management internally?

Mr Adcock—Sorry?

Senator McLucas—As I see it, Telstra contracts to a large contractor who has a range of subcontracts.

Mr Adcock—Yes.

Senator McLucas—Has Telstra thought about deleting that element of the ANC contractor and managing contracts directly?

Mr Adcock—Yes. Part of the review of going to the larger ANC contracts looked at all of the overheads associated with managing large amounts of small contractors and the variation in quality. The decision was taken to go with large patches of contract work.

Senator McLucas—Was there any regional difference between the success of those contracts—metropolitan versus rural or regional?

Mr Adcock—There are different contractors in regional areas and metropolitan areas. Part of the selection process around the contractors in each of those regions went to a number of elements, both qualitative and quantitative.

Senator McLucas—My question is: is there any perceivable difference in the quality of service delivery in regional areas as opposed to metropolitan areas using the contracted-out model?

Mr Adcock—The quality parameters are identical between metro and regional contractors.

Senator McLucas—I understand that recently Telstra has had to employ contract liaison officers in regional centres.

Mr Adcock—We have always had contract officers who are the single point of contact for the contractors.

Senator McLucas—For the ANC contractors or the smaller operators?

Mr Adcock—The ANC contractors.

Senator McLucas—Do they, as a matter of course, relate directly to the smaller contractors?

Mr Adcock—No. Their commercial arrangement is with the ANC contracts.

Senator McLucas—In normal practice they would not be talking to a small operator running a small civil construction company in a rural centre?

Mr Adcock—Not if the nature of the engagement was with the ANC contract.

Mr Pinel—Greg can correct me if I am wrong, but my understanding is that there are field inspecting officers who at the end of day monitor the quality of work that is delivered by all contractors in the field, so there is a constant assessment of the quality of the work. It is a sampling process, but it is done in such a way that we have some certainty about the quality of work that is being delivered not only by the prime contractor but also by the subcontractor at the end of the day.

Senator McLucas—If a subcontractor was feeling aggrieved about their treatment by your prime contractor, what would be the process by which they sought to get some redress?

Mr Pinel—Obviously, the first thing they would do is seek resolution with the prime contractor. That is the engagement model that is used. Knowing the prime contractors, I would expect that in most cases that would be forthcoming. In some cases that does not succeed and we have very occasionally had direct representation from subcontractors, either directly to Telstra or through a representative—through a member of parliament, for example, or through other stakeholders in the community. There are a very small number, and in general they are referred back to the prime contractor for resolution with our interested involvement. They are not all resolved. They are not all resolvable. This is a competitive market and the prime contractors operate in a commercial environment, as do the subcontractors.

Senator McLucas—Has there been any work done on the changed make-up of subcontractors in regional Australia subcontracting to the ANC contractors? Has there been a move towards fewer small, family based operations based in country towns—regional centres—and a move to contractors that are more Australia wide?

Mr Pinel—Not intentionally, I do not suppose.

Senator McLucas—You do not collect that data, though?

Mr Pinel—I do not see the data myself. It is really up to the prime contractor to determine how he sources that next level of contractor.

Senator McLucas—Quite a few small civil construction companies have gone to the wall in Queensland over the last few years. They were ostensibly established to contract to Telstra. They have broadened their operations and moved into other civil construction companies but, by and large, they established themselves to provide services to Telstra. The changed management of these contracts has left them high and dry mainly because schedule B rates for these people have never changed, even though they were advised when they became preferred contractors that the rates would be reviewed annually and that they would increase at least in line with CPI.

Mr Pinel—Once again, the agreement is between Telstra and the prime contractor in terms of the rates paid. The agreement between the prime contractor and the subcontractor is a commercial arrangement between those two parties.

Senator McLucas—But they and the people who work for them believe that they are working for Telstra. They do not care that it is Areva, Alstom or anyone else. It is the image of Telstra which is being tarnished by the operation of some of your prime contractors.

Mr Adcock—To try to put it in context, there was a period some time ago when we internally managed many, many contracts to varying degrees of quality and cost. It was basically a large driver of dissatisfaction because of those variances. I think it is fair to say that we have, as I have said before, done a review and over the last four to five years have engaged more of these major contractors. We are now getting consistent quality and we have entities that can be held accountable for those major performance indicators and, where they do start to go off the rails, they have stepped up to the mark. I understand, from the context you are coming from, how relationships between some of the major contractors and the smaller contracts—the smaller mum-and-dad contracts as you put them—may have been challenging, but competition in all areas does tend to drive some of those outcomes. I think from a customer service perspective we are seeing variances in our quality output becoming much tighter and our costs becoming much more linear. The other point is that we as a company now can variableise our work force, which helps us manage our peaks and troughs.

Senator McLucas—You can what?

Mr Adcock—Variableise our work force.

Senator McLucas—What is ‘variableise’?

Mr Adcock—Rather than having a large internal work force, we are managing with partners. That allows us to more effectively handle the peaks and troughs when they come.

Mr Pinel—I will ask Mr Adcock to confirm one of my understandings. If you go back to about the period that you are talking about, I think you will find that as we moved to those ANC contracts there were in fact multiple levels of subcontracting. So the ANC contractors subcontracted to a middle sized subcontractor, who subcontracted again. That created issues at the bottom of that pile about the rates that were being paid. I think our contracts now limit the amount of subcontracting. We have identified that as an issue and pulled it back so that we limit the degree to which contractors are able to subcontract so that there should be sufficient margin there for people to have a successful and viable business.

Senator McLucas—Can I give you two case studies then.

Mr Pinel—That is the more recent contract. There was a period of time going back where there were issues about layers and layers of subcontractors. That created a problem, much as you defined, for the contractors right at the bottom. That has been addressed by Telstra in the shape of its new contracts. Does that mean that all subcontractors now are going to be successful? No, it does not. It is a very competitive business.

Senator McLucas—Can I give you two case studies. For a particular project, one contractor said he looked at the job, quoted the job, received the pack, started the job. Order taken off him. Job given to other contractor at the same price. That does not sound like good contract management.

Mr Pinel—No, it does not. It looks like that is the behaviour of the ANC contractor. If we could get the details from you, we may be able to trace it back to see what happened.

Senator McLucas—I will keep going.

Mr Pinel—Does it never happen? I could not rule that out.

Senator McLucas—No, I understand that.

Mr Pinel—It is likely to have happened at some stage.

Senator McLucas—This is very recent.

Mr Pinel—Very recent.

Senator McLucas—This gentleman says that ‘Last Saturday morning I drove 130 kilometres south to look at a job before accepting it which was my decision. It was scoped by the CLO’. That is what he calls the customer liaison officer.

