



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

ESTIMATES

(Budget Estimates)

MONDAY, 23 MAY 2005

CANBERRA

BY AUTHORITY OF THE SENATE

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SENATE

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

Monday, 23 May 2005

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

Senators in attendance: Senators Allison, George Campbell, Conroy, Eggleston, Ferris, Lundy, Marshall, McLucas, Santoro and Tchen

Committee met at 9.02 am

**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, Acting Deputy Secretary, Arts and Sport

Corporate and Business

Mr Frank Nicholas, Chief Operating Officer, Corporate and Business Division

Mr Mike Hutchings, General Manager, Information Technology and Facilities Branch

Mr Tim Cornforth, Manager, Regional Network Management Unit

Finance and Budgets

Ms Jennifer Gale, Chief Financial Officer

Telecommunications

Mr Chris Cheah, Chief General Manager, Telecommunications

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

Mr Brenton Thomas, General Manager, Enterprise and Infrastructure Branch

Ms Carolyn McNally, General Manager, Regional Communications Policy Branch

Dr Greg Terrill, General Manager, International Branch

Mr Tom Dale, General Manager, Strategic Policy Branch

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 and Spectrum Management

Mr Tom Dale, General Manager, Strategic Policy

Information and Communications Technology (ICT)

Dr Beverly Hart, Chief General Manager, Information and Communications Technology Division

Mr Philip Allnutt, General Manager, Information and Communications Technology Industry Branch

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

Ms Andrea Grosvenor, Acting General Manager, Regional Communication Initiatives Branch

Information Economy

Mr Keith Besgrove, Chief General Manager, Information Economy Division

Mr James Shaw, General Manager, Strategy Branch

Mr Andrew Maurer, Manager, Online Policy Section

Mr Lindsay Barton, Acting General Manager, Access Branch

Arts and Sport Division

Mr Colin Lyons, Acting Chief General Manager, Arts and Sport Division

Mr Mark Taylor, General Manager, Arts, Regional and Governance

Mr Peter Young, General Manager, Film and Digital Content

Mr Paul McInnes, Acting General Manager, Collections

Mr Kevin Isaacs, General Manager, Sport

Ms Sally Bassar, General Manager, Indigenous Arts and Training

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

Ms Kate Cowie, General Manager, Old Parliament House

Mr Andrew Sayers, Director, National Portrait Gallery

Agencies

Telstra

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

Mr Geoff Nicholson, Director, Business and 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 and Commercial Operations

Ms Jenny Young, Head, Consumer Segment

Australia Post

Mr Michael McCloskey, Corporate Secretary

Mr Peter Meehan, Chief Financial Officer

Mr Terry Sinclair, Group Manager, National Logistics

Mr Rod McDonald, Group Manager, Human Resources

Mr Stephen Walter, Group Manager, Corporate Public Affairs

Mr Glenn O’Bryan, Acting Group Manager, Retail

Australian Communications Authority (ACA)

Dr Bob Horton, Acting Chairman

Mr Allan Horsley, Acting Deputy Chairman

Mr Geoff Luther, Acting Member

Ms Maureen Cahill, Executive Manager, Communications Operations and Service Group

Mr John Grant, Acting Senior Executive Manager, Radiocommunications

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

Ms Anita Tapper, Acting Chief Financial Officer

Australian Broadcasting Corporation (ABC)

Mr Russell Balding, Managing Director

Mr Murray Green, Acting Director, Strategy and Communications

Mr David Pendleton, Chief Operating Officer

Mr Colin Knowles, Director, Technology and Distribution

Ms Sue Howard, Director, ABC Radio

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, Acting Chair

Mr Giles Tanner, General Manager; Acting Member

Mr Fred Gengaroli, Director, Planning

Ms Jonquil Ritter, General Counsel

Ms Andree Wright, Director, Industry Performance and Review

Mr Richard Fraser, Senior Project Officer

Ms Sharon Trotter, Acting Manager, Content Assessment

Ms Andrea Malone, Manager, Industry Review

Arts and Sport

Australia Council

Ms Jennifer Bott, Chief Executive Officer

Ms Karilyn Brown, Executive Director, Audience and Market Development

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

Ms Megan Coombs, Executive Director, Finance and Services

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 Suzy Watson, General Manager, Operations

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

Dr Mike Pickering, Repatriation Program Director; Acting General Manager

Mr Jeff Smart, Chief Finance Officer

Australian National Maritime Museum

Ms Mary-Louise Williams, Director

Mr Quentin Howarth, Assistant Director

National Archives of Australia (NAA)

Mr Ross Gibbs, Director-General

Mr James Barr, Deputy Director-General

Ms Jenny Anderson, Assistant Director-General, Corporate

Australian Film Finance Corporation (FFC)

Mr Brian Rosen, Chief Executive Officer

Australian Film Television Radio School (AFTRS)

Mr Malcolm Long, Chief Executive Officer

Film Australia (FAL)

Ms Daryl Karp, Chief Executive Officer

Australian Film Commission (AFC)

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

Professor Peter Fricker, Director, Australian Sports Commission

Australian Sports Drug Agency (ASDA)

Mr Kim Terrell, Acting Chief Executive

Ms Anne Gripper, Acting General Manager, Operations

Ms Catherine Rule, Acting General Manager, Strategy and Support

CHAIR—I declare open this public hearing of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee, which is considering the budget estimates for 2005-06. By resolutions of 17 November 2004, 10 February 2005 and 10 May 2005 the Senate has referred to the committee particulars of certain proposed expenditure in respect of the year ending 30 June 2006, particulars of proposed expenditure in respect of the year ending 30 June 2006, particulars of certain proposed supplementary expenditure for the

year ending 30 June 2005 and particulars of proposed supplementary expenditure for the year ending 30 June 2005 for the two portfolios of Communications, Information Technology and the Arts and Environment and Heritage.

We plan to examine the Communications, Information Technology and the Arts portfolio over the next three days and the Environment and Heritage portfolio on Thursday. The committee is required to report to the Senate on 20 June 2005. It has set a deadline of Friday, 5 August 2005 for the return of answers to questions placed on notice. I remind senators that the deadline for written questions to be placed on notice is by close of business this Friday. The committee notes that there are three answers still outstanding from previous estimates rounds for the Communications, IT and the Arts portfolio, one from the supplementary round in December 2004 and two from the additional estimates in February.

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 that they shall be given reasonable opportunity to refer questions asked of them 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 them that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. I welcome officers from Department of Communications, Information Technology and the Arts and the Australian Broadcasting Corporation. The minister is here now.

Senator CONROY—She always enjoys estimates. We would not want to start without her.

Senator Coonan—Thank you, Senator Conroy! I apologise to the committee.

CHAIR—Your timing is perfect, Minister. There is no need to apologise at all. Do you wish to make an opening statement?

Senator Coonan—No, thank you.

Senator SANTORO—Mr Chairman, before I ask some questions this morning I want to make a brief statement that I think is appropriately made here. At the Senate estimates hearings in February, I asked the ABC a question on notice relating to reported antisemitic remarks on radio Triple J. Having reviewed the ABC's answer to that question on notice and the material on which I based my question, it is clear to me that I was misinformed. I acknowledged this publicly in a media statement last week after the ABC provided the committee with an answer to my question. I also apologised today to Triple J *Hack* presenter, Steve Cannane, for the error in my question, as I did in my media statement last week. I think it is appropriate that I put that on the record here today.

There is a particular line of questioning that I want to pursue this morning but, before I do so, I want to ask a question about the ABC's captioning service. As you will remember, Mr Balding, we had a discussion about that at the February estimates hearings. The new commercial service contractor commenced operations in March. Is the service delivered by the Captioning and Subtitling International meeting your expectations? How are they

contractually secured, and what mechanisms do you have in place to monitor and benchmark captioning output?

Mr Balding—I believe there have been some bedding down issues in that new contract, but I am now advised that it is running at about 99½ per cent accuracy. I will ask Mr Pendleton to provide the committee with more detail in respect of that answer.

Mr Pendleton—The service has been running since 6 March. As was to be expected, there were a number of issues in bedding down a new service provider with new software and hardware. As Mr Balding pointed out, the service is now running at 99½ per cent accuracy. We are receiving a far greater level of performance data than we have ever experienced under our previous service provider, which allows us to closely monitor their performance. The savings anticipated within the original proposal are well on track to being received.

Senator SANTORO—Your figure was 99½ per cent accuracy?

Mr Pendleton—Yes.

Senator SANTORO—Are you basing that on surveys or on feedback?

Mr Pendleton—It is on reported errors within the captioning and not necessarily on no captioning going to air.

Senator SANTORO—Mr Balding, I want to ask a series of questions on the control and monitoring mechanisms within the ABC. As well as being managing director of the ABC, you are editor in chief. You have a news director and so on, but you make the final decisions. Are you ultimately responsible for what is broadcast on the ABC?

Mr Balding—Ultimately, yes.

Senator SANTORO—As editor in chief you are supported by your various directors, like John Cameron, the director of news and current affairs, and you are supported by a document called ‘ABC editorial policies’ and the news division style guide.

Mr Balding—Correct.

Senator SANTORO—They lay down various rules and principles governing how the ABC operates. The news style guide specifically applies to people working in news and current affairs, while the editorial policy booklet applies to all staff. That is right, isn’t it?

Mr Balding—That is correct.

Senator SANTORO—And your broadcasters are expected to operate according to those rules and principles.

Mr Balding—Correct.

Senator SANTORO—Most staff, especially senior political staff, actually have compliance with these policies and documents written into their performance agreements and annual assessments?

Mr Balding—This is written into the ABC’s code of conduct.

Senator SANTORO—So effectively it is written into their contracts?

Mr Balding—Yes. It is expected that all editorial employees—and, in fact, all employees—will adhere to the ABC’s editorial policies.

Senator SANTORO—You have senior staff in supervisory roles to help you make sure standards are maintained. In Sydney you have a supervising producer on the 7 pm TV news. *Lateline* has a supervising producer. *AM* has an associate producer to help the executive producer. On *The 7.30 Report* you have Kerry O’Brien who, as well as being the presenter, is the editor. Presumably he checks the material that he broadcasts.

Mr Balding—There is also an executive producer.

Senator SANTORO—You have a head of international operations, an operational head of international operations, a foreign affairs editor and an international editor. You have three network editors, a head of national coverage and a head of local coverage. Before John Cameron was promoted last year he was also the national editor.

Mr Balding—That is correct.

Senator SANTORO—You have an editorial supervisor as well. You have a line-up of producers and associate producers and each of your program hosts is a very experienced senior ABC journalist. Would I be correct in assuming that?

Mr Balding—Correct.

Senator SANTORO—I mean people like Mark Colvin, Tony Jones and Tony Eastley, for example. Stories from overseas are filed by very experienced ABC journalists who have risen through the ranks to become foreign correspondents. You also have Bob Johnston, the head of ABC News Online, a very experienced and capable journalist—and a Queenslander, may I add, who was working in Brisbane in my own home state—who also picks up mistakes, does a great job and reports back to headquarters in Sydney. There is a very wide array of checks and balances to make sure that the ABC gets it right. You would agree with me?

Mr Balding—Yes, I do.

Senator SANTORO—And you would expect your staff, especially those senior staff I mentioned, to be across the editorial policies and style guide, wouldn’t you?

Mr Balding—Yes.

Senator SANTORO—They would keep these documents close at hand and consult them regularly and would be guided by them as to how a professional newsroom operates. Those rules are regularly reinforced by memos from Mr Cameron and, before he retired, Mr John Tulloh, the head of international operations, in a memo sent through the ABC internal email system to all editorial staff.

Mr Balding—That is correct.

Senator SANTORO—There is a lot of prompting and reminding, isn’t there?

Mr Balding—There is, yes.

Senator SANTORO—The reason for this, I imagine—and I think you would have to agree—is to maintain your standards and to stick to the rules. For instance, on page 18 of the editorial policy, there is a whole section, section 6.3, about accuracy, impartiality and objectivity. On page 9 part 5.1, the charter of editorial practice, states:

The ABC takes no editorial stand in its programming.

You would expect staff to know this and observe it. They would presumably have to read the memos and obey the instructions in them.

Mr Balding—Yes.

Senator SANTORO—Especially senior staff such as Mark Colvin, Tony Jones, Tony Eastley and Geraldine Doogue—although she is not in news, and editorial policies do not apply if they are not in news, do they?

Mr Balding—No.

Senator SANTORO—Mark Willessee; Hamish Robertson; Maxine McKew; Fran Kelly, when she was in news; Kerry O'Brien; Phillip Williams; Peter Cave; Eleanor Hall; Rafael Epstein; Nick Grimm; Michael Vincent; Emma Griffith, foreign correspondent for *Four Corners*; Linda Mottram and John Highfield when they worked at the ABC; David Burgess, the executive producer of *AM*; Steven Sailah, the executive producer of *The World Today*; Michael Carey, who is the EP of *PM*; Peter Charley and John Bruce, who are in charge of *Lateline*—I do not think any of those people would be exempt.

Mr Balding—No, I do not believe so.

Senator SANTORO—The news division style guide lists rules alphabetically. For instance, on page 49, Mr Balding, under 'F' there is an entry called 'First names', on page 82 under 'Q' there is another entry 'Quotes' and on page 97 under 'T' there is an entry 'Terrorists/extremists' and so on. At least two of those rules—the one on first names and the one on terrorists—are reinforced by memos from Mr Cameron and Mr Tulloh?

Mr Balding—Yes.

Senator SANTORO—The memos were sent to all editorial staff in news and current affairs. The style guide rules on first names states:

The familiarity bred by the use of first names when addressing or referring to certain people in stories often sounds patronising or evokes a sense of ABC sympathy for the person or issue. We should remain even-handed and unaligned whatever the subject matter.

That rule was reinforced in a memo from Mr Cameron in March this year, which said:

There is still some disregard for the style relating to the use of first names only. ABC News is not on first name terms with some people and not others.

On page 82 of this new style guide under 'Quotes' it states:

Take care not to run accusations or opinions as matters of fact.

It also states:

There is usually a better way of presenting a direct quote than using the words 'quote' and 'unquote'.

On page 97 under 'Terrorists' the new style guide says:

Remember, one person's 'terrorist' is usually someone else's freedom fighter. 'Terrorism', 'terrorists', 'militant', 'gunmen' et cetera are all labels.

Further instructions were given to editorial staff by Mr Tulloh early last year not to refer to Middle East groups Hamas, Hezbollah, and Islamic Jihad as terrorist groups. In correspondence to ministers you stated:

The ABC is conscious that in some communities the use of the word ‘terrorist’ to describe a particular group can appear less than impartial when there is no clear consensus about the legitimacy of that particular group.

Do you recall giving that advice?

Mr Balding—Yes.

Senator SANTORO—And that some of those communities might include Basques, Chechens, Colombians, Filipinos, Greeks, Indonesians, Iraqis, Irish, Israelis, Japanese, Kurds, Lebanese, Palestinians and Turks? Isn’t it true, Mr Balding, as you explained before to this committee and to government ministers, that the ABC will call a group of individuals ‘terrorists’ if they are listed as such by the United Nations?

Mr Balding—That was previously the position.

Senator SANTORO—Otherwise that was not the case—you would not label them as terrorists?

Mr Balding—That was the previous position, yes.

Senator SANTORO—Let us talk about the previous position. Is it true that the following organisations were listed by the United Nations and are still listed: Abu Sayyaf, al-Qaeda, Taliban, Asbat al-Ansar, al-Tawhid, JI and Lashkar-e-Taiba and some Chechen groups? Are they all on that list?

Mr Balding—I presume so.

Senator SANTORO—So any group not listed by the UN, such as Hamas, cannot be described as a terrorist organisation according to your policies as explained to various ministers and in Mr Tulloh’s memo. Is that true?

Mr Balding—You are talking about a position that was some time ago. Things have changed since then in respect of labelling. I think I have advised this committee previously about that. Our editorial policies have changed in respect of labelling. The editorial policies now make it quite clear that the ABC does not label as a general rule, but where in a news story a label has been ascribed to a group and the ABC uses that they will attribute the origin of that label; in other words, who labelled that group—they will ascribe that.

Senator SANTORO—I want you to go through what was the case and what is the case now to question you within a historical perspective. When we come to more recent examples of what I am getting at—and I think you probably understand what I am getting at—you might be able to further elaborate as to how those particular provisions within the style guide have changed.

Mr Balding—The editorial policies have been amended by the board.

Senator SANTORO—Has the style guide been changed?

Mr Balding—It would have needed to have been changed, yes.

Senator SANTORO—Would you be able to get a copy for the purposes of enlightening this committee?

Mr Balding—Yes.

Senator SANTORO—Would it be wrong for editorial staff to take these matters into their own hands? I am talking of the style guide and the editorial policy in the past, before you recently changed it. Would it be wrong for editorial staff to take these matters into their own hands and describe as ‘terror groups’ organisations such as Hamas, Hezbollah and any others that some people might regard as terrorists but which are not listed by the UN?

Mr Balding—I don’t know about it being wrong, but—

Senator SANTORO—Would it be contrary to what the style dictated to them they should be doing?

Mr Balding—It would be contrary to the spirit of what was expected.

Senator SANTORO—What about the very specific provision within the style guide that I quoted at the beginning of my remarks?

Mr Balding—Yes, at that particular time.

Senator SANTORO—If a group were accused of a terrorist attack it would, according to your rules, be wrong for editorial staff to start calling them terrorist organisations until they had been listed as such by the UN? I am talking from a historical perspective.

Mr Balding—It could have been, at that point in time.

Senator SANTORO—And editorial staff would be expected to obey these rules, wouldn’t they?

Mr Balding—Yes.

Senator SANTORO—I presume the ABC, and you as editor-in-chief, take the issue of terrorism very seriously, like we all do, and would take extra care over this matter?

Mr Balding—Yes, we do.

Senator SANTORO—Senior editorial staff in particular would be expected to know the ABC policy and adhere to it, wouldn’t they?

Mr Balding—Correct.

Senator SANTORO—Presumably, editorial staff who breached this policy would be spoken to and staff, especially senior staff, who repeatedly—and I repeat: repeatedly—breach this policy would be disciplined, would they not, or perhaps even counselled?

Mr Balding—They would be, if they were in breach of policy at that time.

Senator SANTORO—And staff who deliberately and repeatedly disobeyed this rule, perhaps because they disagreed with it, would be subject to disciplinary action?

Mr Balding—They would be subject to formal counselling.

Senator SANTORO—Maybe warnings and counselling?

Mr Balding—Formal counselling, yes.

Senator SANTORO—Would you envisage a time when they would be taken off air if they repeatedly breached—

Mr Balding—If there were deliberate breaches, yes.

Senator SANTORO—Obviously, the ABC has standards and a reputation to protect, and ultimately that is your job and responsibility as editor-in-chief?

Mr Balding—Correct.

Senator SANTORO—Mr Balding, can you then explain the following for me. Why did *Four Corners*, in a broadcast on 8 July 2002 state:

Innocent Catholics were murdered as well as IRA terrorists.

Four Corners is investigative TV at its best, according to your web site. Is the IRA on the United Nations terrorist list? Mr Balding, was it on the United Nations terrorist list at that time?

Mr Balding—I don't know. I would have to have a look at that.

Senator SANTORO—Is it contentious in the Irish republican community to label the IRA as terrorists?

Mr Balding—These are hypothetical questions to me about an event that happened three years ago. We have had a significant look at our editorial policies, particularly with respect to labelling. You are taking me back into an area three years ago.

Senator SANTORO—I am leading up to May this year in my questions. I am just asking you what your view is about what was happening then.

Mr Balding—And I have said, with due respect, that editorial staff are expected to follow editorial policies and guidelines in our style guide at any particular point in time.

Senator SANTORO—I would just like you to answer questions as they related to what was in existence at that time.

Mr Balding—I will try.

Senator SANTORO—We will come to more contemporary examples very soon. Why did you online service publish the following on 3 February 2003:

Two members of Northern Ireland's outlaw protestant terrorist group, the Ulster Defence Association, have been killed.

Is the UDA on that list? Was it on that list?

Mr Balding—I don't know. I do not have that list in front of me from that point in time. I am not in a position to say whether or not a particular group was on a list two or three years ago.

Senator SANTORO—Can I suggest to you that it was not on the list and ask whether naming it as a terrorist organisation be contentious in that community?

Mr Balding—As we said, the labelling of any terrorist organisation is contentious in various communities.

Senator SANTORO—Contentious to everybody in that community?

Mr Balding—In the particular community, yes.

Senator SANTORO—For example, in Ireland?

Mr Balding—It could be.

Senator SANTORO—To everybody in the community?

Mr Balding—I am not in a position to answer that. I do not know the community in Ireland—I do not know the people who comprise the community.

Senator SANTORO—On *Lateline* on 4 July 2002, well after Mr Tulloh's memo, Tony Jones broadcast the following:

The Prime Minister has cancelled one of his stops in Greece, because of fears of a terrorist attack.

... ..

Officials blame the terrorist group known as "November 17".

Was that organisation on the UN list at that time?

Mr Balding—I do not know whether it was or was not. If you just go back, someone else has ascribed that label. From what you just quoted, it was not the ABC ascribing that label. It was officials ascribing that label, if I heard you correctly.

Senator SANTORO—The quote that I have here is from Tony Jones, *Lateline*, 4 July 2004, well after that memo by Mr Tulloh. He made the statement that I have just given.

Mr Balding—Could you repeat the quote?

Senator SANTORO—Yes. The quote reads:

The Prime Minister has cancelled one of his stops in Greece, because of fears of a terrorist attack.

... ..

Officials blame the terrorist group known as "November 17".

Mr Balding—That is officials; it is not the ABC ascribing that label.

Senator SANTORO—I think Mr Jones in his remarks described that organisation. He did not attribute it to officials. He actually described 'November 17' as a terrorist organisation. He said that officials described it as such, but he also described it in that way.

Mr Balding—That was not in the quote that you just gave.

Senator SANTORO—Why did Peter Cave, on the *World Today* on 3 September 2003, broadcast the following:

... having the bomb attached with a sophisticated neck cuff, only previously seen used by Columbian terrorists.

Were there any Columbian terrorist groups on the UN list at that time?

Mr Balding—I do not know. I would have to have a look.

Senator SANTORO—Does anybody at the ABC know who is on the UN terrorist list?

Mr Balding—Yes, they would; in the editorial staff and in ABC news and current affairs—the list at a particular point in time,.

Senator SANTORO—Obviously at that particular point in time that I have been referring to, from 2002 through to 2004, you would have to agree that there did not seem to be very much awareness of who was on that list.

Mr Balding—I am not in a position to agree or disagree. Again, you are putting things to me that occurred two or three years ago.

Senator SANTORO—I have just given you three examples, and I will continue to give you further examples.

Mr Balding—And I am quite happy to have a look at these, but I am not in a position to answer now whether a particular group was or was not on a list.

Senator SANTORO—Going back a little further, why did Linda Mottram, on *AM* on 22 January 2000, broadcast the following:

The Basque terrorist group, ETA ...

Was ETA also on the list in January 2000? Would some Basques, for example, dispute the label of ‘terrorist’?

Mr Balding—I would have to have a look at that.

Senator SANTORO—The reason why I mentioned all the names of your very senior journalists and correspondents is that most of them, if not all of them, have broken that very basic rule within your guidelines.

Mr Balding—I do not just accept that. I need to go back and look at the circumstances and context.

Senator SANTORO—I would like very detailed replies to the very specific—

Mr Balding—We are more than happy to provide that detail.

Senator SANTORO—On 18 April 2001, on *Foreign Correspondent* it was said:

For decades now, the Basque terrorist group, ETA, has waged a murderous campaign for independence.

Hamish Robertson, on the *World Today* on 12 March 2004, after the memo from Mr Tulloh, said:

... explosives used in the past by ETA terrorists.

Norman Hermant, on *Lateline* on 12 March 2004, said:

The Basque terrorist group, ETA ...

Fran Kelly, on *Saturday AM* on 13 March 2004, said:

The homegrown Spanish terrorist group, ETA ...

Mr Balding, I think there is a lot there for you to check. Can you let the committee know whether you think that all of those journos—who, as I acknowledged, are highly experienced and capable—broke those pretty explicit rules which they had been reminded of and about which you had also written to ministers.

Mr Balding—I am more than happy to have a look at that.

Senator SANTORO—Let us turn to Japan. Mark Colvin, on *PM* on 17 July 2003, said:

The Japanese Red Army is a longstanding terrorist group with strong Palestinian links.

Was it on the UN list?

Mr Balding—I would have to have a look.

Senator SANTORO—What about the Japanese sarin gas gang? Is that on the UN list? Mark Simkin called them terrorists on *PM* on 27 February 2004—not that far back. What about the radical Palestinian faction, 15 May? Is that on the list, Mr Balding?

Mr Balding—I would have to have a look.

Senator SANTORO—Because Mark Willacy, on 18 December 2004, months after Mr Tulloh's memo, broadcast the following on *Saturday AM*:

A radical Palestinian terrorist group called the 15 May faction ...

When did the new editorial guidelines come into existence?

Mr Balding—In terms of the labelling, two months ago.

Senator SANTORO—After your letters to Minister Downer and Minister Coonan, Eleanor Hall on the *World Today* on 14 September 2004 referred to 'a terrorist group calling itself the horror brigade of the Secret Islamic Army'. Was that on the list at that time?

Mr Balding—I will have to have a look.

Senator SANTORO—Is Carlos the Jackal on the list?

Mr Balding—I do not know.

Senator SANTORO—Rafael Epstein, your European correspondent, on *AM* on 27 October 2003 referred to the 'international terrorist Carlos the Jackal'. Nick Grimm on *PM* on 27 July 2004 talked about terrorist groups like Islamic Jihad in the Philippines, but they were not listed on the UN list until 18 October 2004, three months later. Hamish Robertson on the *World Today* on 2 April 2004, after Mr Tulloh's memo, talked about supporters of terrorism who belonged to 'an extreme left-wing Turkish group called the Revolutionary People's Liberation Party Front'. Now we come to the Chechens. Some Chechen organisations were listed by the UN in March 2003, but one Chechen group not on the list is the Mosvar Barayev Commando. Yet Michael Vincent on the *World Today* on 17 March 2004 referred to a new terrorist threat, 'a group calling itself the Mosvar Barayev Commando'. Mr Balding, no doubt you will remember the Beslan massacre?

Mr Balding—I do.

Senator SANTORO—Hundreds of little children were murdered in a school in southern Russia. Your ABC reports at the time made lots of references to terrorists, terrorism and terror groups, but your journalists did not know whether or not the perpetrators of that vile deed were the same groups on the list. Was the group that carried out the attack the Sabotage Battalion of Chechen Martyrs, which is on the US list, or was it the Mosvar Barayev Commando, which is not?

Mr Balding—I will have to have a look at that; I do not know.

Senator SANTORO—Maybe what was done in Beslan was so bad that you were clearly within your rights calling those people terrorists, and I want to make that absolutely clear. Maybe you were within your rights to call those people terrorists. I certainly think that every one of your reporters who called them terrorists—Emma Griffith, Tony Jones and Eleanor Hall—did the right thing, and I want to be very clear on the record in relation to that so that

nobody could accuse me of going soft on terrorists. Mr Balding, could you describe the difference between killing children in cold blood in a school in southern Russia and killing children in cold blood on a school bus in Jerusalem?

Mr Balding—I am not in a position to describe the difference between those horrific, tragic circumstances.

Senator SANTORO—But some of your journalists do pick and choose, and that is one of the underlying points that I am making.

Mr Balding—Again, that is why we do have the editorial policy in the style guide and that is why the ABC board chose earlier this year to change the editorial policies in respect of ascribing labels.

Senator SANTORO—Would you agree that the ABC selectively chose to label one as terrorists and not the other?

Mr Balding—No, I disagree that the ABC selectively chose to do that. Whether or not a particular journalist took that upon themselves is a separate issue from whether or not the ABC as a corporate entity took a decision.

Senator SANTORO—Would you agree with the proposition that many of your ABC journalists, including very senior journalists, in fact did that?

Mr Balding—No, I disagree. I am quite happy to look at the individual circumstances, but it is inappropriate for me to make a general statement to agree or to disagree with what you are proposing.

Senator SANTORO—At this stage I have given you at least a dozen and a half, perhaps two dozen, names of journalists, senior journalists and correspondents who have breached the guidelines.

Mr Balding—You have given me the names of journalists, and you are asserting that they have breached the guidelines. I am not in a position to answer that here today. I am more than happy to go back and have a look at what was actually said and the context of what was said and to bring it back to this committee. I am accepting at face value what you are saying, but it is very difficult for me to agree or disagree just on that reading of what you have there.

Senator SANTORO—Do you think that those journalists I have mentioned who are still working for the ABC as well as others I will mention will be more capable of following your editorial policies and guidelines than they have demonstrated to date?

Senator CONROY—That is a bit of a big call.

Mr Balding—Again, I need to have a look at each of those circumstances. But let me say that I have a very high regard for all of the ABC journalists.

Senator SANTORO—There is no doubt as to the technical talents of ABC journalists. I have been on the record on several occasions stating that they are, indeed, technically some of the best journalists in the world. What we are talking about here is inherent bias.

Mr Balding—I reject the issue of inherent bias. I must reject that.

Senator SANTORO—If you go back, have a look at your transcripts and ascertain that what I have quoted is incorrect, obviously I will do what I did earlier this morning—that is, I

will tender apologies to anybody that I have misquoted. I will always go on the record to fix up mistakes. It has always been my practice to do so on the few occasions in public life that I have had to. But if you are able to ascertain that those breaches of your guidelines and editorial policies occurred, would you agree with me—and it is a hypothetical question at this stage, because you are unable to give me the answers—that you had a problem in the ABC at that point in time if as many journalists as I have asserted were in breach of the guidelines? That is on the basis that you are able to ascertain that what I have quoted is correct.

Mr Balding—I will acknowledge that there was an issue with the ascribing of labels. That is why the board chose to change its editorial policies and make it quite clear to our editorial staff that, as a general rule, the ABC will not label groups.

Senator SANTORO—What do you mean by ‘as a general rule’? You either have specific rules or you do not. You either label organisations as terrorist organisations and people as terrorists if they are listed on the UN list—

Mr Balding—I am sorry; we have moved away from what is listed on a UN list or who describes a particular group as a terrorist group. We have moved away from that, as I said.

Senator SANTORO—Would you like to tell the committee briefly who, in addition to those on the UN terrorist list, is labelled as the terrorist?

Mr Balding—As I said, the editorial policy is not to label groups. But where a group has been described as a terrorist group, for instance, we seek the origin of that—in other words, where a label is ascribed, we find out who has put that label out and who has called that particular group a terrorist group.

Senator SANTORO—Is there a specific provision within the guidelines?

Mr Balding—There is; it is in the editorial policies.

Senator SANTORO—Would you be able to produce that editorial policy for the committee before the conclusion of today’s sittings?

Mr Balding—Yes.

Senator SANTORO—I keep going back to examples because obviously you are going to be looking at them. Why did David Hardaker, on *PM* on 26 October 2004—that is, after your letters to the ministers and after Mr Tulloh’s memo—broadcast the following:

... the Government has played down reports on the ABC that the Iranian-backed Hezbollah terrorist group may be specifically targeting Australian troops.

Was this policy changed because Australians were being targeted instead of Israeli children?

Mr Balding—I will have to have a look at that.

Senator SANTORO—Would you be able to provide me with an opinion as to why that change of approach occurred?

Mr Balding—Yes.

Senator SANTORO—Geraldine Doogue, on *Saturday Breakfast* on 12 March this year—again, after your letters and memo—said:

... Hezbollah was one of the few terrorist groups President Bush mentioned by name ...

Mark Colvin, on *PM* on 16 April 2004—again, some weeks after Mr Tulloh’s memo and a couple of months after your new editorial policy—said:

... Hamas also, as well as doing the things that you mentioned, sends out suicide bombers. It’s also, in other words, a terrorist organisation.

Is anybody reading those memos at the ABC?

Mr Balding—I am quite confident that the memos are read—they are looked at and adhered to. You have examples that you are citing. As I said, I am more than happy to go back and have a look at each one of those examples and come back to this committee.

Senator SANTORO—Mark Willacy, also on *PM*, on 7 December 2004—that is, after your letters to the ministers and after Mr Tulloh’s memo—said:

... the Americans had been calling on the Saudi’s to do more to shut down Al Qaeda, to stop their own funding of terrorist groups—groups like Hamas that operate in the Palestinian territories and inside Israel.

Again, that is a very direct quote, which will be available to you. I suggest that Labor’s defence spokesman, Robert McClelland, just to give the Labor Party a bit of credit, knows what he is talking about in a way that your ABC does not. On *Lateline* of 22 September 2003 he referred to ‘the Hezbollah external terrorist organisation’. Michael Vincent on *Lateline* of 5 December 2003 said:

The Lebanese based Hezbollah is usually linked to terror attacks in the Middle East.

Senator CONROY—Senator Santoro, I think you have made your point. You do not need to read each individual one out. You are using up your very short time left.

Senator SANTORO—What I am doing, Senator Conroy—

CHAIR—I must say, on that point, Senator, that your time is really close to expiring.

Senator CONROY—I think everybody in the country has got a flavour for what you are doing.

Senator SANTORO—What I would like to do is just finish on this particular section, Mr Chairman, if the committee will grant me the—

Senator GEORGE CAMPBELL—I will answer the *Age* questions for you afterwards.

Senator SANTORO—You would be very capable of answering Irish questions, Senator. ABC Online of 14 August 2003: ‘the Palestinian terrorist organisation Hezbollah’.

CHAIR—We will give you until quarter to, Senator.

Senator SANTORO—Tony Jones on *Lateline* of 4 November 2003: ‘the Palestinian terrorist organisation Hamas’. Hamish Robertson on the *World Today* on 10 September 2003: ‘the terrorist group Hamas’. Mark Colvin on *PM* of 25 August 2003: ‘Israel has hit again at the terrorist organisation Hamas.’ Tony Jones recognised the issue on *Lateline* on 22 September 2003: ‘We’ve seen night after night suicide bombs going off in Israel linked to Hamas.’ Were they terrorists, Mr Balding, or were they freedom fighters?

Mr Balding—Again, Senator, let me have a look at it.

Senator SANTORO—Jill Colgan on Saturday *AM* on 21 August 2004: ‘The men are accused of financing Hamas attacking Israel sponsoring drive-by murders, and car and suicide bombings.’ That sounds like terrorism. Mark Willacy again, this time on *PM* on 21 August last year: ‘But, if we take Hamas, for example, it kills women, children and civilians in its so-called war of resistance, doesn’t it?’ Jane Hutcheon on *Lateline* of 20 August 2003: ‘Bus No. 2, blown into scrap metal ... at least 40 children among the casualties.’ Four hundred children in Beslan and it is terrorism; 40 in Jerusalem and the killers are freedom-fighters! What we are seeing here, I suggest to you, Mr Balding, as well as a breakdown of editorial policy and order in the ABC, is the beginning of a breakdown of the convenient ‘not a terrorist offence’ that the ABC has always advanced up to now when challenged over partiality to the Palestinian cause when it takes sides in that conflict. Would you agree that that is what was happening at that time?

Mr Balding—No, I disagree, Senator.

Senator SANTORO—Tony Jones sees a terrorist when he sees one. Speaking to Hamas representative Abou Shanab on 9 June 2003, he said: ‘It’s because Hamas kill civilians that you are likely to be branded as a terrorist organisation throughout the world.’ Even the Palestinians themselves admitted it, Mr Balding. Here is a Palestinian authority, the minister for Israeli negotiations, Yasser Abed Rabbo, speaking on *Lateline* on 28 August 2003:

We have decided to boycott Hamas and Jihad and take all necessary measures in order to preserve the Palestinian national interests against all these adventures, acts and terrorist attacks.

Mr Balding, I could go on and on, but I am very conscious of the fact that even my own side here at this estimates hearing are trying to shut me down. But let me say—

CHAIR—I must object to that comment, Senator. We have arranged for you to have time to make your points.

Senator SANTORO—But, Mr Chairman, what I am trying to prove you can only prove by repeating the many examples, because the ABC has always said to this committee, ‘Sure, there are lapses and, sure, we admit some errors sometimes, but it’s not a frequent occurrence.’ What I am saying is that at that point in time the rules that Mr Balding and his senior executives were meant to be supervising were being constantly breached week after week, month after month, and practically on a daily basis. I have many other examples in relation to other issues.

I am asking who is really in control at the ABC, Mr Balding. Is it you, is it your executive directors or is it your journalists, who will do whatever they want to do? Do you really have confidence that these new editorial guidelines that came into place a couple of months ago are going to be in any way adhered to after what I would suggest was a disgraceful display of inherent bias within the reporting of certain matters by your ABC journalists? Do you have confidence that the performance under the new guidelines is going to be better than we have seen to date?

Mr Balding—Let me just put on the record now that I have confidence in our editorial staff. They are very professional, hardworking staff. You have mentioned a number of instances in a period when hundreds of thousands of stories went to air. I think we need to look at it in the context of what you are talking about and what the ABC delivers and

broadcasts, but I am more than happy—as part of this public accountability process—to take those questions on notice and come back to this committee with full and detailed answers. There is no question on my part about my confidence in my editorial staff at the ABC; they are second to none.

Senator SANTORO—Would you provide detailed answers?

Mr Balding—I will provide detailed answers.

Senator SANTORO—In view of the limitations placed on me, I will conclude my questioning for the time being.

Senator GEORGE CAMPBELL—I have a couple of general questions on the PBS—that will surprise you, first of all. There are two line items in table 5.1. One is entitled employees expenses and it shows a growth over the next four years from \$308 million to \$347 million, going up in stages. What does that indicate? Does that indicate a growth in the number of employees over that period or does that indicate a growth in wages?

Mr Balding—I think that is just indexation, from looking at our salary base. Mr Pendleton will be able to provide a bit more detail there.

Mr Pendleton—The forward estimates would assume the same staffing level. That is just cost growth.

Senator GEORGE CAMPBELL—Is it taking into account any growth in wages?

Mr Pendleton—In real terms, yes.

Senator GEORGE CAMPBELL—Is it based on any particular areas of growth, or is it generally, across the board?

Mr Pendleton—It is based on indexes of general wage growth.

Senator GEORGE CAMPBELL—So it is a predicted growth over the period?

Mr Pendleton—Yes, it is pretty generic.

Senator GEORGE CAMPBELL—The second line item, which intrigues me, is entitled ‘suppliers’. It is actually over half of your budget. What falls within that category?

Mr Pendleton—Everything else; all our expenses.

Senator GEORGE CAMPBELL—I thought you might say that. What is everything else? Tea and coffee? Biscuits?

Mr Pendleton—No, it would be all the costs of production of television, radio and new media, all our infrastructure costs, consumables and materials. There is a detailed listing—

Senator GEORGE CAMPBELL—Consultancies?

Mr Pendleton—Consultancies—

Senator GEORGE CAMPBELL—Does this include what you pay the BBC for programs?

Mr Pendleton—That cost would be in there.

Senator GEORGE CAMPBELL—Would it include what you pay companies like Southern Cross and Southern Star for programs that are made here?

Mr Pendleton—Yes, all those other costs would be included in there.

Senator GEORGE CAMPBELL—Where do the casual and temporary staff that you employ fall? Do they fall within the wages category?

Mr Pendleton—In ‘salaries’.

Senator GEORGE CAMPBELL—Do you have the figure of how much of ‘salaries’ is consumed by casuals?

Mr Pendleton—Not on me; I would have to take that on notice.

Senator GEORGE CAMPBELL—Would you take that on notice and get back to us. Can you also take on notice what proportion of the ‘suppliers’ line is consumed by external program makers?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—For example, whether programs are purchased from the BBC or Southern Cross and whether the cost is people that you bring in on a temporary basis to—

Mr Pendleton—The acquisitions or the amount of expenditure on that line that is—

Senator GEORGE CAMPBELL—If you could break it into the three categories I would appreciate it—if that is possible.

Mr Pendleton—Okay.

Senator GEORGE CAMPBELL—I just want to go back to question No. 15, which arose out of the previous estimates. Can you tell me what the current actual costs to date are for the experience years that are listed in question No. 15?

Mr Pendleton—The actual costs of each item?

Senator GEORGE CAMPBELL—Yes, the costs to date.

Mr Pendleton—I do not have that with me.

Senator GEORGE CAMPBELL—Could you take that on notice and provide us with an updated figure. As I understand it, when you talk about actual costs for the experience years, ongoing costs go back to that experience year.

Mr Pendleton—That is right.

Senator GEORGE CAMPBELL—Is that the way they are allocated?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—In question No. 17, you gave us a list of the number of claims for psychological injuries from the year 2000. Can you give us the figures for 2005-06 so far?

Mr Pendleton—No, that data is not out yet.

Senator GEORGE CAMPBELL—It is not available?

Mr Pendleton—Not yet.

Senator GEORGE CAMPBELL—Has the ABC accepted liability for any of the 18 claims for psychological injury that have been raised since 2003? There were 11 in 2003-04 and there were seven in 2004-05.

Mr Pendleton—It is not a matter of the ABC accepting liability; claims are made directly with Comcare itself. Those claims are processed and investigated.