Mr Pinel—Contract liaison officer.

Senator McLucas—Contract liaison officer, who I understand is a Telstra employee. Is that correct?

Mr Pinel—Yes.

Mr Adcock—It could be. I am sure our ANC contractors have contract liaison officers as well, so I would need to understand the specifics.

Senator McLucas—He continues:

With my previous experience from working in the area, I knew it was rocky. I quoted the job which was not accepted. The job has now been given to another contractor who has been offered travel to go there. Why weren't we offered travel?

Mr Adcock—I do not know whether that is coming direct from Telstra or from a subcontractor.

Senator McLucas—No, I think it is probably coming from your subcontractors. But I do not think that Joe Blow in the street cares that that person is Areva. They think it is Telstra. It is the corporate image of an entity that provides communications that is 51 per cent owned by the Australian people. When they see people living over the back fence or whatever and their businesses going down, they do not blame Areva. They blame Telstra and they blame the government of Australia, and I think they are quite right to do that, because Telstra is allowing this sort of business practice to occur by poor management of the contracts.

Mr Scales—It is not necessarily poor management of the contract. We do not know the details of that arrangement. We are trying to respond to some extent only understanding a particular part of it. We do not know what the response of the contractor might be to that. From Telstra's point of view, we think that the present and the future for Telstra is to have our own work force, to have a contractor work force and to have some agency staff working for us. We will vary that depending on the circumstances from time to time. We will have contractors where we require them to work with other contractors, and we expect other contractors to take the appropriate commercial risk. We are working in a very competitive commercial world. We cannot get away from that. It would be wrong to sit here and suggest to you that we want to try to make excuses for working in a commercial world. We cannot. That is the world we are operating in.

Senator McLucas—If I thought I was representing companies that I thought were not quite efficient, I would be less strenuous in their advocacy. These are well regarded, well

respected small to medium sized businesses that are really feeling the pinch. I will finish very quickly. The next paragraph of this particular letter says:

About 8 months ago after expressing grievances at my monthly meeting—

which I think refers to Mr Adcock's meeting that is held with the prime subcontractor—

I was asked by our Telstra manager if we wanted to continue to work for Telstra. This led me to requesting a meeting with my staff. They ultimately said that they would stay there. The cost to us when we accept a job is quite large. I look at the job and then often seemingly beg for whatever is required to get the job done as it has not been scoped properly.

His other area of concern is the fact that, due to the loss of corporate knowledge of Telstra, scoping of works that needs to be done is often done a long way from where it is to be delivered and therefore local knowledge is lost. Mr Adcock, you could see a very clear difference between the prime subcontractor and Telstra, but there is a real meshing in the mind of the people I am talking to about who is actually managing that contract. So he is expressing concern at the lack of capacity within Telstra given the changed employment arrangements to actually manage a contract, to scope it and then to move with the contract as it often will have to be rescope as changes occur.

Mr Scales—You make a real important point in a way, because there is no doubt that there will be some blurring of people's views about who in fact is responsible. But in many ways that is what we are trying to get across as well—that it is the prime contractor who is responsible for these relationships. We are deliberately trying to create that.

Senator McLucas—Then why does Telstra go to the monthly meetings? If you just have a contract, you go and deliver it.

Mr Scales—We could do that, and that is one model. There are a number of models of contract management. There is not one particular model or way about which you handle that. Books have been written about the way in which contract management is done and applied. There are a number of models, including this particular one where you might have the prime contractor. You might have the customer, which we are, giving feedback about the performance of both the prime contractor and the subcontractor. That is another model. They will all vary. There will be times when we ask the customer sitting at those meetings to give feedback on issues like quality, the way in which people are trained and the way the contract is managed. There will be other times when we say to the prime contractor, 'It's yours. It's your risk. Go for it.' That is the sort of commercial world we are in. To some extent, it would be wrong to sit here and suggest to you that it is likely to be any other way. It will not be. That is the world we operate in.

Senator McLucas—Finally, the gentleman says that, in relation to the meeting notes, the bottom of the page—apparently there is a record of the meeting every time you have these monthly meetings—is requested to be signed by the Telstra rep and the contractor. He says:

Time and time again I have requested signed copies returned to me. Have not received one.

Is that a non-compliance of the contract?

Mr Adcock—I am once again struggling. Are you talking about the meeting between Telstra and the ANC contractor, because that is a very formal process which is signed off, or a meeting between a subcontractor and one of our ANC contractors?

Senator McLucas—At the meeting that is meant to have a signature at the bottom of the page which is held every month—

Mr Adcock—With Telstra?

Senator McLucas—It is apparently meant to be signed by the Telstra representative and the contractor.

Mr Pinel—Senator, I think the best thing is if you provide us with the details of that we will try to better understand the question. The issues you raise, as Mr Scales said, are significant issues. If we can have the details, we can work through and get back to you with a fuller explanation of what has happened in that case and more generally about the process.

Mr Scales—Just to clarify it, we will not support poor contract management practices. That is not what we are trying to say here. But there is a difference between poor contract management practices, which you quite rightly should bring to our attention, and the structure by which we work with contractors. They are quite different. We will ask prime contractors to take full responsibility for themselves and those people who work for them either on a direct basis or on a contract basis. But we will not countenance poor contract management practices.

Senator McLucas—The other issue is that you are a large provider of employment in the subcontracting environment in regional Australia. To take the approach that you seem to be taking, which is profit is all we do this for, will play with the economies of those small communities.

Mr Pinel—We cannot exist without a credible and successful contracting and subcontracting industry out there. That is what our whole business model is based on. As I say, the issues that you raise are significant. I think we should look at them. There is nothing in it for Telstra to be actively harming the industries that we use to drive our business. It is a fine line between that and the competitive environment that we operate in. Do we get it right every time? No, we do not. But we continue to try to improve it so we do have that credible contracting industry to support our business operations.

Mr Adcock—We have found in the past, Senator, that the competitive subcontract industry delivers innovative ways to do things but also helps drive cost and that could be at play here as well. I do not know. We do need to look at the specifics.

Senator McLucas—I do not know if I can do that. We will have to receive permission from the constituents before I do that.

Mr Adcock—Okay.

Mr Pinel—Senator, you come back to Mr Adcock or me on that one and we will work it through.

Senator McLucas—Thank you.

Mr Scales—Another way to handle that, Senator, would be if you felt that they wanted to contact somebody who could be trusted to try to look at these issues, we would be quite happy

to try to establish that—somebody independent of the contractors they are currently dealing with. That might be another way of dealing with it, but I can leave it up to you.

Senator McLucas—The trouble is, Mr Scales, if you have a large subcontractor providing a contract over a geographic region, these people are at the behest of that operator.