Senator GEORGE CAMPBELL—Let me put it another way: has liability been accepted in any of those 18 claims?

Senator Coonan—I may be of some assistance there, Senator Campbell. Often matters might be settled without admission and so, unless you looked at each one individually with Comcare, it would be a bit difficult for the officers to give you an accurate answer. But perhaps they could take it on notice and have a look.

Senator GEORGE CAMPBELL—I am well aware of that, Senator Coonan. That is the purpose of my question.

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

Senator GEORGE CAMPBELL—Are you aware of whether or not any of those cases have involved work related harassment?

Mr Pendleton—Yes, they have.

Senator GEORGE CAMPBELL—Are you aware of how many?

Mr Pendleton—For the table there, five matters in total were identified as workplace harassment.

Senator GEORGE CAMPBELL—Five in total?

Mr Pendleton—Over that period.

Senator GEORGE CAMPBELL—Over the period from 1999 or the period—

Mr Pendleton—From 1999 to 2005.

Senator GEORGE CAMPBELL—How many in the last two years?

Mr Pendleton—In the 2003-04 year there were two and in the 2004-05 year there were two identified as workplace harassment.

Senator GEORGE CAMPBELL—So there were three in 2003-04 and two in 2004-05—is that right? Is that what you just said?

Mr Pendleton—That is right.

Senator GEORGE CAMPBELL—As I understand it, Mr Pendleton, a report was prepared for the Comcare commission in September 2004 on the incidence of claims and psychological injury claims at the ABC. Can you provide us with a copy of that report?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Does the ABC have a specific budget for occupational health and safety training?

Mr Pendleton—It would be part of the human resources budget. There would be a line item in there for it.

Senator GEORGE CAMPBELL—Is there a specific figure set aside?

Mr Pendleton—For training?

Senator GEORGE CAMPBELL—For occupational health and safety training.

Mr Pendleton—I am not sure that there is a line item in the budget. There is definitely an amount that we have allocated to it within the occupational health and safety area's budget.

Senator GEORGE CAMPBELL—Do you know what that amount is?

Mr Pendleton—Not off the top of my head.

Senator GEORGE CAMPBELL—Can you take that on notice?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Is that allocation centrally located or is it allocated out to the various departments?

Mr Pendleton—It is centrally located. The roll-out of our new online reporting system has incorporated that budget as well.

Senator GEORGE CAMPBELL—So it is managed out of a central location?

Mr Pendleton—Centrally, yes.

Senator GEORGE CAMPBELL—Does that central budget cover the costs of employees' attendance at training courses?

Mr Pendleton—The backfill costs?

Senator GEORGE CAMPBELL—No, does it cover the costs of them attending training courses?

Mr Pendleton—It would generally pick up any travel costs, yes.

Senator GEORGE CAMPBELL—And it covers the backfilling?

Mr Pendleton—I would have to take that on notice. I do not think it would in all cases.

Senator GEORGE CAMPBELL—If it does not cover it in all cases, can you also take on notice what distinguishes some cases from other cases—what makes some cases different from other cases?

Mr Pendleton—Most of the training takes place at the worksite itself.

Senator GEORGE CAMPBELL—But it would be very difficult for someone to undertake training and perform the work at the same time.

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—So presumably there is a cost for backfilling even for people who are trained on the worksite?

Mr Pendleton—Yes. Most of the training has been coordinated around their work.

Senator GEORGE CAMPBELL—Does the expenditure on health and safety training have to compete with other demands on the budget, or is that a dedicated figure that is there?

Mr Pendleton—On an annual basis?

Senator GEORGE CAMPBELL—Yes.

Mr Pendleton—No, there is a dedicated budget to it. In fact, we have supplemented that budget over the last year in particular, for additional training and some initiatives to enhance our occupational health and safety training and awareness in the organisation.

Senator GEORGE CAMPBELL—So there is a dedicated budget there for occupational health and safety training. How many people would be trained in a 12-month period by the ABC under this budget?

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

Senator GEORGE CAMPBELL—So it does not specifically relate to a fixed figure that you try to train every year?

Mr Pendleton—No, I am not sure that there is a target. We are certainly in the process of trying to raise all our management and staff awareness about the issue of occupational health and safety, right throughout the organisation. We have been working pretty hard on that over the last two years in particular.

Senator GEORGE CAMPBELL—Do you have a dedicated occupational health and safety trainer?

Mr Pendleton—We have a dedicated occupational health and safety officer.

Senator GEORGE CAMPBELL—But not a trainer?

Mr Pendleton—He would undertake the training as well.

Senator GEORGE CAMPBELL—So he does the training. So you have a dedicated trainer.

Mr Pendleton—That is right.

Senator GEORGE CAMPBELL—Can you give us the figures for health and safety representatives and management representatives who have been trained in each of the past three years?

Mr Pendleton—A listing?

Senator GEORGE CAMPBELL—Yes.

Mr Pendleton—I would be able to provide that.

Senator GEORGE CAMPBELL—Have Comcare made any adverse findings about the ABC's workplace safety procedures over the past few years?"

Mr Pendleton—Yes, on a couple of occasions.

Senator GEORGE CAMPBELL—What was the nature of those findings?

Mr Pendleton—There were a couple of specific incidents. I recall an incident at our Brisbane site where a box fell off our tower. That resulted in an adverse report, and I believe there may be one other incident that has resulted in findings.

Senator GEORGE CAMPBELL—Can you take that on notice, and give us the details of those incidents. Has the ABC been warned by Comcare about the inadequacy of any of its occupational health and safety policies and procedures in the past few years?

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

Senator GEORGE CAMPBELL—You are not aware of any?

Mr Pendleton—I am not aware of any. In fact, the ABC, through the rollout of its online reporting system, is actually responding to some suggestions from Comcover, as a result of previous incidents. As a result, it has really enhanced its work of awareness and training.

Senator GEORGE CAMPBELL—Please take on notice providing us with that information. Is the senior officer responsible for the management of occupational health and safety issues across the corporation dedicated in that role?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—That is the only function they perform?

Mr Pendleton—That is correct.

Senator GEORGE CAMPBELL—Do you see any conflict of interest in the fact that the senior officer responsible for health and safety issues is also the manager responsible for advocating on behalf of management in most matters that have come before the IRC over the past two years involving bullying claims?

Mr Pendleton—No, the officer responsible for occupational health and safety does not to my knowledge appear before the industrial relations committee.

Senator GEORGE CAMPBELL—Who is the officer responsible for health and safety?

Mr Pendleton—Peter Clancy.

Senator GEORGE CAMPBELL—Is there anybody responsible for him?

Mr Pendleton—There would be.

Senator GEORGE CAMPBELL—Who is that?

Mr Pendleton—I think he reports up to Don Smith.

Senator GEORGE CAMPBELL—And Don Smith has appeared in a number of bullying claims, has he not, over the past two years?

Mr Pendleton—That is correct.

Senator GEORGE CAMPBELL—Are you familiar with the latest ABC employee assistance program annual report from Corpsych that was released in July 2004?

Mr Pendleton—Yes, Senator.

Senator GEORGE CAMPBELL—Have the findings of this report been made available to senior ABC managers?

Mr Pendleton—They have, Senator.

Mr Balding—The 2004 one?

Senator GEORGE CAMPBELL—Yes.

Mr Balding—I do not believe it has been broadly distributed to ABC senior management.

Senator GEORGE CAMPBELL—I was going to make the point, Mr Balding, that a number of press reports suggest that it has not been shown to management.

Mr Balding—Yes, Senator. I am aware of that. I have spoken to our director of human resources, and these reports now are made available to senior management.

Senator GEORGE CAMPBELL—What level does senior management—

Mr Balding—From the managing director down. I have asked for a copy of those reports. I have asked for my name to be put on that distribution list.

Senator GEORGE CAMPBELL—Have you seen the 2004 report now?

Mr Balding—I have not seen the 2004 report, but what came up onto my desk late Friday was the last six-monthly report to March 2005. I have asked that all managers—senior managers in particular—be placed on the distribution list so that they have access to those reports.

Senator GEORGE CAMPBELL—And what are the key findings of the report?

Mr Balding—I have not looked at it yet, Senator.

Senator GEORGE CAMPBELL—It is a pretty important report, isn't it?

Mr Balding—It is; that is why I wanted to see it.

Senator GEORGE CAMPBELL—Why have you not seen it before?

Mr Balding—I have not been on the list, Senator.

Senator GEORGE CAMPBELL—Who determines the list, Mr Balding? You are the managing director.

Mr Balding—I now have determined the distribution list; that is what I have done. You can appreciate that a lot of reports come across my desk.

Senator GEORGE CAMPBELL—And I appreciate that you would not get to read a lot of them, but—

Mr Balding—There are a lot of reports produced in the ABC that I am not even aware of. But this is a very important issue and I have taken action to ensure that it is brought to the attention of senior management.

Senator GEORGE CAMPBELL—Isn't it true that the report shows a number of very worrying trends? There must be someone at the table who is familiar with it.

Mr Pendleton—The report certainly identifies why our staff and their families are generally using the service. In the order of four per cent of our staff or their families are accessing the service, and probably nearly half of those accesses are to do with personal relationships. There is a higher level than you would expect for work related concerns, but the trend is heading in the right direction. It is coming down from about 40 per cent to about 35 per cent. So, whilst it is still higher than we would like, it is certainly heading in the right direction.

Senator GEORGE CAMPBELL—It is higher than the recognised benchmark of 20 to 30 per cent.

Mr Pendleton—Yes, Senator. That is correct.

Senator GEORGE CAMPBELL—What is the ABC doing specifically to address this issue?

Mr Pendleton—The ABC has been, in particular with its work-life programs and the training courses that it has been undertaking throughout the organisation, addressing this.

Senator GEORGE CAMPBELL—When you say it is coming down, what do you base that on?

Mr Pendleton—On the past two or three reports. It has come down, I believe, from the last reporting period from 41 per cent work related concerns down to 36 per cent this period. We believe that is in response to the training initiatives rolling out throughout the organisation at the moment.

Senator GEORGE CAMPBELL—But the current report you have got on your desk: is that for a 12-monthly period, or for a six-monthly period?

Mr Pendleton—I think it is from January to March, three months.

Senator GEORGE CAMPBELL—So it is not comparing apples with apples at this stage?

Mr Pendleton—My briefing here is, on apples with apples, that the last report would have been for the quarter prior to that.

Senator GEORGE CAMPBELL—I thought the 2004 report was for the year 2004.

Mr Pendleton—I have not got the 2004 report. The one I have is for March. There are quarterly and annual reports that are done.

Senator GEORGE CAMPBELL—But it is still high, and I would be interested to know what specific programs you are putting in place to address these high figures. Forty per cent of the issues are related to workplace issues.

Mr Pendleton—Thirty-six per cent now, Senator.

Mr Balding—Actually, the ABC has been quite proactive in this area. You may be aware that in May 2004, after consultation with the unions, the ABC launched an antibullying policy. I indicated to this committee at the last meeting that we were rolling out a mandatory training course. It is a workshop called Creating a better workplace and it is mandatory: that goes out to all ABC employees. So we have been very proactive in this area to address those issues of concern that you are raising.

Senator GEORGE CAMPBELL—I want to come back to those specific issues in a minute, but I am just trying to get clarification in terms of this report, because in the report it said that conflict with management was a common problem and that the conflict was specifically pronounced in areas of radio, television and human resources. At the last hearing we had here you said there were no hot spots in the ABC, yet this report specifically points to Victoria and South Australia as areas where there are hot spots with management.

Mr Balding—With management or between staff, Senator?

Senator GEORGE CAMPBELL—Between staff and management. I accept what you say—that you were not aware of the report—but how come you were not aware that there were hot spots in Victoria and South Australia but CorpSec were able to pick it up?

Mr Balding—Senator, that is one of the reasons why I have initiated that those reports come to me—because it was not communicated to me that there were those issues of concern.

Senator GEORGE CAMPBELL—I also understand that in some divisions up to a third of the staff have used the counselling service. Doesn't that seem to be an inordinately high percentage for any organisation—

Mr Balding—Again, you need to look at each case on its merits, because the counselling service is available to the family as well—for private related issues, not necessarily only work related issues.

Senator GEORGE CAMPBELL—I accept that, but it is still an extremely high figure.

Mr Balding—Yes. That is why we are going behind those figures to analyse what is causing that problem. When it is in relation to staff related matters, workplace related matters, I think we have been quite proactive and quite open about it—as I said, in launching an antibullying policy and in rolling out this better workplace course.

Senator GEORGE CAMPBELL—The report also documents an increase in work related absenteeism at the ABC. Do you have statistics on the incidence of sick leave at the ABC and what the trend in sick leave has been over, say, the past five years?

Mr Balding—We would be able to have a look at that.

Senator GEORGE CAMPBELL—Can you please take that on notice and provide it for us. The report goes on to recommend that management need to be trained in management skills. Has that recommendation been implemented?

Mr Balding—It has been implemented across a number of areas, Senator. We have instigated a number of courses in respect of management to address these issues.

Senator GEORGE CAMPBELL—Rather than ask you to go through each of the courses here, can you take on notice and provide us with a written response on the range of courses that you have implemented as a result of the Corpsych report or reports in the area of management and in the area of those other issues of bullying and so forth. Does the ABC have a morale crisis?

Mr Balding—I do not believe so, Senator.

Senator GEORGE CAMPBELL—These figures would seem to argue pretty strongly with you.

Mr Balding—Senator, you are talking across 5,000 employees, which is the equivalent of about 4,200 or 4,300 full-time equivalents. You have particular incidences here. As I said earlier on, a number of these cases could be private related. But we are not walking away from this; we are not in denial either. As I said, we are taking a proactive approach.

Senator GEORGE CAMPBELL—On the issue of employees, the report states that there are 5,343 employees, yet the PBS says there are 4,200. That is 4,200 full-time equivalents?

Mr Balding—Yes, full-time equivalents as opposed to people on the payroll. They may be working part time.

Senator GEORGE CAMPBELL—I would just make the point that I do not recall seeing in the PBS, where that reference is made, that there are 4,200 full time equivalents. Does it say that?

Mr Balding—It is definitely FTEs, and we have reported that way for quite some time.

Senator GEORGE CAMPBELL—I will come back to the issue of bullying. How many ABC staff have now undertaken the compulsory antibullying training?

Mr Balding—I will ask Mr Pendleton whether he is aware of that.

Mr Pendleton—I am not aware of the actual number. The program is rolling out throughout the organisation, so quite a number have. It will take 12 months to get through it all, though.

Senator GEORGE CAMPBELL—Have you done your course now, Mr Balding?

Mr Balding—I have.

Senator GEORGE CAMPBELL—Can you now describe to us what is in the course? No-one could describe it to us last time.

Mr Balding—It addresses the issue of what constitutes bullying. I gave the feedback to the Director of Human Resources the other day, as a matter of fact. I thought it was a very appropriate course, and it was easily understood. It takes the participant through a number of cases studies. There is also a staff training video where role-plays are carried out. It talks about how to recognise workplace bullying and what to do about it in a proactive way. It also makes the point that workplace bullying or workplace conflict goes in all different directions. It is just not top-down; it goes across any organisation and bottom-up as well. It is a course that enables people to engage in discussion with the presenter. The course also gives a refresher on what constitutes sexual harassment and discrimination.

Senator GEORGE CAMPBELL—How long does the course run for?

Mr Balding—It varies. The course I attended went for about 2½ hours.

Senator GEORGE CAMPBELL—It is that short, is it? Is 2½ hours the average period that people are spending on this training course?

Mr Balding—On this particular course the bulk of it is about what constitutes workplace bullying, how to recognise workplace bullying and what actions can be taken to prevent workplace bullying.

Senator GEORGE CAMPBELL—Is there a different approach for managerial staff as opposed to normal staff?

Mr Pendleton—I believe it is the same course.

Senator GEORGE CAMPBELL—So it does not distinguish the role of managers in identifying bullying practices or applying bullying practices?

Mr Balding—It identifies instances of workplace bullying. As I said, workplace bullying may not necessarily be supervisor down to subordinate. There are instances and case studies of workplace bullying where it is subordinate through to supervisor. It takes a general look at what constitutes workplace bullying, how to recognise it and how to address it, both from a

management point of view and from a staff point of view. It also identifies the avenues available to an employee.

Senator GEORGE CAMPBELL—Have you put procedures in place throughout the ABC, or are you putting procedures in place throughout the ABC, to enable employees to report bullying?

Mr Balding—Procedures are in place.

Senator GEORGE CAMPBELL—Does the course distinguish between bullying and intimidation?

Mr Balding—Yes, it does.

Senator GEORGE CAMPBELL—How does it distinguish?

Mr Balding—It identifies what is a workplace conflict and what constitutes that workplace conflict. Bullying is a term that has been used in common terminology. It is a form of workplace harassment. It identifies that, but it also makes it very clear what processes and steps are in place for staff to report those instances.

Senator GEORGE CAMPBELL—Is the course that has been renamed ‘Creating a Better Place to Work’, or is that a separate course?

Mr Balding—No, that is the course I am talking about.

Senator GEORGE CAMPBELL—In your answer to question 21, which you took on notice the last time, you stated that 13 claims had been raised under the anti-bullying policy. In the seven claims that were dealt with and resolved, was there any obligation for management to make a finding of whether bullying had actually occurred?

Mr Balding—No, I am not aware of that. They were resolved informally. Of the remaining six that were investigated, there were no findings of bullying.

Senator GEORGE CAMPBELL—Do you know what findings were made in respect of the seven claims that were resolved? You said that you did not know if any finding was made, because they were resolved informally.

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Was there an acceptance in the ABC that bullying had occurred in any of those seven cases?

Mr Balding—No, there would not have been.

Mr Pendleton—There would not have been a bullying finding in relation to them, and, because the matters have been resolved informally, it would mean that both parties had come to an agreement as to resolving the issues between them.

Senator GEORGE CAMPBELL—But they might have come to an agreement to disagree about what the basis of it was.

Mr Balding—No. If there was a disagreement and there was no resolution at that stage, that case would have escalated to a formal investigation.

Senator GEORGE CAMPBELL—But it is possible that there could have been disagreement over whether or not someone was bullied and a settlement still entered into because that was in the best interests of the employee or of the organisation, the corporation.

Mr Pendleton—It could have, but, because it was resolved and agreed informally, we would not have a record.

Senator GEORGE CAMPBELL—You have not kept any records of those seven cases?

Mr Pendleton—Not on the file.

Senator GEORGE CAMPBELL—What happens if anything arises out of those in the future?

Mr Pendleton—The whole purpose of an informal resolution is to allow the parties to define an agreement between themselves. If that is not the case and the matter cannot be resolved between them, and/or there is bullying—unacceptable bullying—then a formal investigation will be initiated.

Senator GEORGE CAMPBELL—In the other six cases, there was no formal/informal agreement reached—is that correct?

Mr Pendleton—There were no findings. There was a formal investigation and there were no findings of bullying.

Senator GEORGE CAMPBELL—Where are those six cases at at the moment?

Mr Balding—The review has been completed, as I understand it.

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—They have all been resolved?

Mr Pendleton—Finalised, yes.

Senator GEORGE CAMPBELL—So those 13 do not include the Barakat case?

Mr Pendleton—I am not sure.

Senator GEORGE CAMPBELL—I am trying to establish some certainty here.

Mr Pendleton—I would have to confirm that.

Senator GEORGE CAMPBELL—You say that the six cases have been completed?

Mr Pendleton—I believe that the six cases have been completed—investigations have been completed—without findings of bullying.

Senator GEORGE CAMPBELL—And findings—

Mr Pendleton—Without any findings of bullying.

Senator GEORGE CAMPBELL—Has there been settlement in those six cases?

Mr Pendleton—Settlement between the parties? There has been a resolution.

Senator GEORGE CAMPBELL—There has been a resolution in all six cases?

Mr Pendleton—I understand that, yes.

Senator GEORGE CAMPBELL—And you will check whether the Barakat case falls into that period.

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Can I ask you to outline the procedure once someone makes a complaint under the program.

Mr Pendleton—Under the grievance program—an allegation of bullying?

Senator GEORGE CAMPBELL—Yes.

Mr Pendleton—Once a staff member approaches, probably, our human resources area, making a claim of bullying, the informal aspects of the procedure would be undertaken—mediation between the parties, if both parties agreed to it, facilitated by our EAP provider in most cases, to see if the issues can be identified and resolved at that level, at the informal level. If either party is not willing to mediate on that basis or the mediation cannot resolve the issues between the parties, the matter is dealt with formally, through a formal investigation.

Senator GEORGE CAMPBELL—Who conducts the formal investigation?

Mr Pendleton—It would be one of the human resources staff.

Senator GEORGE CAMPBELL—Could they not be involved in a conflict of interest?

Mr Pendleton—In what sense?

Senator GEORGE CAMPBELL—If they have been involved in the informal procedure, they would not be involved in the formal procedure, would they?

Mr Pendleton—In all likelihood, no.

Senator GEORGE CAMPBELL—In all likelihood or—

Mr Pendleton—I do not have that information, but I would not have thought they would be. A separate officer would be nominated to undertake the formal investigation.

Senator GEORGE CAMPBELL—Given that human resources is responsible for management in this area and would be involved intimately in all these cases from the start of the procedures through, why wouldn't you, when you get to the formal procedures, go to an independent person?

Mr Balding—A number of cases are.

Senator GEORGE CAMPBELL—A number of cases are?

Mr Balding—Yes, in particular instances. I am not just talking about bullying here; I am talking about workplace grievance. A number of cases are actually handed out to an external independent to look at and to undertake an investigation.

Mr Pendleton—And, if there are identified perceived conflicts with any of the human resources staff, those matters are referred outside the human resources division and sometimes outside the ABC.

Senator GEORGE CAMPBELL—In the Barakat case, given the amount of publicity you have had around the bullying issue in recent times, why did the ABC take the position that it would not take up the offer of the commissioner and have an independent assessment made on

the bullying issue? I would have thought it would have been in your interests to do that to put the thing to bed.

Mr Pendleton—The ABC is appealing those decisions anyway and so it is still a matter before the courts, but the ABC does not believe it was within the jurisdiction of the commissioner to make that determination.

Senator GEORGE CAMPBELL—I accept that you think you have a legal argument there, but setting that aside, given the publicity you have had around this issue in recent times—and there have been a number of cases, some of them high profile, some of them reported in the media, some of them reported in Crikey, if you can call that media—why did the ABC not seize the opportunity of the offer of the commissioner to actually have an independent assessment made of these claims to establish once and for all that in fact you were applying fair practices to your employees or, if you were not applying fair practices, to give you the opportunity to clean the house up?

Mr Pendleton—The ABC does not believe it has a bullying problem. I do not believe that any of our statistics demonstrate that we do have a bullying problem. Notwithstanding that, the ABC has a very proactive approach to workplace harassment which it has rolled out through its programs. As I said in relation to Commissioner Smith's findings, the ABC is appealing those findings.

Senator GEORGE CAMPBELL—I am not surprised that you make that statement that you do not believe you have a problem, but I have to say to you that I think that is a bit like the ostrich with its head in the sand, because, since this issue was raised at the last estimates, I have got a file full of material that has come from all round the ABC with various instances that people claim have occurred. If I were to go into this in detail we would be here for a week. Fortunately for you, my colleagues will only give me a couple of hours so we have to narrow it down. But I can assure you there are a hell of a lot of your employees out there who think there is bullying going on in the ABC. I have not canvassed them; they have been spontaneous. I just find it very disturbing that you say that you do not believe that any of it is going on, when all the evidence that is coming to me points in the opposite direction. I am not suggesting that it is happening in every corner of the ABC, but there seem to be a number of areas where it is occurring with regular monotony.

Mr Balding—In respect of that, as I said, with over 5,000 employees there will always be a degree of workplace conflict. Whether that constitutes bullying or not is something you need to have a look at. Just to clarify Mr Pendleton's statement: where I am coming from is that I am not in denial—far from it, as I have outlined here today in respect of our proactive approach. I think what we are trying to say is that, in respect of workplace grievance, the ABC is no different from any other Commonwealth organisation in respect of the instances of the cases that come before it. We are no better but we are no worse. Just to make it clear: we are far from in denial on this particular matter. We have adopted a proactive approach—more than a lot of other departments and authorities have. When you first put out a policy on bullying, that causes a spike in the claims to start off with, and Mr Pendleton has alluded to statistics from the EAP report starting to come down because people's different interpretations of what constitutes bullying as opposed to other grievance issues in the workplace need to be looked at and tested.

Senator GEORGE CAMPBELL—That is exactly what I am saying. I would have thought that, in the circumstances you are in, you would have taken the opportunity to have an independent source look at it and put the matter to rest.

Mr Balding—That is not to say that we will not do that, but we are of the view, from a legal perspective, that the commissioner has acted outside his jurisdiction. The fact that we are appealing the case means it is before the courts and we have to leave it there.

Senator GEORGE CAMPBELL—But one would have to assume that the reason you are challenging the commissioner for acting outside his jurisdiction is that you do not want to take up the offer of having the independent inquiry.

Mr Balding—It is a separate issue. There is an issue in respect of his finding that we disagree with. From a legal point of view, we also disagree with his jurisdiction. I think you need to test that and go through the proper processes through the courts.

Senator GEORGE CAMPBELL—So you are saying to me that you are not discounting the possibility of the ABC conducting an independent inquiry?

Mr Balding—I am not saying it one way or the other; I am allowing the legal process to take its course.

Senator GEORGE CAMPBELL—But you are not discounting it?

Mr Balding—One way or the other, no.

Senator GEORGE CAMPBELL—You are saying that your appeal against Commissioner Smith's decision is not about preventing that inquiry from going ahead?

Mr Balding—If we do something, we will do it in a proactive way but you need to look at it from the court's point of view: we believe he has acted outside his jurisdiction, and you have to allow the legal course to proceed.

Senator GEORGE CAMPBELL—We will be interested to see how you respond after the appeal decision is handed down. Are you aware of the John Cameron memo?

Mr Balding—Which John Cameron memo?

Senator GEORGE CAMPBELL—James Cameron, is it?

Mr Balding—No, it is John. Which memo?

Senator GEORGE CAMPBELL—This is the one that was sent to ABC staff to threaten people with counselling for breaches of style.

Mr Balding—Yes, I am aware of that.

Senator GEORGE CAMPBELL—Are you aware that to many ABC employees 'counselling' is synonymous with intimidation?

Mr Balding—I am not aware that that is the way a number of staff interpret it. Counselling, to me means, bringing in someone and having a talk to them and explaining where they are going wrong. I would not see it as intimidation. The course is an example of the proactive approach we are taking. It is not only at the ABC' it is in a lot of organisations. I have seen instances of this over many years, where a staff member is brought in and it is explained that the manager or the supervisor believes that they can lift their performance:

some staff take that in a very positive way, other staff take it in a negative way and some staff see it as a form of intimidation or bullying. When a manager discharges their duties, provided they do it in a constructive way, is not a form of bullying or intimidation. It is merely management carrying out its role and discharging its obligations as a manager. I take your point about the issue of having management courses and management training, and we are following through on that, but when a staff member is brought in and counselled you cannot automatically assume that that constitutes intimidation or workplace bullying.

Senator GEORGE CAMPBELL—I accept that, if there is a specific circumstance where a staff member has done something wrong, the normal procedure would be to counsel them but this memo was not sent to any particular staff member, it was sent to everybody. It was very obviously an implied threat.

Mr Balding—I think it is putting staff on notice. It is reminding staff—and we had a fairly long session with Senator Santoro earlier on this morning—of the need to maintain the very high editorial standards of the ABC. We are talking about the brand here. The memo was just about that; it was to remind staff of the high standards they need to maintain. It is keeping people on their game.

Senator GEORGE CAMPBELL—I have to say to you that I think staff put a higher interpretation upon it than that in the circumstances in which the memo was sent out. You had a former human rights manager who described the email as a form of bullying behaviour. You do not believe it is a form of bullying behaviour?

Mr Balding—I do not. I have read the memo. I definitely did not interpret it as a form of bullying—far from it.

Senator GEORGE CAMPBELL—That surprises me. I thought you were a reasonable man.

Mr Balding—I am a reasonable man.

Senator GEORGE CAMPBELL—Well, at the very least do you think it confirms the Corpsych finding that your managerial staff are lacking in communication skills?

Mr Balding—That is a pretty strong statement to make.

Senator GEORGE CAMPBELL—That is what the report says: lacking in communication skills when it came to managing underperformance.

Mr Balding—But I do not think that memo constitutes a senior manager lacking communication skills. Again, it was reminding staff of their requirements to adhere to the style guide and editorial policies.

Senator GEORGE CAMPBELL—At the last hearing, Mr Balding, you told me that no formal complaints regarding bullying in the Victorian newsroom had been received by ABC management. Do you recall saying that?

Mr Balding—I think so, yes.

Senator GEORGE CAMPBELL—I have here correspondence, which is addressed to you, from Mark Ryan, the assistant national secretary of the MEAA, dated 9 July, that formally raises the issue of bullying in the Victorian newsroom. I also say to you that I have a

series of pieces of correspondence from individuals, addressed to you, which raise the issue of bullying in the Victorian newsroom. Why did you make the statement the last time around that you had had no formal complaints?

Mr Balding—I can go back and have a look at it. Maybe from what I said I just may not have recalled those complaints.

Senator GEORGE CAMPBELL—Mr Colin Palmer acknowledged receipt of the correspondence on 26 July to Mr Ryan's letter. Why wasn't this treated as a formal complaint?

Mr Balding—I do not know. I will have to have a look at that. Is it a complaint from a staff member or from the union?

Senator GEORGE CAMPBELL—It was a complaint from the union on behalf of the staff in the Victorian newsroom.

Mr Balding—I would have to look at it.

Senator GEORGE CAMPBELL—It was an official one from the union.

Mr Balding—I am advised that that letter was not actually a specific complaint about particular individuals; it was more of a general issue raised and, therefore, would not have constituted a formal complaint.

Senator GEORGE CAMPBELL—The letter, addressed to you, starts off in the first paragraph:

The Media Entertainment and Arts Alliance feels compelled to inform you of an issue which we believe has now reached crisis point in the ABC's Melbourne Bureau of News and Current Affairs ... Over the past four years more than 22 instances of bullying, harassment and intimidation have been lodged with our Victorian Branch. Many of these have had the common distinction of identifying Mr Marco Bass, State Editor of News/CAFF as a causative factor.

It goes on in the next few paragraphs to outline the reasons why Mr Bass happens to be the individual and states:

The Alliance has no other option but to draw this matter to your attention because of the impact on committed ABC staff and their careers, and the toll it is taking on the productivity and standards of the ABC's News/CAFF output.

We request a meeting with you as a matter of urgency to discuss and resolve this unfortunate situation.

It is a specific complaint and it is specifically targeted at an individual, and I must say that his name repeatedly seems to come up in relation to bullying claims in the ABC in Victoria.

Mr Balding—From what you have read in that letter, and I have not got it in front of me, there is no specific complaint or it does not cite a specific instance from a staff member to another staff member. It is a general complaint from the union about an ABC manager. I do not think it notes any specific instances which therefore would constitute a formal complaint of workplace conflict.

Senator GEORGE CAMPBELL—The letter states:

Our efforts to address this through the News/CAFF hierarchy have been ineffective to date. Those members who have attempted to resolve disputes with Mr Bass via the internal grievance system, and

guided by the Human Resources department, have found their complaints were not handled in a serious, equitable and timely manner.

I do not want to read the whole letter, because it is fairly lengthy, but they are pretty serious issues that were raised.

Mr Balding—They were serious issues which I have forwarded on to our HR people to look at. But you asked whether we had received a formal complaint in respect of workplace bullying in the Victorian newsroom. We do not regard that as a ‘formal complaint’.

Senator GEORGE CAMPBELL—How do you regard it?

Mr Balding—It is a matter that is raised, it is correspondence. When you are looking at a formal complaint you are talking about a particular instance; there is no particular instance cited in that letter. There are generalisations in that letter, and it has brought to management’s attention a concern that the union has on behalf of its members. I just want to clarify for the record—

Senator GEORGE CAMPBELL—Are you not being rather technical?

Mr Balding—I am sorry if I am. I want to clarify, for the record, if a question is put to me—

Senator MARSHALL—You are in denial.

Mr Balding—No, I am far from in denial, and I have said that a couple of times here this morning. But you put to me a question: were there any formal complaints received in respect of bullying in the Victorian newsroom? I think I said at the previous estimates that I am not aware of any. I regard that as a complaint and it is bringing to management’s attention an issue on behalf of staff through the union. But technically it is not a formal complaint in respect of bullying in the workplace.

Senator GEORGE CAMPBELL—Do you have a pro forma for a formal complaint?

Mr Balding—A complaint is in respect of a particular instance, as I understand it.

Senator GEORGE CAMPBELL—But you well know, you must know, that a number of employees have not put in formal complaints for the very fact that they were frightened of being intimidated, and that is what occurred in the Western Australian newsroom. They would not put in a formal complaint because they were concerned about further intimidation. Mr Palmer’s letter says:

I believe it is in both our respective interests to engage positively and proactively in this endeavour. To this end, I would welcome a meeting with the MEAA, as suggested, to discuss the issues, our various concerns ...

Did that meeting ever take place?

Mr Balding—I am not aware.

Senator GEORGE CAMPBELL—Is Mr Palmer here?

Mr Balding—No, he is not. I can find out for you. Again, for the record—

Senator GEORGE CAMPBELL—As far as the union are concerned the meeting never took place. That is what they tell me.

Mr Balding—I can find out why it never took place.

Senator GEORGE CAMPBELL—I think you should inquire from your point of view.

Mr Balding—Again, I wish to make it clear on the record: we are not in denial here. I am sorry about being seen to be pedantic. I am trying to address a particular answer to a particular question that was asked of me about a formal complaint being received.

Senator GEORGE CAMPBELL—I fully understand what you say. I have used the union letter, but I have a number of other letters from individuals that were written to you that did relate to specific instances, and nothing was done with those issues either.

Mr Pendleton—Where formal complaints were made?

Senator GEORGE CAMPBELL—You may not have put them into the category of formal complaints. They were letters written to the Managing Director of the ABC, saying that you should be aware that these things are happening in the Victorian newsroom. They were individual cases, and I do not want to read the individuals' names out because some of them have asked me to keep it confidential because they are concerned about further intimidation.

Mr Balding—If I had received those letters, as you are saying, I would have forwarded them on to take appropriate action through our human resources division.

Senator GEORGE CAMPBELL—But it would appear that once they go into the human resources division they seem to get chewed up in the process somewhere.

Mr Balding—I am very concerned about that scenario.

Senator GEORGE CAMPBELL—I would ask you, at least as a starting point, to go back and look at your records of information you have received both from individuals and from the union that you have referred on to human resources and where they have gone from there.

Mr Balding—I will be doing that.

Senator GEORGE CAMPBELL—I can tell you that you have a lot of unhappy people in your organisation who do believe they have been dealt with very cruelly on this issue. I cannot substantiate that, obviously, because I am only hearing one side of the equation.

Mr Balding—I understand that. Let me go back and have a look to see what follow-up action has been taken by my management in respect of any of the issues that I have forwarded to management.

Mr Pendleton—I can assure you that we investigate quite seriously any matter where the bully has been identified, where the person who has been bullied has been identified, or where there is an event or something that can be investigated. We cannot investigate matters where we do not have the information before us. Where we do receive that type of correspondence, we do approach the person who has provided that information to see if we can get the information we need to undertake the investigation and address the situation. Even where we cannot, we still undertake training and counselling sessions as best we can and provide access to our EAP services. We do not sit on our hands in relation to these matters.

Senator GEORGE CAMPBELL—That is the point at issue: people are concerned that you are sitting on your hands in respect of these matters.

Mr Balding—I am more than happy to follow through.

Senator GEORGE CAMPBELL—It may not be you. Someone is sitting on their hands in respect of these matters.

Mr Balding—As I have indicated, I take this matter very seriously, and I will personally follow through on those issues for you.

Senator GEORGE CAMPBELL—Thank you. In answer to question No. 20, you indicated that, of the 18 claims for psychological injuries from 2003 to the present, six claims originated in Western Australia. How many staff are employed by the ABC in Western Australia?

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

Senator GEORGE CAMPBELL—I am told it is around 200.

Mr Pendleton—It is in the order of 250.

Senator GEORGE CAMPBELL—Don't you find it extraordinary that a third of the claims for psychological injury have happened in an area which is about five per cent of the organisation?

Mr Balding—Again, it is something you need to look at in the context of the claims as well.

Senator GEORGE CAMPBELL—It still seems an extraordinarily high percentage. You made the claim that there were no hot spots. I am just pointing out to you that, on the face of it, Western Australia would appear to be a very substantial hot spot.

Mr Balding—Again, it depends on the period as well.

Senator GEORGE CAMPBELL—They all happened about the same period. We are talking about 2003-04 and 2004-05. It is the 18 claims we are talking about.

Mr Balding—Let me have a look at it, because you need to look at it in the proper context.

Senator GEORGE CAMPBELL—The organisation—the CPSU, I think it was—raised this issue on behalf of the Western Australian members. There were fears of intimidation and people would not come forward themselves. In that case, why didn't you investigate those claims?

Mr Balding—Let me have a look at it. As I said, I will go back and look at all correspondence that has been referred to me over the last couple of years where these allegations or issues of concern have been raised, and I will follow up to see what has taken place.

Senator GEORGE CAMPBELL—I accept what you are saying, Mr Balding, and maybe we will have to leave it at this point and come back to it a little later. But can I ask you: did the ABC provide reports to Comcare recommending against acceptance of liability in any of the Western Australian claims? If you have not got that answer, I am happy for you to take it on notice.

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

Senator GEORGE CAMPBELL—On the last occasion, Mr Balding, I asked you whether there had been any circumstances where performance management had been used improperly. In response to my question, you replied that there were no circumstances where performance management had been used to bully staff. However, my question was whether there were any circumstances in which it had been used improperly—not necessarily for the purpose of bullying. Have you had any investigation into the use of performance management and whether or not that is being used in an unfair manner?

Mr Balding—We receive regular reports in respect of performance management and how it is being applied. I would have to have a look at any statistics in respect of any complaints about how it is being applied. I am generally unaware of any specific instances at my level.

Senator GEORGE CAMPBELL—Are you aware of any circumstances where appraisals have been varied and the supervisor or manager has been counselled over their actions?

Mr Balding—I am not aware of it, no. We can have a look at it for you, but I am not aware of it.

Senator GEORGE CAMPBELL—Have all the performance management reports that were made by managers been accepted?

Mr Balding—I doubt whether they would all be accepted; there could be an issue between the manager and the staff as to resolving agreement in respect of that performance appraisal. I do not see that as unusual.

Senator GEORGE CAMPBELL—Would you have a look at that to see what the figures are for rejection of performance management reports and whether or not there have been any variations in them as a result of further investigations?

Mr Balding—Yes, we can.

Senator GEORGE CAMPBELL—I have a series of questions relating to the Barakat case but, given that you have said that you will go back and look at all the complaints that you have received—

Mr Pendleton—I can make a correction in relation to the Barakat case. It was one of the 13 that was resolved internally. The external matter was then a result of the dissatisfaction with that finding.

Senator GEORGE CAMPBELL—Well, it was not resolved internally.

Mr Pendleton—It had been resolved, according to our investigations. That is why the matter is now—

Senator GEORGE CAMPBELL—You had completed your investigation and the outcome was not acceptable.

Mr Pendleton—Exactly.

CHAIR—Senator Campbell, we have a tea-break scheduled. We might take it if that is okay by you, or do you wish to ask a quick question?

Senator GEORGE CAMPBELL—I have quite a bit to go yet.

CHAIR—We will come back to. We are not dismissing you; we will just have a tea-break.

Proceedings suspended from 10.46 am to 11.00 am

CHAIR—The committee will resume, and we return to Senator George Campbell.

Senator GEORGE CAMPBELL—Mr Balding, I was referring to the Barakat case and I have some questions relating to that. I will leave them at this stage, given that the appeal has not been finalised yet.

Mr Balding—Thank you, Senator.

Senator GEORGE CAMPBELL—It will allow you time to respond to whatever comes out of that. But there are a couple of associated issues which I want to put on the record because I think they are issues that you need to look at in the context of looking at all of these issues. I am aware, as indeed you must be aware, that Ms Ramona Koval, who is a staff elected director, I think—

Mr Balding—She is.

Senator GEORGE CAMPBELL—in her report in April 2004 indicated that she had formally raised the issue of workplace bullying at the ABC board. She said that there exist:

... unacceptable management tactics where targeted staff are being bullied. There are now so many cases that a question of worst practice human resource management is emerging. I have warned the board about management behaviour that is adding to an already stressed workplace.

When that issue was raised at board level, Mr Balding, what did the board do?

Mr Balding—It was discussed at the board. What comes to the board regularly is a number of reports, obviously: governance reports, activity reports which cover the human resources area, and under that comes reporting on where we are with performance management. There is a whole range of staff related reports come to the board and they are discussed at board level. When Ms Koval raised that, from memory it was discussed at the board.

Senator GEORGE CAMPBELL—Did the board take her seriously and did the board initiate anything arising out of her raising the issue at the board, or did it just ignore it, just go on with business as usual?

Mr Balding—The board noted her comments and there was discussion around the board table, from memory.

Senator GEORGE CAMPBELL—But the board did not take any specific action relating to what she had raised?

Mr Balding—No specific action that I can recall, other than looking at reports coming from management and questioning management when management comes before the board. The board obviously questions me and questions other executive directors when they come before the board.

Senator GEORGE CAMPBELL—We do that here, but we probably only ever get a tenth of what the real information is around the place. In respect of that specific issue she raised, the board took no specific decisions.

Mr Balding—Not that I can recall, no.

Senator GEORGE CAMPBELL—There are a couple of issues that overlap with the Barakat case. I will not really go into it, but I want to raise them because I think they are issues of concern. Senator Coonan, will your proposed efficiency review of the ABC be looking at human resource practices within the organisation?

Senator Coonan—It is a view of efficiency and resources and I would expect that all matters would be encompassed. It is not going to be the main focus but it certainly would be comprehended within the terms.

Senator GEORGE CAMPBELL—So it is going to look pretty broadly at the organisation.

Senator Coonan—Yes. It is a total review.

Senator GEORGE CAMPBELL—It is a general review?

Senator Coonan—Yes, it is a general review.

Senator GEORGE CAMPBELL—Mr Balding, are you personally aware that over 15 formal complaints of bullying have been directed at Mr Marko Bass, the Victorian state editor of news and current affairs?

Mr Balding—I am aware of a number of allegations that have been levelled against Mr Bass.

Senator GEORGE CAMPBELL—Are you also aware that five ABC staff members with complaints against Mr Bass and Mr Hamilton, who might have been his immediate superior at the time, all presented and returned identical medical reports?

Mr Balding—I am not aware of that.

Senator GEORGE CAMPBELL—Are you aware that different examining doctors advised in each case that staff were psychologically balanced but traumatised and stressed after repeated interactions with Mr Bass and Mr Hamilton?

Mr Balding—I am not aware of that.

Senator GEORGE CAMPBELL—I think it is important that I draw these to your attention because they obviously need to be included in any review you do into what happened to claims that were made. Are you aware that Mr Bass, for example, rejected the medical reports as one-sided interviews, with the medical practitioner hearing only the staff member's experiences?

Mr Balding—No, I am not.

Senator GEORGE CAMPBELL—Is there any reason why, given the nature of these complaints, Mr Bass was not stood down while these claims were investigated?

Mr Balding—I would have to have a look at the nature of the complaints and to what extent they were investigated.

Senator GEORGE CAMPBELL—In the Barakat case, Mr Crane—I do not know if he is here; he is the ABC's appointed internal grievance investigator—delivered a report that stated that bullying had not occurred. In the course of his investigation, do you know whether Mr Crane interviewed all of Ms Barakat's nominated colleague witnesses?

Mr Balding—I would have to look at that. Mr Crane is our HR manager from Queensland.

Senator GEORGE CAMPBELL—If he did not interview Ms Barakat's nominated colleagues, can you find out why not?

Mr Balding—I will have a look at that.

Senator GEORGE CAMPBELL—Under your grievance and bullying policy, is there a requirement to interview any such witnesses?

Mr Pendleton—It would be a matter for the investigator in terms of what is relevant for his investigation.

Senator GEORGE CAMPBELL—Do you have a set of guidelines in terms of how people should proceed?

Mr Pendleton—About conducting investigations? Absolutely.

Senator GEORGE CAMPBELL—Can you provide the committee with a copy of the guidelines?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Similarly, Mr Balding, in the case of Ms Jacinta Tynan did Tim Burrows, who investigated the bullying claims on behalf of the ABC, interview Ms Tynan regarding her claims?

Mr Balding—I would have to have a look at that.

Senator GEORGE CAMPBELL—Do you think such an interview would be appropriate as part of an investigation?

Mr Balding—One would think so, if that is the person who has made the allegation.

Senator GEORGE CAMPBELL—Are you aware of any ABC managers who at any time have sought to discourage ABC staff from appearing as witnesses before the IRC in cases involving ABC employees?

Mr Balding—No, I am not. I would be concerned if that were the case.

Senator GEORGE CAMPBELL—I was going to ask if you were confident that ABC employees can appear as witnesses without being subject to retaliation or harassment?

Mr Balding—I am not aware of any instances of that. I would be concerned if that were the case. If there were any particular instances, I would be more than happy to have a look at them.

Senator GEORGE CAMPBELL—We may come back to that when you have done your inquiries. I want to give you one other example and get your view of it. It may well be that you have a problem somewhere in the organisation which you might not know about. Can anyone confirm that a radio producer in Tasmania, when preparing for a radio chat segment with a local fishing identity, set up the story so that the presenter was to ask them, if they had been successful, to bring one in for them?

Mr Balding—I am aware of that particular instance.

Senator GEORGE CAMPBELL—You are aware of it?

Mr Balding—Of that case, yes.

Senator GEORGE CAMPBELL—Can you confirm that the employee was charged with misconduct for a breach of the editorial guidelines?

Mr Balding—I believe that is the case. Ms Howard might be in a position to answer that one.

Ms Howard—I do not have the specific details of the case here, but I believe that there was an employee who was formally warned for breaching editorial policies.

Senator GEORGE CAMPBELL—Is it a breach of the editorial guidelines to ask someone to bring you in a fish if they catch it?

Ms Howard—To ask for free goods, yes, I would suggest it was.

Senator GEORGE CAMPBELL—I see. I must listen more closely to the program on Saturday morning when they are doing the fishing reports. Maybe they are just a bit more subtle in Sydney than they are in Tasmania with these things. Can you confirm that management said that if the fish turned up it had to be rejected?

Ms Howard—I cannot confirm that. I have no idea what management might have said at the time.

Senator GEORGE CAMPBELL—Is it true that they had security on the door of the Hobart building to prevent the fish getting in?

Ms Howard—I think that is highly unlikely.

Senator GEORGE CAMPBELL—I am told they did.

Ms Howard—However, there is security at the front of the Hobart building, as there is at all our capital city buildings, so I imagine that there was a security person on duty anyway.

Senator GEORGE CAMPBELL—And they had specific instructions to prevent the fish getting into the building. Did it turn up?

Ms Howard—No idea.

Senator GEORGE CAMPBELL—Did the ABC pursue the misconduct charge against the employee?

Ms Howard—Yes, it did.

Senator GEORGE CAMPBELL—Was the basis of the misconduct charge the claim that the employee had breached editorial policies by seeking to misuse his position?

Ms Howard—I believe so.

Senator GEORGE CAMPBELL—Can you confirm that the same manager who initiated the complaint misused her position by making a brief advertorial promoting her partner's stall at the Salamanca Market?

Ms Howard—I am sorry; I cannot confirm anything of the kind.

Senator GEORGE CAMPBELL—Can you take that on notice and inquire into it? I am assured that it did happen. Was any disciplinary action taken against that manager?

Ms Howard—We can take that on notice.

Senator GEORGE CAMPBELL—Was the employee found guilty of misconduct?

Ms Howard—Which employee?

Senator GEORGE CAMPBELL—The original employee who sought the fish.

Ms Howard—I am sorry to do this, but it was a long time ago. Mr Green, can you recall whether the employee was found guilty?

Mr Green—Sorry; I know nothing about fishing.

Senator GEORGE CAMPBELL—Neither do I, but I like this story! You know nothing about the fish?

Mr Green—I am afraid not.

Ms Howard—The only thing I can tell you is that I believe the employee was found to be in breach of the editorial policies. As such, I imagine he would have been formally warned.

Senator GEORGE CAMPBELL—Was an adverse report made about this employee at his salary assessment for reasons that included the fish incident?

Ms Howard—I am sorry; I cannot confirm that at the moment. We can take that on notice.

Senator GEORGE CAMPBELL—Are you aware of whether the employee sought to defend himself against the adverse report by advising his assessor that the adverse report was the subject of an ongoing grievance?

Ms Howard—I am not aware of any of the specific details. We can take all of this on notice.

Senator GEORGE CAMPBELL—I will assume, if you do not answer me, that you will take it on notice. Are you aware of whether or not the employee was then charged with serious misconduct for breaching an instruction not to discuss the fish grievance and matters relating to the fish grievance with any other staff?

Ms Howard—Again, I am not aware of the detail.

Senator GEORGE CAMPBELL—Will you take that on notice?

Ms Howard—Yes. I can tell you that this has been a long-running case within the organisation—

Senator GEORGE CAMPBELL—I am aware of it.

Ms Howard—for human resources. I apologise if I cannot remember the specific details, but it has been going for a long time—the fish incident and others.

Senator GEORGE CAMPBELL—Are you aware of whether or not the investigation was referred to the head of workplace relations to investigate, as the so-called independent investigator?

Ms Howard—I am sorry; I am not aware of who was the independent investigator. I know there was an independent investigator in that case.

Senator GEORGE CAMPBELL—My advice is that it was the head of workplace relations.

Ms Howard—Yes, that is probably true.

Senator GEORGE CAMPBELL—Can the corporation confirm that the head of workplace relations was named as the independent investigator but an examination of the employee's file revealed that, far from being an independent investigator, the head of workplace relations was regularly reporting to the director of HR regarding the person who had initiated the fish charge, and had issued the confidentiality direction and then issued the charge of serious misconduct?

Ms Howard—That would be a matter for human resources. I am happy for us to take it on notice.

Senator GEORGE CAMPBELL—I will have you take it on notice, because it appears that human resources have been both prosecutor and judge in respect of this matter, and that is of pretty serious concern. If that is the way in which—

Mr Balding—Senator, let us have a look at that. As I said earlier on, when there are instances of potential conflict, human resources actually outsource those investigations to a third-party independent organisation to conduct.

Senator GEORGE CAMPBELL—I understand in this instance—and I stand to be corrected—that they were directly involved.

Mr Balding—Fine. I am quite happy to have a look at it.

Senator GEORGE CAMPBELL—Can you confirm that the charge of serious misconduct has now been investigated by—it says 'DCORP relations'; is that Corporate Relations?

Mr Balding—Yes, as a further independent investigator. That would be the corporate affairs division.

Senator GEORGE CAMPBELL—So they have now intervened in the process?

Ms Howard—That matter was referred to them, I believe, by human resources.

Senator GEORGE CAMPBELL—Mr Palmer, the director of HR, flew to Hobart to discuss matters relating to this incident and matters that flowed from this incident. Could you take this question on notice: did any other ABC manager also fly to Hobart to discuss these matters?

Mr Balding—We will take that on board.

Senator GEORGE CAMPBELL—Did any consultants engaged by the ABC fly to Hobart to discuss matters arising from the fish incident?

Mr Balding—We will take it on notice.

Senator GEORGE CAMPBELL—Can you also take this on notice: how many man-hours were spent investigating the fish incident and matters that subsequently arose from the fish incident, including all claims of bullying and counterclaims of further misconduct?

Mr Balding—We will.

Senator GEORGE CAMPBELL—Please take this question on notice as well: what was the total cost to the ABC of investigating the fish misconduct incident and the matters that

subsequently arose from the fish incident, including all claims of bullying and counterclaims of further misconduct?

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Can the corporation confirm that it considers the time and resources it has spent on the fish incident and the matters it generated have been an effective utilisation of taxpayers' dollars and the significant time of at least four senior executives?

Mr Balding—We will address that issue in our answers to questions on notice.

Senator GEORGE CAMPBELL—Can the corporation recognise that confidence in the ABC's bullying policy may be undermined by staff awareness that so-called independent review processes are tainted and, further, that senior management appear to have been involved in using personal procedures to bully and harass staff? Again, that is as part of your overall assessment; I accept that.

Mr Balding—Yes.

Senator GEORGE CAMPBELL—When did you first become aware of the fish story, Mr Balding?

Mr Balding—I think it was some time ago.

Senator GEORGE CAMPBELL—Some time ago?

Mr Balding—Yes.

Senator GEORGE CAMPBELL—I understand the fish in question were mullet. I think they sell for about \$2.95 a kilo down at the local market. It would have been cheaper for the ABC to go down and buy some fish at the local market, wouldn't it?

Mr Balding—Yes, but I think there is also an issue of principle here, in soliciting a gift, which is that it is contrary to the ABC's editorial policies.

Senator GEORGE CAMPBELL—I think it may be a matter of judgment as to how serious the soliciting was in these circumstances.

Mr Balding—Exactly, and we are more than prepared to have a look at it for you. But you need to look at it in context; this may not have been an isolated incident.

Senator GEORGE CAMPBELL—One last question for you to take on notice on this: can you also see if you can find out what happened to the fish?

Mr Balding—If it arrived?

Senator GEORGE CAMPBELL—If it arrived.

Mr Balding—Dead or alive!

Senator GEORGE CAMPBELL—I now go to some issues to do with the code of conduct. Does the ABC have a policy saying that ABC staff are not allowed to engage in outside work?

Mr Balding—Not without the permission of their supervisor. There has to be delegated approval for that.

Senator GEORGE CAMPBELL—Does this policy apply to all employees?

Mr Balding—Yes, I believe so.

Senator GEORGE CAMPBELL—Is there a set of guidelines for how the policy is to be applied?

Mr Balding—It is set out in the code of conduct.

Senator GEORGE CAMPBELL—Can we have a copy of the code of conduct?

Mr Balding—The code of conduct is in draft form at the moment. It is currently out for consultation with staff.

Senator GEORGE CAMPBELL—What is the purpose of this policy that is being adopted?

Mr Balding—The purpose of the code of conduct?

Senator GEORGE CAMPBELL—Yes, the purpose of the policy that you have adopted in that—

Mr Balding—In respect of outside employment? It is to ensure that there is no conflict of interest—that would be the first thing; to ensure that ABC staff are applying themselves to the position that they are remunerated for; and to assess whether or not there would be any potential or real conflicts arising out of outside employment.

Senator GEORGE CAMPBELL—How many freelance and short-term staff are employed at the ABC?

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

Senator GEORGE CAMPBELL—Can you also tell me how the policy objective of banning outside work fits in with the use of freelance and short-term staff?

Mr Balding—It is in relation to full-time employees as opposed to contract employees or casual employees.

Senator GEORGE CAMPBELL—So it does not apply to them?

Mr Balding—The code of conduct applies to all employees but there would be certain sections where you are talking about outside employment that would be in relation to full-time employees. However, when you engage someone on a casual basis, you need to be aware of any potential conflict arising out of their current extra employment.

Senator GEORGE CAMPBELL—Surely, if the issue that is trying to be addressed is conflict of interest then that would potentially apply to casual and part-time employees as well as full-time employees.

Mr Balding—Yes, and I think that is what I just said. You need to assess that.

Senator GEORGE CAMPBELL—And you say that within the code of conduct there are specific guidelines as to how those judgements are to be made?

Mr Balding—They are to be upward referred to the supervisor, a delegated supervisor or the manager to assess that.

Senator GEORGE CAMPBELL—I am aware of one instance which I think related to a person doing some part-time work in training outside of the organisation who was refused permission to engage in that work. Where would the conflict of interest be there?

Mr Balding—I do not know; I would have to have a look at that particular instance.

Senator GEORGE CAMPBELL—Maybe I will come back to you with the details of that. Is it true that Mr Alan Kohler, a financial reporter for the ABC, is currently promoting a private financial advisory service?

Mr Balding—I am not aware of that. I am advised that he has made a proposal but that proposal has not gone any further at this stage.

Senator GEORGE CAMPBELL—I understand he is actually running an internet service now—it is up and running. Has he been given permission for that activity? You say that, no, he has not.

Mr Balding—As I said, I believe he has made a proposal and that proposal has not gone any further. I will have to take that on notice and have a look at it.

Senator GEORGE CAMPBELL—Would you see that activity as being compatible with the ABC's general policy objective?

Mr Balding—Again, you need to look at each case on its merits.

Senator GEORGE CAMPBELL—You say that Mr Kohler has sought permission but has not yet been granted permission?

Mr Balding—That is what I am advised.

Senator GEORGE CAMPBELL—I am also told that the news division recently refused permission to an ABC employee to engage in employment by doing voice-overs for *Media Watch*.

Mr Balding—I am aware of that.

Senator GEORGE CAMPBELL—What would be the conflict of interest there?

Mr Balding—The news division sees itself as being at arms-length from and independent of other areas of broadcast, with a view to avoiding any potential conflicts.

Senator GEORGE CAMPBELL—Would there be a conflict of interest doing a voice-over?

Mr Balding—There could be if the voice-over was critical of the ABC News and Current Affairs Division.

Senator GEORGE CAMPBELL—But surely the individual doing the voice-over would not be the one responsible for the content.

Mr Balding—You do not know.

Senator GEORGE CAMPBELL—They just have the dulcet tones to present—like me.

Mr Balding—I am aware of that.

Senator GEORGE CAMPBELL—Are you aware of what the basis of the refusal was?

Mr Balding—It was generally around the basis that the voice was a very identifiable newsreader's voice. Again, I believe it sends the wrong message when you have someone from news and current affairs doing a voice-over on a program that is critical of the media and, in a particular instance, could be critical of the ABC's News and Current Affairs Division.

Senator GEORGE CAMPBELL—When I listen to the news—and I listen to the news most days—I do not attribute the stories to the newsreader.

Mr Balding—No, but you can attribute the voice to the newsreader.

Senator GEORGE CAMPBELL—If I recognise it I might, but I do not attribute the stories to them or apportion blame to them for the accuracy or inaccuracy of the stories.

Mr Balding—No, but, again, it is trying to clearly establish at arms-length the editorial independence of the News and Current Affairs division of the ABC.

Senator GEORGE CAMPBELL—So you are concerned that, somehow or other, the independence of News and Current Affairs could be compromised by what is actually said on *Media Watch* rather than by who says it?

Mr Balding—If it is said by a News and Current Affairs employee or staff member.

Senator GEORGE CAMPBELL—Who does the voice-overs for *Media Watch* now?

Mr Balding—Other people from the ABC, I believe; not people from News and Current Affairs. There have been instances, and this is the issue you are talking about, where it has been an employee—a particular radio newsreader—from News and Current Affairs.

Senator GEORGE CAMPBELL—Does the ABC require its employees not to engage in the promotion or advertising of commercial and private products and services?

Mr Balding—It does, but you need to look at each case on its merits.

Senator GEORGE CAMPBELL—Did the ABC give permission to Red Symons to appear and continue to appear in advertisements?

Mr Balding—I believe it did. Ms Howard would be able to address that.

Ms Howard—Under the editorial policies, we can allow people, if they have pre-existing contracts, to continue those arrangements. When Mr Symons joined the ABC he had a pre-existing arrangement with a commercial company. Until that contract runs out, he will continue to honour it.

Senator GEORGE CAMPBELL—Would he be expected to finish that contract at the time it terminates?

Ms Howard—At that point we would not agree for its renewal—that is correct.

Senator GEORGE CAMPBELL—Does the ABC allow staff members to utilise ABC resources for outside projects?

Mr Balding—No, not for private purposes, unless they get specific approval for it. But, as a general rule, no. ABC assets should only be used for ABC business.

Senator GEORGE CAMPBELL—What is the current status of Mr Walter Hamilton?

Mr Balding—Mr Hamilton is on 12 months' leave without pay at the moment.

Senator GEORGE CAMPBELL—Has Mr Hamilton been using the facilities of the ABC in Japan during this period?

Mr Balding—I am not aware of that. I would have to make inquiries.

Senator GEORGE CAMPBELL—Could you make inquiries as to whether or not the resources of I think the Tokyo facility—

Mr Balding—We have a Tokyo bureau.

Senator GEORGE CAMPBELL—Can you take that on notice and find out whether that is occurring?

Mr Balding—I will.

Senator GEORGE CAMPBELL—In terms of the application of the code of conduct, is a different set of rules or a common set of rules applied to all of your employees, whether they are your so-called stars—for example, Sally Loane or Geraldine Doogue—or not? Do the same principles apply?

Mr Balding—It is common for all employees.

Senator GEORGE CAMPBELL—It applies to everyone?

Mr Balding—Exactly.

Senator GEORGE CAMPBELL—At the last estimates, Mr Balding, I asked you whether there was a recognised budget problem within Radio National. You said you were not aware of one. You may remember making that statement. Considering that you were not aware of that problem at that time, who within the ABC first brought the budgeting problem to your attention?

Mr Balding—Subsequent to that estimates hearing I had a discussion with the director of radio, Sue Howard, who brought that matter to my attention. It is a matter of having Radio National operate within its allocated budget.

Senator GEORGE CAMPBELL—Are you aware that, just days after the hearings, reports began appearing in the media that there was a budget crisis at Radio National?

Mr Balding—Yes, I remember reading those articles in the paper.

Senator GEORGE CAMPBELL—Considering that, at the time you made those comments, it was an open secret within media circles that Radio National was in crisis, why do you think that you as managing director were not aware of the situation?

Mr Balding—First of all, I do not believe Radio National is in crisis—far from it. Radio National's budget, as I said at the last committee hearing, has not been slashed or reduced in any major way. Therefore, I did not see Radio National's budget as being in crisis. From memory, what I said at the hearing was that Radio National would be expected, along with all other radio networks and other divisions, to operate within their budget. I do not see it as a crisis. There are budget pressures being experienced, as with all areas within the ABC.

Senator GEORGE CAMPBELL—Are you aware that an article in the *Australian* of 24 February this year noted that, in December 2004, ‘The bean counters froze all positions because of inadequate funds to pay for new staff’?

Ms Howard—My understanding is that Radio National management did freeze positions for a couple of months over the Christmas holiday period while they reviewed their budget overrun. It is not a budget crisis; it was a budget overrun at that time. Radio National were living above their means at the time.

Senator GEORGE CAMPBELL—The Treasurer always says, ‘If you’re running a deficit, you’re in crisis. If you’re running a surplus, it’s good management.’

Ms Howard—It is hardly a crisis.

Senator GEORGE CAMPBELL—So ‘hardly a crisis’ is your definition of it? What was the exact size of the budget blow-out?

Ms Howard—It is a very small proportion of the Radio National budget. I cannot remember exactly what it is.

Senator GEORGE CAMPBELL—Does the figure of \$200,000 ring a bell?

Ms Howard—I think it would be less than that.

Senator GEORGE CAMPBELL—Less than that?

Ms Howard—I would imagine so.

Senator GEORGE CAMPBELL—Can you take that on notice and confirm the exact figure?

Ms Howard—Yes.

Senator GEORGE CAMPBELL—What steps have been taken to investigate the reasons for the blow-out?

Ms Howard—Radio National itself has launched an internal review of its processes—which I understand is due to report towards the end of this month or early June.

Senator GEORGE CAMPBELL—Is that the Connors review—the review by Jane Connors?

Ms Howard—Jane and other members of the management team; that is correct. We have also done a review of a range of internal costs that have gone up beyond our control—the usual things like telephone costs. We have little control over these sorts of increases, unfortunately, and our budgets do not increase as those sorts of costs go up. At the end of the year, there will be some adjustment, not just for Radio National but across radio, for those sorts of contingencies.

Senator GEORGE CAMPBELL—In answer to my question on notice No. 33, you stated that the ABC management is confident that Radio National will operate within budget for the current financial year. What measures have been or are being implemented to ensure that this occurs?

Ms Howard—ABC radio will meet its budget at the end of the financial year. We do the things that we do every year: we scrimp, we save, we manage.

Senator GEORGE CAMPBELL—Will this involve redundancies or reduced programming?

Ms Howard—Certainly not redundancies. That has not been mentioned to me. I have no idea about reduced programming. I certainly hope there is not.

Senator GEORGE CAMPBELL—So there are no redundancies being contemplated?

Ms Howard—There has certainly been nothing mentioned to me.

Senator GEORGE CAMPBELL—Are you confident that Radio National will come within its budget?

Ms Howard—I am confident that Radio National will come very close.

Senator GEORGE CAMPBELL—That is a much more cautious response. Mr Balding, according to the answer to question No. 26, 686 new staff joined the ABC in 2003-04. However, only 437 of those positions were filled through the competitive merit selection process. Why wasn't this process undertaken for all the positions?

Mr Balding—I will refer that to Mr Pendleton.

Mr Pendleton—The competitive merits process is a formal interview process. A large number of staff are brought in for run of show—that is, very short-term staff are brought in for specific skills. It is the nature of our business.

Senator GEORGE CAMPBELL—Mr Pendleton, did all the 249 employees fit into that category?

Mr Pendleton—I believe so.

Senator GEORGE CAMPBELL—You believe so?

Mr Pendleton—I believe so. I could check. I have not been through the complete list.

Senator GEORGE CAMPBELL—Can you take that on notice?

Mr Pendleton—Yes, I can.

Senator GEORGE CAMPBELL—How do you determine it?

Mr Pendleton—When they are just brought in for a particular program that is in production for only two or three months of the year.

Senator GEORGE CAMPBELL—So they are there for short term?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Could you also look at the 249 employees and identify those who did not fit into that category and why they did not go through the competitive merit selection process?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Of the 437 jobs that were filled through the competitive selection processes, how many were filled through a selection panel that included the direct manager of the advertised position?

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

Senator GEORGE CAMPBELL—During the same period as the 686 new employees were employed, were existing employees fully utilised?

Mr Pendleton—By the nature of the business, there probably would not be any staff member in the ABC production pool who is 100 per cent utilised. Are they utilised to their maximum, their optimum? They are approaching that, definitely.

Mr Balding—Are you talking about staff in that particular location or are you talking about staff within the division? For instance, production resources staff are located throughout Australia. It depends on where the activity is taking place, along with the skills mix.

Senator GEORGE CAMPBELL—I suppose I am specifically looking at television and the run of show. I am looking at your production resources and I am really asking: were any outsiders brought in for particular run of show productions while your full-time employees were sitting on the bench?

Mr Balding—In the same location?

Senator GEORGE CAMPBELL—Yes.

Mr Balding—We can look at that.

Senator GEORGE CAMPBELL—If that were the case, why do those practices occur?

Mr Balding—I would want to know the answer myself.

Senator GEORGE CAMPBELL—I am sure you would. Was Mr Ian McGarrity engaged in 2004 to prepare a report on resource allocation matters in the TV area?

Mr Balding—He was. In respect of production resources for television, yes.

Senator GEORGE CAMPBELL—Was that report completed?

Mr Balding—It was.

Senator GEORGE CAMPBELL—What were the findings of the report?

Mr Balding—Mr Pendleton might be able to take you through the details of that.

Mr Pendleton—The report provided by Ian McGarrity alluded to a number of opportunities for further enhancing our production resource management. Specifically, Ian identified issues in the areas of planning and management, the utilisation of the production resource itself and the optimisation of that through a number of systems, through the focus on resource planning itself.

Senator GEORGE CAMPBELL—Did he make recommendations with respect to how the resources could be improved?

Mr Pendleton—There were a number of recommendations. About nine recommendations were made.

Senator GEORGE CAMPBELL—Did that involve the need to reduce and improve the production planning process within the ABC to better match the productions and the scheduling of those productions and better utilise existing internal resources?

Mr Pendleton—It did.

Senator GEORGE CAMPBELL—Was the report adopted by the ABC?

Mr Pendleton—The report has been accepted by the ABC. The recommendations are being worked through. There are a number of recommendations that may or may not be fully implemented as suggested by Mr McGarrity, but certainly the issues that he has identified will all be addressed.

Senator GEORGE CAMPBELL—Can the committee have a copy of the report?

Mr Balding—We will take that on notice because it constituted a broad report. That report did go to the ABC board and was considered by the board. I would like to take that on notice. If it is not the actual report, I am happy to give an outline of what was in the report and the recommendations.

Senator GEORGE CAMPBELL—I was just about to say that if, for some reason, you cannot give us a full report, perhaps the executive summary and the recommendations would be useful.

Mr Balding—We would be more than happy to do that.

Senator GEORGE CAMPBELL—Is it true that the director of TV opposed the report's adoption?

Mr Balding—No.

Senator GEORGE CAMPBELL—It is not true.

Mr Balding—No.

Mr Pendleton—As I said, there were a number of different views about the recommendations that were made by the McGarrity review. There was certainly complete agreement about what the issues were.

Mr Balding—And what issues had to be addressed.

Senator GEORGE CAMPBELL—What is the status of the recommendations at the moment? Is there a committee looking at those or working through them in terms of implementation?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—So you will be able to indicate, when you come back to us, the status of the recommendations—where they have been implemented, where they have been discarded and so forth?

Mr Balding—Yes.

Senator GEORGE CAMPBELL—According to your answer to question 28, there were 45 redundancies between July 2003 and January 2005. How does this compare to previous years?

Mr Balding—How far back, Senator?

Senator GEORGE CAMPBELL—The two years previous.

Mr Balding—If you go back three years, it would be significantly lower.

Senator GEORGE CAMPBELL—Significantly lower.

Mr Balding—Yes. We have put previous information on the record and we are more than happy to give you an analysis of that for over the last three or four years.

Senator GEORGE CAMPBELL—Thank you. Can you tell me how many of these staff were subject to performance review tests before being made redundant?

Mr Pendleton—We will have to take that on notice.

Senator GEORGE CAMPBELL—Can you also tell me—I think you referred to it somewhere—what is an eligible termination payment and how does that differ from a redundancy payment?

Mr Pendleton—An eligible termination payment is a tax payment defined for tax purposes. It draws a different tax treatment.

Senator GEORGE CAMPBELL—Why were these payments made to only two employees and not to the other 45?

Mr Pendleton—These are the two cases that were not redundancies. Redundancy payment is calculated by the terms and conditions of our employment—so weeks in lieu of notice, number of weeks per service. These payments were not made on the basis of a redundancy but on an agreed settlement. Therefore, they were just eligible termination payments.

Senator GEORGE CAMPBELL—They were redundancy payments in another form really, weren't they?

Mr Pendleton—A redundancy payment is an eligible termination payment. But these were not redundancy payments.

Senator GEORGE CAMPBELL—Do they receive a better tax treatment than the normal redundancy payments?

Mr Pendleton—They receive the same tax treatment but the basis for the calculation of the redundancy payment is set within the employment agreements. These were not based on that. These were purely based on a negotiated settlement.

Senator GEORGE CAMPBELL—What positions did these two employees hold?

Mr Pendleton—One was a manager within TV and one was a manager within radio.

Senator GEORGE CAMPBELL—At a senior level?

Mr Pendleton—Relatively senior levels.

Senator GEORGE CAMPBELL—And the other 45 would have been regarded as normal employees.

Mr Pendleton—Again, there is a range of employees and managers.

Senator GEORGE CAMPBELL—Across the 45?

Mr Pendleton—Yes.

Senator GEORGE CAMPBELL—Does the ABC have any further plans to offer staff members redundancy packages in the next 12 months?

Mr Balding—There may be instances where a redundancy position could arise, but there is no intention by the ABC to go out for general expressions of interest for redundancy.

Senator GEORGE CAMPBELL—So, if the circumstances arise, you would address it, but you are not actively seeking expressions of interest.

Mr Balding—No. Each individual instance would be looked at, but there is no intention to go out for a general round of downsizing—I'll put it that way.

Senator GEORGE CAMPBELL—Would that be looked at on the basis of individual sections and the needs of an individual department—whether it is news or current affairs?

Mr Balding—It would at the moment, in particular cases, depending on what is happening in that particular area. But, again, all redundancies have to come to my desk for approval.

Senator GEORGE CAMPBELL—I accept that. Mr Balding, getting back to *Media Watch*, they reported on 4 April that some radio and TV ABC news was prerecorded. I think they referred to ABC TV's 8.30 pm bulletin as being recorded at 7.30 pm in all states but New South Wales and that the Sydney newsroom prerecords bulletins at a quarter to the hour on weekends for broadcasts to south-east Victoria and Tasmania. Why are these bulletins prerecorded?

Mr Balding—There could be instances where you need to do a prerecord—it could be because of staffing and rostering—but it is a general rule now that the actual news updates are not prerecorded. They go out to air live.

Senator GEORGE CAMPBELL—So you have abandoned that procedure?

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Nobody can accuse you of not being independent, taking advice from your own programs.

Mr Balding—Correct.

Senator GEORGE CAMPBELL—I have one final question regarding the 2005 ABC executive scholarships. Is this an annual event?

Mr Balding—It has been for the last couple of years.

Senator GEORGE CAMPBELL—I understand that a Mr Tom O'Byrne, head of news and current affairs in South Australia, was recently awarded an executive scholarship.

Mr Balding—That is correct.

Senator GEORGE CAMPBELL—I think it was to go and study the BBC.

Mr Balding—Yes.

Senator GEORGE CAMPBELL—Is he over there at the moment? Maybe he is participating in the strike.

Mr Balding—No, I do not think he has left as yet.

Senator GEORGE CAMPBELL—I understand that numerous issues have been raised with the ABC and the MEAA in relation to the management of the ABC newsroom in Adelaide, and I think I raised it with you, regarding newspaper reports, at the last estimates. Have any of those complaints against Mr O'Byrne been investigated?

Mr Balding—I do not think they have been investigated by HR yet. I will take that on notice.

Senator GEORGE CAMPBELL—If they were not investigated, I wonder why not and on what basis he was awarded the prize.

Mr Balding—Let me have a look in respect of those allegations.

Senator GEORGE CAMPBELL—That concludes my questions at this stage. There are a number of other issues that I will come back to in the next round of estimates.

Senator ALLISON—I would like to ask some questions about the Independent Complaints Review Panel. Firstly, do the recently announced changes to that panel meet the government's election promise, which was that a re-elected coalition government would 'continue to look at options for developing a strengthened independent complaints handling process'? Is that it, or is there more coming with respect to that commitment?

Mr Balding—As I have indicated to this committee a number of times, the ABC is continuing to look at improving its governance processes. Where we can identify improvements to those processes and procedures, we will take action and implement them. I believe the recent changes in respect of the Independent Complaints Review Panel have strengthened what is already seen as a robust complaints processing procedure, but that does not mean we are just going to stop there and not look at any other area to improve our governance process—including that of complaints handling.

Senator ALLISON—Are there any other measures that are currently under consideration?

Mr Balding—Not at the moment in respect of complaints handling.

Senator ALLISON—It is interesting to note that the process for making appointments to that panel now includes nominees suggested by two independent and respected institutions—the Communications Law Centre and the St James Ethics Centre. Is the government considering using a similar process for appointments to the ABC board?

Mr Balding—That is a question for the minister, not for me.

Senator ALLISON—I did look at her, but she was—

Senator Coonan—Sorry, I was just speaking with the secretary.

Senator ALLISON—I was commenting, Minister, about the new process of making appointments to the Independent Complaints Review Panel, where two nominees are suggested by independent and respected institutions. I was asking: since, as I think the government has said, that is to strengthen the panel's role as an independent body, would you consider a similar process for appointments to the ABC board?

Senator Coonan—The ABC has a slightly different process, as you would appreciate. But the government is very keen to look at whatever way can ensure that these processes work in an independent way. But SBS has a different process.

Senator ALLISON—So does that mean that this is on the agenda; something that the government is actively considering?

Senator Coonan—Having a similar sort of process for appointments to the board? We consider all these sorts of issues. It is not something that is under active consideration as such.

Let us see how it works. It may be a model that is worthy of more specific attention by government.

Senator ALLISON—So you do not rule it out but it is not actively being considered?

Senator Coonan—I do not rule anything in or out. Basically, it is appropriate to have a look at how this works.

Senator ALLISON—In fact, there are two positions that are coming vacant fairly shortly, are there not?

Senator Coonan—There are two current vacancies on the ABC board. I have said publicly that my view is that the way the current appointments are done makes it a bit eastern seaboard centric. I am very interested in looking at whether or not appropriate people can be identified from Western Australia and South Australia, for example. I would like to get some geographic balance.

Senator ALLISON—But you would not be looking at any other kind of changes to process other than in the area of geographic balance?

Senator Coonan—There are lots of things that you take into account. What I have said publicly is that is something that needs to be addressed now. It is something that I am looking at.

Senator ALLISON—Is it possible to outline what the review role of the panel will be and how it will interact with other processes—for example, the complaints review executive?

Mr Balding—The role of the panel and the administrative procedures behind it have been strengthened but the actual interaction with the other processes still remains the same. There are three levels of review at the ABC: there is an internal review first, which involves at a certain stage the complaints review executive; and then there are two external reviews. The panel is one of those external reviews; the ABA is the other external review.

Senator ALLISON—Can you answer the question about how it relates to the complaints review executive?

Mr Balding—It is independent of the complaints review executive. It is an independent step in the process.

Senator ALLISON—So can complaints be reviewed by more than one body?

Mr Balding—Yes, they can.

Senator ALLISON—What determines which body will review them?

Mr Balding—First of all, the complaints come to the ABC. If the complainant is not satisfied with the ABC's initial answer, that can be reviewed by the complaints review executive for determination. Again, if it is not resolved, that complainant can either go to the Independent Complaints Review Panel, the ABA or both. Before they go to the ABA, one would expect them to go through the Independent Complaints Review Panel, but they would not necessarily do that.

Senator ALLISON—Are the protocols, or the way in which this process works, laid down? How is it determined?

Mr Balding—It is laid down and determined. Mr Green might be able to take you through it in a bit more detail.

Mr Green—Yes. In relation to the Independent Complaints Review Panel, the first distinct change from the present arrangements is, as you have identified, the means of appointment. The second is that the panel is asked to resolve a matter before them within 60 days. A further requirement that currently does not exist is that the panel provide—as does the ABA to complainants—a draft of their decision before the decision is finally brought down, particularly to those people who may be affected by the outcome of the investigation. Finally, there is the provision that complainants need not sign any legal waiver, which previously was a requirement. It is, we believe, a very significant development in terms of providing speedy resolution of complaints by an external body and at the same time allowing people to have other options if they wish to pursue them in terms of the review of their complaints.

Senator ALLISON—So if it is an adverse finding, whether it is the ABC or a complainant, either or both get a copy of the draft prior to it being handed down. Is that correct?

Mr Green—Yes. If, for example, a program maker or journalist is named in the findings of the report, then the expectation is that that person sees the content of the determination before it is published in order that they can respond. It is up to the panel and their own discretion whether they extend that same courtesy to the person who has complained. The credible thing is to elevate the processes of procedural fairness and natural justice in relation to the program makers whose judgments are coming under scrutiny.

Senator ALLISON—Does the journalist or presenter have a right of reply, having seen the finding—assuming it is adverse?

Mr Green—Yes, most certainly.

Senator ALLISON—What form does that take? Does it go into the document as it is?

Mr Green—They would be invited to make written submissions on the basis of the preliminary findings, and then the panel would be expected to take those written submissions into account before finalising their deliberations.

Senator ALLISON—Are the submissions by that individual journalist or presenter made public?

Mr Green—It is not necessarily so. It may be written up in the final determination of the panel's final deliberation, but that would be a matter for them.

Senator ALLISON—How do the public know whether the comments of the journalist or presenter have been taken into account?

Mr Green—The judgment of the panel has to stand on the merits of its decision-making processes, and various members of the public will come to a view of that once the original complaint has been assessed and they have seen the response to the complaint by the panel.

Senator ALLISON—But they cannot form a view if they do not have the response by the journalist or presenter.

Mr Green—I think that particular issue of whether to make those matters public is really a matter for the panel. The whole complaints process is done in an environment of privacy. If a

complainant releases the details of their complaint to the ABC, then we often release our responses. But the assumption is one of privacy on the part of all the participants in the process.

Senator ALLISON—If the journalist says, ‘I don’t care about privacy; I’m happy for this information to be released,’ would that be taken into account? Would it be released?

Mr Green—They can release it themselves. There is nothing to stop the journalist doing that.

Senator ALLISON—They could put a press release out.

Mr Green—That is right. The journalist could say, ‘I’m releasing my submissions to the Independent Complaints Review Panel because I want the ultimate processes of transparency to be available.’ There is nothing to inhibit that.

Senator ALLISON—Will the panel give reasons for its findings in writing?

Mr Green—Yes. The expectation is that the panel will provide reasons for its decisions.

Senator ALLISON—That is unlike the previous arrangement, where the panel gave only its decisions, without explanation.

Mr Green—That is right. There is the specific requirement that the panel will provide reasons.

Senator CONROY—The government’s election policy promised a review of the adequacy and efficiency of the ABC’s use of its funding. Does the ABC welcome this review? What are your expectations of it?

Mr Balding—I welcome any review into the adequacy of the ABC’s funding. Our expectation is that the review will find that the ABC is in need of more funding.

Senator Coonan—The ABC in fact sought the review.

Senator CONROY—The ABC’s use of its funding was the commitment as opposed to the level of funding. They seem to be two different things, though.

Mr Balding—It is an issue in respect of the adequacy of funding and then the use of resources in respect of that funding.

Senator CONROY—I just read it a little differently. It says ‘adequacy’, obviously of funding, ‘and efficiency of the ABC’s use’. I just read it a little differently.

Mr Balding—The efficiency of the use of those funds.

Senator CONROY—Do you know who is conducting the review?

Mr Balding—We do not know at this stage. The draft terms of reference are still to be finalised.

Senator CONROY—You have not seen the terms of reference yet?

Mr Balding—I reached an agreement with the secretary of the department on draft terms of reference towards the end of last year.