Mr Scales—Sure.

Senator McLucas—They have very little power in the situation.

Mr Scales—I understand that and I was not trying to suggest that it was necessarily the solution. I was really offering another possibility if you wanted to try to find a way of passing it on to us in a way in which we could address it. The fact is that we will not be able to address it unless we know something about it. That is the reality of it.

Senator McLucas—It is up to my constituents as to whether or not they want to pursue this.

Mr Scales—I understand that.

Senator LUNDY—I want to return to a couple more complaints. I have another one about a delay for a transposition, this time from Townsville. I will pass those details on to Mr Pinel and we will handle that.

Mr Pinel—Senator, if it is a wholesale customer I would need to pass it on to Mr Mullane for resolution, so let us make sure before you give me information that I may not be supposed to have.

Senator LUNDY—So it might be Mr Mullane. That is a fair point.

Mr Pinel—I am happy to look at it anyhow, so pass it to me in the first instance and we will work it through.

Senator LUNDY—Thank you. I made a point before about how recently RIM systems were installed. This complaint is from a person who has just moved to a brand new estate—and the letter is dated November last year—in Point Cook in the Melbourne metropolitan area, and they have been told that the whole estate is on a pair gain system. It is a brand new estate where land was only made available in 2003 and of course has no cable because cable stopped being laid many, many years ago. He works from home and has gone from a 512-kilobit per second connection where he lived previously and now is forced to use dial-up speed. Are you able to advise on the status of the Point Cook area and whether or not Telstra is contemplating an upgrade to the RIM?

Mr Mullane—Yes, Senator, we have had a very high focus in Point Cook over the last 18 months or so. It was one of these classic cases of a very rapid development in a fringe urban area at the time. Not only were there a number of RIMs at the Point Cook exchange area but the exchange building itself was quite limited in size and capacity to take additional broadband equipment. So we adopted a two-phase approach. We put ADSL equipment in the existing limited space building that could service the customers there on copper but the ones that were there serviced on RIMs still had to be dealt with. We needed more equipment capacity, so we installed an additional building at Point Cook and that was put into service in September. It was completed on 30 September last year. My understanding is that we were

then able to upgrade the remaining RIMs in the area. So, if the customer still is unable to get ADSL, I am surprised but very happy to have a look at it.

Senator LUNDY—As I said, I received that email in late November.

Mr Mullane—There may well have been some residual network rearrangement happening at that point of time. We will have a look at it. I will be surprised if it cannot be resolved.

Senator LUNDY—The last one relates to a customer who has moved from Seacliff to Marino in South Australia. They are still located within the same exchange, which is the Brighton exchange, and they have retained their current phone number but when they connected at their new house they found the connection speed is a maximum of 29 kilobits per second. On inquiry to their ISP and AAPT, they told this person that they were pair gained, that that was impacting on their speed and that they would be unable to get ADSL. They were told by AAPT that they needed to get a new line to the house at a cost— \$209— and some rewiring done. This person says they called up Telstra inquiring about their ADSL BigPond service and Telstra said that if this person signed up for a 24-month contract all costs to connect to ADSL would be free, including changing from the pair gained line which they would turn off. Can you respond to that? Again, it raises those issues of discriminating against customers seeking to access ADSL through a competitor. It is a bit of a perennial but this allegation is quite specific and I would like you to respond to it.

Mr Mullane—My very brief assessment on that would be that, if the initial wholesale provider had submitted an order through the Telstra wholesale processes and there was in fact a RIM or a pair gain system involved and there was transposition capability, the transposition could have been proceeded with at no charge and the service would have been provided with the original provider. It is possible that the provider was one of these who does not proceed with transpositions for whatever reasons. If the customer then went to Big Pond and expressed a desire to get connected to ADSL, the 24 months zero install thing was basically the commercial offering at that time and that is what they were sold. The Telstra service Big Pond provision would have had to make arrangements for that transposition, assuming it was required, which it sounds like it was.

Senator LUNDY—I will provide you with these details to see if you can pursue this specific complaint.

Just going back to the general theme when the cable is present, you said before that there is no specific policy but that if Telstra cable is present in a street and someone is requesting a transposition then you are more likely to 'put your resources where they are needed' I think was the phrase or a similar phrase used. I am trying to work out how to get a picture of the areas that are serviced by cable that are not serviced by ADSL. I do not know if you have any data sets, but if people have cable in their street and are being frustrated because of pair gains then Telstra should at least be saying to them, 'You are less likely to get support for ADSL because of that.' It helps them make a decision.

Mr Mullane—What I said before about getting maximum outcome out of the resources; there is such demand out there that the idea of maximising outcomes for the biggest set of customers possible is one that has some degree of merit. But how big is that situation you describe? ADSL is widely distributed and widely provided in urban areas, and we have

provided it in areas where the HFC network exists as well for two specific main purposes. One is to provide wholesale customers with access to a service but also in many of the business locations in those areas the cable network did not run past the business premises. So that is the sort of fundamentals it would face. We would prefer to connect more customers wherever we can with the available resources we have. We will take that on notice and have a look at it.

Senator LUNDY—Thanks.

Senator CONROY—I just want to move on to VoIP. There has been a lot of talk about the impact of VoIP technology on competition in telecommunications. How is Telstra preparing and responding to the possible outbreak in it? I guess it falls into this category you were describing earlier, Mr Scales.

Mr Scales—Yes, it does. The simple answer to that is that we are looking very carefully at the voice over internet protocol.

Senator CONROY—In panic?

Mr Scales—We think the impact in the short term is likely to be relatively small. We think the impact over the medium to longer term could be much greater. We are uncertain at this point in time about the full impact of that, except that it will provide another form of a technological change to the provision of voice over different technologies. Clearly over an internet protocol it is likely to have the effect, from Telstra's perspective, depending on its long-term capability, of being able to meet customers' needs, to be a substantial competitor to our fixed line delivery. It is likely to be a reasonable competitor against some elements of mobility. It is another opportunity for customers to get their voice over a different technology.

Senator CONROY—What VoIP services do you currently offer?

Mr Scales—I will get my colleagues to jump in here with the detail. The majority of our voice over IP services are going to the commercial world—to business and government. We have some relatively extensive roll-outs into that area. There are some applications of VoIP in the consumer area, but it is relatively small. Maybe Don or Denis will want to jump in here.

Mr Mullane—We have certainly launched products in the corporate market providing VoIP. Quality of service is a key issue for corporations, of course. In the small business and consumer markets we are assessing the market opportunities in great depth. We expect to be making service offerings available. That is inevitable. We are going down that track. It is just a question of timing and conditions around the product offerings.

Senator CONROY—Have you detected any impacts on your long distance revenues to date?

Mr Scales—No, not to date.

Mr Pinel—Not noticeable.

Mr Scales—It is not noticeable at this point.

Senator CONROY—With the advent of VoIP, it would seem to make it more important for Telstra to grow its share of the broadband market. Is that a fair—

Mr Scales—It is not only VoIP. VoIP is only one element of the changing nature of demand. Broadband is a delivery mechanism for a number of services, but there is no doubt that we and most of our competitors are wanting to participate in the growth of broadband. It is not particularly about VoIP.

Senator CONROY—Do you have any concern about the current regulatory environment surrounding VoIP?

Mr Scales—Yes. It is new. Yes, we do have. I think ‘concerns’ would be too strong. Those issues which I think need to be addressed can fall into a couple of categories. First of all there are the technical issues. For example, we—when I say ‘we’ I mean not Telstra but the community—do need to set some appropriate quality standards for VoIP. There are issues around the extent to which the VoIP service ought to also have alongside of it a 000 service. They are quite important questions, because if somebody relies on VoIP as their only delivery of voice then these sorts of questions become quite important. It is less important if they have VoIP alongside a standard, plain, old telephone system, as we tend to call it. So there are those issues.

There are some quite important economic and regulatory questions that come from the availability of VoIP alongside some changes in some of the regulatory environments. For example, unconditioned local loop, where other people can have access to Telstra’s network at a certain price, effectively provides a broadband facility through our exchanges and then provides a voice through that process. That means that some of the economics of telephony are changing quite dramatically. So the regulatory framework—the use of the universal service obligation and who pays—also changes quite dramatically. So there are some interrelated issues here which are part of that broad regulatory set of issues.

Senator CONROY—Turning to the issue of mass service disruption notices, according to the ACA Telstra issued 123 exemption notices in 2003-04 compared with 66 during 2002-03. In addition, the average duration of the MSD notices increased from 1.5 to nine days for Telstra. Could you give me some rationale or explanation for this increase in both notices and duration?

Mr Scales—I will ask Mr Adcock to cover off the details of it, but it might be worth while to cover what it is we are talking about here, because we are talking about exceptional circumstances where Telstra is not able to get to a particular facility because there might be flood or fire. There are situations where we do not have access to a customer’s premises for a range of reasons or our own staff are put at risk. These issues are monitored and audited by the ACA. There is also a reason we seek to have a mass service disruption. I might ask Greg to cover off the specifics.

Mr Adcock—Our analysis shows that the increases, as Bill indicated, have been predominantly around the increase in extreme weather conditions and weather patterns over that period of time.

Senator CONROY—Global warming, then?

Mr Adcock—As you would know, the parameters surrounding the declaration of MSDs are very specific and our compliance with those processes, at the request of the ACA, has

recently been audited by KPMG. The outcome of that is that no major discrepancies were found.

Senator CONROY—So there was twice as much bad weather as the year before and it caused them to last four times longer?

Mr Adcock—The time period around an MSD is basically calculated around the potential time to get back to a normal situation based on the increase in resources required. That then draws out that the impacts have been worse last year than they were the year before.

Senator CONROY—So it is just business as usual? No problems?

Mr Adcock—The MSD process is a process that kicks in when certain parameters are evident.

Senator CONROY—I know that you take great care of what the Prime Minister and I presume the Deputy Prime Minister have to say. John Anderson is on the record as saying, ‘Telstra has all these soggy issues. It is a problem. We need to tighten up the guidelines.’ He has said that. I have quoted him in parliament.

Mr Adcock—I missed that. He was quoted as saying—

Senator CONROY—He said there were all these problems. He said that Telstra’s guidelines are soggy and that the guidelines need to be tightened up. He is suggesting that there is a problem.

Mr Adcock—The guidelines surrounding mass service disruptions are not Telstra’s. They are the ACA’s standards and they are quite specific.

Senator CONROY—In what parts of the country were these MSDs most prevalent?

Mr Adcock—They varied. Are you talking about last year or the year before?

Senator CONROY—I think we are talking about 2003-04. If you have later figures, then I am happy to take them as well.

Mr Adcock—In 2003-04 the major areas were predominantly in New South Wales country and Queensland country.

Senator CONROY—Do you have a calculation of how much money Telstra saved by not having to compensate consumers under the consumer service guarantee because an MSD was in effect?

Mr Adcock—No.

Senator CONROY—As I indicated, is Telstra aware of comments by the Deputy Prime Minister, Mr Anderson, last year where he identified ‘a need to tighten the capacity of telecommunications carriers to obtain exemptions from their community obligation timetable in the face of claimed problems with weather’?

Mr Scales—I suppose the only response that we can have to that is that our MSDs are audited. I think the last audit, from my briefing, was by the ACA in February 2004, independently done by KPMG. They found no major discrepancies between Telstra’s published policy, the ACA CSG Standard and the actual operations with Telstra’s processes.

Senator CONROY—Have you briefed the Deputy Prime Minister to explain to him the error of his statement?

Mr Scales—I would not presume to brief any deputy prime minister about that. All I can do is cover off what we know the audit of our process said. I think it is fair to say we got a clean bill of health around that. There was a clear alignment between the process and our internal processes and the general policy.

Senator CONROY—So any major statement that talks about ‘claimed problems with weather’ is just dead wrong?

Mr Scales—To be honest, I cannot remember that specific quote.

Senator CONROY—Let me read it to you in full, if you like. I have the article right here. In fact, it was on radio, ABC Online. He was being interviewed by Matt Brown and he was talking about future-proofing. I am sure you have heard about that. He says:

...and I have some concerns that in the light of what I have seen over the last few months that we probably need to tighten our intended future proofing arrangements, which essentially Richard Alston and I worked out.

MATT BROWN: In what way do they need to be tightened?

JOHN ANDERSON: Well, I think things like the telcos capacity to obtain exemptions from their community obligation timetables, in the face of claimed problems with weather, might be one. But what I really want to do is to send a very clear signal to rural and regional Australians that what matters and what we know matters is getting those standards right and then not letting them go soggy again.

Mr Scales—To some extent, the Estens review and the Estens recommendations addressed a number of those sorts of issues. There were additional policies put in place to monitor Telstra’s performance around some of these areas. If that is what the Deputy Prime Minister was referring to, we do not have any complaint about that. We have been working with both the government and the ACA to make sure that those Estens recommendations are put in place and that we meet the various suggestions that Estens had about monitoring and the performance of our network, including our exchanges. If that is what he is referring to, we concede that he had a point.

Senator CONROY—Minister, are you planning any changes to the MSD guidelines?