Senator CONROY—Minister, have you made a decision about who is conducting the review and when the terms of reference will be made public?

Senator Coonan—No, it is being arranged through the department and it relates to the ABC's use of funding to its greatest potential. We have already said that if any efficiencies are identified the ABC will not lose any funding as a result of the process, I should say, and any efficiencies identified by the review will be available to the ABC. The terms are in the course of being considered. My understanding is that we are pretty close to finalising the terms.

Senator CONROY—Will they be made public?

Senator Coonan—The terms of reference? I am quite certain at some stage they will be public.

Senator CONROY—Any indicative sort of time: a couple of days, a couple of weeks, a month or two?

Senator Coonan—It is close. I would not want to put days on it but I would think certainly it is pretty close. I could confidently say weeks but I think it is closer to days, but I do not want to be held to the exact number of days.

Senator CONROY—I promise I will not come back and say, 'You said it was days away.' What work has the ABC done in anticipating this review?

Mr Balding—As I said, because we had an agreement and draft terms of reference towards the end of last year, we formed a project group ready to assist this review, because if you note the actual concept itself of the review, as outlined in the Coalition's broadcast policy statement prior to the election, it was for the review to be done with the ABC and so we have got a project team already assembled. We have gone through a lot of historical data, a lot of benchmarking data to assist the review. We have assembled a lot of information and we have already put together a very, very compelling case in respect of the adequacy of the ABC's funding.

Senator CONROY—You have got your triennial funding review coming up as well. Are these crashing into each other?

Mr Balding—I do not know whether they are crashing into each other—

Senator CONROY—Complement each other.

Mr Balding—The triennial funding submission is due to go to government during the month of October and we are on course for that. The minister is right: it is the ABC board who sought this review, and the essence of it was that the board was concerned with the difficulty it has had in the past of convincing the government on the merits of its funding submissions. The timing of this would be ideal to bring it in line with the triennial funding submissions.

Senator CONROY—It dovetails in.

Mr Balding—So in other words, the outcome of the review is not only to inform the board of its strategy in the triennial funding submission but also to inform government and assist government with the consideration of our triennial funding submission.

Senator CONROY—In the case of the Ashes, the ABC was outbid by SBS for the rights. In one sense it was taxpayers bidding against themselves. Is that a common circumstance? Are you often bidding with the SBS for the same sporting rights?

Mr Balding—We have lost a number of sporting events to SBS and it is an issue of the ABC and SBS, the two public broadcasters, competing in a very small market. We lost the Australian soccer, the Socceroos, to SBS. We lost the Paralympics to SBS and, yes, we lost the Ashes cricket to SBS. The SBS also competes in a market at times in respect of program acquisitions, documentaries, commissioning of programs.

Senator CONROY—Is there a solution, short of you guys launching a takeover bid for SBS?

Mr Balding—We are not launching any takeover bid for SBS.

Senator CONROY—Is that something that should be explored as part of the efficiency review? It seems that having two taxpayer funded bodies bidding for the same thing—

Mr Balding—That would be something for government to look at.

Senator CONROY—Last week, you made it quite clear that existing funding is not adequate to allow the ABC to create much local drama programming. How many hours of local drama will you make this year?

Mr Balding—It is approximately 20 hours at the moment.

Senator CONROY—That is down a fair bit from a few years ago, I understand.

Mr Balding—It is. It is true that local drama has fallen on ABC television. Back in 2001 it was 102 hours. Now it is at an all-time low of around about 20 hours.

Senator CONROY—So back in 2001 it was about 100 hours?

Mr Balding—It was 102 hours back in 2001.

Senator CONROY—Do you believe the ABC is fulfilling its charter with this fairly low level—comparatively speaking—of expenditure on local drama?

Mr Balding—It is still obviously fulfilling its charter, but, as I said—

Senator CONROY—How many hours would you have to produce?

Mr Balding—There is no quota of hours.

Senator CONROY—So one hour would be fulfilling your charter?

Mr Balding—The charter takes on board a whole range of genres. The ABC is to be a comprehensive broadcaster. There is no specific formula in relation to genre to see whether or not you are actually fulfilling the charter.

Senator CONROY—But if you had zero hours of local drama, do you think that would be fulfilling your charter?

Mr Balding—It would not be that we would not be fulfilling our charter, but it would be very much a concern to me in terms of us as the national broadcaster, particularly in respect of meeting the targets of our corporate plan. One of our corporate objectives is about maintaining national identity. It is a very important part of us in respect of commissioning drama. But it is not about not wanting to do more drama; it is about not being sufficiently funded to enable us to actually do more drama.

Senator CONROY—So zero hours would in your view be a matter of concern, and some would argue it would be a breach of the charter, but one hour—

Mr Balding—I would contest that it would be a breach of the charter, but anyway—

Senator CONROY—You think that if the ABC produced zero hours of local drama you would be meeting the charter obligations?

Mr Balding—The charter obligation takes on a whole range of genres—it is not only drama. And we are talking here about drama we are commissioning as opposed to acquiring as well. What we are talking about is commissioning Australian drama, as distinct from acquiring it.

Senator CONROY—Sure.

Mr Balding—The acquisition costs of drama for us are a lot cheaper than actually going out and commissioning it.

Senator CONROY—You could just be a warehouse.

Mr Balding—Yes.

Senator CONROY—I am not sure I would believe that that would fulfil your charter.

Mr Balding—Neither would the ABC. But I think what we need to realise is that drama is expensive and the cost of drama is rising at a much higher rate than the current indexation of our base funding. There is a gap which is growing all the time in terms of the cost of drama and the cost of television production. Indeed, I am sure my colleague the director of radio will support me in saying that the cost of radio is going up. These broadcasting costs are increasing at a greater rate than the indexation of the ABC's base funding.

Senator CONROY—The editorial in last Friday's *Australian* suggested that, rather than asking for more money to produce drama, the ABC should stick to its core business of news and current affairs. What is your response to that?

Mr Balding—The director of news and current affairs was very excited about that editorial. That is simply not the position, and it oversimplifies—

Senator CONROY—Would that fulfil the charter?

Mr Balding—No, it would not fulfil the charter. As I said, the legislation requires the ABC to be a comprehensive broadcaster, not a niche broadcaster. I think the *Australian* was getting a bit carried away there.

Senator CONROY—But under your definition of meeting the charter 'comprehensive' would not include drama production.

Mr Balding—It can include drama production, for sure. But just by excluding it does not mean that you are not fulfilling your charter. Your charter requires a whole range of things—education, entertainment, information. You pick up your documentary genres, you pick up your sport, you pick up your comedy—so it is a whole broad range of genres, not just drama. To do as the *Australian* suggests and only do news and current affairs would not be fulfilling our charter.

Senator CONROY—Okay. So what do you do that the viewers cannot get elsewhere?

Mr Balding—What do we do?

Senator CONROY—Yes. What are the things that you produce, that you put to air, that viewers cannot get elsewhere?

Mr Balding—Subject to the other public broadcaster, one of the first things we do is independent news and current affairs. We do a lot more arts than the other commercial free-to-air networks. We cover a lot more in respect of the natural history. We cover science, we cover children's programs and we cover children's education. There is a whole range of genres that we do that are not necessarily available to the same extent on the other free-to-air networks.

Senator CONROY—I see you were quoted in the *Australian* on 19 May as talking about this issue around commissioning Australian drama because of cost and funding restraints, and you described it as a tragedy. Is that an accurate quote?

Mr Balding—It is.

Senator CONROY—Minister, would you agree that that would be a tragedy if there were no ABC?

Senator Coonan—Just let me put a few things on the record, Senator Conroy. The government does not agree that this has arisen entirely as a matter of the ABC's funding. I remind the committee that in 2005-06 the ABC's total government funding will be \$792.1 million. The ABC has received nearly \$2.3 billion from the Australian government over the 2003-06 triennium. We are about to come into another round of triennial funding and a very timely efficiency review that no doubt will be a very useful exercise to have a look at some of these issues that the ABC has now outlined. But I think it is also appropriate to remind the committee that how the ABC spends its budget is obviously a matter for the board and management and reflects priorities determined by the board. The government has committed an additional \$4.2 million per year, ongoing and indexed, to assist the ABC to meet the increasing costs of purchasing new television programming. In addition, \$72.1 million has been provided over four years from 2001-02 for the creation of new regional and rural programming, and an additional \$54.4 million to continue this program over three years from 2005-06. So the government is as interested as indeed no doubt are the committee and the broader public in the efficient use of the ABC's funding and the priorities it sees for the organisation. If it were to be the case that out of this money there was the kind of pressure being put on local programming that is being contended for, the government is obviously interested and concerned to see how that might play out.

Senator CONROY—Except Mr Balding's point that local drama production costs are jumping probably ahead of inflation and the funding levels that are there at the moment. Is that a reasonable assertion by Mr Balding?

Senator Coonan—That is what we are having a look at, but it is not that the government has not addressed the fact that there have been obviously increased costs of producing local content. It is well acknowledged by government, I think the committee would agree and certainly Mr Balding is contending—and he is right—that it is very expensive to produce local content. But there is no specific requirement, as there is with free to airs, for instance, to produce local content on the ABC. I think these are all very legitimate points that are being raised and something that I am looking at very carefully and taking very seriously.

Senator CONROY—But would you agree that it would be a tragedy if the ABC did not produce any local drama?

Senator Coonan—It is part of what the ABC should be doing; it is part of its charter to do that. I would like to see local production being assisted through what the ABC can do and show.

Senator CONROY—A combination is the preferable outcome from your perspective?

Senator Coonan—I think that certainly local content on the ABC is important.

Senator CONROY—But local production also, not just—

Senator Coonan—Local production, yes.

Senator CONROY—And local ABC production, not just totally outsourced?

Senator Coonan—No, not totally outsourced. I think a combination is appropriate.

Senator CONROY—Thanks for that. Now I would like to talk about the ABC involvement in digital television. How much money has been spent by the ABC or the government on its behalf on the transition to digital television?

Mr Balding—On the capital side?

Senator CONROY—If you want to break it down into capital and recurrent, please do so.

Mr Balding—There are two issues. The ABC has spent an enormous amount of money on the conversion to digital. Mr Pendleton might have the final figure.

Mr Pendleton—It is 210.

Senator CONROY—Two hundred and ten?

Mr Balding—It is in excess of \$200 million—that is on the capital side. In respect of the digital television operational costs, you would be aware that we are still carrying an analog signal which is the same as the digital signal, so there is no further cost there other than the additional funds that government has provided for digital transmission, which I think are in the order of \$63 million per annum. The ABC, though, has invested some \$3 million in operational costs to set up and run, if you like, a second digital multichannel, which was launched at the beginning of March. So, roundly, about \$3 million in operational costs is being expended on that channel.

Senator CONROY—You launched the digital channel ABC2 in March. What has been the audience response to it? I understand that parents of young children are finding it particularly popular.

Mr Balding—Well, parents on behalf of their children! We have had a very positive response from our audience, and a lot of it is from parents in respect of the children's programming. But a number of the contacts have also been appreciative of the time-shifting of the content, where we time-shift content from the main channel to the second channel. In our lifestyles today, we are not always home and we do not always maintain the same hours as other people, so a lot of Australians do not get access to prime time television because of their work and lifestyle. So a lot of comment has come in appreciating the time-shifting of the content.

Senator CONROY—To what degree do you believe ABC2 is driving digital take-up?

Mr Balding—We would like to think that ABC2 is assisting with the drive of digital take-up but, as I have expressed to you on a number of occasions, the issue of genre restrictions is a concern to the ABC. We have put in a submission to the digital services review requesting that the parliament look at lifting those genre restrictions. We believe that if those genre restrictions were lifted it would accelerate the take-up of digital television. In all the studies that you look at, either here or overseas, digital take-up is driven by additional content and enhanced programs and services. ABC2 is about providing additional content and some enhancements of those programs and services. If those genre restrictions were to be lifted, it would enable the ABC to take greater advantage of its archive material, for instance, and there would be greater opportunity in time-shifting some programs—in particular our national news and current affairs—and in those genres that are currently restricted from going on the second channel. But the experience around the world is that the main driver of take-up of digital television is additional content and enhanced programs and services.

Senator CONROY—But do you have any evidence yet that your new channel has led to an increase in the digital take-up?

Mr Balding—No, not directly, other than the feedback from the retail industry. When people come into shops, they are asking about set-top boxes and what else they can get—what the additional benefit is of acquiring a set-top box. A lot of people are also saying that they like the idea of ABC2 but they cannot receive it, and they cannot receive it because they do not have a set-top box or a digital television. So we are writing back to them and explaining to them that it requires either a digital receiver or a set-top box to receive it free to air. Of course, the channel is also available on digital paid platforms, but the main issue in the drive for take-up of digital is through free-to-air broadcasting.

Senator CONROY—You did mention genre restrictions. Can you tell us how they reflect on the product you are offering. I think you did mention them briefly, but can you tell us whether or not they are a help to you?

Mr Balding—The restrictions are a complete hindrance. At the end of the day, whether it is the time-shifting of content or making better use of our archived material to go on to the second channel, those genre restrictions are a hindrance. It is incomprehensible that the national broadcaster cannot broadcast national news and national current affairs on its second television channel. So whether those genre restrictions are in respect of sport, drama, news and current affairs or comedy they are being a hindrance in respect of what we can offer on the second channel.

Senator CONROY—I understand other broadcasters are currently claiming you are in breach of the genre restrictions. Do you agree with this? Are you in breach?

Mr Balding—We do not agree with it. We have received a letter from the department listing a number of programs and the department has asked for our comments and views on why we think they fall within the allowed genres. We do not believe that we are in breach of the genre restrictions.

Senator CONROY—Who adjudicates that ultimately? You say you are not, they say you are—is it the department, the ABA, the ACA or ACMA?

Mr Balding—I do not know. You would have to ask the minister or the department about that. We have given a response back to the department.

Senator CONROY—Minister, is it your decision in the end? Have you spoken to Mr Balding?

Senator Coonan—I am waiting on some advice from my department. Ultimately, if it was about genre restrictions my understanding is that it would be a matter for the ACA. But at the moment we are just trying to establish whether or not it could be conclusively said that there has been any kind of infringement.

Senator CONROY—Which programs have been challenged?

Mr Balding—There are a number of programs being challenged: *Gardening Australia* is being challenged—

Senator CONROY—Minister, that is a very serious charge. Is *Gardening Australia* breaching the law?

Senator Coonan—I will get some advice on that.

Senator CONROY—What is your gut feeling, though? Come on.

Senator Coonan—My gut feeling about gardening?

Senator CONROY—About *Gardening Australia*.

Senator Coonan—It is obviously a bit like a creeper: it has a wide reach.

Senator CONROY—Sorry, Mr Balding: what other programs are being challenged?

Mr Balding—Other programs which they have challenged are, from memory: *Media Watch*, *Lateline*, *Rage*, *The Insiders*, and *Australian Story*.

Senator CONROY—The minister was quoted in the press last week as talking about liberalising the genre restrictions but keeping the limitation on sport. Is that right, Minister?

Senator Coonan—Yes, that is true. Perhaps before Mr Balding answers what I can say is that I currently have under consideration whether or not it would be appropriate, as part of a much broader media package, relaxing the genre restrictions for the national broadcasters. When I said except for sport perhaps for more abundant clarification I should say that what I was really talking about was how we might look at how it might be done consistently with the antisiphoning scheme. If an event were already being shown on live-to-air it might be appropriate for the second channels to then be showing some sport. There is a lot of sport that nobody ever gets to see—quite minor stuff that is on the antisiphoning list that might be appropriate. So it is a fair summation that it is under consideration.

Senator CONROY—Mr Balding, you are on record as saying that a partial lifting of the genre restrictions would be self-defeating and that we need a full lifting of genre restrictions. Is that a strong view?

Mr Balding—That is correct. That is basically the basis of our submission to the government in respect of the digital services review. Again, as I articulated a bit earlier on, if you want to accelerate the take-up of digital you have got to improve the programs and services that are available to the audience.

Senator CONROY—What sorts of things? Say the women's netball on a Friday night, or something like that? Is that the sort of breakthrough you would like to see?

Mr Balding—Yes. We would like to see all genre restrictions lifted. In respect of sport, we would definitely like to see them lifted. As I said, I outlined a proposal to this committee last time we were here in respect of a strategy to go forward to bring the Ashes to free-to-air television. That did not eventuate because a free-to-air broadcaster acquired those rights. In respect of sport, I think it is wrong that the legislation only allows us to do regional sport on the second channel.

There is a range of national sport that we would like to put on the second channel live, for instance. Whether it be the women's netball live on a Friday night or the women's basketball, these are events that we are recording which are being broadcast, say, on a Saturday afternoon not live. With the fact that we are recording them anyway, it would be an opportunity to go live on the second channel without, again, upsetting a major proportion of our prime time audience on a Friday night. Those who really wanted to watch a particular sporting event live would be able to watch it on ABC2 and, for those who wish to continue to watch, for instance, the basketball or the netball on a Saturday afternoon, it would still be available to them.

Senator CONROY—So you would be showing it twice, in effect.

Mr Balding—It is about giving greater flexibility.

Senator CONROY—Minister, would you like to be able to offer Australians who want to watch the women's netball live on a Friday night the chance to do so?

Senator Coonan—As a general proposition, I would like Australians to be able to see what they would like to see, subject to not infringing the current restrictions. I have said that I have them under consideration, and that is really as far as I am prepared to go. I have said that I will look at it. I have also said publicly that I can see a greater role for the national broadcasters to drive digital take-up with being able to offer additional content. Sport is difficult because of the anti-siphoning list, as you would well appreciate. It is something that needs very careful consideration.

Senator CONROY—You are a fan of women's netball, though.

Senator Coonan—I am a fan of what Australians want to see. There is a lot of sport Australians don't see that I think there is an audience for. If it can be done within limits acceptable to all of the broadcasters, I would consider it.

Senator CONROY—Some of the other broadcasters want to abolish the anti-siphoning list.

Senator Coonan—Some of them do and some of them don't. But, as you can appreciate, in most areas of this portfolio an exquisite balance is required.

Senator CONROY—Very well put. What else would you like to do with the digital channel if funds were available? For example, are you working on any interactive programming?

Mr Balding—We are working on interactive programs and our ability to deliver those, but it is also more about delivering more innovative content on the second channel. As I said earlier, when we launch the second channel we are very keen to bring more broadband content

onto it. Broadband content is produced in a very cost-effective way, so you have opportunities to bring that content onto the second channel that may not necessarily go onto a main channel. We are looking at a whole range of options to bring engaging content to that second channel both within the restrictions and also within our funding constraints.

Senator CONROY—My office has received some complaints about the quality of the ABC's digital transmission for a number of places around Australia—for example, Stawell in Victoria and the Hills in Sydney. I am hearing that the high definition signal is worse than the standard definition signal. Are you getting similar complaints?

Mr Balding—I have seen some of those complaints coming through. Mr Knowles might be in a position to address that.

Mr Knowles—In order to accommodate the second channel and the main channel, we have had to reduce the amount of available bandwidth for the high definition channel. Most of the content that people complain about is in fact converted from standard definition up to high definition rather than converted from high definition down, if you like, to squeeze into place. It is a trade off. We said in our submission that the ABC believes that at the moment more choice is going to be a bigger driver than better quality.

Senator CONROY—You got a bit too technical there for me, Mr Knowles. I was hoping that you could give me a slightly less technical explanation. What is causing the problem?

Mr Knowles—We basically have to accommodate three channels: we have to carry a standard definition channel, we have to carry a replica of that in high definition and we have to carry the ABC 2 channel. We have chosen to run the ABC 2 channel continuously, whereas a number of other broadcasters, who do not in fact have multichannel to start with, have more capacity available to transmit the HD channel than the ABC does. Their channels will look better.

Senator CONROY—It is being suggested that people are paying more for the high definition box but getting a worse signal than from the standard definition box. That seems a perverse outcome. I am sure it is not what you want.

Mr Knowles—It does vary depending on the receiver they own as well because there are quite a number of conversion processes that need to take place both in the receiver and on the transmission line.

Senator CONROY—Okay. How can we fix this? It is never good to have any customers walking around publicly saying that the quality of high definition is below that of standard definition and asking what the hype is about.

Mr Knowles—To cure the problem one would have to go back to only having no extra choice.

Senator CONROY—Cancel ABC 2?

Mr Knowles—Yes.

Mr Balding—Unless my colleagues correct me, we are broadcasting in high definition in accordance with what is the accepted range of high definition. It is not as if we are not broadcasting in high definition. We are meeting our statutory requirements in respect of broadcasting in high definition. Before we make any generalised statements, you need to look

at each case on its merits. Reception is an issue. Irrespective of whether you have a high definition box or not, the actual reception is important, and that depends on where you are located—and you have indicated a couple of geographical areas.

The second issue is that a lot of people think they have a high definition box when in actual fact they have gone and bought a standard definition box. When they click on the electronic programming guide and they think they are seeing a high definition program in actual fact, because they have a standard definition box, they are only seeing standard definition television. They then compare that to the standard channel and see no real difference.

What a lot of people are failing to understand is that there are a number of processes that take place between the transmission of the program and the reception of the program and if any one of those pieces breaks down—either because it is not a high definition box or something to do with their television receiver—they will not receive pure high definition television. A number of people I speak to say, ‘I don’t get good high definition.’ When you go and talk to them and look at their set-top box it is actually a standard definition box, not a high definition box.

Senator CONROY—Sure. But some people are saying: ‘It is not the box. The SBS high definition is better than the ABC’s.’ I take the point you have made but people are actually using the same box and when they switch channels they get a better quality picture from SBS than the ABC. I am sure you do not want that. You do not want it to run out there in the ordinary community that SBS gives you decent HD—

Mr Balding—As Mr Knowles said, a lot of it has to do with compressing the signal down to get the actual channels.

Senator CONROY—Do you not have enough space?

Mr Balding—It is a finite spectrum that we have to work with. We have to fit it all in.

Senator CONROY—You are only running two HD channels, though.

Mr Balding—True. Compression technology over time will address that situation. Three or four years ago we could not have done what we are doing now. Compression technology is continuing to address it. But it comes back to the fact that we have made the decision to not just have high definition television. We have made a decision to have as broad a range of content available as possible. That compromises, to a degree, the quality of the high definition signal.

Senator CONROY—I know, Minister, that you do not live in Stawell in Victoria. Do you live anywhere near the hills in Sydney?

Mr Balding—I live in the hills in Sydney.

Senator CONROY—You live in the hills in Sydney. Minister?

Senator Coonan—No, I do not live up there.

Senator CONROY—Being from Melbourne, I have no idea, as you would understand. How is your HD box going, Mr Balding?

Mr Balding—I have got a high-definition box.

Senator CONROY—And are you finding that the SBS HD transmission gives a better quality than the ABC?

Mr Balding—I do not watch SBS.

Senator CONROY—You do not watch the SBS—oh dear, I think you are a little tetchy there, Mr Balding.

Mr Balding—I am just answering the question.

CHAIR—Is your television a digital TV?

Mr Balding—No, it is an analog television.

CHAIR—It is an analog TV and a high-definition box?

Mr Balding—Correct.

CHAIR—And you are getting a good picture on that?

Mr Balding—Yes, a good quality picture.

CHAIR—Better than a standard definition box?

Mr Balding—I do not have a standard definition box; I have got a very early model high-definition box.

CHAIR—So you did not go through having a standard box first and then going to high definition?

Mr Balding—Yes.

CHAIR—You did or did not?

Mr Balding—No, I did not.

CHAIR—Thank you.

Senator CONROY—I understand the ABC has recently hired Mr Gary Dawson. Is that correct?

Mr Balding—Are we interested in hiring him?

Senator CONROY—No, you have hired him.

Mr Balding—We have hired him.

Senator CONROY—You recently hired Mr Gary Dawson.

Mr Balding—We have.

Senator CONROY—What has Mr Dawson's role at the ABC? I have read some very entertaining commentary on his role, so I thought I would get it from the horse's mouth, so to speak.

Mr Balding—Mr Dawson has been appointed to the new position of head of strategy and development. The creation of this position has resulted from a recent restructure of what was known as the corporate affairs division. That division is now taking on a much greater role in respect of corporate strategy. A position arose out of that, and that is the position that Mr Dawson is occupying.

Senator CONROY—This was an advertised position?

Mr Balding—The position was recruited through a search process.

Senator CONROY—Was it advertised externally, or was it not?

Mr Balding—It was. I think an ad was put in the paper, through the search firm.

Senator CONROY—Sure.

Mr Balding—And, can I say, I think we have appointed the most appropriate person to the position.

Senator CONROY—I have absolutely no doubt that is what you think. Who does he report to in the ABC?

Mr Balding—He reports to the director of strategy and communication, and at the moment Mr Green is acting in that role.

Senator CONROY—What is the salary package of this role—a range is fine?

Mr Balding—Let me come back to you with a range. It is not overly paid, I can assure you.

Senator CONROY—What are the components of the package?

Mr Balding—The components are simple: it will just be salary and superannuation.

Senator CONROY—What are Mr Dawson's qualifications for the role? What is his background?

Mr Balding—The pleasing thing which I found about Mr Dawson when I looked at his CV is that he was formerly an ABC journalist, so he has finally come home. I can provide a bit more detail but, from memory, Mr Dawson has an economics degree, as well as journalism and a lot of experience in public sector administration.

Senator CONROY—Is there anything you have left out there that you think might be of interest to the public in his background?

Mr Balding—Previously he was chief policy adviser to the Prime Minister's office, and his most recent engagement was with the Law Society of New South Wales.

Senator CONROY—A friend of yours, Senator Coonan?

Senator Coonan—Absolutely; they just keep coming!

Senator CONROY—I know your deep interest in the law.

Senator Coonan—It is a deep interest in the law and a deep interest in communications. I must say that Mr Dawson is an excellent choice of the ABC's.

Senator CONROY—You would know him reasonably well, given those two backgrounds—in the PM's office for the last few years, and with the Law Council.

Senator Coonan—I do not practice law any more, so in that capacity I have not had any connection with Mr Dawson.

Senator CONROY—You used to bump into him around the corridors?

Senator Coonan—Certainly as somebody who was in the Prime Minister's office I know him. I have not actually worked with him because he preceded my coming into the portfolio.

Mr Balding—Can I also say that the search firm undertook extensive referee checks on both sides of politics.

Senator CONROY—Who were his referees? Do you know off the top of your head? Did he have the PM down? I am sure, given Senator Coonan's comments, he would not have had her down.

Mr Balding—No. There was a number of referees.

Senator CONROY—Would Arthur Sinodinos have been a referee?

Mr Balding—I do not know; there is a number of referees.

Senator CONROY—I would be shocked if he was not. It would be pretty embarrassing if his old chief of staff did not want to referee for him.

Mr Balding—Can I say that extensive referee checks were carried out on both sides of politics.

Senator CONROY—How many people applied for the position?

Mr Balding—I do not know how many applied. It was culled to a short list of four. There were four people short-listed. One withdrew just prior to the interview, so we interviewed three people.

Senator CONROY—And this was a new position?

Mr Balding—This was a newly created position.

Senator CONROY—Whose final decision was it to employ Mr Dawson?

Mr Balding—Ultimately it was mine, with the assistance of a committee. A committee was formed.

Senator CONROY—Mr Green would have been on it?

Mr Balding—Mr Green was on the committee, along with my chief-of-staff, Mr Linnane, and we took advice from the search firm as well.

Senator CONROY—No advice was taken from anywhere else—the board, the government or anyone else?

Mr Balding—No, it is a position and a management responsibility.

Senator CONROY—So the board was not consulted?

Mr Balding—The board was advised.

Senator CONROY—Afterwards?

Mr Balding—Yes, the board has been informed.

Senator CONROY—It has been suggested that his appointment would improve communications with the government. Was that a consideration?

Mr Balding—I would like to think that his appointment would improve communications not only with the government but with all key stakeholders—within government, within the industry and, indeed, within the parliament.

Senator CONROY—I am looking forward to meeting Mr Dawson. Is he in the room?

Mr Balding—The last time I looked he was.

Senator CONROY—I recognise him now. I was not sure if he was there advising the minister or not. I would like to ask you a few questions about the ABC's position on the transition to digital radio. The commercial radio sector has argued for the regulatory framework to be modelled on the framework for digital TV. Many would argue that this has not been a very successful model. What are the ABC's views?

Mr Balding—In a nutshell—and I will ask the director of radio, Sue Howard, to go into a bit more detail—we believe that new, different and compelling content will be crucial in driving the take-up of digital radio. We also believe that, if no new services are permitted, the consumer take-up is likely to be very limited. That is the position that we have put to government through our own submission. Ms Howard might be able to address it in a bit more detail for you.

Senator CONROY—Ms Levy has boycotted me again! That is twice in a row. I am beginning to take it personally.

Mr Balding—Ms Levy sends her apologies. She is in the process of acquiring content for us at the moment. She is overseas negotiating some program deals.

Senator CONROY—I will not take it personally.

Mr Balding—She looks forward to the November estimates.

Senator CONROY—Excellent.

Ms Howard—We and the commercial radio industry, Commercial Radio Australia, have been working towards digital radio for quite a long time. We differ in some areas, however. Commercial Radio Australia want a simulcast period of around 10 years, where we would be on both AM/FM and digital platforms. During that time they would like no new services—no new audio services and no new players of any kind. I think that is disappointing in that, if we look at overseas experience, particularly in the UK and some European countries, it is new services which enthuse people and actually them to take up digital radio. Commercial Radio Australia argue that people will buy sets because they get better sound. I do not think that is much of a driver. It is new services that seem to push people to buy digital radio sets.

Senator CONROY—Have you looked at the UK experience with digital radio? I understand there has been a very impressive take-up over there. Are there lessons to be learned? Is that what you are referring to?

Ms Howard—Again, the digital take-up in the last maybe 18 months in particular has been very strong and that has come about again because the BBC has offered, I think, seven new services. The commercial industry also offers a range of services that are available on digital radio only. For example, there is a children's service that you cannot hear anywhere except on digital radio. That is terrific. There is a book reading station and things like that, and they are available on digital radio only. They seem to be the drivers.

Senator CONROY—You must be disappointed that the commercial radio sector are trying to restrict you so much.

Ms Howard—I think the commercial radio sector would argue that the audience is well serviced. I guess that is where we take issue with them. There are probably three types of commercial radio: talk radio, pop music for young people and pop music for older people.

Senator CONROY—What are the age brackets there?

Ms Howard—I am not going to go there; it is way too sensitive! Even in the UK there is a commercial classical music station, for example, and commercial jazz stations. None of those services are being offered except by us and some of those services we are now offering on the internet or via the aforementioned set-top boxes, but it would be nice to be able to offer them more broadly. There is country music, for example; there are all sorts of musical genres that do not really get much of an airing.

Senator CONROY—In the ABC's view, is there enough spectrum to migrate all existing broadcasters across to digital, plus the new services that you would like to offer?

Ms Howard—That is quite a contentious issue at the moment. I might hand over to my colleague Mr Knowles, who does technical things way better than I do.

Mr Knowles—I think that is a question which the government and the ABA are actively considering at the moment because it depends very much on which piece of the spectrum you allocate for digital radio.

Senator CONROY—There has been some suggestion that some services may have to go to L band—and I am hoping you are going to tell us what L band is. Would the ABC be concerned if it was relegated to L band?

Mr Knowles—The technology is able to operate in either the TV band or a new band which is up around where mobile telephones live. There is obviously more spectrum up in the new spectrum than there is located amongst where the TV stations live. In the event that the TV spectrum had to be used, there would be somewhat of a shortage until such time as analog television is able to be phased out.

Ms Howard—The advantage of band 3 is that it provides a much more robust signal—it is able to closely match existing FM coverage—so obviously everybody sees that it is in their interests to be on band 3.

Senator CONROY—Why is there a shortage of spectrum? Is it because the take-up of digital TV has been so slow? I am just trying to get my head around that.

Mr Knowles—There is always a shortage of spectrum because, whether it be mobile phones or defence or others, there is a continual debate going on as to who should receive it.

Senator CONROY—It is right, though, that analog TV is taking up some of the spectrum that you need in reality?

Mr Knowles—Analog television has been there for quite a while, and until such time as it is phased out it will continue to occupy the space.

Senator CONROY—But it would be good if we could accelerate the take-up of digital TV so that you could get that space?

Mr Knowles—Absolutely.

Senator CONROY—If it is a choice between a freed-up analog and this L band, it is a no brainer really, isn't it? I am sorry; Hansard cannot pick up a nod, Mr Knowles.

Mr Knowles—Yes.

Mr Balding—Provided that all the audience could still receive—

Senator CONROY—Of course. As I said: take-up.

Mr Balding—digital television as opposed to analog television.

Senator CONROY—No, we do not want to go through the mobile phone debacle. I want to move on to talk about ABC Asia Pacific television. Could you give the committee a brief overview of the sorts of programs that you broadcast on that service and how many countries you go to now? I was recently talking to somebody who spends a fair bit of time overseas, and he just said: 'Oh my God, whatever happens, you've got to make sure you keep getting the service. I listen to all of it from the ABC. It is fantastic.' So just my own personal feedback was very positive. Tell us all about it.

Mr Balding—I would love to. ABC Asia Pacific television has been the untold success story. Just to make sure that you are fully aware of the context, this is a contract between the ABC and the Department of Foreign Affairs and Trade. It is a five-year contract. The service now is available in 39 countries on 155 platforms, and it is one of the fastest growing networks in the Asia-Pacific region. It has just gone from success to success over the relatively short time that it has been in operation.

Senator CONROY—How many countries did you say that it goes to?

Mr Balding—It goes to 39 countries, on 155 platforms. It is now available in over 200,000 hotel rooms. There is one extra now. It is growing all the time.

Senator CONROY—You have just had a quick update. It looks like it is growing by the day, Senator Coonan.

Senator Coonan—I am just being a stickler for accuracy.

Senator CONROY—A sloppy brief, was it? I understand that DFAT have an option to renew the ABC's contract to provide this service. Have you had an indication from DFAT about whether they intend to renew the contract or whether it will go to tender?

Mr Balding—The indication we got from DFAT is that they have completed their review and it is now before the minister. In fact this afternoon I am meeting with the foreign minister to give our presentation to him to try to convince him to renew the contract.

Senator CONROY—How much is the contract worth?

Mr Balding—Around \$18½ million per annum.

Senator CONROY—Are you confident the contract will be renewed?

Mr Balding—You can never be overly confident. I am confident that the ABC have put together a very compelling case.

Senator CONROY—You have met your KPIs and other things that are part of the contract?

Mr Balding—Under the contract we have met all KPIs and, in the majority of cases, we have exceeded meeting those KPIs. You cannot be overly confident. We take this very seriously. It is a major investment by the government in getting back into international television. The ABC, through its Asia-Pacific staff, has put a lot of time and effort into this, particularly in respect of personal relationships in getting onto those 155 platforms throughout Asia. It is about knocking on doors, sitting down and negotiating with platform providers and establishing a strategic long-term relationship. To our benefit, we have been able to leverage off the ABC brand and its respect in the region, but we have been able to follow it up and demonstrate the quality of the service through quality programming. It is just not ABC content that is on the channel. We acquire content from all the other networks as well. It is about showcasing Australia into the region and providing a very high quality, independent news and current affairs service into that region.

Senator CONROY—Who else would be interested in tendering for this?

Mr Balding—I believe there is someone else wanting to tender, but the details of that is speculation at this stage. I believe another consortia out there is very much interested in putting in a bid.

Senator CONROY—I can only guess that it would be someone like Fox/Sky.

Mr Balding—It could be.

Senator CONROY—What would be the consequences for the ABC if the contract went out to tender? Where would that leave you in terms of the ongoing expansions that you are involved in? As we just heard, you have done such a successful job. You are in the middle of negotiations obviously in many countries. Would all that grind to a halt?

Mr Balding—It will not necessarily grind to a halt. It will slow down because you have to be careful about giving ongoing commitments when there is a degree of uncertainty in the air. We would have to treat each case on its merits. We would be restricted in entering into long-term contractual commitments, whether they be with a satellite provider or an actual distributor. So it would curtail our marketing activities, if you like, in the region during that period of uncertainty.

Senator CONROY—Minister, do the ABC have your support on this? Do you agree that they are providing this quality service? Have you experienced it yourself when you have been overseas?

Senator Coonan—It is a matter for DFAT to assess the bid by the ABC and, indeed, to consider any others. I do not know who else is bidding. I have not seen any other bid. I do think that the ABC have done a very good job.

Senator CONROY—You can afford to be seen as a referee for the ABC on this one in the process, can't you? It is a bloody good service.

Senator Coonan—As I have said, it is a very good service. There is no doubt about that, but there is a process.

Senator CONROY—Are you prepared to lobby, to make representations or to send in a letter on their behalf?

Senator Coonan—I would have thought that at least it might be a cabinet decision. I will reserve my views as to how that will go.

Senator CONROY—So you will reserve them until you hear the arguments. Okay, but we are counting on you, Minister. Mr Balding, I want to go to an issue of slightly less fun for you. As you are aware, a former senior ABC executive is facing fraud charges. What is the magnitude of the losses that the ABC is believed to have incurred?

Mr Balding—First of all, you would be aware that it is a matter that is currently before the courts. With respect, we would be unable to comment specifically on that issue.

Senator CONROY—So you do not want to quantify it at this stage?

Mr Balding—It would be wrong for us to quantify because the Australian Federal Police are still concluding their investigation and acquiring evidence. I can assure you that the corporation has robust processes in place to minimise the risk of fraud occurring at the ABC. We have undertaken a very proactive approach in respect of the issue of fraud. The ABC's fraud control strategy was recently assessed.

Senator CONROY—That was going to be my next question. Without going into the details of this individual case, because I appreciate your position, what changes have you made?

Mr Balding—It is not so much about the changes that we have made. As I say, I would like to point out that we had been very proactive well before this case and continued to be proactive after this case was brought to our attention. The ABC's fraud control strategy was recently assessed against better practice by a firm of external consultants, KPMG, which indicated that the ABC 'has a highly effective fraud control strategy'. Its present fraud control efforts are rated as 'excellent'. There is a number of issues since this case was brought to our attention on which Group Audit has briefed management, including the executive. We have revisited a number of our policies to ensure that they are correct and appropriate and to also lift the awareness of those policies by ABC staff.

Senator CONROY—The press reports indicate that a lack of accountability mechanisms in relation to the hiring of stringers or casual crew may have been an issue. Have you made any changes in that area?

Mr Balding—Again, I do not want to comment on that.

Senator CONROY—I am talking about whether there have been changes, not about the past.

Mr Balding—We have looked at a whole range of issues in respect of minimising the risk of fraud and seeing where we can further improve our internal control processes. But it is more than just improving your internal control processes. It is about the application of those internal controls as well, and that comes back to a staff awareness issue. Again, it is being proactive in bringing this to the attention of staff and management.

Senator CONROY—It has been reported that the executive involved was listed as insolvent at the time that the ABC hired him and put him in charge of TV program budgets. Would the ABC consider doing background checks on such people in the future?

Mr Balding—The ABC undertakes referee checks on all of its prospective employees prior to employment. The issue in respect of anyone becoming insolvent or bankrupt, whatever the case may be, is an issue of privacy. You have got to be very careful there that someone who becomes a bankrupt or insolvent—

Senator CONROY—I appreciate that we have to try to avoid the specific details but the suggestion—

Mr Balding—No, I am talking in general irrespective of this particular case.

Senator CONROY—Surely a background check that did not discover that somebody was insolvent or bankrupt, and I am not sure whether it was a corporation that was hired—

Mr Balding—I think there are two issues: whether or not an individual, a prospective employee, is insolvent or bankrupt at the time of applying for a job, as opposed to becoming bankrupt or insolvent post being engaged by the ABC or any organisation. It is an issue of privacy that we need to look at.

Senator CONROY—I appreciate the privacy aspect but it would be strange if the sort of check that you are describing was not able to establish whether the person was insolvent or bankrupt.

Mr Balding—Again, and I am not talking about the specifics of this particular case but in general, the ABC undertakes referee checks on all prospective employees.

Proceedings suspended from 1.00 pm to 2.02 pm

Senator CONROY—We were just talking about the fraud case and the background checks. Are you confident that the losses that the ABC has sustained could not occur again as a result of the changes you have implemented?

Mr Balding—You can never be confident that this sort of thing will never happen again. What you do is take proactive action to minimise the risk of fraud. In any organisation you will never, ever completely eliminate fraud, but you continually test the robustness of your internal control systems, your processes and the application of those internal controls. To think that any organisation can completely eliminate fraud is totally incorrect.

Senator CONROY—I understand that the ABC board has received an internal audit report on the losses. Has the ABC implemented all of the recommendations of that report?

Mr Balding—I can confirm that the internal group audit reports to the chair of the board's audit committee, so the board has been kept abreast of issues of internal control within the corporation.

Mr Pendleton—There are two processes here that run concurrently, but until the Federal Police actually conclude their information gathering the internal process cannot run and complete its progress. There are a range of things that still need to take place dependent on when the AFP and the DPP have got to a point that the ABC is allowed to progress its internal investigation.

Senator CONROY—Can the committee obtain a copy of that report?

Mr Balding—Let me have a look at it. It is a board report. We will look at it to get a précis of what the report said and I am happy for you to have a look at it.

Senator CONROY—I want to talk about Tony Eastley’s interview with Senator Vanstone on *AM* on 12 May concerning the Vivian Alvarez matter. Can the ABC explain why parts of that interview have been deleted from the web site.

Mr Balding—The actual transcript of the eastern coast interview has actually gone back up on the web site. The transcript was not altered. The transcript that went up on the web site was the program that went to air in Western Australia. So the program had been amended, not the transcript. The transcript that went up was the program that went to air. I have had a meeting with my colleagues Mr Cameron and Mr Green and we have made the decision to put both transcripts up on the web site in the interests of transparency and a proper record of the interview. As I said, the two editions are now available on the ABC web site.

Senator CONROY—How long was the edited one up for? How long was the not the full interview up for?

Mr Balding—It would have been a week. It was last Thursday week.

Senator CONROY—Obviously it was your decision to put it back up. You accept that a full transcript, including the apology, is a more appropriate thing to be up?

Mr Balding—Yes, we do. That is why we have taken the decision to ensure that the transcripts of both programs are available on the web site.

Senator CONROY—Who made the decision to cut the interview for the Western Australian program?

Mr Balding—That would have been an editorial decision in News and Current Affairs. I do not know who made that decision.

Senator CONROY—You haven’t asked?

Mr Balding—No, I have not asked.

Senator CONROY—Assuming you have overridden it, I thought at some point someone may have said something.

Mr Balding—Programs change before they go to air. The actual program that went to air in Western Australia was different from the program that went to air in Sydney. That happens all the time. Things are updated.

Senator CONROY—I understand the update concept. I understand it is two or three hours behind so some stuff would not be fresh or relevant, but I think you would have to accept that this is a little different. This was self-censorship because something was politically hot.

Mr Balding—I accept again, in the interests of transparency and the actual record of interview, that both transcripts should be available on the web site, and they are both there.

Senator CONROY—So, if I wanted to delete a factual error in an interview with Kerry O’Brien or Tony Jones, you could say that we should delete this.

Mr Balding—First of all, I do not regard it as a factual error. I regard it as an inappropriate comment.

Senator CONROY—Maybe not inaccurate but inappropriate.

Mr Balding—Totally inappropriate, Senator.

Senator CONROY—Is there a policy to ensure that it does not happen again? You probably had a policy that it should not happen in the first place. Have you reiterated the existing policy or have you amended any policies to ensure that this sort of censorship does not happen again?

Mr Balding—That is being discussed with News and Current Affairs now. Just to reiterate, there was no amendment to the transcript. It was the program of the transcript.

Senator CONROY—I understand the difference that you are seeking to make. Would you often put the Western Australian transcript up?

Mr Balding—Yes, if it is a different program than what went to air in the east. It could be a different program, different interviews. An interview may have been dropped and another one put in.

Senator CONROY—I have a few questions relating to the expansion of the NewsRadio network. How is the roll-out proceeding? Have any new services been provided yet and in which towns?

Mr Balding—We are out to tender for the roll-out of the extension of the NewsRadio. Those tenders close on 4 June. There has been no actual extension at this stage.

Senator CONROY—When is the roll-out expected to be completed—4 June?

Mr Balding—No, the tender closes on 4 June. The roll-out will take some time, and that depends on the transmission facilities. It depends also upon the availability of spectrum as well. It is a matter that we are working through with officers of the department and officers of the ABA.

Senator CONROY—I understand that 18 services will not come online until at least 2008. Is that correct?

Mr Balding—That could be correct. Mr Knowles is across that in a bit more detail.

Mr Knowles—Until such time as we have the tenders in and have timetables from the potential suppliers, we are not in a position to announce the timetable. In addition, there are still a number of the proposed locations for which no spectrum has yet been identified, and that is still an activity that the ABA is working on to find channels for those.

Senator CONROY—So the ABA has not been directed to set aside spectrum?

Mr Knowles—In some of the locations, spectrum is in very short supply, particularly along the eastern seaboard and some of the close ones, the capital cities.

Senator CONROY—This is a national broadcaster. Can't we ensure there is enough spectrum for them?

Senator Coonan—There is only a certain amount of spectrum and a lot of people need some.

Senator CONROY—This roll-out is part of your coalition election policy, which says it will be available to all populations with a population of 10,000.

Senator Coonan—Yes, and it involves some planning, which is under way.

Senator CONROY—There is some suggestion that up to 18 services will not come online until at least 2008. That would be after the next election.

Senator Coonan—I have not seen that projection.

Senator CONROY—Would that be satisfactory in delivering the coalition's election commitment?

Senator Coonan—Rather than speculate that that is what is going to happen, I think we should let the tender processes proceed, the planning of the spectrum proceed, and then we can beat our breasts if it does not work within an acceptable time frame.

Senator CONROY—I hope you are going to be able to do far more than that to deliver a rock solid, ironclad election commitment like this.

Senator Coonan—That is what is being delivered, Senator Conroy.

Senator CONROY—From the sound of it, spectrum availability is not there yet.

Senator Coonan—No, it is just a matter of how you plan spectrum. It is not to say it is not achievable.

Senator CONROY—I would hope that this commitment was high on your list of things to deliver.

Senator Coonan—It is very high on the list of things to deliver, but it does involve planning for spectrum. It is a complex matter, and that is why we need to go through a process of seeing how it can all be fitted within the available spectrum.

Senator CONROY—You would look pretty silly if you had to promise it again at the next election.

Senator Coonan—Somehow or other, I do not suspect I will be, Senator Conroy.

Senator CONROY—We will take that as another good positive. What are the locations where spectrum is a problem, Mr Knowles? You said the east coast. Could you be a little more expansive.

Mr Knowles—At this moment the ABA is still working on the options. These channels were not necessarily in the original plans that the ABA had published; therefore, it can often involve juggling a few things around to make it happen. We really need to wait until the outcome of that process.

Senator CONROY—Is the ABC going to tender to determine who will own these transmitters? Is that the tender process you are talking about?

Mr Knowles—Yes, to provide that service.

Senator CONROY—I was looking at whether it was the service or the transmitter or both.

Mr Knowles—It is both.

Senator CONROY—Separate people to do each or bundled?

Mr Knowles—The ABC's approach is to seek a fully managed service. In other words, the provider bills, owns and maintains the service for a fee in the same way as our existing transmission network.

Senator CONROY—You mentioned that the ABA has not finalised what it is doing. Minister, has the ABA been directed not to allocate any more spectrum in these problem areas?

Senator Coonan—Not that I am aware of. My current advice is that I expect to make an announcement about the timetable for the first stage of the extensions and enhancements later this year. The latest information I have is that the ABC would expect to commence the roll-out in about early 2006.

Senator CONROY—And completed by? That is the real question.

Senator Coonan—I am not talking about it being completed. I am talking about making an announcement about the timetable for the first stage of these extensions. As I have said, it is a complex matter planning spectrum, which is why we have a process to fairly allocate it.

Senator CONROY—Broadcast Australia currently owns your transmitters. Are you satisfied with the service it has provided so far?

Mr Balding—We are forever monitoring the service of Broadcast Australia. There have been a couple of incidents in recent times that have caused me to write to Broadcast Australia and bring our concerns to its attention, where ABC television and radio has gone off air.

Senator CONROY—You have had a Blue Heelers of a problem, have you?

Mr Balding—We never had the same audience sitting there watching nothing. We are concerned when television and radio goes off air, particularly in prime time and particularly where there have been events of national crisis and natural disaster—bushfires et cetera.

Senator CONROY—Are you able to identify where you are having problems?

Mr Balding—We went off air in South Australia during the bushfires on the Eyre Peninsula. I would have to give you details of other problems. Again, they are quite substantial markets for us—a capital city and regional Australia.

Senator CONROY—Minister, you mentioned that you have some services in the first stage and you are ready to make an announcement. How many services are in that first stage?

Senator Coonan—I will not be saying that until I make the announcement.

Senator CONROY—I just thought I might get a scoop for us all.

Senator Coonan—Sometimes this happens, but perhaps on a different matter.

Senator CONROY—That is all of my questions. I know Senator Santoro is very keen to be finished within 20 minutes. He has assured me he has other business he needs to attend to.

Senator SANTORO—I would be grateful if my 20 minutes start in 10 minutes. I would like to thank the chair and the committee, including members of the other side, for their generous agreement that I continue with my line of questioning. I will spare the SBS. I will put my questions to SBS on notice so as not to take up more time of the committee. Mr Balding, you say that the new code of practice applies. I think I asked you this question before I finished earlier, but I will ask it again. What confidence can we have in how that is applied, given the issues that I raised with you earlier this morning? Do you think that the new provisions in that code of practice will be adhered to?

Mr Balding—We are talking about the editorial policies. The governing document is the ABC's editorial policies and it is mandatory that they are applied and I am confident that they are applied and adhered to. There will always be breaches. People do make mistakes.

Senator SANTORO—As many breaches as I mentioned this morning?

Mr Balding—Let us have a look at those to see whether they actually constitute a breach or not. As I said, I am more than happy to go through the details of them.

Senator SANTORO—If it was able to be proven by your meticulous investigation of the issues that I have raised, would you agree that there were a number of them?

Mr Balding—Again, you are putting a hypothetical situation to me.

Senator SANTORO—The reason I put that hypothetical is that we do not have estimates often enough, from my point of view. I would hate to have to refer these matters to the independent review mechanism that you have set up.

Mr Balding—Which is a very robust system.

Senator SANTORO—Which will undoubtedly be tested many times in the future. Between 12 October and 25 October, just to give you a little more material to look at over the next little while, Jemaah Islamiah was not on any UN list, was it?

Mr Balding—I do not know.

Senator SANTORO—In fact, they only got on that list because the Australian government asked the UN to list them. The Australian government can list terrorist organisations itself and I suggest that that is not good enough for the ABC but that if the Australian government asked the UN to list them and they do so that is okay. Is that the correct position of the ABC as I have just described it?

Mr Balding—Are you talking about the current situation?

Senator SANTORO—I am talking about what applied previously.

Mr Balding—No. Previously the ABC used the UN list as a guideline.

Senator SANTORO—So, if that was not the position, why was it that for more than two weeks from the time of the bombings until 25 October JI was not on any UN list and your broadcast journalists were calling them terrorists?

Mr Balding—Again, I will have to have a look at that.

Senator SANTORO—You would want to look into the fact that the Australian government did not reveal its intention to ask the UN to list JI until 15 October and there was no way that the ABC could assume that the UN would comply. Is that a reasonable assumption for me to make?

Mr Balding—I really do not think I am in a position to say whether you are making a reasonable assumption or an unreasonable assumption. You are obviously putting a lot of questions on notice to us. As I said earlier, I will look at them in detail and respond back to this committee.

Senator SANTORO—Let me quote the ABC. Here is Tony Jones on *Lateline* on 14 October 2002, the day before the UN listing:

...this man Hambali who is meant to be the operational leader, a genuinely worrisome terrorist figure inside Indonesia.

That is what Mr Jones said. Even after the Prime Minister announced that Australia would ask JI to be listed, I assume that under your strict rules—and they are strict rules, despite the fact, Mr Balding, that you just tried to insinuate that they are just guidelines —

Mr Balding—What guidelines?

Senator SANTORO—You just mentioned to me that they were operating under guidelines, not rules that are contained—

Mr Balding—No, I said that they used the UN list as a guideline.

Senator SANTORO—Despite the fact that they had been instructed to use the UN list as the definitive way of determining—

Mr Balding—I will look into that, but I do not think there was an instruction to use it as a definitive list.

Senator SANTORO—Even after the Prime Minister announced that Australia would ask JI to be listed, I assume that under your strict rules a terrorist organisation can only be called that once the UN says it is okay—I repeat that I am of the belief that there were strict rules—and you would have to wait until the UN complied. That surely was your policy. Are you saying now that that was not your policy?

Mr Balding—As I said previously, they were only using it as a guideline.

Senator SANTORO—Let us assume the weaker interpretation and it was a guideline. If they are not on the list under those guidelines, you are not a terrorist organisation?

Mr Balding—I think in those days they were looking at each case on its merits and that is why there was an issue there and we clarified it with regard to our editorial policies.

Senator SANTORO—Many years later. I am talking about 2002 now.

Mr Balding—Yes.

Senator SANTORO—Nick Grimm on *PM* on 6 October 2002, nine days before the listing, said:

Abu Bakar Bashir, the spiritual leader of the Indonesian-based terrorist organisation Jemaah Islamiah.

But Reuters reported four days after the Bali bombings:

Abu Bakar Bashir is free to walk the streets of Jakarta. Indonesian authorities say there is now no evidence to link Bashir to terrorist activity.

No evidence, not on any list but the ABC still called him a terrorist leader.

Mike Colvin, who seems to just keep popping up, on the same program, said:

You're listening there to a translation of the words of the Indonesian Muslim cleric, Abu Bakar Bashir, the man purported to be the spiritual leader of the terrorist organisation, Jemaah Islamiah.

That was in October 2002, nine days before it was listed by the UN. Then there were four similar references on *ABC Newsline*, all before 25 October when JI was listed. Is this a rule change when Australians become the victims, Mr Balding?

Mr Balding—Again, I will need to have a look at that.

Senator SANTORO—Do you see what I am trying to say to you—that one week you have one type of reference and the following week you have another reference under whatever rules at the time are operating? I think that you announced that the new rules were to apply on 1 March. When did those new rules become fully operational?

Mr Balding—The board approved the changes to that around about early March.

Senator SANTORO—Was that when the rules came into—

Mr Balding—That is when the change to the editorial policies came into effect. I would have to give you the exact date of when they came into effect.

Senator SANTORO—I thought that there was an announcement by you that they were going to be reviewed on 1 March.

Mr Balding—No. I might have said they were probably effective from the beginning of March. The board approved it during February.

Senator SANTORO—I am suggesting to you that in those instances the United Nations was not really a good judge of what was terrorism or not but you still adhered to what they said, whether it constituted a terrorist or a terrorist organisation. Aside from the groups that I have mentioned, there is one other organisation that they listed as a terror group, the East Turkestan Islamic Party. Are they a major problem? Did the ABC consider them at that time to be a major problem?

Mr Balding—Again, I would have to look at the context of how it was labelled and how it was described.

Senator SANTORO—When you look into that would you be able to tell me why they were listed?

Mr Balding—Yes, we will.

Senator SANTORO—I suggest to you that one of the major reasons would have been heavy pressure from China.

Mr Balding—I reject that. I totally reject it.

Senator SANTORO—I mean heavy pressure from China—

Mr Balding—To the ABC?

Senator SANTORO—No, I was not saying that.

Mr Balding—I reject that.

Senator SANTORO—No, I was not saying that. Let me clarify. I am talking about the UN. I would not suggest that a sovereign country other than Australia would in some way seek to put pressure on the ABC. There was one other group that was called a terrorist organisation by the UN, and that is the Basque group ETA. Let me quote you from the United Nations web site, and it is on the web site to this very day. It says:

The United Nations Security Council today strongly condemned the bomb attacks in Madrid.

Just hours after a series of bomb attacks rocked three main stations of the Spanish capital, the council unanimously adopted a resolution condemning the attacks perpetrated by the terrorist group ETA.

Do you know or did you know at that time who carried out the Madrid attacks?

Mr Balding—I personally did not know at that time, no.

Senator SANTORO—Was it ETA, as the UN asserts, or was it al-Qaeda, do you think?

Mr Balding—I do not know.

Senator SANTORO—Do you think that anybody in the ABC knew at that time?

Mr Balding—I doubt it very much.

Senator SANTORO—And you still think that the UN is a reliable guide?

Mr Balding—Did I say it is a reliable guide?

Senator SANTORO—I am asking the question. Do you think it is a reliable guide? If the guidelines say to look at what is listed by the UN, presumably you would think that it is a reliable guide. I have to put all of these questions in the past tense because you obviously have a new set of editorial guidelines, as you keep reminding us.

Mr Balding—At that point in time the ABC did rely upon that list as a reliable guide.

Senator SANTORO—Thank you for that. I suggest there was a lot of pressure from China for that to happen. They were dead wrong about Madrid and are still blaming ETA to this very day on their web site. That is the fount of all wisdom for the ABC.

Mr Balding—In what regard?

Senator SANTORO—It certainly was at that stage a fount of wisdom for the ABC.

Mr Balding—As a guide, yes.

Senator SANTORO—What I am trying to say is that there are a lot of people who are very forensically listening to what the ABC is saying and doing and we are very, very keen to monitor performance. I am greatly encouraged by this new editorial policy that you are referring to, which I would love to see.

Mr Balding—I have it here to table.

Senator SANTORO—I would be grateful after my 20 minutes are up if you are able to do that. Before I make any further comments outside of this committee, I would like to better inform myself. I am greatly encouraged by your optimism about it. I will let you know whether I share that optimism after I look at it. It just seems to me, again talking in the past tense, that these journalists who work for the ABC had very little care for the guidelines and the editorial policies as they existed at that point in time.

Mr Balding—That can be your view. It is definitely not my view.

Senator SANTORO—I would like you to tell me why I am wrong in relation to each of those examples. For the committee, of course, I would like you to prove to me that I am wrong and we will let reasonable people, I suppose, make the judgment. Some reasonable people may wish to test your answers against your newly established independent complaints tribunal.

Mr Balding—I am more than happy to do that.

Senator SANTORO—The ABC on at least six occasions since it had been known that the Madrid bombing was not carried out by ETA still called ETA a terrorist group. That is up to the introduction of your new editorial guidelines. Was this because, as per ABC rules, they had been relying on the United Nations? For example, are Hamish Robertson, Nick Grimm, Maxine McKew, Norman Herbert, Fran Kelly and Phil Williams all wrong? Do you want to have a look at that?

Mr Balding—I will, yes.

Senator SANTORO—If they are all wrong, again I would suggest that there is an endemic problem there. We are not just talking about one journalist failing the test on multiple occasions. I am talking about many journalists failing on a multiple number of occasions.

Mr Balding—As I said, I am more than happy to have a look at it and come back to this committee.

Senator SANTORO—I have been hearing you today justifying what I consider to be fairly serious lapses in adherence to editorial policies. Before you try a new justification for that policy on terrorism—that may be that Hamas or Hezbollah have also operated as political parties and they run some other things in society like schools and welfare—I should remind you and some of the other journalists who work for the ABC who may have used that justification that so did the Taliban and so does JI. I ask your journalists again through the proceedings of this committee: since when does gaining a foothold in society by running schools or becoming a political party suddenly give you immunity from charges of terrorism? I am talking about any group, not just the ABC. Is that since you became editor-in-chief?

Mr Balding—No.

Senator SANTORO—It is not much of an excuse to say that the ABC is following the same rules as Reuters applies because Reuters seems to have similar rules. Does the same Reuters after the September 11 attacks send out a memo to editorial staff telling them not to call the evil perpetrators terrorists because ‘one man’s terrorist is another man’s freedom fighter’? I would hope that Reuters is not used as a prop and as an excuse. As you know, I obviously take an interest in the ABC because it does many fine things and many people in Queensland that I represent rely on the ABC. I have stated that previously, and I go on the record as saying that the vast majority says that what the ABC does is very good. You know that I support it and will continue to support it. Unfortunately, I do not get to watch the ABC or listen to it as often as I would like but when I can I do. I have seen and heard a few things lately that I want to ask you about, things that I believe have been broadcast since your new code of practice or your editorial policy came into existence, which would tend to indicate that the editorial policies or code of practice are still being consistently or repeatedly breached. If I run out of time, I suppose I will have to place them on the record, unless the committee agrees to let me go for a little while longer. Going back to your News and Current Affairs divisional style guide, the rule covering the issue of broadcasting accusations or opinions as a matter of fact says:

Take care not to run accusations or opinions as matters of fact.

Is that still the rule, according to the editorial policy?

Mr Balding—Yes.

Senator SANTORO—The style guide gives an example of this issue as follows: ‘North Korea has blamed the US for escalating tensions because of its bullying tactics. It contains an accusation that must be qualified along the lines of what it—North Korea—says are American bullying tactics.’ I just throw out the net very widely and all sorts of things come within it. I may be dragging the net, but it is a very fruitful catch. The rule further states:

We don’t advance our personal views or opinions. News copy must always make the source of an opinion perfectly clear so that it cannot be perceived as coming from the ABC.

Senator SANTORO—Is that still the rule?

Mr Balding—Are you quoting from the style guide?

Senator SANTORO—Yes

Mr Balding—That is still the position.

Senator SANTORO—Can you explain why on *AM* on 9 May this year, a week or so ago, presenter Tony Eastley read the following:

A former translator for one of Australia’s Muslim leaders has criticised the choice of words used by the cleric in his appeal for the release of Australian hostage, Douglas Wood.

In his appeal Sheik Taj El-Din al-Hilaly told the hostage takers “we value your jihad and your efforts”.

But the President of the Australian Federation of Islamic Councils, who was present during the appeal, dismisses the former translator’s criticism, saying Sheik Hilaly simply wanted to express sympathy with those trying to liberate Iraq, not their tactics.

According to page 82 of your own style guide that you tell me still applies, that should have really read ‘wanted to express sympathy with those he claims says believes are trying to liberate Iraq’. Should that have not been the case?

Mr Balding—It could have been. Let me have a look at it.

Senator SANTORO—That is 9 May 2005. Yet we have Kerry O’Brien on *The 7.30 Report* on the very same day, 9 May 2005, saying:

... Douglas Wood’s family offered to donate a sizeable sum of money to “help the people of Iraq”...

There is a quote on page 82 of the ABC divisional style guide about quotes:

There is usually a better way of presenting a direct quote than using the words “quote unquote.”

Does it state that?

Mr Balding—It could do.

Senator SANTORO—I suggest that it does—or it did. Probably if it does not, it should be reinserted again. I have taken on board you telling me that yes, you have changed your editorial policy and some aspects of your style guide, but it is happening on 9 May 2005, less than two weeks ago.

Mr Balding—The example you just gave then is a pretty pedantic issue.

Senator SANTORO—Give it time. After the performance by the ABC, including from your very senior journalists that I have been outlining here today, my answer to your

suggestion that it is pedantic—by the way, I am going to go on—is to give it time. Based on the record so far, according to me—and you are going to have a look at the record according to me—I say give it time, give it another month or two, and when we come back for the next round of estimates I will probably have even more substantial examples, although I regard that as a fairly substantial breach of the style manual.

Why do two very senior staff at the ABC presenting your two flagship programs ignore these two basic rules in a way which creates the clear impression that the ABC agrees with the claim that the insurgents and terrorists in Iraq who are threatening to murder Douglas Wood are trying to liberate Iraq while also creating a doubt about whether the money being offered by Mr Wood's family would really go to help the people of Iraq? That is the clear implication.

Mr Balding—Is that an implication or a quote?

Senator SANTORO—That is me asking you the question. Why would the ABC leave itself open to that reasonable interpretation, and I would regard that interpretation by me as a reasonable one.

Mr Balding—That is your interpretation and you are entitled to that. Let me go back and look at it in the context of the report itself.

Senator SANTORO—Returning to the rule about first names, can you explain how the following occurred and what checks were made in advance and by whom? On *The World Today*, ABC radio, 1 February this year, reporter Nancy Haxton was interviewing David Hicks's father, Terry Hicks, and asked him, 'What does this mean for David?' On *The 7.30 Report* on 12 April this year, reporter Jonathan Harley was interviewing Mr Bob Symons from the National Measurement Institute about the alleged dangers from chemicals in breast milk. He said, 'So, Bob, what have we got here?' Talk about first names. On ABC TV news on 3 March this year, Sydney based reporter Deborah Rice was doing a story about Cornelia Rau and referred to her as Cornelia. On Radio National AM on 12 May this year, reporter Nick Grimm referred to Vivian Alvarez Solon as Vivian. That is about the fourth time his name comes up. Does Nick Grimm read these rule books and memos at all?

Mr Balding—He should do.

Senator SANTORO—Again, we have many senior journalists and multiple breaches of the rule books. On *Lateline* on the same day, reporter Margot O'Neill referred to her as Vivian no fewer than five times in her report. On *Lateline* on 30 May foreign affairs editor Peter Cave tries to refer to Ms Solon as Vivian. Peter Cave again. After the first breach by Nancy Haxton, what action was taken involving her and the program's executive producer, Steve Taylor, to counsel them and reinforce the rules and the need to observe them, especially in sensitive and political stories? Are you aware of any counselling?

Mr Balding—No, but that is one of the issues I will be following up, to see what action has been taken. If they are clear breaches of the style guide and repeated breaches of the style guide, I will be very interested to see what follow-up action has been taken by the producer and the executive producer of those programs.

Senator SANTORO—I will be grateful for that. Thank you for that. After the breach by Deborah Rice on 3 March this year, what action was taken involving Ms Rice, the 7pm line-

up producer, the supervising producer and network editor, especially given the sensitivity of that story?

Mr Balding—I will follow through on that.

Senator SANTORO—What action was taken involving Jonathan Harley and the editor and the executive producer of *The 7.30 Report* on 12 April this year, especially given that it breached a rule that had been specifically reinforced in a memo to Mr Cameron just three weeks beforehand?

Mr Balding—I will be asking Mr Cameron that question.

Senator SANTORO—What action was taken involving Nick Grimm and executive producer David Burgess after the breach on *AM* on 12 May this year?

Mr Balding—Again, I will be asking a similar question.

Senator SANTORO—What action was taken involving Margot O'Neill's breach on *Lateline* the same day, especially given the sensitivity of that story?

Mr Balding—I will be following up on that.

Senator SANTORO—Why is it that this mistake was constantly repeated without, it would seem, any editorial management of the issue, despite a memo about this from Mr Cameron just two months previously?

Mr Balding—That is something I will be looking into.

Senator SANTORO—Were any of these reports checked by supervisors or producers before they went to air?

Mr Balding—They would have been.

Senator SANTORO—If they were, why were these errors not picked up?

Mr Balding—Again, that is a question I will be asking as well.

Senator SANTORO—What action was taken involving Tony Eastley, David Burgess and reporter Michael Vincent in respect of the breach of the rule on quotes on *AM* on 9 May this year?

Mr Balding—Again, let me have a look at that.

Senator SANTORO—What action was taken against Kerry O'Brien over the breach of the ABC rules on quotes? I could keep on going. I will be guided by the chair and by the committee. I have another five or six pages of examples that stretch past 1 March when your new editorial guidelines came into existence.

Mr Balding—The editorial guidelines were in respect of labelling groups.

Senator SANTORO—So we are now talking about the style guide.

Mr Balding—Senator, you were talking about the style guide.

Senator SANTORO—I am talking about the style guide. I am talking about first names—which is your style guide.

Mr Balding—That is correct.

Senator CONROY—I think your 20 minutes are up. I thought you had another appointment to go to.

Senator SANTORO—This is my most important appointment today. Can I conclude, Mr Chairman, by thanking you and senators from the Labor Party for their consideration and their assistance. I just conclude by saying that I will put the rest of my questions to you on notice, Mr Balding. I would hope that you consider them in the same spirit that you have indicated in making commitments to answer the questions that I have asked you orally.

Mr Balding—I will do so.

Senator SANTORO—Again, the major point that I have tried to prove today is that I need to be convinced—and there are other senators and members in this parliament who need to be convinced—that your most senior journalists reporting news take your editorial policy or style guides, other instructions and advice, formal or otherwise, seriously.

Mr Balding—I am quite happy to reiterate what I said earlier. They do take them seriously. They are very, very professional journalists. I stand by those journalists. ABC news and current affairs is second to none. If these are breaches that you have tabled here today, I will have a look at them and see what action can be taken. You are talking about a number of cases or instances in the context of hundreds of thousands of stories going to air 24 hours a day.

Senator SANTORO—What I have been talking about here are breaches in relation to very sensitive political issues of the day. I know that the ABC publishes hundreds of thousands of stories a year in one way or another, but most of them are non-controversial. Most of them are stories that do matter so much to so many people but in a political context perhaps not as much as some of the stories that I have been referring to here. That is the key point. We are talking about political, sensitive, topical issues being debated and discussed and questions asked in the Senate and the House of Representatives. That is the big difference. I respectfully suggest you consider that when looking into the issues that I have raised with you.

Mr Balding—I definitely will.

Senator TCHEN—Mr Balding, I have one question. I am not sure whether I heard you correctly when you were responding to Senator Conroy earlier this morning on his question about local content, particularly in terms of commissioned drama. Amongst other things, you said that the ABC has continued to acquire drama. Were you talking about Australian drama?

Mr Balding—Yes, there could be an opportunity to acquire as opposed to a commission, either doing it in-house or via a co-production.

Senator TCHEN—You gave the impression that acquiring drama can be cheaper.

Mr Balding—To buy a program is a lot cheaper than commissioning that program yourself. You acquire it and you have a licence to show that program. The chances are it may not be the first time it has been aired on television, as distinct from commissioning that product yourself.

Senator TCHEN—I was wondering whether you actually mean it costs you more to commission than acquire.

Mr Balding—It costs you a lot more to commission any program than to acquire the program because the people who commission the program own that program and they will

sell the rights to that program to many broadcasters. They will recoup their costs a number of times over.

Senator TCHEN—What opportunity would the ABC have of selling the programs it commissions?

Mr Balding—It has been a long time since we have been able to commission a program and fully own the rights in that program for onward selling.

Senator TCHEN—Why is that?

Mr Balding—Because of the cost of those rights. The ABC took a decision a number of years ago that when it commissions product it is better to commission more hours of product and pay a licence fee rather than try to commission fewer hours and own the rights and then try to onward sell those rights to other broadcasters. In recent times there has not been that much product where we have owned fully the rights in that program.

Senator TCHEN—In other words, by not commissioning programs yourself does not mean that your local content is actually reduced. It does not imply that at all?

Mr Balding—No, if the programs you buy are local content, Australian content.

CHAIR—Is that the conclusion of the ABC?

Mr Balding—I table for the committee the latest extract from the editorial policies, which picks up the labelling of groups and individuals.

Senator SANTORO—Are we able to get a copy of the full policy. I would be grateful of that and your style guide.

Mr Balding—Yes, I can get that to you. It is available online, but I will get you a hard copy version.

CHAIR—Do we accept the tabling of this document? I am sure we do. Copies will be given to all senators. I thank the ABC for appearing today.

[2.48 pm]

Special Broadcasting Service Corporation

CHAIR—We welcome the officers from SBS. I know you are all estimates veterans, so there is very little purpose in going through the usual spiel. The Senate is covered by parliamentary privilege and you have to bear in mind the consequences of that. Senator Santoro wishes to put some questions on notice.

Senator SANTORO—I will be putting some questions on notice. I look forward to the detailed answers.

Senator GEORGE CAMPBELL—I have one question in relation to your 1992 formula in which SBS Sydney and SBS Melbourne radio were networked. I understand that at the time the corporation and the alliance agreed on a formula for preparation for time on air, which became known as a networking formula, and there are a number of employees on each program. It is based on the census result of language groups which determines the total on air for each of the 68 language groups. Why is the SBS decreasing the hours allocated to SBS

broadcast journalists for the preparation of language programs when the expectation of journalistic quality and the tasks required are increasing?

Mr Luu—In 1992 there was an agreement with the AJA, which is now the MEAA. According to that agreement, broadcast journalists working in SBS radio have 12 hours to prepare one 60-minute program. If there is no counterpart in the other centre—and SBS has two centres, one in Sydney and one in Melbourne—that amount of preparation time would be 13 hours. Later on, because of the budget constraint, we came to an agreement for the programs we networked between Sydney and Melbourne. Only as a result of that—it was not an agreement per se—staff could have more preparation time to prepare the programs. That was the situation and still remains the situation until now. In order to achieve a win-win situation in a sense, the networking would provide the broadcaster to have more time to prepare and as a result suddenly the quality of the program would be better and the SBS Corporation would have more efficiency in spending resources, taxpayers' money. The third winners are the listeners, who would enjoy program quality. That is the situation as it was and as it still is today.

Senator GEORGE CAMPBELL—Are you saying that the situation has not changed?

Mr Luu—Yes, the situation has not changed, and the broadcasters still have their preparation time as agreed to in 1992.

Senator GEORGE CAMPBELL—Why do you think that they are claiming that SBS has been decreasing the hours?

Mr Luu—There were claims to that effect mainly because of availability of staff or because the events required additional resources. For example, when they were covering the Iraq war, the Arabic programs received additional resources to meet the challenge of timeliness of the programs. Because of those things, sometimes we allowed the vacancy to be backfilled. It is based on the merits of the case and on individual situations. As a matter of rule, when staff are on leave and the programs network, there should not be any backfill situation.

Senator GEORGE CAMPBELL—In these circumstances would you normally discuss that with MEAA and come to some arrangement or do you advise them?

Mr Luu—We certainly discuss it with them when we think that there is a better outcome. But, on the other hand, if this is a routine operational matter and we work within the agreements, I do not see any reason to discuss it with them unless we change anything. My submission is that we did not change anything.

Senator GEORGE CAMPBELL—As far as you are concerned, you are working within the terms of the 1992 agreement?

Mr Luu—Yes.

Senator GEORGE CAMPBELL—They need to come back and talk to you.

Mr Luu—We keep our channels open to them all the time.

CHAIR—I might ask you about the extension of SBS services. How have we gone extending SBS to towns under the new population quota. Is the entire program complete now or are there still areas to be covered?

Mr Milan—As you know, the government has been quite generous in recent times to allow us to extend SBS television. I will ask Will Berryman to give an update of where we are for television and the roll-out.

Mr Berryman—There are further sites under negotiation at the moment for lower population centres, lower than 5,000, population centres of 3,000 and above. They are currently being designed technically to roll out services there. Of course they will be digitised under the national conversion scheme for analog to digital television. There are still a lot of other areas potentially where SBS television could go in terms of population. We are always looking to submit proposals to government to roll out dual frequencies for SBS radio in the capital cities nationally and also a regional roll-out for radio. Those submissions are in front of government at the moment for consideration.

CHAIR—Both of your SBS radio programs are only in Sydney and Melbourne at this stage, are they not?

Mr Luu—We discussed this before. As far as analog broadcasting is concerned, SBS has two frequencies in Sydney and two frequencies in Melbourne. In Perth, for instance, we have only one frequency. As a result, we produce 36 one-hour programs every day. In Sydney and Melbourne, listeners can enjoy the whole range of 36 programs whereas in Perth they can only listen to 18 programs. That is because of the lack of facilities in frequency insofar as capital cities outside Sydney and Melbourne are concerned.

Mr Milan—I might just correct my colleague in a matter of syntax. It is 36 different languages. It is not because there are not 36 hours in any one day. In the course of a week, citizens outside of Sydney only enjoy 36 language programs, but in Sydney and Melbourne they get the full array of 64.

Mr Luu—They get 36 language programs every day.

CHAIR—Presumably you vary the language mix in the city according to the ethnic demography of that city. With the advent of the new ABC headquarters in Perth, are you located there or elsewhere?

Mr Luu—We are hopeful there may be some time before digital broadcasting where we could be effective. We would hope that in the meantime there may be a strong case for consideration to extend the SBS radio analog format to other capital cities by way of a second frequency. If and when digital broadcasting is in place, we would submit that we should add new and innovative programs. That depends on the compression technology. Given, say, two five-kilobits per second facilities, we may be able to broadcast in four channels—SBS radio 1, SBS radio 2, SBS radio 3 and SBS radio 4. The first two programs may be different, but the language is currently broadcast on the analog system, and the third one would relieve the radio 1 and 2 in taking the programs away from those two to put in a third channel plus the language programs or the communities that missed out so far because of the lack of air time. The fourth one would be a new one in terms of using the common language to reach a wider audience.

There are more than three million young Australians of various backgrounds. They are not being served by the current radio broadcasters in the industry. We would submit that we not only broadcast to the existing listeners but also, with new and innovative programs, we can

extend the reach of SBS radio as an inclusive instrument to serve Australians of all backgrounds.

CHAIR—Can you just remind me whether you broadcast on radio outside capital cities, in major regional centres.

Mr Luu—We broadcast two frequencies in Melbourne and one in capital cities, but also outside capital cities. This is very important for SBS radio or for SBS for that matter. We do have some stations in regional Australia.

Mr Milan—We are actually going around to people like you to actually support a submission to see more extensive roll-out of regional service of SBS radio.

CHAIR—Can you give us detail of what the coverage is.

Mr Luu—For the time being, outside capital cities we are broadcasting on one frequency in Wollongong and Newcastle and the Hunter Valley, in Bathurst and in Young--mainly in rural areas in New South Wales. We hope to be able to extend it to Bunbury or Geraldton in WA or Shepparton or Geelong, but we are not there yet. We are working on that in terms of having a regional network for SBS radio, particularly because potential listeners living in isolated areas would need the kind of information that SBS radio can bring to them.

CHAIR—There are often little pockets of ethnic people in regional centres—Italians, Vietnamese or Slavs—who would appreciate access to your programs, I am sure.

Senator TCHEN—I want to follow up one issue. Mr Luu, what would this common language you spoke of be?

Mr Luu—The common language is mainly English.

Senator TCHEN—The program will be in English, but the content will be oriented towards the cultural heritage of the community.

Mr Luu—The content is multicultural and the medium is English. As you know, Senator Tchen, quite a few of the second generation of Australians are bilingual and many of them are English speaking. In order to reach them, we need to use a common language. There are three million of them and they are not served by the current situation.

Senator TCHEN—You will be starting that in the metropolitan area first?

Mr Luu—Yes. It depends on the roll-out of the analog system or the roll-out of the digital radio broadcasting. If we have four channels under the digital broadcasting, then certainly we would be able to treat city dwellers on the same footing as rural Australians.

Senator TCHEN—That potentially would have some conflict with your charter, would it not? I do not have any particular concern about it—I think it is a good direction to go—but I am just wondering whether you may have some conflict with your charter.

Mr Milan—The charter speaks of both multilingual and multicultural programming and we think English language programming is comfortably covered under the multicultural rather than the multilingual.

Senator CONROY—Can the SBS confirm that it refused to show a number of commercials put together by the Timor Sea justice campaign and what the periods were in the ads.

Mr Milan—No, I cannot confirm that, because we did not refuse. We did make some suggestions in terms of the body copy of the ads and eventually a slightly different version of the ad did go to air.

Senator CONROY—I appreciate the hair that you just split. But can I confirm then that when you were first approached with two commercials in March you did not believe they should go to air without some changes?

Mr Milan—That is correct.

Senator CONROY—I will come to the second set. This is the March set. Why was that decision made?

Mr Milan—The decision was based on the fact that, first of all, we do not take editorial responsibility for advertising but we as a public broadcaster do have some responsibility to our audience to ensure accuracy and our concerns about the first run of ads is that it made some very serious allegations which it presented as fact. But, in our view, much of the content was opinion. So we made it clear—

Senator CONROY—What else is an ad but a promotion of an opinion, an inducement?

Mr Milan—Indeed. The ad came back as an ad presenting it as opinion, and the ad in that form went to air.

Senator CONROY—Which part of it did you have an objection to?

Mr Milan—In all honesty, I cannot recall.

Senator CONROY—Is there anybody else here who can help us?

Mr Milan—The ad contained a statement that Australian government policy was actually directly responsible for killing children in East Timor. I think the final version that went to air was something about some experts claiming that. So we turned it from—

Senator CONROY—Who made the decision? Did it come to you? Did it hit your desk or was it made at a different level?

Mr Milan—Finally, it hit my desk, yes. Eventually matters of that magnitude get escalated to my desk. The final wording has to be the advertiser's. As I say, we do not take editorial responsibility. We simply say whether an ad is fit for broadcast or not. But, in fairness to the advertiser in this case, I suspect my marketing people gave them some guidance as to what we found was difficult within the ad. If it helps you, I can actually give you the relevant code and read it to you, if it makes any difference?

Senator CONROY—Please do.

Mr Milan—Under code 4, 'SBS reserves the exclusive right to determine what is broadcast on SBS services.' Section 70A(1) of the SBS Act, which is referred to in code 6, 'allows SBS to determine to what extent and in what manner political matter or controversial matter will be broadcast on SBS'. SBS does not make editorial decisions about the content of advertisements. In the case of a political or controversial advertisement there are no prescriptive guidelines on what will be appropriate to broadcast. However, SBS will have regard to legal requirements and the overall intent of the SBS codes of practice. One factor which may be relevant to consider is whether factual material in a political or controversial

advertisement has the potential to seriously mislead audiences. Where an advertisement makes disparaging claims about a third party, SBS may request further information about the factual allegations in determining the appropriateness for broadcast. It may also request the advertiser to clearly distinguish opinions from factual material and identify by whom the opinion is held. So it was really under that guideline that the conversation with the advertisers—

Senator CONROY—And that is your SBS advertising guideline?

Mr Milan—Yes, it is.

Senator CONROY—Did that need to go to the board or were you the final—

Mr Milan—I was the final arbitrator.

Senator CONROY—Are you aware that the ads refused in March were shown by Nine, WIN and Southern Cross networks?

Mr Milan—I am not sure but, yes—

Senator CONROY—The March ad.