Senator Coonan—The government would be worried if these were being used inappropriately. As Mr Scales pointed out, the ACA had KPMG actually do an audit of the processes used by Telstra and Optus when claiming an MSD. The audit did find that the companies had what was described, I think, as a robust system for assessing when to use MSDs. Mr Anderson, on my understanding, said that this might be an area that needed some attention. I have said that I am interested in looking at regulation generally. I said that back in December at the time that a scoping study was announced. I am having a look at various areas of regulation.

Senator CONROY—So is the Deputy Prime Minister talking through his hat or not?

Senator Coonan—No, he is not talking through his hat. He said it ‘might be’ an area. He was not making any categorical assertion, but I think it is fair to say, and to put on the public record, that since February of last year the ACA has been closely monitoring the use of MSDs

and reconciling the MSDs with the Bureau of Meteorology records to make sure that they are only being used in legitimate circumstances. As I said, the government would be worried if there was any evidence that they were being used excessively or inappropriately, and it is something that we do monitor.

Mr Adcock—There is a clear correlation between the extreme weather patterns and the declaration of MSDs, and that is on our web sites.

Senator CONROY—So he is talking through his hat.

Mr Adcock—I did not say that.

Senator CONROY—Have you had any discussions with the ACA about its increasing use of MSDs?

Mr Scales—About their what?

Senator CONROY—Sorry, your increasing use of MSDs, just to keep in touch with them and let them know—

Mr Scales—No, we are always in discussion with the ACA.

Senator CONROY—I bet you are.

Mr Scales—They are pretty tough taskmasters. They make it very clear to us that they believe that they are—

Senator CONROY—That is the best joke today.

Mr Scales—They make it very clear to us if they believe that we are not being appropriate in the use of MSDs.

Senator CONROY—Has it raised questions about the validity of any of the MSDs claimed by Telstra that you are aware of?

Mr Scales—No, not that I am aware of. There may be occasions where they have, but I am not aware of them. I am quite happy to check that out and get back to you if there were.

Senator CONROY—Does Telstra believe that its foreshadowed network upgrade will reduce the number of MSDs?

Mr Scales—MSDs are not about the network. As I say, they are about the conditions in which we need to address the results of what can often be external circumstances.

Senator CONROY—Sure, but some of the stories are about some very old sort of urban myths that you hear about foil or plastic wrapping—I am sure you have heard the stories—around cables and all that sort of stuff.

Mr Scales—Sure, we have heard those stories.

Senator CONROY—The upgrade is going to fix those sorts of things?

Mr Scales—Remembering, of course, if you are talking about some of those quite specific issues like gel et al, they are a relatively small number of the joints in the network. They are around three or four per cent of the number of joints. So they are relatively small. MSDs are really not about that, though it is true that we have a program of proactively addressing those issues. We have been doing that for some years, and we will continue to do it. We have a team

operating in most areas of Australia just proactively looking at the network all of the time, and we will continue to do that. But I do not think that is necessarily going to change the issue around MSDs.

Senator CONROY—I would like to ask about Telstra's program of line rental increases or rebalancing, as it is known at Telstra. The last increase was in June 2004.

Mr Scales—Yes.

Senator CONROY—Are there any more increases in the offing?

Mr Scales—We have no increases planned.

Senator CONROY—Telstra's half-year report showed that Telstra's basic access revenue increased by \$90 million last year. At the same time the number of lines fell by 160,000 and fixed line revenue fell by 1.9 per cent. How many lines has Telstra shed since the rebalancing process began?

Mr Scales—How many have we shed? I cannot answer that off the top of my head.

Senator CONROY—Can you take that on notice?

Mr Scales—We can take it on notice. The only thing, to put that in context, of course, is that, if I am correct, I am hearing you imply that there is a relationship between the rebalancing and the—

Senator CONROY—There is a normally a relationship between price and demand.

Mr Scales—Yes, but—

Senator CONROY—Admitting this is a relatively inelastic product.

Mr Scales—Senator, there is also a thing called cross-elasticity.

Senator CONROY—Thank you for reminding us!

Mr Scales—One has to be very careful—and I am very happy to enter into a debate with you if you wish—about cross-elasticity demand. My general point here is that price is not the only issue. Just picking up on the point that there are other determinants of people wanting to move away from their fixed line, what we have, for example, is a changing taste in preferences. We have a lot of people—you would know them—who are now moving to simply a complete mobile world where they do not have a fixed line anymore. My sons are in that category. They generally use a mobile phone. They log on to the net and they do it in a wireless way.

Senator CONROY—Do they live at home?

Mr Scales—They used to until I asked them to leave.

Senator CONROY—Now you cannot find them.

Mr Scales—They find me when they need a dollar. So that is my point—that it is not only price that we are talking about here; it is changing the nature of tastes and preferences.

Senator CONROY—But it is actually in demand. It is not a question of elasticity.

Mr Scales—But, to answer your question, we will get the details of that and make it available to you.

Senator CONROY—So you do not think that there has been any demand response to the increase in price?

Mr Scales—No, we would not say that. There is always some form of demand response, but it is not necessarily the only response. Sometimes the price response in terms of demand can be minor. When you get two things happening at once you get, as you described it, the rebalancing so that the access price goes up but the price of the product goes down. You have to be very careful about what it is in fact that is driving certain behaviours.

Senator CONROY—Would it be fair to say that Telstra makes more money from mobile calls than fixed line calls?

Mr Scales—No, it is about balanced. It has been changing over time and, in fact, in more recent times it has been almost balanced. That is not to suggest that we do not see a future where mobile phone calls tend to be a greater proportion of our revenues than fixed line, but at the moment it is generally roughly balanced.

Senator CONROY—Has Telstra had any discussions with the ACCC over its concerns that Telstra will dominate the market for 3G content?

Mr Scales—No, we have not had discussions. As you know, there has been some debate in the press between the chairman of the ACCC and myself on that issue.

Senator CONROY—Have you just been communicating via the media?

Mr Scales—We have.

Senator CONROY—Surely you would know Graeme's phone number after all these years, Mr Scales.

Mr Scales—It is the traditional way for the ACCC to communicate. No, we have not had—

Senator CONROY—He will be here tomorrow, if you want to hang around. You can have a chat with him.

Mr Scales—The only thing, again for complete accuracy, is when we do meet with the commission from time to time that is a general issue that is raised but not in any specific way.

Senator CONROY—So despite all the media commentary you have not actually spoken to him?

Mr Scales—Speak to him? You mean speak to him?

Senator CONROY—Spoken to Mr Samuels.

Mr Scales—No, not on that issue, no.

Senator CONROY—How bizarre. I will ask him about that. We will see him tomorrow. You are welcome to stay. I can introduce you. Is Telstra confident that its acquisition of exclusive sporting content does not breach the TPA?

Mr Scales—We are confident about that, but the more important point about that is not whether we are confident or not but that the existing provisions of the Trade Practices Act are sufficient to be able to make a decision on that issue.

Senator CONROY—You are talking about section 45, which targets contracts that substantially lessen competition, and section 47, which targets exclusive dealing?

Mr Scales—Yes.

Senator CONROY—Does Telstra agree with the view that sporting content will be a key driver of 3G telephony?

Mr Scales—Not particularly. We think that content is likely to be a driver. At the moment, by the way, 3G is still driven primarily by voice, not by content.

Senator CONROY—You are a smart organisation, thinking ahead.

Mr Scales—We can see a world where content will be important, but there is a big leap between saying—

Senator CONROY—Did someone say content is king?

Mr Scales—But there is a big leap between saying content is important and then saying sport as a content is the key driver for 3G.

Senator CONROY—What has been the overseas experience?

Mr Scales—It is mixed. If you go to Japan, sometimes the issue there has often been simply the downloading of things other than sport. It has often been cartoons or ring tones.

Senator CONROY—I would have to say that I think the only thing that I have ever downloaded is the cricket score.

Mr Scales—I do that myself, but I do not need 3G to do that. That can be done by 2G, 2½G. That is generally my point. It is true that in some parts of the world—for example, in the UK—downloading some elements of a game of soccer is important and there are some people in the industry who will say that content is the most important thing. We simply do not necessarily fall into that category. We think that it is a much broader set of issues that are likely to drive 3G.

Senator CONROY—What other content would you be looking at?

Mr Scales—Us looking at? We are not looking at any particular content per se, but we know that people may from time to time see that some content is valuable and when that demand develops we will look at buying that content. We are not involved at this point in developing content.

Senator CONROY—There has been probably more email commentary rather than mass media commentary, although it has made it into some talkback radio commentary, about your directory assistance number.

Mr Scales—1234?

Senator CONROY—Here is an opportunity to either set the record straight or have a discussion about it. There seems to have been some confusion that seems to have arisen from

heavy advertising of the 1234 number. I understand that there are three directory assistance numbers. For the record, can you please set out what those numbers are and how they differ functionally?

Mr Scales—I might ask Jenny Young to come forward and we might go through that in detail, but there are three. Some of them are commercial products. The 1234 is a commercial product where people can ring 1234 and get what we describe as a value-added service and there are other free services that people can—

Senator CONROY—Sorry, is 1234 the directory assistance number, in your view?

Mr Scales—That is a commercial one.

Ms Young—Certainly. 1234 is the premium service, as you have identified. Our 1223 is the free service—the free directory service—which has always existed. There is also the 12455 service. That number allows customers the option of connecting the call when they dial that number.

Senator CONROY—So what did 12456 become? That is Call connect, is it not?

Ms Young—Yes, that has gone to 1234. So when a customer rings the premium service, they get additional voice assistance with that call. They can get directions, the URL and additional information that they would not get off the free directory service.

Senator CONROY—Could you set out what the differences are, then?

Ms Young—Sure. In summary, 1234 allows callers to receive information such as addresses, the business's opening hours, credit facilities, URL, and connection to nearly all residences across Australia. The operator can actually stay with the caller and provide directions as well via SMS or, at the caller's request, by voice. For example, if you go into a destination and you need turn by turn instructions, the operator will happily do that. The other services, 1223 and 12455, are more designed to provide information for callers who know exactly what they are looking for. So if you are ringing up and wanting a specific number, then that is the service to ring.

Senator CONROY—Which is the free service?

Ms Young—The 1223.

Senator CONROY—And the other one is—

Ms Young—The 1234 is the premium.

Senator CONROY—And the third one?

Ms Young—That is also a free service, I understand, yes.

Senator CONROY—What does that one do?

Ms Young—You can connect through to numbers on that. Yes, the 1234 is the premium service that you were referring to.

Senator CONROY—And what did 12456 become?

Ms Young—The 1234 service.

Senator CONROY—I cannot understand why people are confused.

Ms Young—Yes, it gets redirected. The free directory service is well known and well established within the directory services.

Senator CONROY—Has Telstra received many complaints from consumers who believe that the free directory assistance service has been scrapped?

Ms Young—No, not that I am aware.

Senator CONROY—There was certainly an email campaign going a month or two back. I think maybe Neil Mitchell, or certainly Adelaide radio stations, were discussing this email believing that the free directory service had been scrapped. Does that ring a bell with anyone?

Mr Scales—I do not know of any campaign or a large number of complaints. It would not surprise me if there were some complaints, but let me just check and see if anybody knows about that. But I do not know if there are large—

Senator CONROY—There was an email. It ended up on Crikey at least, but then I know some radio stations picked up on it as well.

Ms Young—The key issue I think was the email circulated in November or so of last year highlighting the 1234 service—our premium service. This was at a time when we just started promoting that service, which is quite normal for a new service with additional features, but the free service has always been available and any promotion of the 1234 premium service has had price disclaimers clearly noted.

Senator CONROY—Some more information might be coming, so I am happy to wait for a moment.

Mr Scales—We will need to check that out, but we do not know of any major complaints other than, as Jenny said, the initial email set of complaints. But we will try to find out about it.

Senator CONROY—Sure.

Mr Scales—The only other thing, just for completeness on the 12455 service, is that there is an element of free service where you can ring up and get the number but then if you stay online and want to get connected there is a cost. So there is a free service completely, then there is a service that is free to get the number and then if you want to be connected there is a cost.

Senator CONROY—So the 1223 number is the free service?

Mr Scales—It is the completely free service.

Senator CONROY—Can you be connected from that for free?

Mr Scales—No.

Senator CONROY—And it does not offer you the connection, even though it may say, ‘This will cost you more’?

Mr Scales—No, it does not, but the other number—12455—does.

Senator CONROY—That is what the other one does?

Mr Scales—Yes, that is right.

Senator CONROY—It says, ‘Would you like to be connected?’

Mr Scales—Just so that it is completely simple, 1234 gives you the whole suite of services that Jenny was talking about.

Senator CONROY—It is as clear as mud! I cannot understand why anyone has been confused! How much money has Telstra spent on promoting this Sensis 1234 directory assistance service?

Mr Scales—I do not know the answer to that, but we will try to find out for you.

Senator CONROY—That would be great. Aside from the *White Pages*, has Telstra done any advertising of its free directory assistance numbers?

Mr Scales—Has it done any advertising of its free directory assistance numbers?