Mr Milan—The March ad. That may well be the case. My colleagues are just pointing out to me, quite correctly, that there were several different versions going around at the time.

Senator CONROY—Yes, I know. I understand.

Mr Milan—I am not sure which one went where.

Senator CONROY—I believe the ones that you required some change on actually went to commercial.

Mr Milan—That may well be true.

Senator CONROY—You ran the ads once they had been changed to your satisfaction?

Mr Milan—That is correct, yes.

Senator CONROY—The same occurred in April, if I can call them the Anzac themed ads?

Mr Milan—They went to air.

Senator CONROY—There was a problem with them initially?

Mr Milan—No, you will find that the first version went to air of the Anzac ads, as far as I am aware.

Senator CONROY—I understand that the Timor Sea justice campaign threatened to sue SBS over the refusal to run the ads?

Mr Milan—No, not as far as I am aware. Normally, if someone takes legal action against the organisation I am made aware of that.

Senator CONROY—I said they threatened to.

Mr Milan—I am not even aware of the threat of it.

Senator CONROY—You say you are not aware you have never sought legal advice?

Mr Milan—No.

Senator CONROY—They think they threatened to sue you.

Mr Milan—I have no idea who they spoke to in the organisation, but they must have been turned away from their pursuit fairly quickly.

Senator CONROY—You have described and read out your guideline. Is that the only objective criteria you use? Are there other things that come into play?

Mr Milan—No, that guideline is the guideline.

Senator CONROY—Have you ever rejected any other commercials and, if so, can you give us the details?

Mr Milan—Can I take that on notice, please? We suspect there have been one or two others over the last two or three years, and we would rather give you an accurate answer.

Senator CONROY—Sure. There is some suggestion that you may have even dealt with the National Farmers Federation ad on native title. That is one that rings a bell, I understand.

Mr Milan—That was a long time ago.

Senator CONROY—1997, I think. So we are talking about quite a while.

Mr Berryman—Some of the ads that are made are technically not of a quality that can be put to air. There are a lot of such cases.

Mr Milan—Anyway, we will take it on notice and give you a comprehensive response.

Senator CONROY—There is some suggestion that the Anzac ad was aired mistakenly; it only got one run and that was it.

Mr Milan—No, that was the Timor one actually that got one run mistakenly.

Senator CONROY—The one I am describing as the Anzac one.

Mr Milan—No, it was the first one that got a run mistakenly.

Senator CONROY—The Anzac themed ones were the April ones?

Mr Milan—Yes.

Senator CONROY—And they were run in full?

Mr Milan—The campaign was run in full.

Senator CONROY—That was run in full. Which one was the March one, just out of interest?

Mr Milan—The March one was the allegation of killing children. That was the one that required a change. The reason it went to air was that, though it was taken off the broadcast list, it stayed on the filler list. We have a certain amount of unsold advertising and we bonus up our existing advertisers. It was just an internal administrative mistake. It happens.

Senator CONROY—I just want to be clear, because there are, as you say, a number of different ads. I am trying to make sure we do not get them the wrong way around. The Timor Sea justice campaign also made an ad for Anzac Day where soldiers who fought in Timor in World War II say that John Howard's stance is making them ashamed to be Australian. Can you confirm whether or not you showed this ad?

Mr Milan—Yes, we did.

Senator CONROY—The March campaign ads were rejected until they were modified. How long did that take? I am assuming there were a couple of iterations backwards and forwards. How long before they got to air after they initially approached?

Mr Milan—I think actually it was delayed. If my memory serves me, the ads were wanted for a specific weekend. When that weekend passed, I think the advertiser then switched their attention to the Anzac—

Senator CONROY—Yes, on Anzac Day.

Mr Milan—Which we agreed to run. And then latterly came back to us with a change, taking on board our suggestions of the problems with the content of the first ad.

Senator CONROY—And then they got run?

Mr Milan—And then they got run. We are not sure that the ones that were revised actually were ever run, but they were approved to go to air. Again, the advertiser, by this time, had switched their focus to the Anzac campaign.

Senator CONROY—All of the Anzac ones ran unchanged?

Mr Milan—As far as I am aware, they all actually went to air.

Senator CONROY—I might come back to you if there are any discrepancies in my head or in my notes. I want to clarify an item that did catch my attention in the *Sydney Morning Herald's* CBD column. It was reported, Mr Milan, that in April you attended a fundraiser for the New South Wales Liberal leader, John Brogden. Can you just take us through the circumstances around that? Given it is in the public arena, you are entitled to put your case.

Mr Milan—I was invited by Paul Nicolau, who is an ex-chair of the local ethnic community council, who now is an official within the Millennium fundraising body, I think, for the Liberal Party. He invited me as an unpaid guest.

Senator CONROY—You were not worried that, as much as you try and take your SBS CEO chair hat off—

Mr Milan—I was not really taking my hat off, to be fair. The reason I went, frankly, is that it was an opportunity to have access to a number of government ministers, including the Treasurer, that I do not normally get access to to lobby for the cause of the SBS. So I made the judgment on that basis.

Senator CONROY—So SBS does not often get access to ministers?

Mr Milan—We certainly get access to our minister.

Senator CONROY—Senator Helen Coonan—right next to you?

Mr Milan—We certainly do get access to, I suppose, the group of ministers that we deal with directly. But we do have difficulty in getting to ministers that serve on the Economic Review Committee.

Senator CONROY—The ERC?

Mr Milan—The ERC. When we have got funding submissions up, I make a great deal of effort to, if you like, get around to try and actually capture a few minutes of time with those other ministers.

Senator CONROY—How many ministers did you get to meet on the night?

Mr Milan—I think probably three.

Senator CONROY—Come on, name names.

Mr Milan—And I did not get to the Treasurer.

Senator CONROY—This is a unique form of SBS lobbying, so let us—

Mr Milan—I will take the names on notice. I genuinely cannot remember. But certainly I talked to Philip Ruddock at some length.

Senator CONROY—Is he on the ERC?

Mr Milan—No, but he is an influential minister.

Senator CONROY—But you made the point that it was those people on the ERC you were hunting.

Mr Milan—Yes.

Senator Coonan—When you are on the ERC, Senator Conroy, you do not go out.

Mr Milan—I did ring your office, by the way, and offer to make myself available for lunch if you wanted to take me anywhere, Senator. In seriousness, it was to lobby. These things are judgmental. Also, I took into account that we were not in an election period, either state or federally. I thought it was an opportunity to actually have access to some folk that I might not get otherwise. But I will give you a list. I honestly cannot remember. I had a briefing note ready for the lunch, but—

Senator CONROY—I just wanted to know whether you got bang for your buck?

Mr Milan—I did not pay, so—

Senator CONROY—Bang for someone else's buck. I actually find it a little disturbing that the SBS cannot get access to ministers without attending Liberal Party fundraisers. That is a little bit of a worry.

Mr Milan—That is not quite what I said.

Senator CONROY—You said you do not get access to these—

Mr Milan—There are some ministers that we do not get access to.

Senator CONROY—They are Liberal ministers. And the senior ones.

Mr Milan—That is a fair point.

Senator CONROY—You have got to get out more around this town.

Mr Milan—That is exactly what I was doing.

Senator CONROY—No, I did not mean in terms of Liberal Party fundraisers. Before you accepted, did you consider that your attendance might undermine public perceptions regarding the independence of the SBS?

Mr Milan—Yes, in any decision I make about anything that has got a kind of political connotation I do think about it. But I reiterate what I said before: I was not paying for the ticket. I was persuaded, because Paul Nicolau is someone known to me and with whom I have been friendly for quite a period of time because of his involvement with the ethnic community councils, and I took strongly into account the fact that we were well outside of any election period. I did not see it really as being a great threat to the independence of the SBS. But, yes, I did consider it.

Senator CONROY—Have you attended any other political party fundraisers since you took up your position with SBS?

Mr Milan—There was one where I did not go in with the intention of going to a fundraiser. I seem to remember one that was organised by a charity that ended up to be fairly heavily geared towards the New South Wales government, a Labor function, which was for the launch of an Indigenous program which I thought was completely independent but which turned out to have considerable New South Wales government backing. But, again, those sorts of things happen.

Senator CONROY—There is a difference between a function with their backing and a function designed to raise funds for a political party.

Mr Milan—I am just trying to give you a full answer to the question.

Senator CONROY—No, I appreciate that.

Mr Milan—Again, maybe I should take that on notice, because I am not cognisant of it, but sometimes it can happen.

Senator CONROY—Do you intend to continue to go to these sorts of functions?

Mr Milan—I was about to say I do not get invited out much, but I do not want to make it sound that pathetic. Unless there was a concern expressed from my board that that there was some—I am not suggesting you are being untruthful, Minister, but I think you are fishing a little—

Senator CONROY—You said ‘Minister’—as much as I appreciate a promotion.

Mr Milan—Senator, I will continue to make the judgment for what I think is the appropriate behaviour for the Managing Director of SBS, and I do put lobbying in terms of actually trying to persuade government to put additional funds into our organisation high on the agenda. So, yes, I would continue to do it until it reached a point where I saw it was being detrimental or I was given some guideline by my board to desist.

Senator CONROY—You do not think it is a little humiliating to be dragging your coat-tails around Liberal Party fundraisers cap in hand begging for money?

Mr Milan—Humiliating or not—

Senator CONROY—As the head of SBS.

Mr Milan—I drag myself around this building regularly, and not just—

Senator CONROY—No-one is paying any money to anybody for you to get access when you drag yourself into my office. As you well know, you can knock on my door, give me a ring any time you want and I do not charge you any dough. And I am sure Senator Coonan

does not charge you any dough when you want to come and knock on her door. Minister, do you have a view? Generally, do you think it is appropriate for the heads of statutory authorities to go to political party fundraisers?

Senator Coonan—I think within the constraints of the way in which Mr Milan has described his involvement that is all right. I think you raise a point that if it were frequent and perhaps in inappropriate circumstances, if there was some payment made for the occasion, but I think to go and network for the reasons that he gave is legitimate. It would have to be in the particular circumstances that I think he has described.

Senator CONROY—Would it make a difference, Mr Milan or Senator Coonan, whether or not the SBS paid the money themselves?

Senator Coonan—I think we have to leave it up to the board and the Managing Director to make judgments about how they use funds. What he said is that he likes to make known SBS's case. There is a point about that. It is helpful if somebody other than, for instance, I as the responsible minister understands SBS's case. You do not run a portfolio as if you are an Ayatollah. It involves getting the cooperation of your colleagues and understanding within the total priorities of government expenditure where this particular case fits. So every single person who comes to government with some sort of agenda has to make a case in some way, shape or form. Some do it in a letter, some do it in writing and some do it in person. Very energetic ones try to get around to a lot of people who can have an opinion and get a good outcome. I would just be a bit diffident about criticising his motives.

Senator CONROY—I have not actually criticised at any stage yet. I do stress the word 'yet', though.

Mr Milan—Can I ask—

Senator CONROY—Before you jump in, I want to follow up. Minister, you would think it would be acceptable for SBS to spend money to attend Liberal Party fundraisers?

Senator Coonan—No, what I was saying was that I think the way in which people go about how they lobby is really a matter for them. I am not trying to interfere in what the SBS does and what Mr Milan does. But I do not think that funds from any public authority should be used to go to fundraisers for political parties. That is my view.

Senator CONROY—I am sorry, Mr Milan, I cut you off there. I just wanted to make sure that the minister got an opportunity.

Mr Milan—One thing I can say to you, Senator, is that I have never paid to go to a political fundraiser. That I do know.

Senator CONROY—You have not or SBS has not?

Mr Milan—Sorry?

Senator CONROY—You have not or the SBS has not?

Mr Milan—The SBS has not.

Senator CONROY—You said 'you', so I just wanted to clarify whether you were speaking on behalf of the organisation or personally.

Senator TCHEN—Would you have gone to this dinner had you known that you would have got on the black list of the opposition spokesman?

Mr Milan—If the ERC were meeting within seven days I might have been prepared to take that risk.

Senator CONROY—I do not think I have actually suggested there is a black list.

Senator TCHEN—I am glad to hear that. Mr Milan, there is no black list.

Senator CONROY—Do you think it would be appropriate, Minister, for Mr Balding, for instance, to start turning up at Liberal Party fundraisers? He may not want to take his life in his hands like that. But a Liberal Party fundraiser, even if it was in the same context of not being an ABC paid—

Senator Coonan—To be perfectly fair, I would not want to be trying to superimpose the same circumstances on the ABC.

Senator CONROY—Mr Balding was here telling us about the meeting to lobby—

Senator Coonan—Just a moment. The principle is, I think, that for publicly funded agencies it is inappropriate that, from the agency's funds, they be paying to go to fundraisers of any complexion, Liberal, Labor or any other party. That is my view and I think that that is a well-supported view. However, people do move around in political circles, and presumably if they pay out of their own pocket or they do something like that, it might be that Mr Milan might want to go to a Labor fundraiser and he would probably be welcomed.

Senator CONROY—Can I try and get an understanding of which sorts of positions you think should and should not. For instance, would it be reasonable for the new head of ACMA, for instance, to start turning up to Liberal Party fundraisers in the same sort of context?

Senator Coonan—Once again, I think it is very difficult to know about the contexts, and I would not want to be superimposing—

Senator CONROY—These are independent statutory authorities.

Senator Coonan—I would not want to be superimpose different circumstances on different agencies as to how they wish to advocate their own funding priorities and lobbying priorities to go and speak to people and where they do it. What I will say is that, and what I have said, and I think I am clear about it, in my view any publicly funded authority should not be using their funds for political fundraising of any colour.

Senator CONROY—What about the Ombudsman?

Senator Coonan—I think the same principle goes.

Senator CONROY—It is okay for them as long as they are not paying to turn up to Liberal Party fundraisers?

Senator Coonan—No, what I said was that I think it is a matter for them to make judgments about where they go and in what circumstances, so long as there is no funding that belongs to the agency being used. I think there is an argument as to whether somebody might legitimately pay out of their own pocket for something. But it is a matter for their judgment. I do not think it is always advisable for heads of agencies to be seen—

Senator CONROY—That is what I am just trying to work through. For instance, would it be okay if the Auditor-General fronts up?

Senator Coonan—Wait a minute. I am just saying that in general I think that is a proposition. But I am not condemning Mr Milan in those circumstances, because I think he gave an acceptable explanation of why—

Senator CONROY—Each of these agencies that I have described, from the Ombudsman to the Auditor-General to the head of ACMA, all require government funding. Each and every one of them actually do apply for government funding.

Senator Coonan—I do not think there is anything inconsistent in what I am saying. Let me just state it again so that I am clear. I think in principle, for any publicly funded agency, the funds used in that agency should not be used for political-lobbying purposes or political-fundraising purposes. There is a fine line. If an individual for some reason or other needs to see somebody and turns up at a function that somebody else pays for, my preference would be that they did not do it, because I think it can be misunderstood. In Mr Milan's case, I think he has given an explanation that is acceptable. So that has gone down all of the possible combinations of what you are putting.

Senator CONROY—I am not trying to be disingenuous to Mr Milan, but Mr Milan's basic argument was that he knew there were going to be a few Liberal ministers there from possibly the ERC, and that is a reasonable answer, you are saying, for why he could attend if not pay for—

Senator Coonan—What he was saying was that he wanted to speak to people who otherwise he would have had some difficulty speaking with. He knew they would be there captured, captive, in the sense that they would be in the room. So that to me is his explanation.

Senator CONROY—From the sound of it, he failed miserably; he did not even get to speak to the Treasurer.

Senator Coonan—I am sorry, the Treasurer may not have been there. I think I understood him correctly that the Treasurer was not there.

Mr Milan—I do not know that he was not there; I do not think I got to him.

Senator CONROY—You did not get to him?

Mr Milan—It was a big function. The Treasurer did not tarry very long. But I did sprint.

Senator Coonan—Senator Conroy, as you know from these functions, seriously there is not much opportunity to have serious—

Senator CONROY—Meaningful conversations; I agree. Maybe Mr Milan has learned his lesson that it really is not value for even no money.

Senator Coonan—I must say that from personal experience—

Senator CONROY—Other than a chance to say, 'Hi, how are you.'

Senator Coonan—From personal experience, it is not easy if you have—

Senator CONROY—I have been at functions you have been at, Minister, and people are just knocking down the door to talk to you. I understand the points you make.

Senator Coonan—That is a very generous comment, Senator Conroy. It is not always correct, however, because it is not always possible to have those conversations that people might otherwise hope to have in those very public settings.

Senator CONROY—You agree with that, Mr Milan, after your experience, that—

Mr Milan—No, not entirely. Can I say that this was not a one-off attempt to meet the Treasurer. I have been regularly lobbying his department. My intent was to try to at least get my face on the map with a view to maybe getting a more favourable reception the next time we rang his office.

Senator CONROY—You do not think he knows what you look like?

Mr Milan—I really do not know. You would have to ask him.

Senator CONROY—You do not think he has heard of SBS?

Mr Milan—I think he has certainly heard of SBS. My sense is that he is not a viewer or has a high level of knowledge of our organisation.

Senator CONROY—Hopefully, he is going to watch the World Cup on SBS and it will broaden his horizons.

Mr Milan—We hope so.

Senator CONROY—But I am a little disconcerted that you feel the best way to promote SBS is to turn up at a Liberal Party fundraiser and hope you get your faced noticed by the Treasurer?

Mr Milan—Absolutely not, with respect. That is a manipulation of what I have said, Senator. What I said was that it was a multifaceted approach to lobbying. At the time the Economic Review Committee was meeting, the invitation came in and, on balance, I thought it would not harm the organisation for my face to be seen by a number of ministers I do not normally get easy access to. It was as simple as that. I did not pay for the ticket. I was invited by somebody who was well known to me and I had a previous relationship with through ethnic community politics, so I thought it would be reasonable on balance to do it. If you are saying to me that you think it was a poor decision, I accept your opinion and I will take it into consideration next time—

Senator CONROY—Probably a pointless one, given your lack of success in achieving your target.

Mr Milan—I do not know. I cannot argue—

Senator CONROY—You did not even get to talk to the Treasurer and he was one of the ones you wanted to meet.

Mr Milan—No, but I did get to talk to a number of other ministers, to be fair.

Senator CONROY—You keep saying that, but—

Mr Milan—I think I spoke to this minister, as a matter of interest.

Senator CONROY—I am hoping you really do not need to go to a Liberal Party fundraiser to talk to Senator Coonan.

Mr Milan—No, I do not.

Senator CONROY—I am hoping that is the case. So Mr Ruddock and Senator Coonan. Who else did you get a chance to speak to?

Mr Milan—I am trying to remember. In seriousness—

Senator CONROY—You keep saying a number, so I am assuming you can remember the fact that it was more than the two you have named—

Mr Milan—I think it may have been Brendan Nelson, but to be fair I am not absolutely sure. I would need to take that on notice.

Senator CONROY—So that was the three possibly that you spoke to?

Mr Milan—I briefed myself up on who was likely to be there on the day. One meets a lot of people. I am actively involved in wandering around parliament, as you know, sitting in the coffee shop waiting for people to pass. I consider the lobbying of government a major part of the job.

Senator CONROY—I do have some concerns about the head of an independent statutory authority. I just think it is a possible worrying precedent that the head of an independent statutory authority feels the need to attend a fundraiser, if not pay for a ticket, to get his face on the map. I think it sends a disturbing signal of how the government works that you feel you need to go to those lengths to try to lobby on behalf of SBS. Who else was on your table, by the way? Who did you get to sit with? It is time to name names. Were you sitting with Alan Jones?

Mr Milan—It was a media table. No, I was not sitting with Alan Jones.

Senator CONROY—Was he compering?

Mr Milan—I cannot remember. I genuinely cannot remember.

Senator CONROY—Who else was on your table?

Mr Milan—I sat next to Harry Michaels of Zero One Zero, who is in television production, and his daughter; Angelo, the managing director of Sky News. I cannot remember the others. It was a media table.

Senator CONROY—This morning we talked to the ABC about the transition to digital radio. What is the SBS's position on the regulatory framework? Would you like to be able to provide new services also?

Mr Milan—Absolutely. We are strongly in support of digital radio. I guess we would like to see a policy framework that is aimed at achieving the most rapid development of the consumer market for digital radio. Obviously, unless there is consumer interest it is not going to work. We see it as a terrific opportunity to extend our services. You heard my colleague Mr Luu speak earlier about the difficulties we have in getting national coverage and comprehensive coverage of our services. We are very keen that we are treated equally in the allocation of quality spectrum. Having heard some of the discussion with the ABC this morning, if anything we are probably a bit stronger on the need for us to have access to the

VHF spectrum rather than L-band, which we do not think is an appropriate spectrum for broadcasting, whether it be public or commercial. We are particularly keen about that, because we would not want to see public broadcasting ghettoised, if you like, on the L-band, with the commercial channels having access to VHF spectrum.

We also think it is important that the most current and up-to-date technologies are taken into consideration. We are particularly interested in the aacPlus compression technologies that are applied within the Eureka 147 system, and we think the government may wish to take that into consideration in planning the availability of spectrum. Of course, we would very much like a one-fifth of a multiplex per existing Sydney service. In other words, we would like to be considered as though we had two existing AM specs frequencies across Australia, AM or FM.

Senator CONROY—You may want to bounce this to someone else or you may be able to cover the technical aspects. What is quality spectrum and what is wrong with L-band?

Mr Milan—It does not work.

Senator CONROY—As much as I have enjoyed that answer, we may need the long answer.

Mr Berryman—As Mr Knowles said from the ABC today, the L-band spectrum is very much like the mobile phone spectrum. The L-band spectrum, to get equivalent coverage to, say, an FM or an AM signal in a metropolitan area would need a lot of transmitters and it would be very costly for the public broadcasters to use such spectrum because we would have to put transmitters all over the place. It is difficult to get into buildings and into built-up areas. It is not as robust as the VHF spectrum. I think that if services are put between VHF and L-band the ones that will be obviously very much easier to receive will be the VHF services, while the L-band services for the time being will be very difficult to pick up in cities and built-up areas. It is not our desire to have to fill cities full of transmitters. It is wasteful. We know that there will be difficulties in our listeners being able to listen to services on L-band even if a lot of the technical problems are sorted out.

Mr Milan—I think there is another aspect, too, that does not go to the deficiency or otherwise of L-band but does go to the fact that if the receivers have to be manufactured to take into account two different bandwidths it makes the receiving devices more expensive and that in itself creates a barrier for consumer take-up. The other thing I would like to say in support of the ABC's submission to you this morning is that we also believe there is a very real need for new and innovative content on the spectrum. Indeed, we would not simply look to replicate our existing services; we would look to add a third in-language service to take pressure off some of the new communities that are seeking time on SBS. Indeed, we are very keen to put in an English language service that is particularly aimed at second and third generation youth who have specific problems.

Senator CONROY—Do you think it is necessary to delay the commencement of digital radio to allow for the compression technology to come on stream?

Mr Milan—It has certainly been our submission that a short delay to at least see where aacPlus gets us as to how it might help the division of spectrum is possibly in the interests—

Senator CONROY—What is a short delay—six months, a year or two years? What is the definition of ‘short’ here?

Mr Milan—I think probably we are thinking in terms of about 12 months.

Mr Berryman—Within six to 12 months. Our broad position with technology is that we should not be looking to instil old and outdated technologies into a market. We should have the most current technologies. The current Eureka technologies are very mature and they work. In the UK and in other parts of Europe there are receivers for them, but they are coming to the end of their life now. I think that we have to have a prudent approach whereby we have a look at the viability of making sure that Australia has the newest standards and not be encumbered with things that are reaching the end of their time. I think that is something that we as an industry will all have to assess by talking to manufacturers, by talking to transmitter providers and those things to make sure that the time delay is not unreasonable at the end of the day.

Senator CONROY—In response to a question on notice in February, SBS informed the committee that its new look or livery cost was \$1.283 million. Does SBS think that it is good value for taxpayers’ money and what did the SBS get out of that change?

Mr Milan—Yes, we do think it is good value for taxpayers’ money; otherwise we would not have made the decision. But I might actually hand over to my head of television to actually explain to you exactly what we got for our money and why we did it.

Mr Brown—Actually, it was very good value.

Senator CONROY—Excellent.

Mr Brown—From my own experience in other broadcasters, and what the industry is paying here, we think that was a very good price to pay for what was a complete rework of all elements of our livery, not only brand IDs on the channel but also rework of promos, station IDs and a number of other features—I think, as we put in our reply, 198 visual and 65 musical components, some of which are yet to be seen on air.

Senator CONROY—You say in your response that an internal solution was not viable because it was in an early developmental phase. When was the decision taken to undertake a refresh of the corporate look?

Mr Brown—In 2003 we were running a mix of different components, one of which was the faces IDs, which we removed and replaced on a temporary basis with some holding material. From late 2003, early 2004 we knew we were going to change. The internal design organisation were aware of it then.

Senator CONROY—Was the SBS aware that the time frame provided was insufficient for the internal design team to finalise a competitive proposal?

Mr Brown—It would not be aware, because that was not the case. The internal team was given a much more considerable time frame than the externals. The internal part of the organisation, the design and graphics team, was aware in 2003 that we were going to change the livery. We only pitched it out to the external sector in around April 2004.

Senator CONROY—So a full 12 months advance notice?

Mr Brown—Yes, at least a full 12 months.

Senator CONROY—You also noted in your response to the question on notice that the internal proposal would have required a significant investment in new technology. Are you satisfied that this investment would not have been more cost effective than outsourcing the project?

Mr Brown—Yes, it was a balance of financial and creative issues. On the one hand, we had something that could be delivered within the time frame.

CHAIR—We will have a break at this point.

Senator CONROY—I do not have too much more, but I am happy to break. Are we still on our breaking agreement?

CHAIR—The minister is leaving now, unfortunately, because of another commitment and will not be here for the session after four o'clock. We have discussed this in the committee and we have sought an alternative person. Regrettably, we will have to—

Senator CONROY—Just don't say Senator Kemp.

CHAIR—Perhaps we can proceed in the absence of the minister.

Proceedings suspended from 3.46 pm to 4.02 pm

Senator CONROY—We were talking about the livery change.

Mr Brown—Yes. The decision not to go with an internal proposal was only partly based on the fact that there would have been a new technology cost. The principal consideration was that it was only a rudimentary idea; it required a great deal of development work. It was not entirely clear whether even that would produce the result that was wanted. So it was a long-term project. On the other hand, we had available to us a complete solution, very reasonably priced. There probably would not have been a huge cost differential between an internal and external solution by the time you consider the number of people hours committed to the project—the fact that some of it would always be outsourced anyhow. It is seldom that SBS would do a complete project of this type using insourcing because of technology available externally.

Senator CONROY—Can you confirm whether SBS has spent money on producing programs which then do not go to air?

Mr Brown—Programs or promos?

Senator CONROY—Programs.

Mr Brown—It would be very rare that that has happened. I do not think anyone could say categorically that every single program made goes to air, but wastage would be very, very low, particularly in a broadcaster like SBS.

Senator CONROY—Does *Making of The Colony* ring a bell—*The Colony* series?

Mr Brown—A documentary on the making of *The Colony*?

Senator CONROY—I just have a title here that I am hoping rings a bell.

Mr Brown—I will have to take that on notice. There was a program of that type.

Senator CONROY—I understand at least two versions of a documentary called *Making of The Colony* have been produced but never aired.

Mr Brown—I will take that on notice.

Senator CONROY—I understand that SBS has a performance management program in place called PMP.

Mr Milan—Correct.

Senator CONROY—Can SBS advise the committee as to how this program operates.

Mr Milan—Staff performance is reviewed regularly against a given set of criteria and that has an impact on whether they might be entitled to some bonus.

Senator CONROY—How do you budget for these individual increases and bonuses?

Mr Milan—It is part of our normal budgetary process and it comes out of either the revenues we get from government or the revenues we get from advertising.

Senator CONROY—I am thinking that in an accounting sense you have got to say, ‘Here is a salary and here is a bonus component.’ Do you factor in the maximum? I am trying to understand how you have set up the process. Do you have 10 per cent on top of salaries that would possibly be a bonus pool?

Mr Milan—It would not be 10 per cent at SBS. But I take your point: we make a best guess.

Mr Torpy—We base it on past history, so individual cost centres would provide their estimate of what their salary requirements would be and those would be based on past histories from the budget managers across the organisation.

Senator CONROY—If a department were over their operational budget for the financial year and all their employees were rated as ‘outstanding’, how would the situation be managed?

Mr Milan—First of all, you would talk very seriously to a department head that had every staff member in an entire department as ‘outstanding’. If you are suggesting that we would let the costs in the general area that were affecting the business impact on what was fair and proper to our staff, I would say that would not be true. We would give staff payment a priority under those circumstances.

Senator CONROY—So staff payment would get priority over the general budget?

Mr Milan—Absolutely, if we were looking to make cuts. If it were absolutely genuine that every staff member in that department was outstanding, then we would make every effort to make those cost cuttings elsewhere.

Mr Torpy—That would come within a larger division and it would be not unreasonable to assume that it would even out across a large division if that were the case in one particular cost centre within a division and then across the organisation. Again, you have got averaging out, so a blip like that, if it were genuine, would most ably be able to be managed within the overall salaries budget.

Senator CONROY—Can you confirm whether bonuses for managers are linked to meeting budgets within their own individual departments?

Mr Milan—It depends on the department, but it would be a component in some cases.

Senator CONROY—What was the size of the increase awarded to the directors of the corporation over the last financial year?

Mr Milan—As far as I am aware, there has been no increase in the remuneration of the directors of the company. We would have to take that on notice.

Senator CONROY—Have there been bonuses to the directors?

Mr Milan—No. Directors do not receive bonus payments. We can take it on notice, but the minister might have been a better person to direct that question to because it is set by the Remuneration Tribunal. It is not set by the company.

Senator CONROY—It is entirely possible that I am poorly expressing myself. Do you call the head of a department a director? What is the title? Is it head of department?

Mr Milan—It is head of department.

Senator CONROY—I understand SBS made a number of employees in the SBS subtitling department redundant in mid-2004. Is that correct?

Mr Milan—That is correct.

Senator CONROY—How many employees were made redundant?

Mr Brown—Around 10. It might have been slightly more by the end of the process, but it was around that number.

Senator CONROY—Did this result in large expenditure on redundancies—had the employees worked at SBS for a long time?

Mr Brown—Yes. From memory, they were mostly long-serving employees.

Senator CONROY—How much was the total?

Mr Brown—The redundancy payout? I would have to take that on notice. We do not have that figure.

Senator CONROY—Does SBS believe that the subtitling department is now appropriately staffed?

Mr Brown—I think all departments are subject to fine-tuning and a review on that basis. One of the characteristics of the subtitling department is that it services individual languages, and the number of programs that fall within one particular language group can ebb and flow. But broadly the number is correct. That is not to say that we would not look at efficiencies if they presented themselves.

Senator CONROY—Can SBS confirm that the Portuguese subtitler was made redundant and SBS is now using employees from other departments who are fluent in Portuguese to fill the gap?

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

Senator CONROY—Can you also confirm that the sole Cantonese subtitler was made redundant and SBS has had to regularly bring people in to subtitle Cantonese programs?

Mr Brown—Again, could I take that on notice.

Senator CONROY—Can SBS confirm that a number of editors were made redundant and SBS has recently had to advertise to fill new editor positions to cope with the workload?

Mr Brown—Is that tape editors or editors in subtitling?

Senator CONROY—I might take that on notice! When I put this on notice, I will clarify that for you. They are all the questions that I have. I have a couple I can safely put on notice.

CHAIR—Thank you. I thank SBS for appearing today. Any questions on notice will be forwarded to you.

[4.14 pm]

Australian Broadcasting Authority

CHAIR—We welcome the ABA to the estimates.

Senator CONROY—In Professor Flint's book *Malice in Medialand*, published in March 2005, I would like to talk about the duties that apply to members of the ABA. What sort of confidentiality provisions apply to authority members?

Ms Maddock—We would consider that the full-time members of the ABA are bound by the public sector code of conduct, the Broadcasting Services Act and the Crimes Act, if required. I think that is all. I am looking at Jonquil Ritter, our lawyer.

Ms Ritter—Yes, the Public Service Act, the Public Service Regulations, the Commonwealth Authorities and Companies Act and section 70 of the Crimes Act, and the Public Service Code of Conduct.

Senator CONROY—Are full-time members free to disclose internal ABA deliberations?

Ms Maddock—What do you mean?

Senator CONROY—Are members free to disclose internal ABA deliberations?

Ms Maddock—Sorry, I thought you said, 'Are they privy to?' and I was going to say, 'Yes, of course.'

Senator CONROY—No, hopefully they are. Before they disclose them, it would be good if they were privy to them.

Ms Maddock—I would think that would depend upon the confidentiality of the material, the content in which they are disclosing it and the audience.

Senator CONROY—I think Ms Ritter has mentioned some of the provisions. Section 25 of the Commonwealth Authorities and Companies Act and section 70 of the Crimes Act are the two that have been drawn to my attention, possibly contractual issues if you signed a contract.

Ms Maddock—It would be all of those, yes.

Senator CONROY—What sort of things should not be disclosed under these provisions?

Ms Maddock—I will give you a proper answer on notice, or else I will look to my lawyer to give you the formal answer.

Ms Ritter—It would probably be best to take that on notice. But it comes down to the duty ‘not to disclose’.

Senator CONROY—What would be the most obvious things?

Ms Maddock—I would prefer not to speculate. I have taken the view in this committee in the past that I am not going to disclose private conversations that take place, nor am I going to disclose what happens in board meetings.

Senator CONROY—I am not asking you about yourself, Ms Maddock. But I am asking: someone sitting at the table from the ABA must have some idea—

Ms Maddock—Confidential information acquired in the course of your duties at the ABA.

Senator CONROY—What would be defined as ‘confidential information’?

Mr Tanner—It is material which is confidential to a person which would damage that person or that person’s interests if it were released more widely.

Senator CONROY—What about legal advice given to the ABA over votes taken by the authority: would that fall into this sort of category?

Ms Maddock—It could. People at times choose to make the advice given to the ABA public, I mean in terms of submissions et cetera.

Senator CONROY—This is your own legal advice.

Ms Maddock—If you are talking about internal advice.

Senator CONROY—Yes, this is your own advice that you would take yourselves. Would that fall into this category? I frequently ask for organisations’ legal advice, to be basically told, ‘No, it is confidential.’ I have frequently got that answer.

Mr Tanner—I think, in general, the stuff which is most injurious is stuff which is injurious to the interests of third parties. People have to tell us things that are very commercial-in-confidence in order to get certain licences, dispensations or permissions from the ABA. The ABA does have its own confidential information. If we release our own legal advice, we may, for example, lose privilege over that legal advice.

Senator CONROY—That sounds like a very generously broad definition. From the sound of it, there is almost nothing that you do that cannot be talked about publicly. I will be holding you to that in the future.

Ms Maddock—I do not think we have said that. I think we have said that we—

Senator CONROY—You have not managed to rule anything out so far.

Ms Maddock—Give us a specific example.

Senator CONROY—No; I want to know what the policy is.

Ms Maddock—The policy is that anything you gain in the course of your employ at the ABA that is confidential to it should not be revealed.

Senator CONROY—In March this year the former Chair of the ABA, Professor Flint, published a book called *Malice in Medialand*. Are you familia with that, Ms Maddock? Have you had a chance to have a read?

Ms Maddock—I have seen it.

Senator CONROY—Hopefully you did not buy it.

Ms Maddock—I have seen it.

Senator CONROY—Hopefully you did not waste your money on it. I understand it has not sold many copies. Going to the issue around what is able to be disclosed, what about someone profiting from their ABA war stories, telling tales about all of the discussions and decisions and what is behind the decisions?

Ms Maddock—I took the view when I looked at that publication that there was nothing of sufficiently high current significance to justify the resources that would be required to take it further.

Senator CONROY—I am sorry; I could not quite hear you. What was that last part?

Ms Maddock—I took the view when I addressed the issue of that book that there was nothing of current significantly high importance to justify the resources—

Senator CONROY—These are going to be famous words down the track, Ms Maddock, so I want to make sure I get them right: current, high significance?

Ms Maddock—I said there was nothing that was of high enough significance currently to justify the resources required. That is a question of balance.

Senator CONROY—A very generous balance that I will be seeking to hold you to in the future. Have the ABA members discussed the contents of the book? Did you draw it to the attention of the other ABA members or did you just do your own personal perusal?

Ms Maddock—The ABA members are aware of the decision and aware of the reasons for it.

Senator CONROY—You took the decision and you did not discuss it with the other members?

Ms Maddock—I did not say that. I said they are aware of it and they were happy with the decision I took.

Senator CONROY—No, you said they were aware of the decision. If they became aware of the decision, they obviously were not involved in the decision.

Ms Maddock—They were happy with the decision I was preparing to take.

Senator CONROY—So you told them about it or you discussed it with them before you made your decision?

Ms Maddock—Sure.

Senator CONROY—So the ABA is not concerned about the contents of the book.

Ms Maddock—I did not say that. I said that I judged that there was nothing—and I am sure you can cite my words back to me—that justified the resources that would be involved in taking it further.

Senator CONROY—I understand that you are not concerned about it from a literary perspective or the extent of sales. But, in terms of what it disclosed, you are not concerned?

Ms Maddock—I did not say that.

Senator CONROY—Just not concerned enough.

Ms Maddock—I judged that it was not significant enough currently to involve the resources that would be needed—which are significant.

Senator CONROY—What sort of resources would be necessary?

Ms Maddock—Resources to prepare any referral to any other body.

Senator CONROY—What other body would you refer it to?

Ms Maddock—There are a range of bodies. You could consider conditions under the Public Service provisions. As our chief counsel mentioned, there are a range of other pieces of legislation which cover it. I made the decision that—

Senator CONROY—You are suggesting that there would be significant expense involved, so I am just trying to understand what that significant expense would entail.

Ms Maddock—You would need to direct your lawyers to investigate it thoroughly. Decisions would then have to be made on where to refer it and documents would have to be prepared.

Senator CONROY—The DPP could pursue it under the Crimes Act. That does not cost you anything, does it?

Ms Maddock—It sure does.

Senator CONROY—What would be involved in that, other than Ms Ritter being a bit busy?

Ms Maddock—In all those sorts of things there is very significant preparation of documents.

Senator CONROY—It is sort of in hardback, isn't it?

Ms Maddock—It is available in hardback, but the analysis of it and the presentation of information et cetera take very significant resources.

Senator CONROY—You managed to make your decision without using significant resources?

Ms Maddock—Yes. I made a decision not to pursue it.

Senator CONROY—Did you consult Ms Ritter?

Ms Maddock—I made that decision off my own bat.

Senator CONROY—I did not ask if you made it off your own bat, I asked if you consulted the legal officer.

Ms Maddock—I did not take legal advice, no.

Senator CONROY—You did not take any legal advice at all about a breach of the Crimes Act. Are you a lawyer?

Ms Maddock—No, I am not.

Senator CONROY—I genuinely do not know and I am just wondering: are you a lawyer?

Ms Maddock—No, I am not, but I am aware of the resources that are required to prepare things—

Senator CONROY—That is not what I asked.

Ms Maddock—I answered the first part of your question.

Senator CONROY—So you are not a lawyer and you made a decision that under the Crimes Act you did not think there was a case to answer and you did not consult Ms Ritter.

Ms Maddock—I did not say that. I said I thought it would take significant resources that did not justify the current significance of the material.

Senator CONROY—I am trying to ascertain whether or not you took any legal advice, given that you are not a lawyer, on whether or not there was a breach of the Crimes Act.

Ms Maddock—I have answered that.

Senator CONROY—Which is no, you did not consult any lawyer.

Ms Maddock—That is right.

Senator CONROY—In the book Professor Flint gives a detailed account of ABA deliberations.

Ms Maddock—I am sorry, the members of the board with whom I discussed it include lawyers.

Senator CONROY—But you have assured me that you made the decision yourself—

Ms Maddock—That is right.

Senator CONROY—and that you made them aware of the decision. It is a bit hard to go back now and suggest that you had extensive consultations with the lawyers on the board. That is a little rewriting of your own testimony in five minutes.

Ms Maddock—As I said to you before, I talked about it with them before I made the decision, but it was my decision. That is what I said to you.

Senator CONROY—How would you know if resources would be required if you did not get any legal advice?

Ms Maddock—Because we routinely investigate issues and we routinely consider the manner in which to investigate them including whether to refer them to the DPP.

Senator CONROY—How do you know that Professor Flint would not just put up his hand and say, ‘Look, you’ve got me cold; guilty as charged.’ There is hardly a great resource there—even a letter to him drawing to his attention his obligations and perhaps suggesting that he might not want to do it again.

Ms Maddock—I made the decision that—

Senator CONROY—So you did not have any communication with him at all?

Ms Maddock—No, not on that issue.

Senator CONROY—You did not suggest to him that perhaps he had been a bit naughty once and he was to make sure that he did not do it again or you might have to consider prosecuting him? You just made a decision not to do anything about it—

Ms Maddock—That is right.

Senator CONROY—even though he gave a detailed account of deliberations in relation to critical issues like whether the cross-media rules were breached when Mr Brian Powers became chairman of Fairfax in 1998?