Senator CONROY—Yes. Apart from it sitting there somewhere within your *White Pages*, which I have to confess gets more confusing each year—

Mr Scales—That is a Sensis question. I will have to get some—

Senator CONROY—You had better be quick; they might be gone tomorrow.

Mr Scales—As I said, I have no plans.

Senator CONROY—Who owns the database?

Mr Scales—It is a Telstra-Sensis database.

Senator CONROY—Is there a legislative issue?

Mr Scales—Not that I am aware of.

Senator CONROY—I understood there was a legislative directive about its ownership.

Mr Scales—It is about ownership. It is about access and making sure that under our licence conditions Telstra is able to provide a service for *White Pages*. That is certainly true, but—

Senator CONROY—If Sensis were spun off, would it take the database? I am just asking a legal question rather than a policy question.

Mr Scales—I am not sure of the answer to that, but let me go back to the previous question that you asked. Telstra is required to provide it, but it does not necessarily mean Telstra has to do it. For example, Telstra could contract it out to anybody. We could contract that particular service out, for example to Fairfax, if we wanted to publish the *White Pages*. You need to separate out the various roles.

Senator CONROY—I was asking about any advertising of the directory assistance numbers. Part of this confusion arises because, as far as I know, the only place you can find out what it is now is in the front of the *White Pages*, and the number has changed so people are not as familiar with it. Off the top of my head, I could not tell you what the free service was, though I have spoken to your office a couple of times now and I am vaguely aware. But, as you can see, I am still mucking it up and we have all been having a bit of a laugh about it here. Is there any capacity to promote it in a slightly broader context than buried in the *White*

Pages? I am not trying to be pejorative when I say 'buried'. It is not as simple to find in the *White Pages* as it used to be.

Mr Scales—I have been honoured to talk to the Sensis team about that. To answer your question about what advertising has been done, I simply do not know. I will find out.

Senator CONROY—Minister, do you believe that Telstra should promote the free service a little bit more?

Senator Coonan—I really do not know that they have not. I do not know what promotion has been done in relation to the numbers.

Senator CONROY—This is in relation to the pure free service.

Senator Coonan—This is the one where you can get the number—

Senator CONROY—Which number is it, Minister?

Senator Coonan—Not the connection and certainly not the premium service. So is your question: should they promote the 1233 but not the 12455 or the 1234?

Senator CONROY—I think it is 1223.

Senator Coonan—With regard to 1233, should they promote that?

Senator CONROY—No, 1223. It is a double 2.

Senator Coonan—I am tempted to take that on notice, Senator Conroy, but in all seriousness I do think it is important that a free service is well known, and no doubt Mr Scales will have a look and see what they can do.

Senator CONROY—In December Telstra announced a restructure and the establishment of a separate wholesale division. Why was that decision taken?

Mr Scales—There were a number of reasons, primarily two. One was that we wanted to promote an individual inside the company. Dina Shift had done a great job inside the company and we wanted to give her a promotion and have her report directly to the CEO. It was then sensible to separate her division that was then reporting to another group managing director and have her report directly to the CEO. The second reason was that we felt it would also address some of the concerns that some of our wholesale customers had indicated to us. Bruce Akhurst was running that business and was also running Big Pond. To have somebody running a retail division and running a wholesale division as the ultimate person responsible for it could lead to the impression of some form of conflict of interest. So what we wanted to do was separate that out and give a greater degree of a Chinese wall between the wholesale division and the other retail divisions.

Senator CONROY—Does Telstra retail buy from Telstra wholesale under the new arrangements?

Mr Scales—By 'buy', if you mean is there some form of a transfer price, the answer is no.

Senator CONROY—Why not?

Mr Scales—The transaction costs are large to establish such a process and you can achieve the same goal through other means. We have looked at transfer pricing before, and the cost

was literally in the hundreds of millions of dollars to establish the process to do it, and we simply believe there are just as effective and efficient ways of getting there.

Senator CONROY—Is Telstra disappointed that a change appears not to have satisfied the ACCC?

Mr Scales—I am not sure that it has not satisfied the ACCC—

Senator CONROY—They seem to be saying they want them to be completely separate businesses which would—

Mr Scales—I would not have thought that is the role of a regulator to decide that. I thought the role of the regulator would have been to in fact administer the regulations.

Senator CONROY—They seem to believe this would be the best way for the regulations to be administered. That is what they are saying publicly.

Mr Scales—I suppose the point I am making is that if the ARCC wants to get involved in those policies they have no more credibility than any other person on the street. In terms of being able to provide—

Senator CONROY—Them is fighting words!

Mr Scales—In being able to do what the regulation requires of us, I do not think there is any question that what we have done under the accounting separation rules is to abide by what the policy was expecting. If that is where you are leading in this context, Senator—

Senator CONROY—I was going to ask what Telstra's views were on the ring-fencing proposals put forward by the ACCC?

Mr Scales—Again, as I mentioned earlier, the costs outweigh the benefits and you can achieve those same benefits in other ways.

Senator CONROY—But do you believe that the accounting separation has delivered the same transparencies as the ring-fencing proposal? Would you say that they do deliver the same thing?

Mr Scales—Yes, I do, but I would have to add a caveat there: we are only at a very early stage in the whole process of accounting separation. If you take what has happened in other parts of the world, often it has taken anything up to five years to get a set of accounts that everybody feels comfortable about, including us. These are not easy things to do, particularly when you are doing current cost accounting which requires you to go back in and do complete evaluations of lots of parts of the asset which you have not been required to do in the past. That takes time. They are not easy to do. For example, if you have to go to every part of our network and do a thorough evaluation of the current cost of that part of the network and then feed that into the accounting separation various formulae, it takes time. I think we are in an early stage.

Senator CONROY—I have another one of those galahs on the street.

Mr Scales—I did not say galahs, Senator.

Senator CONROY—Well, parrot. Call them what you want. The OECD has described accounting separation as a weak measure. The ACCC, the OECD—just another pack of galahs?

Mr Scales—No. I have had a lot to do with the OECD over the years. We can agree to differ on this one. As I say, the accounting separation rules that have been put in place here in Australia are fairly robust, but we are at the early stage.

Senator CONROY—Mr Willet at a hearing that I had him at recently said—I will not say that he described them as nearly useless but that was certainly the impression that I got from his testimony to the committee—that the outcome of the accounting separation was basically useless to the ACCC in administering their regulations. He conceded you complied with them. He was not for a moment suggesting you had not complied. He just felt that they were useless.

Mr Scales—I saw that comment, and obviously we have looked at some of the comments and transcripts. But you have to put that in the context of the full accounting separation rules not yet having been applied. The ACCC has yet to complete some of the arrangements under the accounting separation rules. What I am saying is that it is so early. What I have tried to do here today is say to you as honestly as I can that it is early. We do not know yet whether they are going to fully apply. Therefore, I ask you to judge that against somebody who at the point at which we are at in this early stage and the full elements of accounting separation have not even yet been introduced can say they have not worked. How can you judge that when they have not been fully applied?

Senator CONROY—Just back to those other galahs, the OECD, said that, although accounting separation would help to increase transparency, it is a weak measure, that there is considerable scope for the network provider to load costs both of services and common costs onto the network and that, acknowledging this problem, the Competition Act should be strengthened by demanding legal separation of network and retail if the benefits of separation will exceed the costs.

Mr Scales—I can quote for you as many other alternative views about that issue. The whole question here goes to whether the cost of the measure is worthy of the benefit of that measure. There has been significant work done in other jurisdictions, including the United States, which is now arguing that it is not. Again, that is not in any way to—

Senator CONROY—They have a model of success in their telecommunications network. They are allowing them all to come back together and form monopolies.

Mr Scales—It is a very competitive environment.

Senator CONROY—Please!

Mr Scales—But the general point here is that there are as many views contrary to that one as there are agreeing with it.

Senator CONROY—The OECD are a reasonably reputable organisation, though. They are not just your common galah on the street.

Mr Scales—There are many reputable organisations that have looked at this issue.

Senator CONROY—Moving on, I want to talk about some employment conditions issues. What is Telstra policy when it comes to applying the Workplace Relations Act, which provides for choice for employees between a union and negotiated agreements and an AWA? Is it Telstra policy to encourage employees on to AWAs?

Mr Scales—No, it is not Telstra policy to encourage one way or the other. Telstra is ambivalent to whether people are on AWAs or not. That has always been our position. People can make their own choice.

Senator CONROY—What is the explanation and rationale for why Telstra offers comprehensive salary-sacrificing and salary-packaging arrangements to staff on AWAs and not to staff on EBAs? Is this simply a bribe to encourage more staff on to more non-union industrial agreements?

Mr Scales—No, that is the choice of the individual. There are in fact in its—

Senator CONROY—Are those available to both options?

Mr Scales—No, there are two competing forms of contract in place at Telstra. We leave it up to the individuals to decide which of those competing forms of contract they want to apply. There are costs and benefits to both. The benefits of an AWA are that they have the ability to do some form of salary sacrificing—relatively small, by the way.

Senator CONROY—And that cannot be done under an EBA?

Mr Scales—Just a minute—the amount of salary sacrificing is relatively small. The benefits of an enterprise agreement are that they have the certainty of being covered by a well-defined and understood award and having what is effectively a collective agreement put in place rather than an individual agreement where we can tailor that to suit the individual. It is not true to say that there are not some elements of salary sacrificing already in the EBA. For example, we have the ability for people to salary sacrifice for super under the EBA. So my general point is that there ought to be a choice for employees, and it is up to the employees to make that choice. All we are doing is providing them with that ability to do so.

Senator CONROY—How many Telstra employees are employed on AWAs?

Mr Scales—The exact number I will not be able to tell you, but it is around about 16,000.

Senator CONROY—Does Telstra ever offer—

Mr Scales—Sorry, but did you say AWAs or EBAs?

Senator CONROY—AWAs.

Mr Scales—For AWAs it is around about 16,000.

Senator CONROY—Around about what?

Mr Scales—It is 16,000.

Senator CONROY—Does Telstra ever offer promotions or internal transfers as AWA positions, meaning that the position entails signing an AWA?

Mr Scales—There are some parts of our business where we only offer AWAs.

Senator CONROY—So there is no choice? You were just telling me how important choice was.

Mr Scales—In those particular parts of the business, they can still choose to be subject to an award.

Senator CONROY—That does not make sense. You do not offer a choice, but they can choose to take an award.

Mr Scales—For example, in Telstra Country Wide—

Senator CONROY—What type and level of positions are we talking about?

Mr Scales—They are for those people who would be subject to an award. So those people who are subject to awards are generally subject to being able to accept an AWA if they wish it.

Senator CONROY—I thought everyone virtually in the organisation would be subject to some award.

Mr Scales—No, not necessarily. People like myself are on Commonwealth contracts.

Senator CONROY—I would have thought the people who had absolutely no potential award coverage were a relatively small number compared to the bulk of your work force.

Mr Scales—That is certainly true. Roughly—again, these are rough numbers—about 30,000 or 35,000 of our staff would be subject to either AWAs or EBAs. That is correct. That is the largest proportion of our work force. But the question of promotion is not determined by whether you are on an AWA or EBA. That is not an issue.

Senator CONROY—But the implication is that to apply for the position is a tacit acceptance that you are going to go onto an AWA. So it is tied. If you get the job, you have to be prepared to sign.

Mr Scales—I do not know of those examples. Again, if you give me the chance to—

Senator CONROY—I do not have any. I was just wondering if that was a Telstra practice. If you come back to me and say, ‘No, that’s never happened,’ that is fine. I am happy for you to take that one on notice.

Mr Scales—Again, I do not want to mislead you. I do not want to mislead you into thinking that there is not in fact a difference between us wanting to create an environment where, for example, for our people who are involved as managers, we are trying to create a relationship between those managers and the company and—

Senator CONROY—At a management level I can understand, which is why I asked what sort of level is it that we are talking about here where that would happen.

Mr Scales—The point I was going to make there is that management levels these days are relatively low in the organisation. For example, our team leaders we regard for all intents and purposes as managers. Not all of those team leaders would be on AWAs. A lot of them would be on EBAs. But, if I were to be perfectly honest with you, my preference would be for those people to be closer to the goals of the organisation and be on AWAs. That is a personal preference, but the choice will be available to the employees.

Senator CONROY—Thanks very much. I have a couple of other questions, but they can go on notice.

Mr Scales—Thank you.

Senator Coonan—Mr Chairman, can I ask just for the convenience of the officers if we could get an indication of what might be left just in case there are some people who can be released.

CHAIR—I think we have now concluded Telstra. Tomorrow morning it is our proposal to begin with Australia Post, the Australian Communications Authority and then to outputs 3.1, 3.3, 3.4 and 3.5.

Senator Coonan—I am speechless!

CHAIR—With no further questions on Telstra, I thank the Telstra officers for appearing, and no doubt we will see you all again in May. The committee's examination of the Communications, Information Technology and the Arts portfolio to this point is now concluded. As I said, we will proceed in the morning with Australia Post, the Australian Communications Authority and the department outputs, as previously mentioned. Thank you all for being here.

Committee adjourned at 11.02 p.m.