Ms Maddock—As I said, I made the decision that the issues were not of such significantly high importance currently that it was worth the investment in resources that would be required.

Senator CONROY—Even when he gave detailed accounts of the referral of 2UE to the Director of Public Prosecutions for John Laws's breaches of the cash for comment rules?

Ms Maddock—I was aware of what was in the book when I made that decision.

Senator CONROY—How recent was that one? That is quite topical. The cash for comment issue still reverberates now.

Ms Maddock—Although the implications of it are being felt now that was a decision made several years in the past.

Senator CONROY—It talks about the legal advice the ABA received and the way particular members voted on issues before the ABA. You did not feel it necessary, despite the fact that the former chair was out there touting publicly in a book how people voted, to at least give him a phone call and say, 'You have crossed the line,' or, 'Please don't do it again'?

Ms Maddock—It had been done.

Senator CONROY—Yes, but given that there had been a deafening silence from you on behalf of the ABA, he may choose to keep doing it because he would now find that he can say anything he wants and there is no comeback irrespective of confidentiality clauses, the Crimes Act or the Public Service code. You have not bothered to even give him a ring and give him the old slap on the wrist with a wet tram ticket, as we say in Melbourne.

Ms Maddock—I think Professor Flint was always aware of the obligations on members and on full-time members in particular.

Senator CONROY—You don't think you need to remind him of them?

Ms Maddock—I think he was always aware of them.

Senator CONROY—Have you dealt with a lot of these issues? Has the ABA in its life dealt with a lot of breaches of confidentiality?

Ms Maddock—It deals with them occasionally.

Senator CONROY—Were any dealt with when Professor Flint was chair?

Ms Maddock—Yes.

Senator CONROY—What were the discussions?

Ms Maddock—One was about the release of information that was confidential of a breach still under investigation. It was a breach still under investigation, therefore we took action.

Senator CONROY—So Professor Flint was happy enough to take action against others who had breached the confidentiality?

Ms Maddock—It was the breach of a preliminary investigation.

Mr Tanner—There was another distinction, too, I might add—the information related to third parties rather than to the ABA itself.

Senator CONROY—Sorry?

Mr Tanner—The other distinction with, I think, the example that Ms Maddock is thinking of is that the confidential information that was disclosed related to third parties rather than to the ABA's internal workings. As I understand it, the disclosures in *Malice in Medialand* relate to the ABA's own internal workings as—

Senator CONROY—Oh, that is okay then—great distinction to draw.

Mr Tanner—I do not think anybody is suggesting it is okay.

Senator CONROY—Who was that against? You said you took action; what was the outcome of the action?

Ms Maddock—I am not going to reveal who it was against, because there was no action taken but there were investigations made. Sorry—there was no final action taken but it was referred to the Federal Police, but they chose not to pursue it.

Senator CONROY—When was this?

Ms Maddock—It was several years ago.

Senator CONROY—Was it a board member? A staff member?

Ms Maddock—No. We do not know who it was, but the information was in the public domain and we referred to the Australian Federal Police that it had been put in the public domain, improperly.

Senator CONROY—And the information was confidential just to the board?

Ms Maddock—It was confidential to the organisation.

Senator CONROY—So Professor Flint was happy to refer somebody else to the police?

Ms Maddock—It was a situation where there was a leakage of material that was an investigation in train that was referred to the police for their investigation as to what had happened.

Senator CONROY—But it is okay for former members to talk about how you voted, Ms Maddock?

Ms Maddock—I am not defending the release of the information.

Senator CONROY—You are.

Ms Maddock—I am saying that the judgment is that the resources were not worth devoting to it.

Senator CONROY—The resources of you writing, or just even a phone call, 29c; an email, 3c; a letter, a dollar?

Ms Maddock—I think that that assumes a type of response that I would judge would not be effective—that the people involved knew what their legal rights and responsibilities were.

Senator CONROY—So Professor Flint should, if he is lucky enough to read this transcript, be able to take out of this discussion that it is okay for him to say anything whatsoever about his period, irrespective of who he talks about, what he says, because, on your definition of ‘currently high enough significance’, nothing Professor Flint would say at this point would actually impinge upon anything that has happened since he left, so he cannot be privy to anything that is currently significant, and on that definition he could say anything he wanted.

Ms Maddock—I have not said that. I have said that it has to meet the two tests. It has to be of sufficient current significance to justify the resources. And, as Mr Tanner has reminded me, revealing third party information will always be considered a particular issue.

Senator CONROY—I would think you are a third party, Ms Maddock. You are possibly a second party in this case.

Ms Maddock—It was information within the ABA.

Senator CONROY—It was legal advice; that is third party information. As you said, there were consequences of leaking legal advice—loss of privilege.

Ms Maddock—I would make a distinction still between that and the—

Senator CONROY—So it is only the internal working documents of the ABA that you can leak! Okay.

Ms Maddock—No. I have not said that they can leak at all. I have said that we will make a judgment on their significance and on the cost of resources of pursuing them.

Senator CONROY—So you sought no internal or external legal advice about whether there were any breaches?

Ms Maddock—No.

Senator CONROY—Are you concerned, given that it does not even draw a rebuke for board members, once they have retired, to do a show and tell—tell all—about how people vote and about any frank discussions? I am sure you have to have many frank discussions.

Ms Maddock—That issue was very thoroughly canvassed while Professor Flint was the chairman of the board.

Senator CONROY—He canvassed that himself, did he?

Ms Maddock—I did not say that; I said that those issues were very thoroughly debated within the board. The viewpoints of everybody were known.

Senator CONROY—That was a little obscure for me; I am not quite sure what you mean.

Ms Maddock—Could you ask your question again, because I am not sure where you are going.

Senator CONROY—Given that retiring board members can now, it would appear, talk about anything at all to do with the time that they were on the board without drawing a rebuke, a reference to the police or a code of conduct violation, how on earth will you maintain frank conversations amongst board members?

Ms Maddock—I have said that I do not accept the first part of your proposition that anything goes. Secondly, there was frank and fearless discussion of such issues when Professor Flint was a member of the board such that he would have been fully aware of the expectations that others had of him.

Senator CONROY—Now that you have refused to answer any questions on the specifics—you invited me to ask them, so now I will have to go back to the general—is there anything that Professor Flint could reveal that would fall into the category that required action by you? As I have given you are a string of specifics that apparently do not, what is there in your view, given he is no longer on the board—

Ms Maddock—You want me to reveal what I would not want Professor Flint to reveal?

Senator CONROY—I would like you to describe in a generality the sort of information that you feel would be of sufficiently serious a nature for you to do more than nothing.

Ms Maddock—I think I would refer to the situation where we have taken action, which was as a guide to areas we would consider—

Senator CONROY—I am talking about Professor Flint; I am not talking about third parties now. I accept your point about revealing information to third parties but now I am talking about any of Professor Flint's own activities, information that he could reveal to do with the activities of the board. Be they votes, legal advice, deliberations, frank deliberations, is there anything that Professor Flint might reveal that would actually draw you to do something other than nothing?

Ms Maddock—Two of the things that would qualify for that, certainly, would be staff-in-confidence information and commercial-in-confidence information. There may well be others but those two would certainly qualify.

Senator CONROY—‘Staff’ would probably fall into the third party and probably commercial would fall under third party.

Ms Maddock—You are defining my categories for me. That is fine.

Senator CONROY—I am happy for you to disagree with me, but you made the point about third party. All I am suggesting to you is that, in my view, the two points you have made fall into that category. I am happy for you to correct me. I come back to this: is there anything that Professor Flint could reveal from his time as chair to do with deliberations of the committee, how people voted, legal advice that in your view would warrant action?

Ms Maddock—Anything that hindered the current operations of the ABA and anything which carried continuing confidentiality implications for the current would be two of the categories that would be of concern.

Senator CONROY—What is the ownership structure of Fairfax? Has that changed a lot since 1998?

Ms Maddock—I am not sure what you are asking.

Senator CONROY—I have not read his book I am fortunate to say but, when he discussed whether the cross-media rules were breached when Mr Brian Powers became chairman of Fairfax in 1998, are there any ongoing implications for the structure and ownership of Fairfax?

Mr Tanner—I recall there was a published report with a fair bit of information in it.

Senator CONROY—That is dissembling, Mr Tanner.

Mr Tanner—No, I am suggesting that maybe the information is in the public domain.

Senator CONROY—My point to you is that the structure and the ownership of Fairfax is ongoing.

Ms Maddock—It is in the public domain, however.

Senator CONROY—Is there anything in the Crimes Act that limits the confidentiality obligations to current ongoing matters?

Ms Maddock—The question of whether there is or not, though, goes back to the point that I was trying to make originally—that, if it is in the public domain and nonetheless it will cost you resources to pursue it, you may choose not to.

Senator CONROY—The DPP can choose to pursue it.

Ms Maddock—But it is not costless in resources to prepare information for the DPP.

Senator CONROY—It is also not as expensive if the DPP are doing it, as you are suggesting.

Ms Maddock—Yes, it is. It is a very expensive exercise.

Senator CONROY—It is your confidentiality you are trying to defend, or not, in this case. I have lost the minister so I cannot ask her the rest of the questions. I am not quite sure how we operate in this circumstance. I thought we were looking for a minister.

CHAIR—Unfortunately we have not been able to find a substitute. If this were tomorrow we could.

Senator CONROY—Maybe if we attend a Liberal Party fundraiser we might find them.

CHAIR—That is true. That is an opportunity you might like to take up at some point. I am sure they would welcome you, but it would probably cost you \$5 or \$10.

Senator CONROY—I suggest it would cost me more than \$5 or \$10. You have not been to any Liberal Party fundraisers, have you, Ms Maddock?

Ms Maddock—No.

Senator CONROY—Congratulations. You show great taste. I have finished—I have actually completed.

CHAIR—If you do have an issue that you want a ministerial answer to you could, of course, put it on notice.

Senator CONROY—No. I will defer to my colleague Senator McLucas.

Senator McLUCAS—I just want to follow up on the compliance of regional licensees that we always talk about. I also thank you for the answers that you provided to the committee.

Ms Maddock—Sure.

Senator McLUCAS—The first question—and I ask this question every time—is: have you received any complaints from viewers in the regional licence areas?

Ms Maddock—No, I do not think so.

Senator McLUCAS—Not in that period?

Ms Maddock—No. Let me check that, but I do not think so.

Senator McLUCAS—Just come back to us on notice if it is wrong.

Ms Maddock—If we are wrong, yes.

Senator McLUCAS—You explain the audit process in the answers. Who selects which four regional licensees will be in the audit?

Ms Maddock—I know that we chose it on the basis that we wanted to get as wide a coverage as we could. I am not sure of the precise process for choosing what that meant.

Ms Wright—That was an ABA staff decision given to the consultant that was selected.

Senator McLUCAS—So it is an internal organisational decision.

Ms Wright—That is correct, yes.

Senator McLUCAS—And then you advised the consultant?

Ms Wright—That is correct.

Ms Maddock—Based on what we thought was the coverage we needed. We always do those sorts of guided assessments of where there might be greatest risks.

Senator McLUCAS—So you did a risk analysis, in a notional sense.

Ms Maddock—Yes.

Mr Tanner—The sample size is so large and the number of different entities is so small that it is pretty high odds we will pick up most broadcasters.

Senator McLUCAS—Which licensees are on that list now and are being assessed or audited?

Ms Maddock—Southern Cross, Prime, NBN and WIN.

Senator McLUCAS—Let us just go through them one by one. In which local areas are you auditing Southern Cross?

Ms Maddock—Regional Victoria TV1.

Senator McLUCAS—I understand there are two local areas.

Ms Maddock—Gippsland and north central Victoria.

Senator McLUCAS—Prime?

Ms Maddock—South-west New South Wales TV1, which covers the central tablelands and central slopes and Illawarra and the South Coast.

Senator McLUCAS—Seven?

Ms Maddock—Seven was not on there. It was WIN, Southern Cross, NBN and Prime.

Senator McLUCAS—NBN, pardon me.

Ms Maddock—NBN was northern New South Wales, which is the Hunter and northern rivers and the mid North Coast.

Senator McLUCAS—And WIN?

Ms Maddock—Regional Queensland, Far North Queensland and the Sunshine Coast.

Senator McLUCAS—Did Southern Cross close their operations in Victoria at the same time as they closed their operations in North Queensland?

Ms Maddock—Can I get back to you on that, because I am not sure?

Senator McLUCAS—We have got to go back to the trigger for the changed licence provisions and, certainly in Queensland, that was the closure of Southern Cross Broadcasting. I do not know if they closed their operations in Victoria. And going back to your comment about a notional risk assessment—

Ms Maddock—What this audit is about—and this may not be the only audit we will run—is to ensure that they are classifying properly, so that they are not claiming as local content the things that are not local content. That is the prime function of this audit, and we will also ensure that, given that they have the right classification, they make the 90 points a week. We have made the judgment that regardless of where they are geographically the question of whether they are classifying correctly is generic to the group. So we were concerned to make sure we got a representative of each of the groups so that we could check how they were doing their classifications.

Senator McLUCAS—Do you know how Southern Cross in Victoria presents its local format?

Ms Maddock—No, I would need to take that on notice.

Mr Tanner—There is a report due to come to the board from the auditor but it has not yet come. I understand we are expecting it in June.

Senator McLUCAS—Yes, that was among my questions too.

Ms Maddock—We expect it in June, and we will be making the outcomes of that report public.

Senator McLUCAS—I just wondered about the timing. How will the process of assessing compliance with the ‘localness’—if that is a word—and the amount of time that is allocated be reported by the auditor?

Ms Maddock—As I understand it, the auditor will be telling us whether the appropriate judgments have been made as to whether it was local enough under our conditions and whether the time was right.

Senator McLUCAS—And the auditor will make a judgment whether it was local or was not local?

Ms Maddock—Under the conditions.

Senator McLUCAS—The auditor will decide clearly one way or the other—there is no grey area?

Ms Maddock—If there is grey area I would expect the auditor to tell us.

Mr Tanner—Just to clarify: the condition requires material to be local to the sub-licence areas that are nominated but also allows some material that is local to the entire licence area to count. But it sets limits on the amount of the entire licence area stuff. So they will be making judgments about whether it is in one of three categories: it is not local, it is local to the licence area, or it is local to the sub-licence area. Obviously the auditor will have to then make a judgment about whether or not too much of the stuff relevant to the entire licence area is being claimed.

Senator McLUCAS—How does the community read that report and make a judgment about whether the judgment was correct?

Mr Tanner—This is not an issue that the ABA have had an opportunity to consider but I would like to think that we can go public with the results in a way which gives some assurance that the condition has been implemented or that the problems are being managed.

Senator McLUCAS—You expect to publish some description of the items that were audited and the judgment about whether or not it was deemed to be local?

Ms Maddock—We will say why they were in or out, yes. On the audit outcome, we do not envisage just putting out blunt numbers and nothing else.

Senator McLUCAS—No, it has to be able to be understood.

Ms Maddock—It has to be in a context.

Senator McLUCAS—There is a one-week sample out of the six weeks that are requested from the licensee. Who makes the decision about which week you pick out of the six?

Ms Maddock—I think we did it, or the auditor did it.

Ms Wright—It was not them; it was the ABA.

Senator McLUCAS—How did you make that decision?

Mr Tanner—I think it was fairly arbitrary.

Ms Wright—Yes, it was arbitrary in the sense that we decided to select only one of the six weeks, and the decision was more about whether to take one week instead of six weeks rather than about choosing a particular week within the six.

Mr Tanner—But the crucial thing is that the condition does require fairly close to the average amount each week, although it allows a little bit of—

Senator McLUCAS—Tolerance.

Mr Tanner—The important thing is that the licensees did not know which was the week.

Senator McLUCAS—That is right.

Mr Tanner—Basically, you are capturing a snapshot of their compliance behaviour in time and you are auditing it.

Senator McLUCAS—So you just picked week 3 for Prime?

Ms Maddock—Or whatever, yes.

Mr Tanner—Yes.

Ms Maddock—And the important thing, as Giles said, was that they did not know.

Senator McLUCAS—Coming back to your comment, Ms Maddock, about notional risk analysis, could you explain that a little bit more?

Ms Maddock—I think that it was nothing more sophisticated than that we wanted to ensure that we got all the players so that we could ensure that all the systems of all the major operations, represented somewhere throughout Australia, were in the audit group—so that we could make sure that there were not great gaping holes in the coverage. That, as I said, did not require us to take all of them in each area, but we did have to see that the systems belonging—with one exception—to each of the groups was included. The one we have not included for this time is Seven Queensland. But we do not rule out that we will be doing other audits and we would envisage using an audit methodology for a whole range of things in this condition.

Senator McLUCAS—You would be aware from your knowledge of the industry that there are a whole range of different responses that various licensees have taken to the new licence requirements. Are you confident that you have covered off all of those different formatting styles?

Ms Maddock—I think we would be confident that we have got a good representation for this time round. If we have not, we will certainly be doing it again.

Senator McLUCAS—Are you confident that you are auditing licensees that operate essentially a once-a-week omnibus program?

Ms Maddock—I will take that on notice and come back to you. I think that we have covered sufficient of the classes of type of program. If we have not, as I said, we will do it again.

Senator McLUCAS—In what time frame would you do it again, if that is required?

Ms Maddock—It depends what happens with this one. We might choose a different group, but we would probably do it again over the next 12 months. We have got the budget for it for next financial year and we have put it aside.

Senator McLUCAS—And there will be another round of audits for the next financial year along the same lines?

Mr Tanner—We cannot speak for ACMA—we are going to be replaced with the new statutory authority. But both agencies are developing budgets and those budgets will be merged to form the initial ACMA budget, which is then, I guess, at the discretion of ACMA as to what it does with it. But certainly that budget, in terms of my awareness of our preparation for a budget, makes provision for a continuing audit program.

Ms Maddock—If this one has come out all ridgy-didge and hunky-dory, a different aspect of it may be audited, but we wanted to make sure that the money was there for whatever audits we needed.

Senator LUNDY—Can you provide an outline as to the program for kicking off ACMA?

Ms Maddock—I will talk about what I can talk about and I might ask Mr Tanner to speak as well. As you know, there are two components of the organisation. One is policy and one is organisational. We have been operating on the basis that as policy is unchanged we will continue to make policy decisions. As far as organisational structure, a range of papers are being prepared for an incoming ACMA board to consider. A great number of internal processes have been put in place to go to the merging of the two authorities, from web sites to HR policies to publications. So it is operated at two levels. Insofar as the decisions are non-contentious and not pre-empting what an ACMA board might want to do, they are being taken—those are the finance system variety of decisions. If they are decisions that the steering committee—which is the department, the ABA and the ACA—considers are ones that an incoming ACMA board should most appropriately deal with, policy papers and advisory papers are being prepared.

Senator LUNDY—Just refresh my memory. The time frame, following the bill's passage through the parliament, for ACMA to have its new board in place and in operation was from 1 July?

Ms Maddock—That is right.

Senator LUNDY—Are you on track? Perhaps this is better directed to the department.

Ms Maddock—I think later to the department. Those things that can be done without pre-empting the decision of the ACMA board are on track.

Senator LUNDY—Have you been able to identify any impact on resources, compared to what the ABA currently does, in the combined environment?

Ms Maddock—It has been affordable within our current budget, in part because there are some types of work that you would delay for a new ACMA board, such as some IT investments. It has been affordable to do the work we need to do now subject to an ACMA board coming into place. With regard to future costs, we are working on the assumption that the government has given us, which is that it will be cost neutral. That is not the right term, but the financial effects would be neutral. Again, I cannot pre-empt what an ACMA board might do about organisational structures.

Senator LUNDY—I appreciate that. I am interested more in what you are doing in the lead-up to that.

Ms Maddock—We are okay. There are some bits where we are having to shift priorities.

Senator LUNDY—What does that mean?

Ms Maddock—There are certain long-term strategic plans for IT. Rather than doing them in this half of the year, we are leaving them for ACMA to do, which seems appropriate. It frees up some funds to put to the activities at the moment.

Mr Tanner—In our negotiations with government when the merger was being contemplated, we always knew there would be costs associated with the merger. There was scope for ongoing savings as well, but the costs tended to crowd up-front. We have incurred a range of those costs—but by no means all of them—that are necessary to have smooth, single-front counter operations from day 1. Because we are two separate agencies, we have had to work out a formula for sharing those costs. We have done that. That pre-emption of those costs of the merger has been worn by the two agencies inside their budgets in different ways but, in general, we have been successful in accommodating those costs without an impact on our statutory functions. As Ms Maddock has suggested, it has had some impact on the timing of corporate expenditure. It may be appropriate to bring forward some sort of ABA/ACA-wide look at the IT strategy over the next few years, so that budget decisions next year are informed by that, rather than leaving it to next or the year after, which you might have done otherwise.

Senator LUNDY—Are there any positions that have been lost in the lead-up to the merger?

Ms Maddock—The merger has been working on the basis that, if positions become vacant at a ‘senior-ish’ level that would be crucial to the new body, they will be filled on an acting basis rather than on a permanent basis. That has been the underlying principle. That has been particularly applied to corporate services, where there is potential overlap of activity. That is for senior positions.

Senator LUNDY—Can you go back to my question. Have any positions been made redundant?

Ms Maddock—We at the ABA have made a number of positions redundant over the last 12 months. They were not related to the merger.

Senator LUNDY—Are there any related to the merger?

Mr Tanner—I would put it this way: quite early in our preparations for the merger, the two agencies reached an understanding about positions that were so merger-affected it was not appropriate to proceed with permanent filling. As Ms Maddock suggested, that applies mainly to the very top of the structure and corporate positions where there is an overlap. Neither agency has sought to identify or make savings ahead of the merger.

Senator LUNDY—I appreciate that, but that is not the question.

Mr Tanner—However, the particular staffing problems—typically, the departure of key staff—and the need for the two agencies to keep functioning until the merger have caused us, and I am talking just about the corporate areas, to make particular decisions. There has been some minor use of redundancy around those positions at the ABA. The way we approached that was by attempting with the ACA to model what our needs would be on day one of ACMA and make decisions accordingly.

Senator LUNDY—In any of the material, the bills or the minister’s statements relating to the merger, can you point to where it was identified that there would be some redundancies as a result of the exercise—or is it not mentioned?

Mr Tanner—I am not sure. I will have to take that on notice.

Senator LUNDY—The minister is not at the table so it is not possible to ask her.

Ms Williams—The budgets of the two organisations have been rolled together for the first two years, so any decisions as to what will happen are not forced by those two budgets. However, everyone is aware that there are some costs in putting the two organisations together. Down the track there may be some savings because of two corporate areas being combined into one. As I said, I have not checked the minister's statements, but I think they would have said exactly that—that the current funding for those two organisations would be continued for the first two years, after which it would be reassessed.

Senator LUNDY—What I am trying to ascertain within that is the detail about the impact on levels of employment and whether or not any redundancies have been applied or are planned.

Ms Williams—Ms Maddock will give you a more detailed answer, but it seems to me that when positions which could become major positions in the new organisation become vacant they are probably not refilled.

Ms Maddock—That is what I meant before when I was saying that, in Corporate, where that has happened—and it has happened in a number of cases—the position has not been filled on a permanent basis. I think that in all cases it has been filled on an acting basis so that there has not been a diminution of the resources devoted to it. There has been a decision to fill it on an acting basis so that we do not inadvertently create a need for redundancies in the future. We have been pretty careful not to do that.

Senator LUNDY—What you are describing implies that, as you proceed into the merger, albeit with the same envelopes of funding for at least two years, areas will emerge where there is overlap, and so it is likely that, as part of that two-year period, you will identify redundancies.

Mr Tanner—We are making no assumptions about how savings will be realised. We do expect that the new agency will be concerned about identifying savings, but redundancies are only one way of realising savings. There are a number of other ways, including attrition. No decisions can really be made about that. Identifying how savings can be made and recouped would be pre-empting the incoming ACMA and chair. I think what Ms Maddock was describing is that our policy to date with the two agencies is to attempt not to make decisions that worsen overlaps. If we know that two positions directly overlap and one is vacant, we do not hurry to fill both so that we know we will have an extra overlap on day one. That is really all we have done.

Ms Maddock—There has been no planning done that would be a guide to where we are over where redundancies might occur. We do not think that is appropriate and we do not think that it is the point of the exercise, so no work is going on on that basis.

Senator LUNDY—Finally, you mentioned your IT and corporate services. Who currently provides those services to the ABA?

Ms Maddock—IT is provided by Volante, which is the same organisation that provides it to the ACA. This is deliberate and fortunate. Corporate services are provided in-house for each organisation.

CHAIR—We will take a short break.

Proceedings suspended from 5.06 pm to 5.23 pm

Senator CONROY—You may have noticed I was talking earlier with the minister and SBS about a dispute between a group called the Timor Sea Justice Campaign and the free-to-air networks over some ads questioning the government's policy in negotiating oil and gas rights with the East Timorese government. Has the ABA considered this matter? Were you involved?

Ms Maddock—No.

Senator CONROY—Have you provided any advice to the government about it?

Mr Tanner—Our jurisdiction with SBS is restricted to handling complaints relating to their code of practice.

Senator CONROY—I think this went a bit wider than just SBS. There was also a dispute around the fact that Channel 7 were not showing the ads. I was wondering if you got dragged into it in any way.

Mr Tanner—I am not aware that any complaints have come to us, which is what generally triggers our interest.

Senator CONROY—So you have had nothing to do with this at all?

Mr Tanner—Not that I am aware of.

Senator CONROY—Do you have any role in dealing with complaints about free-to-air networks refusing to show commercials?

Ms Maddock—Not that I am aware of, but we will check and get back to you.

Senator CONROY—Is the ABA familiar with the work of Commercials Advice Pty Ltd, known as CAD, a body owned by the free-to-air networks?

Ms Maddock—Yes.

Senator CONROY—What do you understand the role of CAD to be?

Ms Maddock—As I understand it, they clear—

Ms Wright—They assess the ads for the suitability of the time of day that they are shown.

Senator CONROY—They say, 'You shouldn't show an R-rated ad in children's television time.'

Ms Wright—That is their predominant task.

Senator CONROY—Do you have any oversight of this body?

Ms Maddock—No.

Mr Tanner—They also had a role in the Australian content of ads. They are a mechanism by which the industry regulates itself, but ultimately, if they get it wrong, they may very well breach a code or a standard.

Senator CONROY—Would that then come to you?

Mr Tanner—Yes.

Senator CONROY—But that would be the TV stations, not CAD itself.

Mr Tanner—That is right. We would not be looking at CAD.

Senator CONROY—What redress does someone have if their advertisements will not be screened by free-to-air networks?

Ms Maddock—We have not looked at that, so I am not going to speculate. Can we get back to you?

Senator CONROY—Sure. If I have a complaint that someone would not show my ad, as opposed to what was in the ad—

Mr Tanner—There is nothing under the codes or the standards that we administer that would go to that.

Senator CONROY—So, at first glance, I could not come to you at all. I am happy for you to come back to me on that.

Ms Maddock—At first glance, I would have thought it was more an ACCC matter than an ABA matter. It goes to plying for hire, or whatever it is called.

Senator CONROY—Does the ABA believe that a dispute resolution mechanism could be put into the commercial television code of practice for when they refuse to show some ads?

Ms Maddock—We do not have a view on that. We have not considered it.

Senator CONROY—The code does deal with other aspects of commercial advertising, like noise levels.

Mr Tanner—It does.

Ms Maddock—We would want to consider where, if anywhere, in the Commonwealth the jurisdiction fell, because we are not sure of that. It has not fallen with us.

Senator CONROY—It does not seem to have fallen anywhere. That is what I am trying to work out. Do you think it should be in the code?

Ms Wright—To use the example that you have given us of loud advertisements, that is in the code. That was negotiated between us and Free TV, because a number of complaints had come to the ABA. Regarding the matter you are referring to, we have had none. Nobody has sought to come to us on that or brought the matter to our attention.

Ms Maddock—I would have thought that it is more a Trade Practices Act matter because it goes to whether or not—

Senator CONROY—Should it be a code issue? Do you think it might form part of your next review? You only raise the noise level with the commercials because you have had a few complaints. I certainly have a few complaints and I am reflecting that to you now.

Ms Maddock—Whether or not we did that, we would want to find out first who it was, whether there was a role. My initial response would be that it is a trade practices legislation—and I will get the words wrong—refusal to supply-type issue.

Senator CONROY—If there is no existing contract I am not sure whether or not—

Ms Maddock—But if you stand in the market and offer some—

Senator CONROY—It was a market of political ideas—

Ms Maddock—It is a market for advertising time as well that I am thinking of.

Senator CONROY—Does the ABA think it is appropriate for broadcasters to limit advertisers' access to spectrum if they disagree with their political views?

Ms Maddock—We do not have a view on that at the moment. I will have a look at it and see whether we do.

Senator CONROY—You do not have a view about censorship?

Ms Maddock—Of course we have views about censorship. As to whether it is appropriate to choose what you accept as advertisements, they are selling the time. It is a commercial decision on their part. As I said, I would have thought that they fall under the Trade Practices Act as to whether they are standing in the market offering to sell their time in an appropriate way.

Senator CONROY—I revert back to one of the issues we discussed earlier today concerning genre restrictions. Earlier today we discussed the programs that had been on the ABC's digital television service, ABC2. Apparently other broadcasters have complained that the ABC is breaching the genre requirements that are imposed under the Broadcasting Services Act. Has the ABA received those complaints?

Ms Maddock—No.

Senator CONROY—So you have not received any complaints?

Ms Maddock—No.

Senator CONROY—Are you investigating this matter?

Ms Maddock—No. We are aware of the complaints and we are keeping abreast of what is happening. We are aware of the information you were given this morning that the department is discussing it with the parties concerned. We do not think we have complaints—

Senator CONROY—Is it outside your jurisdiction?

Mr Tanner—It is at present outside our jurisdiction which is limited to matters in the ABC code of practice.

Senator CONROY—You do not think you have any powers to enforce the genre restrictions?

Ms Maddock—We have the power if we are given a direction by the minister to investigate something. We think it would fall under that power rather than under the power relating to enforcement of the codes.

Mr Tanner—Perhaps I should be clear too: that would not be the same as having enforcement powers, but we could certainly investigate and make findings. We have broad enforcement compliance powers around licensed broadcasters, but our role in investigating complaints about national broadcasters is limited to a role in investigating complaints about code matters.

Senator CONROY—I am moving on to progressive community radio—does that ring a bell? On what date was progressive community radio first issued with a licence to broadcast on the Central Coast of New South Wales? Welcome back, Minister.

Senator Coonan—Thank you.

Ms Maddock—I do not have that with me.

Senator CONROY—I am happy to put these questions on notice. Thank you.

[5.32 pm]

Department of Communications, Information Technology and the Arts

CHAIR—Our first group is output 3.2, Policy advice and program management which promote accessible high quality broadcasting services.

Senator LUNDY—Can you provide the committee with an update to NetAlert's funding arrangements as they relate to the election promises? Can you confirm whether or not those election promises were reflected in this year's budget?

Mr Cameron—The government committed in the 2004 election campaign to provide NetAlert with some \$2 million over two years under the National CyberSafe Program. The funding commenced in this financial year, so the budget initiative was given effect through the additional estimates process rather than the coming year's budget.

Senator LUNDY—The additional estimates in February?

Mr Cameron—That is correct.

Senator LUNDY—When did that program actually start—back in February?

Mr Cameron—The initiative was to provide \$2 million to NetAlert to conduct a public education campaign.

Senator LUNDY—The CyberSafe campaign?

Mr Cameron—That is correct. The funding was provided and NetAlert is in the process of developing that campaign.

Senator LUNDY—That is what I was trying to ascertain. If the money has been provided now for some time what is the status of the campaign and when is the public likely to see it?

Mr Cameron—The department is in current discussions with NetAlert updating their work program, which is an annual mechanism between the department and NetAlert to reflect the activities they will undertake. While the funding was given effect through the additional estimates program it is provided to the department and will be on-supplied to NetAlert when the arrangements for that program are finalised. We would expect that the public education activities will begin early next financial year.

Senator LUNDY—August or thereabouts?

Mr Cameron—That is a matter of ongoing discussion with NetAlert. I could take on notice the specific date.

Senator LUNDY—Given that it was an election announcement and the money came through in additional estimates in February, I am just surprised that it is now May, post

budget, and you are unable to be more definitive about the nature of that program. Correct me if I am wrong but the NetAlert board are still in discussions with the department about how to spend that money.

Mr Cameron—The NetAlert board is undertaking planning work and looking at developing specific aspects of the arrangements, but there is also an ongoing discussion between the department and NetAlert about those final arrangements to ensure that—

Senator LUNDY—So who is running this campaign—NetAlert or the department?

Mr Cameron—NetAlert.

Senator LUNDY—What are the specifications the department have given NetAlert for the campaign? What are the guidelines or the directions that they are contemplating in their program development exercise?

Mr Cameron—The discussions are primarily associated with developing performance indicators associated with that program so that the department can be satisfied in executing the funding that NetAlert has achieved outcomes. Our involvement is primarily to ensure that the funds are used for the appropriate purposes and achieve effective outcomes. We are in discussions with them about the sorts of reporting arrangements that we would implement.

Senator LUNDY—What are the sorts of key performance indicators that the government are hoping to put in place with respect to the CyberSafe Program?

Mr Cameron—The sorts of issues would relate to the geographic and other extent of the public education activities and the numbers of people that would be reached through the various efforts they would be involved in. For example, they are likely to have activities associated with schools or other public institutions. They would be wanting to achieve outcomes in terms of those people. The program is also part of a broader set of activities that involve the Australian Federal Police. Certainly we would be wanting to see NetAlert working closely with the AFP in terms of their half of the program's initiatives.

Senator LUNDY—Is the department or the government talking to any other bodies besides NetAlert with respect to the public side of the campaign? You have mentioned the AFP. I understand from the original announcements that the minister nominated several related law enforcement bodies, but I am thinking of perhaps other non-government or quasi government organisations that might get hold some of this money.

Mr Cameron—As I indicated before, the program is a program of NetAlert and we would certainly expect them to engage in discussions with a range of organisations. The program is not a program to on-fund other organisations in their activities, but certainly NetAlert would be looking to develop partnerships with organisations either on the law enforcement side or, for example, through education institutions to get the best outcomes from their public education activities.

Senator LUNDY—What direction has the department given NetAlert as far as who they should partner with—any?

Mr Cameron—We have not provided them with specific lists of organisations, no, but obviously we are interested in the extent to which they will be developing links with

organisations. The ABA also is obviously another institution that is involved in public education in this area. They will work with the ABA on these issues also.

Senator LUNDY—Can you detail how much of the \$2 million will be spent in which financial year?

Mr Cameron—NetAlert will receive \$670,000 in this financial year and the remainder next financial year. It is our expectation that a proportion of the \$670,000 will be spent this financial year primarily developing the public education initiative. We understand they will want to get advice on appropriate ways of targeting the sorts of messages that they would want to get across. However it is realistic to assume that the bulk of the money will be spent next financial year.

Senator LUNDY—In developing the campaign, does the government envisage that the bulk of this money will be spent on development of advertisements and purchasing media space or is it more in a direct hands-on, grassroots campaign, as NetAlert have done in the past, with the production of kits and working with stakeholder groups et cetera?

Mr Cameron—I would have to take on notice the details of any balance but it would be our expectation the primary effort on their part will be in relation to things like development of roadshows and the more practical information exercises rather than significant expenditure on major media activities, which quite clearly could get very expensive very quickly.

Senator LUNDY—Has the department identified any proportion of this \$2 million to be spent on advertising.

Mr Neil—They have put to us a draft work program, which I do not have here. We have broadly accepted it. It contains amounts of money for localised advertising—the campaign we run mostly as they proposed it in regional areas. They will advertise in local media when and where they are going to be, to inform the local community. I do not have the numbers here but it will not be a dominant part of the expenditure and will not be national advertising or anything of the sort. It will be very much targeted to local communities in regional areas and as such will not dominate their budget.

Senator LUNDY—What is the thinking behind focusing on regional areas as distinct from metropolitan areas, for example?

Mr Neil—They have been commissioned to do a roadshow and to travel widely. So they are expecting to take a nation approach. The major metropolitan centres are easily reached. So there is a strong emphasis on getting out to the regions.

Senator LUNDY—Right, but you will also be covering the cities?

Mr Neil—Yes.

Senator LUNDY—What status does the work program you are describing have? Are you able to provide that to the committee?

Mr Neil—The work program is a NetAlert draft. It is really a matter for them.

Senator LUNDY—No, it is not, because you are giving them the money, which means that they are accountable to us.

Mr Neil—It should be finalised in the very near future. I imagine we can provide a copy, unless there is some commercial—

Senator LUNDY—I cannot imagine there would be.

Mr Cameron—I am sure we can provide a copy of the finalised work program.

Senator LUNDY—When do you expect it to be finalised?

Mr Neil—Very quickly. We have asked for a few minor changes, so I am expecting them to get back to us in the next week or so.

Senator LUNDY—Are you able to provide the committee with any updated statistics on the operation of NetAlert—the hotline and other services that they provide?

Mr Neil—NetAlert has a range of statistics on its hotline and on the web site, including hit rates, so I do not see any problem with providing information on the performance.

Senator LUNDY—I am sure I could find it online. I think it was in last year's budget or in that of the year before—some time ago—that NetAlert was moved from the ABA to the department.

Mr Cameron—NetAlert's funding for a period included a component which came from the ABA's appropriation. However, it has always had a component of funding administered through the department.

Senator LUNDY—Who is on the board now?

Mr Neil—Karyn Hart is still the chair—she was the founding chair and remains the chair. There is also Peter Coroneos, who is from the IIA; Derek Whitehead, who is from the Australian Library and Information Association; and Mike Nermut, who runs a computing company in Tasmania. Kaaren Koomen is now with IBM. There is also Mr Kevin Zuccato, who is from the Australian High Tech Crime Centre.

Senator LUNDY—Is that all?

Mr Neil—I would need to look at their annual report, I am sorry. One of my staff goes regularly to the meetings, and I have stopped attending.

Senator LUNDY—Has there been any recent turnover in the board?

Mr Neil—Kevin Zuccato recently joined. He replaced Commander Barbara Etter, who was from the Northern Territory police force. We sought to have somebody to make that link with the enforcement agencies, and she was a new member. Two years ago there was a significant change. We made the board smaller and therefore reduced the number of members. Mike Nermut joined at that time, but several members continued. Peter Coroneos, Kaaren Koomen, Karyn Hart and Derek Whitehead were original members, and we added two more.

Senator LUNDY—Thanks for that. If I have any other questions on NetAlert, I will put them on notice. I also have some questions about the Television Black Spots Program. My understanding is that this program is due to wrap up on 30 June this year. Is that correct? Are there any plans to extend this program after 30 June this year?

Mr Cameron—The Television Black Spots Program is a special account established under the social bonus initiatives from the second tranche sale of Telstra and, as such, under the

Telstra Corporation Act it has a limited life and closes on 30 June. There were two rounds of funding undertaken under the program. The second round was completed a number of years ago and, no, there are no plans to have any further funding rounds.

Senator LUNDY—Are there any funds remaining in that account, or will there be on 30 June?

Mr Cameron—It is likely that a small amount of funding will remain in the account. There have been some funds reserved to address unanticipated technical problems associated with some of the black spots and there were also some appropriations that were provided a number of years ago. It was agreed that in order to avoid double dipping of the fund that money would be left in the account.

Senator LUNDY—Sorry, I am having trouble hearing you. Can you say that last bit again?

Mr Cameron—There was some items of expenditure which were identified for use by the television fund account and the department or the relevant agencies also received direct appropriations for those activities. To ensure that there was not effectively double dipping of the fund, that amount of expenditure has not been used and essentially has been reserved. So, yes, there will be an amount of money left over which will return to the wider coffers.

Senator LUNDY—What is left over will return to consolidated revenue?

Mr Cameron—That is correct.

Senator LUNDY—I want to get this clear. Did you say that the department has put aside an allocation—an equivalent amount—to match that amount that is available for expenditure on black spots?

Mr Cameron—No, Senator. I said that there has been some money which has not been allocated for new black spots projects. It has been reserved to address some circumstances in which there have been unanticipated technical problems with solutions that have already been implemented. It is likely that that money will not be fully utilised before 30 June.

Senator LUNDY—Can you still use it after 30 June?

Mr Cameron—No.

Senator LUNDY—What happens about the problems that have been identified?

Mr Cameron—We will clearly seek to resolve problems that are identified before 30 June. There have been a relatively small number and, because most of the projects have been implemented, the likelihood of identifying significant new issues over the next couple of months is pretty small.

Senator LUNDY—So communities who still have a problem had better get their requests in pretty smartly. Is that the message?

Mr Cameron—We are in ongoing communication with those communities that have been supported so we would be aware where there are issues.

Senator LUNDY—I have some information from Maria Vamvakinou, the member for Calwell, who says that there is a community—Bulla—in her electorate that still has a black spot. If they have not already applied for some funding to fix the black spot, are they able to do that before that fund is closed?

Mr Cameron—No, there are no further rounds under the black spots program for funding. The last round was in 2002, I think. My colleague Mr Buettel might be able to tell you.

Mr Buettel—I think the last round was in March 2001.

Senator LUNDY—It is now 2005. I understand that the way that fund has been expended is that in those rounds funding is allocated and gradually paid out as the projects demand it. But if there is a residual amount, is there any way that the minister might be able to intervene to help these communities? I think that might be one for you, Minister.

Senator Coonan—I will consider requests. For your information, Senator Lundy, I have the details. The first round of the program, which was open to black spots with more than 100 households, closed on 6 October 2000. The second round reduced the household threshold from 100 to 50 and it closed as long ago as 30 March 2001. For your information, there were 413 expressions of interest for new services and 2,001 applications to replace obsolete equipment at existing self-help transmission facilities. About 65,000 households have now been assisted through the program. I will look at what we can do for anyone who has missed out, but I have to try to administer these programs in something like an orderly fashion and publicise the dates as widely as I can. That is the government's position.

Senator LUNDY—I just make the observation that, given that these rounds closed quite some time ago, there may well have been whole new developments of communities and housing estates that might be subject to black spots that need addressing. But given that the Television Black Spots Program will conclude there will not be a mechanism for them to be serviced under government policy. My question to you is: are you contemplating either replacing the black spots program with another funded program or is there another program which could be expanded in scope to ensure that new housing developments and new estates—I do not know whether the Bulla community is in that category—are covered? The challenge is not going to go away as new developments pop up.

Senator Coonan—You are making a good point if there are some of these communities out there. We try to provide some sort of solution. We do have another program, the alternative technical solutions program, and often in a situation, perhaps such as the one that you have mentioned, communities can be helped with some particular technological solution. In that way solutions are developed for some very difficult areas. My information is that a further eight black spot areas have been helped under this particular program. Senator Lundy, the point about it is that they should approach the department. If we can find some way and if it is appropriate, of course we will always look at it.

Mr Cameron—While the Television Black Spots Program was designed to provide some financial assistance for self-help communities, there is nothing preventing a community from seeking to implement a self-help retransmission solution themselves or in fact approaching the local broadcasters in their area to see if there is a way in which the reception can be improved by an expansion of the broadcast facilities of the commercial broadcasters or otherwise.

Senator LUNDY—I suspect, though, that the broadcasters are completing the loop by pointing the finger back at the department and, I presume, trying to put pressure on the department to continue funding because that would subsidise the upgrade or replacement.

Mr Cameron—They may well do so but they may well also find, particularly if it is a new estate or community, that in fact what might not have been economic to extend some time ago may well have become something which is economic. Also, they may not be aware of the reception issues in those areas. The other point that I was going to make was that with the roll-out of digital television services often these black spot areas actually have digital television reception that can address their concerns—not always but in many cases that is the case—and the community may wish to identify whether there is digital reception in their area or the time at which digital services will be rolled out to their community.

Senator LUNDY—I will come back to that point. How much funding is left over in that particular special account?

Mr Cameron—I would have to take that on notice unless Mr Buettel can help me.

Senator LUNDY—You must have a bit of an idea though. How much was in it originally?

Mr Cameron—There was \$35 million allocated to the Television Black Spots Program from the \$120 million television fund. From the Television Black Spots Program a total of \$26.6 million have been expended with a further \$2.6 million committed to further projects.

Mr Buettel—Perhaps I can assist on that point, Senator. In relation to the funds that were appropriated by other means and were then being offset from the account, they total about \$9.5 million. For example, early on in the life of the program there was a decision made to allocate \$2 million to SBS for a new media unit. That funding was made available to SBS through a separate appropriation so that it could come through early on in the life of the program. The \$2 million was quarantined to be offset and returned to consolidated revenue. So the total amount there is about \$9.5 million.

Senator LUNDY—Sorry, so the \$9.5 million is what is left including that \$2 million?

Mr Buettel—Yes, that is what has been quarantined.

Senator LUNDY—So in real terms it is \$7.9 million?

Mr Buettel—No. That \$9.5 million is made up of figures that are being completely offset from the fund. There will probably be a little bit left over on top of that which would be from things like money that has been set aside for the technical solutions and where there are problems with the original projects, but that will be a relatively small component.

Senator LUNDY—Let's go through it. There was \$35 million at the start. You said that \$26.6 million has already been allocated, with \$2.6 million still to be expended. Is that correct?

Mr Buettel—That is correct.

Senator LUNDY—Then there is \$2 million that has been quarantined because the government made an appropriation that they would then recoup by drawing that \$2 million back into consolidated revenue at the closure of the account. Is that correct?

Mr Buettel—Yes.

Senator LUNDY—Were there any other allocations or quarantines of any funding of that nature?

Mr Buettel—Yes.

Senator LUNDY—What were they?

Mr Buettel—There was another \$3.7 million provided for SBS extensions.

CHAIR—As we are due to suspend for dinner, I proposed that we do that and we can continue after dinner.

Proceedings suspended from 6.01 pm to 7.06 pm

CHAIR—We will resume in the absence of the minister. Senator Lundy is ready to proceed.

Senator LUNDY—Thanks. I will try and pick up where I left off. Can you tell me whether the \$5.7 million that was quarantined within Television Black Spots was part of the \$26.6 million you mentioned, or was it over and above that?

Mr Cameron—Maybe I can clarify. The funds which were reserved are actually part of the wider \$120 million fund that I alluded to before. Of the \$35 million Black Spots Program there is the \$26.6 million expenditure and commitment of \$2.6 million, which results in a total of \$29.2 million directly for the Black Spots Program. The government has also announced a \$2 million initiative to provide additional retransmission facilities in remote indigenous communities out of the Television Black Spots Program funding, which will enable those—

Senator LUNDY—Is that TAPRIC funding? Is that going to the TAPRIC program?

Mr Cameron—No.

Senator LUNDY—It is separate again?

Mr Cameron—It is separate. It is part of the Black Spots Program and it enables those communities to have dedicated retransmission services for both the ABC and an indigenous television service which operates through the Imparja service in central and eastern Australia.

Senator LUNDY—So was that \$2 million for that initiative announced separately but also quarantined in this fund?

Mr Cameron—Well, it is a direct expenditure out of that Black Spots Program so it can be added to the \$29.2 million.

Senator LUNDY—Right. Well, that still leaves \$3.8 million.

Mr Cameron—That leaves around \$3.8 million. As I said, a small amount of money has been reserved for unanticipated technical issues, which is unlikely to be fully expended, and the government is giving some consideration—

Senator LUNDY—Is that the \$2.6 million?

Mr Cameron—No; the \$2.6 million is commitments for Black Spots solutions that have not yet been completed.

Senator LUNDY—And \$2 million has been reserved?

Mr Cameron—No, sorry. The \$2 million is a commitment to expenditure, so it will be expended out of that \$35 million. And then the government is giving some consideration to options in relation to the remaining funds.

Senator LUNDY—Well, aren't they required to go back into consolidated revenue at the closure of the account?

Mr Cameron—If they are unexpended at the end of 30 June, that is correct.

Senator LUNDY—Right. I want to get this right. There is \$31.2 million total and there is another \$2 million added to that?

Mr Cameron—The \$31.2 million includes all commitments in relation to providing solutions for television black spots and the \$2 million for the indigenous retransmission services. That leaves \$3.8 million, of which a small component is reserved for dealing with unanticipated technical issues with the black spots.

Senator LUNDY—How much?

Mr Cameron—The original amount reserved was about half a million dollars. I am not sure how much remains. The original amount was \$750,000 and around half of that has been spent. Of the remaining funds, the government is giving some consideration as to options for making use of that money.

Senator LUNDY—So of the \$750,000 to fix problems, what sort of problems will that be fixing?

Mr Cameron—Just as an example, on occasions a new transmitter might be established in a community and it might actually impact on or cause interference to a transmitter providing services to another community within that region. So there might need to be some additional expenditure either to change the channels that they operate on or otherwise adjust that transmitting to avoid the interference problems. That is the sort of issue that comes up on occasions.

Senator LUNDY—So going back to my original question, because that still leaves some \$3 million unexpended, my understanding is that you said that would be going back into consolidated revenue. But now you are saying that the government is considering what it could spend that money on before the account closes?

Mr Cameron—Well, if that money is unexpended, it would go into consolidated revenue, yes.

Senator LUNDY—So what are the opportunities for communities to apply for that funding between now and 30 June?

Mr Cameron—Well, the options—

Senator LUNDY—They cannot apply for it?

Mr Cameron—The options the government is considering do not relate to another round. There simply is not enough time to complete another round of black spots projects before 30 June.

Senator LUNDY—Right. So what sort of things is the government considering?

Mr Cameron—The options relate to possible extensions of television services through the national broadcasters.

Senator LUNDY—So giving the money to the ABC or SBS?

Mr Cameron—That is the sort of option, yes.

Senator LUNDY—Are you allowed to do that?

Mr Cameron—Yes.

Senator LUNDY—I thought the rules relating to special accounts meant that it did have to go back into consolidated revenue.

Mr Cameron—Well, if the funds are not expended by the end of June, then, yes, they will have to go back to consolidated revenue.

Senator LUNDY—So you can reallocate that funding prior to it being fully expended?

Mr Cameron—It is a form of expenditure consistent with the special account.

Senator LUNDY—And you are trying to do that?

Mr Cameron—It is a decision of the government.

Senator LUNDY—Sure. The government is trying to do it, trying to spend \$3 million?

Mr Cameron—The government is looking at the options.

Senator LUNDY—Can you point to any other special accounts that are administered expenses of the department that fall into the same or similar circumstances? I note that a number of the funds are due to conclude in 2005-06, and indeed a number are due to conclude in 2006-07. Which other ones fall under 3.2? Perhaps I should ask it that way.

Mr Cameron—This is the only special account that falls under 3.2.

Senator LUNDY—I will have to save those other questions for tomorrow night. Are you able to provide the latest figures in the take-up of digital television?

Mr Cameron—Yes, Senator. As of the end of March 2005, the industry information estimates that around 777,000 set-top boxes and integrated digital television sets have been sold in Australia. Industry reports also suggest that digital set-top box sales are currently occurring at about 40,000 set-top boxes per month.

CHAIR—Do you have sales figures for actual digital television sets?

Mr Cameron—Those figures include both set-top boxes and integrated digital television sets. I think it is fair to conclude that the vast bulk of those are set-top boxes rather than the digital television sets.

Senator LUNDY—And do you have any figures on the television sets between standard-definition digital television and high-definition digital televisions?

Mr Cameron—The short answer, Senator, is no. And that is because many televisions are sold with a high-definition capability but not a high-definition receiver in them. So whether a consumer buys a television that includes high-definition reception as well as high-definition displays is almost impossible to determine.

Senator LUNDY—But you would have separate sales figures for the high-definition technology?

Mr Cameron—The information we have from industry does not enable us to make that distinction, no.

Senator LUNDY—So are you able to put a general figure to the proportion of the 770,000 digital televisions that would be capable of providing a high-definition picture? You cannot do that?

Dr Pelling—The only figure I have seen is a graph which was done in one of the industry regular reports that they make public. It suggested that of the sales that they count, it seemed to be about one-third are high-definition capable, but I have never seen any actual numbers. That was just the proportions on a graph.

Senator LUNDY—And what percentage growth does 777,000 represent? I presume you have growth figures over the last three years. Could you just background the committee on what percentage growth that is?

Dr Pelling—I cannot remember. About 40,000 a month is the current rate, but I would have to go back and look at the figures a year or so ago to work out the proportion of increases. But they are quite high.

Mr Cameron—My recollection—and I can take it on notice if you want more detail—is that about half of that 777,000 have been sold in the last 12 months or so.

Dr Pelling—That is about the right order, yes.

Senator LUNDY—Can you take on notice providing the graph of growth of the uptake of digital television sets.

Mr Cameron—Of course.

Senator LUNDY—And set-top boxes.

Mr Cameron—Yes.

Senator LUNDY—In fact, whatever data you have.

Dr Pelling—That is in a publication produced by the industry.

Senator LUNDY—Yes, that is fine. And what is your forecast for future growth? Do you expect it to continue growing at that level? Do you expect those numbers to plateau? What is your forecast?

Mr Cameron—We do not have any forecasts of likely set-top box sales in the future.

Senator LUNDY—Why not? Surely you factor that into your digital policies.

Mr Cameron—We do not develop predictions of those figures. They are based on a range of factors. What we do is keep in contact with the industry. And I think it is certainly the industry's view that set-top box sales will continue at least at the current rate. Whether they will grow substantively will depend on a number of factors, including the range of services that are on offer. Often they are influenced by seasonal factors—for example, pre-Christmas sales or the rugby world cup last year and those sorts of events—which make predictions a bit difficult to make.

Senator LUNDY—And what proportion of content is currently produced at the high definition standard by commercial television stations or public broadcasters?

Mr Cameron—All broadcasters are required to transmit at least 1,040 hours a year in high-definition signals. All the broadcasters are at least meeting those levels and a number are

broadcasting significantly higher amounts. Much of that content is acquired content—US shows, for example—but there is a proportion of local production as well.

Senator LUNDY—Have any of them not met their obligations regarding the proportion of high-definition content they are required to provide?

Mr Cameron—No.

Senator LUNDY—So how do you monitor that?

Mr Cameron—The ABA is responsible for monitoring those obligations and they produce regular reports.

Senator LUNDY—How regular?

Mr Cameron—I think either six-monthly or annually. I am not sure.

Dr Pelling—I cannot remember the detail, but there is a detailed regime set out in the legislation for monitoring high definition targets.

Senator LUNDY—And is there anything in those regulations which requires a proportion of that content to be home-grown?

Mr Cameron—No, Senator.

Senator LUNDY—So for a commercial television, they could provide all of that requirement for high definition through acquisition of content from overseas?

Mr Cameron—That is correct, Senator. But all the commercial broadcasters are producing native high-definition content.

Senator LUNDY—And what about the public broadcasters? What are their requirements?

Mr Cameron—The public broadcasters have the same obligation to broadcast 1,040 hours a year in high definition. They are, however, allowed to broadcast in what we call up-converted high definition—that is, taking a source program which might be only in standard definition and up-converting it to high definition. This reflects the fact that much of their content is sourced from outside the US, which is the primary source of high-definition production. So they are not always able to source native high-definition material.

Senator LUNDY—Well, can you tell me where the results of these reports on the performance of the provision of high-definition content are available?

Mr Cameron—The ABA releases those in the portfolio.

Senator LUNDY—So it is in the ABA annual report, or do they issue separate reports?

Mr Cameron—They issue separate reports and associated media releases.

Senator LUNDY—And does the department then comment on that or produce your own assessment of performance?

Mr Cameron—No. The ABA is responsible for monitoring compliance with those obligations.

Senator LUNDY—From a policy development perspective—perhaps this is a question for the minister—where does the production of high-definition content in Australia sit in terms of

the priorities for the government in the development of the digital content sector in the context that we have just heard, which is that most of it is sourced overseas?

Senator Coonan—Currently what the government is doing now in high definition is going to be subject to a review that I think gets underway in the second half of this year. So it is obviously something about which the government is interested to hear some views. I really want to give people the opportunity of making some submissions so that I can consider all of those aspects.

Senator LUNDY—Is the government disappointed with the growth in the use of digital set-top boxes and digital televisions?

Senator Coonan—I think to be fair, the take-up has been sluggish, and that is one of the things that certainly is motivating my consideration of how we could do more to encourage greater digital take-up. I am in the course of giving consideration to what further steps we might be able to take.

Senator LUNDY—Can you just run through the timetable for that review.

Senator Coonan—There are six reviews in total. I might just have to defer to the department on the exact time frames, but two of them have concluded. I think four of them may be concluded. We still have high definition to go and analog switch-off to go.

Senator LUNDY—Based on what you have seen so far, do you think you are still on track for the analog switch-off?

Senator Coonan—Look, to be perfectly frank, I think that is an unrealistic date, but I do want to hear from submitters about what might be an appropriate date for analog switch-off and perhaps as part of that review to consider what more might be done to further drive digital take-up.

Senator LUNDY—So for completeness, what is the digital switch-off date?

Senator Coonan—It is 2008 at the moment. In Britain, which has got about an 80 per cent penetration rate, the switch-off is up to 2012. So, realistically speaking, I think we need to have a good look at what would be a date for Australia, that has a lot less penetration and which probably needs some more to actually drive digital.

Senator LUNDY—Just in percentage terms, what does 770,000 represent?

Mr Cameron—It is difficult to give an accurate figure because there are obviously—

Senator LUNDY—Just give me a ballpark percentage.

Mr Cameron—It is around about 10 per cent, but take into account the likelihood that some households might have two set-top boxes, for example. So you are not necessarily counting separate households.

Senator LUNDY—So it could be less rather than more?

Mr Cameron—It could be marginally less.

Senator Coonan—And it does not take into account that you have got pay, of course.

Senator LUNDY—Yes. So three years to switch off at this stage with only a 10 per cent penetration. When is that particular review on the analog switch-off due to conclude?

Senator Coonan—I think towards the end of the year, isn't it?

Mr Cameron—That is correct.

Senator LUNDY—And is it your intention, Minister, then to make policy on the back of that review so we can expect an announcement at the end of the year?

Senator Coonan—Well, I would have to consider what it says, but I would certainly be looking critically at extending the current date, which is 2008. Just when it would be appropriate to do that I cannot say at this stage because the review has not been had.

Senator LUNDY—And what sort of views are being expressed by the commercial broadcasters at the moment about the potential for changing that date?

Senator Coonan—I am not sure that I am able to completely encapsulate the views of all the broadcasters. They vary in their views and priorities so I would not really be able to generalise. But without putting too fine a point on it, it is not considered to be achievable by 2008.

Senator LUNDY—Is there any sign that the introduction of the ABC's digital television Channel 2 is helping uptake, given the comment was made at the time when they cut their previous digital channels that that would have a depressing effect on the uptake of digital set-top boxes?

Senator Coonan—I think one of your colleagues may have asked Mr Balding that and he said there was not any empirical evidence, just some anecdotal evidence from manufacturers that there could have been some slight impact. It has not been going very long.

Senator LUNDY—Does the department monitor that? You have figures of uptake that the manufacturers provide you, but do they provide you with any greater detail that relates back to policy decisions, or do they just provide you with the raw figures?

Mr Cameron—Some industry players have in the past provided some anecdotal information and some limited market research in that area. But as a general rule, no, the information is merely the raw data. The latest data we have, which is the end of March, actually reflects about the time that the ABC 2 service was commenced, so we would be looking to data from hereon as some indication of the extent to which ABC 2 might have an impact.

Senator LUNDY—Okay, thanks.

Senator CONROY—I just want to talk about the digital broadcasting review. Can the department confirm that it has prepared a consultation paper on possible changes to the media ownership laws?

Mr Cameron—Senator, no, the department has not prepared a discussion paper.

Senator CONROY—We can play a lot of games about what you call some typing on a white piece of paper. But in any of the normal definitions, is there a document of some sort that could be called a paper? I can get a thesaurus out and we can play that game, or you can just help me out here and save us time.

Mr Cameron—The department has not prepared a paper for consultation outside government.

Senator CONROY—Outside of government. Thank you. So is that in the form of an IDC getting together, or is it just your department only at this stage?

Mr Cameron—Advice and documents for the minister.

Senator CONROY—So just for the minister?

Mr Cameron—That is correct.

Senator CONROY—And input is only from your department at this stage? It is not from the other departments?

Mr Cameron—That is correct.

Senator CONROY—Has the department engaged in discussions with the media companies in relation to this document?

Mr Cameron—Well, the department has been engaged in a long process of consultation in relation to the digital TV reviews and has discussions with interested parties on media ownership, yes.

Senator CONROY—Are you able to tell us who you have talked with?

Mr Cameron—A wide number of players—the key broadcasters and media proprietors.

Senator CONROY—So they are the Stokeses, Packers, Murdochs and Fairfaxes? I would like to say Hilmer, but I am not sure that he would be in the loop. I am sure he is in the loop in his own company. But that would be the sort of people we are talking about plus probably some others?

Mr Cameron—Well, their companies, yes.

Senator CONROY—Thanks.

Ms Williams—Senator Conroy, you can imagine that people who come to see us—and there are a lot of them—

Senator CONROY—Oh, they are knocking your door down. No, no, no, look, I understand they are knocking your door down at the moment. They are getting very excited, so we have got to be careful. We will have a run on the stock market here, Minister, so we had better be careful with what we say.

Senator Coonan—Unfortunately, you cannot and I cannot own any shares.

Senator CONROY—I assure you I do not have any.

Senator Coonan—You might.

Senator CONROY—Have you received that report, Minister?

Senator Coonan—Look, I have received—

Senator CONROY—Again, I do not want to be cute about what it is called, but have you received information from the department?

Senator Coonan—I am not trying to be cute either. I am trying to genuinely answer the question. There has been a series of advices that I have received from the department across a range of matters relating to media.

Senator CONROY—I am talking specifically about media ownership laws.

Senator Coonan—Yes, that too, and a series of those, yes.

Senator CONROY—Have you had a chance to discuss this yet with key players in the industry?

Senator Coonan—I have discussed it. I have discussed many things with key players, including these issues, yes.

Senator CONROY—But since you received the paper, have you gone into a new round of discussions?

Senator Coonan—Well, unfortunately, there is not the paper.

Senator CONROY—I am trying to avoid saying white paper after the *Financial Review* said you had one that you were handing around, but I am reassured that that is not the case.

Senator Coonan—Unfortunately, some analyst at Macquarie got the view from somewhere—certainly not from me because it does not exist—that there is a white paper. That is completely incorrect. In fact, there is not even an issues paper. So that is also incorrect. I have had discussions with media players since I received advice in writing from the department and after I have received advice in writing from the department. It is a continuum.

Senator CONROY—Sure. How do you plan to take the issue from here? You have received some advice from your department. Is there a white paper planned?

Senator Coonan—No, no white paper planned.

Senator CONROY—Is there a public consultation process?

Senator Coonan—There may be at some point. It would probably be more along the lines of some targeted consultation. This has now been government policy—and there is no change in government policy—for a very long time. It has been around the mulberry bush many, many times in terms of public consultation. I acknowledge how important it is that the public have a view about these matters. However, I think it is important that when the government settles on a framework to take all these matters forward there be certainly some targeted consultation. I am not suggesting that it be entirely behind closed doors, but I certainly do not think there needs to be a consultation going right around Australia for months on end, if I can make that distinction.

Senator CONROY—I might try and tease out from you what you see on it.

Senator Coonan—There will certainly be some opportunity for people to have their say.

Senator CONROY—Okay. I will start with, I guess, the timing. I know it is probably relatively early, but I keep reading in the newspaper and alleged experts keep suggesting that you want to have the legislation through the parliament by the end of the year, which is not that far away. What stage are you at in that process?

Senator Coonan—I have the framework under consideration. That would be the correct way to put it.

Senator CONROY—And when would you imagine that you reach that point where you are able to have even those targeted public discussions, not suggesting around the country at all, on your framework? I am not seeking to hold you to 31 October or 12 June.

Senator Coonan—No, no, no. I could not give you a date. But certainly over the next weeks and perhaps months.

Senator CONROY—Coming to that process of consultations beyond just the specific industry players, if I can get as narrow as that, what sort of process would you envisage?

Senator Coonan—The department is well-versed in going out consulting with particular groups on a whole range of legislation. I take some advice from the department. Obviously there are a lot of very formal submitters to consumer groups. There are a number of people who the department would in normal circumstances go out and consult on these sorts of issues. So I would like to get some advice about that.

Senator CONROY—With the department going out and consulting, would you define that as a public consultation process?

Senator Coonan—Absolutely. People are given an opportunity to be able to submit.

Senator CONROY—So people will be given an opportunity to submit. Would that be an ad in the paper as the usual process, or would you make an announcement and everyone would know it was happening and then they would put in submissions?

Senator Coonan—For instance, by comparison with the issues paper on telecommunications, the department is managing that process. There does not appear to be any concerns that people have not had an opportunity to have their say if they have some view to agitate on the competition regime, for instance. So I am confident that the department will be able to bring to me some advice about how it would consult with consumer groups in a targeted way.

Senator CONROY—Could you just take me through, either yourself or the department, that process. Obviously, you are aware there is a Senate committee process on those regulatory framework issues, but what is the process that you are going through with the other committee? I personally probably would not have described it as a public process.

Senator Coonan—I am sorry, you mean the House of Representatives standing committee?

Senator CONROY—No. The Senate is doing a committee. Did you give authority to Jackie Kelly's committee to undertake that review? I hear conflicting reports. Ms Kelly says you authorised it.

Senator Coonan—It is a matter for the committee as to what matters they inquire into. As with any committee, the department usually tries to provide information and make submissions and be as thoughtful as possible.

Senator CONROY—Did she slip this one past your office?

Senator Coonan—I am sorry, slip what past?

Senator CONROY—The terms of reference. She claims your office or you ticked off on the terms of reference.

Senator Coonan—I have not personally ticked off on the terms of reference. But it is a matter for the committee to set their terms of reference and to conduct the committee in the way in which she sees fit. I am quite sure some advice might have been sought from my office as to whether it was comprehensive and whether the terms of reference might have been augmented in some way. It is an important inquiry and it certainly has my and my department's cooperation.

Senator CONROY—Sure. I am just looking at the press release released by Ms Kelly. I am sure you have seen it.

Senator Coonan—I may have seen it.

Senator CONROY—It says:

Referred by Senator the Hon Helen Coonan—

I apologise for the English or lack of—

the Federal Minister for Communications, Information Technology and the Arts. The Committee has been asked to inquire into and report on—

And then it gives a list. But it does seem to try and fit you up here, Minister.

Senator Coonan—You asked me if I ticked off on the terms of reference. That is a different question as to whether or not I referred a matter to it.

Senator CONROY—Did you refer this matter?

Senator Coonan—Yes, absolutely.

Senator CONROY—Okay.

Senator Coonan—Sorry to be splitting hairs, but your question seemed to have a different angle.

Senator CONROY—So you are very comfortable on the record in saying that you referred this matter to Ms Kelly?

Senator Coonan—I think it is important that the committee does look into the issues to do with digital take-up, so I am very happy that they are looking at it.

Senator CONROY—Okay. So we have that? We have the Kelly committee?

Senator Coonan—Yes.

Senator CONROY—We have the Senate committee process?

Senator Coonan—Yes, to which I did not refer any matters.

Senator CONROY—No. It is a Senate references committee—

Senator Coonan—That is right.

Senator CONROY—As you know. Usually we do not check with ministers' offices before we go ahead with other issues.

Senator Coonan—Very churlish of you, Senator Conroy.

Senator CONROY—I accept your admonishment. So we have those two committees going. But you also have, as you indicated, a departmental process of consultation going.

Senator Coonan—I have to, Senator Conroy. I do need in developing a proper framework to have regard to advice of my department. They have got longstanding expertise. It would be a very foolish minister who did not ask their department for advice and guidance in something like this. Now that is not to say that there are not other processes going on that might have some impact and feed into either your deliberations or how you might take the legislation forward.

Senator CONROY—Okay. As I said, I probably would not have described the process you have just outlined as a public process.

Senator Coonan—What do you mean by ‘public process’?

Senator CONROY—That is what I am trying to work up towards.

Senator Coonan—You do not think what I have described is public. What do you describe as public?

Senator CONROY—No, no; actually inviting the public to have a say.

Senator Coonan—So you would suggest that what would be a public process would be to conduct hearings?

Senator CONROY—Well, that is a formal public process. But at least the beginning would be to invite submissions from all interested parties as opposed to just contacting interested parties. They would be academics.

Senator Coonan—But contacting interested parties does not exclude people. It is not meant to be proscriptive. What it does do is provide a targeted process for input into what has been very longstanding government policy which has been exposed publicly on a number of occasions and for some time. So what I would say to you—and this is why I think it is public—is once the framework is settled, there obviously would be targeted consultations that would not prohibit a process of allowing anyone who wanted to make a submission to make one. It is a bit different to, as I tried to describe by way of contrast, a travelling kind of road show where you say, ‘Come one, come all’ and ring the bell in the town square and say, ‘We’ve got a committee here. Come and talk to us.’

Senator CONROY—No, I accept that.

Senator Coonan—It is different to comms forums, for instance, Senator.

Senator CONROY—I accept the delineation you are making there. But I think between that one and some others and non-public—I am just trying to sort of—

Senator Coonan—There is probably a difference in degree, not kind. That is probably the way we might describe it. But I think in terms of the way to do this in a responsible way, what I have outlined ought to be able to allow proper public input and certainly is not calculated to exclude anybody who wants to make an input once the framework is settled.

Senator CONROY—Sure. You asked me what sort of things I would perhaps describe as a public inquiry to satisfy those sorts of things. One of the things would probably be submissions were invited; importantly, submissions are public; and the report is—

Senator Coonan—That is not to say that they would not be public. Subject to people’s privacy and commercial-in-confidence—

Senator CONROY—With commercial-in-confidence there is never an argument.

Senator Coonan—why wouldn't you make them public? I have not got any problem with that.

Senator CONROY—How many submissions have you received from your consultations so far, Ms Williams?

Senator Coonan—On telcos?

Senator CONROY—No. I am talking about the cross-media. I have gone back to cross-media.

Senator Coonan—In which process?

Senator CONROY—You are saying you are engaging in a consultation process.

Senator Coonan—No, I said we would once we have settled the framework.

Senator CONROY—Okay, sorry. I have jumped ahead; I apologise. We are trying to get common agreement on 'public'.

Senator Coonan—I do not think we are very far apart, actually.

Senator CONROY—No.

Senator Coonan—You are not coming up with very sharp distinctions here, Senator Conroy.

Senator CONROY—I am seeking to establish some common ground, Minister, I am pleased to say. And the report that arises from those submissions being made public is a public document. I do not know whether you then have a second round or it is, 'Everyone has had their say in general. Now here is our model framework. What do people think of the specific model framework?' So it is a staged discussion like that. Does that sort of meet your criteria?

Senator Coonan—No, I think what you would need to do with something like this which, as I say, has been around the mulberry bush many times, is that you come up with a framework and then people are given an opportunity to comment on the framework.

Senator CONROY—I am not being pejorative. You have some private discussions with interested parties, put out a paper, a framework that contained the paper or paper that contained the framework, and then seek views from there?

Senator Coonan—It might; I do not know. I will get some advice from the department about the best way to conduct the consultations and in what form.

Senator CONROY—When do you think you will be able to outline the process?

Senator Coonan—As I said, it could be over the next few weeks and months. I am not going to be bound by a time frame. I said that a little earlier.

Senator CONROY—I was not trying to trap you on the outcome of the process. When do you think you will be able to announce what the process is?

Senator Coonan—After I have settled the framework.

Senator CONROY—And you are not sure how long it is going to take you to get going.

Senator Coonan—I have said over the next few weeks and months. I do not want to be particularly bound by a date.

Senator CONROY—No, I am not trying to capture you.

Senator Coonan—But once I have got the framework settled, that will, I think, be an appropriate time to be able to release it and to allow people to have a say.

Senator CONROY—As I said, I keep reading these reports in the newspaper. As you know, we poor opposition senators are the bottom of the food chain. We tend to get excited sometimes when we read things in newspapers. I was just noticing that the report to the government favours a model where the proprietor can own two of the three traditional forms of media in a given market. Was that the government's previous position in its original bill?

Senator Coonan—Put it this way, for the purposes of the framework I am not going to say what is in it, and you should not believe everything you read, Senator Conroy. That is a clue, a little hint there. I would not be hanging my hat on that.

Senator CONROY—Sure. I think you inherited this bill rather than sort of took it through the process.

Senator Coonan—Yes.

Senator CONROY—What was the government's position in terms of the two out of three in that original bill?

Senator Coonan—I might even be able to tell you that. The original bill did not propose that.

Senator CONROY—Now others have suggested a model where pay TV is recognised as a form of traditional media and proprietors are restricted to two out of four. Was that in the original bill? I know the Senate considered some amendments.

Senator Coonan—According to my list here, no, it was not. But I will just defer to the department. It was, yes. There we go.

Senator CONROY—Two out of four was in the original bill?

Senator Coonan—No, it was the pay issue.

Mr Cameron—The original bill did not propose to include pay TV in the cross-media rules.

Senator CONROY—Did not?

Mr Cameron—The original bill did not propose it.

Senator CONROY—Is the ACCC one of the organisations that you are consulting with?

Senator Coonan—I consult with the ACCC on a number of issues, of course.

Senator CONROY—On this issue?

Senator Coonan—Yes.

Senator CONROY—So had a cup of tea with Graeme?

Senator Coonan—I have had many cups of tea with Graeme.

Senator CONROY—That is all right. You are doing better than me. Last February we talked about the reviews of various aspects of the digital television framework that were to be conducted by 1 January 2005. These included things like the restrictions of multichannelling and the moratorium on a fourth commercial network. Have these reviews been completed yet?

Senator Coonan—They have been completed and they are currently under consideration, yes.

Senator CONROY—When were they completed? When did you get them?

Senator Coonan—I will have to just check with the department, but I think shortly after 1 January.

Mr Cameron—The consultation processes were completed late last year and the department provided advice to the minister on those issues early this year.

Senator CONROY—It was early February that we were having this discussion last time so I am just wondering if I can get a date of when the consultation process was finished and passed to the government.

Mr Cameron—The department has provided a series of pieces of advice on those issues. But certainly advice was provided around that time.

Senator Coonan—I am very difficult to get on with, Senator Conroy.

Senator CONROY—It appears that way. You are having difficulty with your department there.

Senator Coonan—Yes. I keep asking the department for more things.

Senator CONROY—So can I take it from that that not long after the February estimates hearings—still within February—you finalised those things?

Mr Cameron—If my memory serves me correctly, that would be about right, yes.

Senator CONROY—As I think I made the point at the time, clause 60 of schedule 4 of the Broadcasting Services Act attached says that they should be tabled within 15 sitting days after the completion of the report. Have we got a problem there with 15 days?

Mr Cameron—Senator, the reports of the reviews have not been finalised. Those reports will take into account the government's consideration of the reviews.

Senator CONROY—So that iteration that Senator Coonan indicated she is having with you, forcing you to come back with that, that keeps the trigger away, does it, as in the 15 days trigger?

Senator Coonan—No. They are fairly complex matters. To be fair to the department, I have asked for some further thinking on a couple of aspects. So it is not far away, Senator Conroy.

Senator CONROY—As I said, I am just looking to get an indication of when that 15-day timetable sort of kicks in to comply with the act.

Mr Cameron—It kicks in when the report has been completed. As I said, the report—

Senator CONROY—And what is the definition of 'completed'? The minister says it is completed? You finish it?

Mr Cameron—Essentially it would be when the minister has said it is completed, and that would take into account the government's consideration of the reviews.

Senator CONROY—During the last estimates, Minister, you told the committee that you were interested in looking at the digital reviews in the context of cross-media reforms. You said, and I am quoting:

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.

Where are we at with that discussion paper, Minister? Did you go down that path? Did you change your mind?

Senator Coonan—All of the digital reviews are still not actually yet completed, as you would appreciate. We have six of them; some of them are still happening. Some are at a certain stage. It did not become as easy as it first looked to be able to fold them all into considerations of cross-media and to proceed like that.

Senator CONROY—You ended up with indigestion, did you?

Senator Coonan—No. I think they are separate processes. When you first look at it, it looks like it is very interrelated. But when you have another look at it, I think you can look at it as two separate but interrelated processes. The cross-media is one process and the digital reviews are another process. So I am looking at how much of the digital reviews might be considered alongside the media framework. But I could not seriously wait until all the reviews were completed and try to do it in that comprehensive way.

Senator CONROY—I appreciate that, Minister. As you said, I try not to believe what I read in the newspapers. So when you say to me, 'No, I am wrapping them all up in one', I can wait until the next estimates and get an update. So given that you are now indicating that some parts of it you have sort of hived off, I was wondering if you could just set out which bits you are still doing and which bits have broken away.

Senator Coonan—You know about the ones that have not yet been done or completed, which is high definition and analog's switch-off. Obviously I am very interested in what is happening in relation to whether there should be a further commercial channel. I think that is something that we can consider on existing information. The review has not actually looked at that, but some decisions relating to that ought to be able to be taken in the foreseeable future. And there are issues to do with whether or not there should be multichannelling. There are some aspects of that where there may be able to be some decisions in answer to some earlier questions. I said one of the things that I think might be a way to look at further digital take-up is to look at what more the nationals can do. I gave an answer to that.

Senator CONROY—The nationals as in?

Senator Coonan—The national broadcasters.

Senator CONROY—Not as in John Anderson and his cronies.

Senator Coonan—That is a very interesting way in which we could keep The Nationals occupied, Senator.

Senator CONROY—Keep them busy and away from Telstra.

Senator Coonan—I am very grateful to you for that suggestion. So there are some aspects of the digital reviews that can inform some of our thinking now, but not all of it, which is the distinction from the February estimates.

Senator CONROY—I apologise for labouring this at length, but I want to go back to the timing of some of these.

Senator Coonan—Still the same answer—over the next weeks and possibly months.

Senator CONROY—As I said, I am truly not trying to pin you down to a date.

Senator Coonan—No, I can understand it. But sometimes reports get very confusing in newspapers.

Senator CONROY—I understand that. Which is why I come to the source.

Senator Coonan—That is right because the source can be more reliable than newspaper reports.

Senator CONROY—I hope this particular source is always more reliable, not just sometimes. You indicated that where you intend to finish off is analog switch-off and HD. How far away before that process is completed, do you think?

Senator Coonan—On HD, we have just issued a discussion paper. The department can obviously speak to you about the process. I am expecting, I think, it to be completed by the end of the year, at least the submissions.

Mr Cameron—The submissions are due by the end of June.

Senator Coonan—So then they have to do some work. Anything to do with spectrum is obviously very complex. High definition is very spectrum hungry, so that obviously involves quite a deal of very technical consideration. On analog, it is due—

Mr Cameron—The review has to be completed by the end of this calendar year, so we would expect the consultation process to begin reasonably early in the second half.

Senator Coonan—And I am rather hopeful that out of that review we might be able to set a realistic date for switch-off and also look at perhaps what more we could do to drive digital take-up. There are some very interesting things happening, for instance, in the UK, where there is actually a very interesting industry group called SwitchCo, where the various industry representatives are now all committed to dealing with the technical and the manufacturing issues and driving the switch-off.

Senator CONROY—Yes. They have made a very big call, haven't they?

Senator Coonan—Well, it is quite courageous.

Senator CONROY—Did you tell them that?

Senator Coonan—I did not tell them that, no. I was just admiring their efforts. So these are very serious issues that I think might be comprehended within the look at analog switch-off.

Senator CONROY—Thanks for that. Now, on the fourth channel, you indicated that one does overlap a little bit still even though it has broken hours.

Senator Coonan—I think we have done this a few other times. At least the report and the advice I have is what I have got under current consideration.

Senator CONROY—You indicated that the multichannelling does overlap, probably more than the others, with the cross-media?

Senator Coonan—It does not really. It is a separate process. It has a legislative framework that would need to be changed if anything changes. So it is not really that any of it relates to cross-media and media. It could stand alone. They are separate processes. But if you are looking at some of these issues to do with digital take-up and there are some aspects that you can consider in the framework, that may be an appropriate place to do it. That is what I am currently looking at.

Senator CONROY—What about the relationship with the increased diversity that could be provided by digital TV and media ownership? Is that tied up?

Senator Coonan—Issues of diversity are going to be a matter for the new regulator, but the legislative framework is obviously something that will guarantee diversity. That is what the government's policy is. We consider that there should be a substantial freeing up of the media sector subject to preserving diversity.

Senator CONROY—I think Senator Lundy stole some of my thunder on some of the next questions. In my absence, she was asking about the take-up of digital TV and the latest statistics. I think you have already given that.

Ms Holthuyzen—That is true.

Senator CONROY—And how many households would have had at least TV with a set-top box or an integrated receiver?

Senator LUNDY—They said it is approximately 10 per cent of the Australian population.

Senator CONROY—We are on fire.

Senator LUNDY—Except that we are not because it is a really slow growth rate.

Senator CONROY—I am sorry to harp on this, Minister, but given that you have all these other inquiries going, why did you feel the need to recommend to Ms Kelly's committee for her to hold an inquiry into some of the issues that you are actually already covering?

Senator Coonan—Because you can get a valuable additional input from committees. It is obviously something that they can have a look at. One of the things that they are having a look at that I think is very interesting is some of the American initiatives, such as whether you should mandate digital receivers in new televisions. There are some of those sorts of issues. I will be very interested to see what the committee comes up with. I am certainly interested to look.

Senator CONROY—What is the closing date or the reporting date for that committee? I do not expect you to know that necessarily, Minister. Does the department know? I am just looking at the press release.

Dr Pelling—I do not think they have ever published a reporting date that I am aware of.

Senator CONROY—I imagine you would not want to produce your reports before you had got that valuable information from Ms Kelly's committee, Minister. It is going to make it a little hard for you if they do not actually have a reporting date.

Senator Coonan—The submissions are published.

Senator CONROY—So you do not need that considered view of the submissions? The submissions are enough?

Senator Coonan—You can always consider somebody's view. But the submissions are published. The hearings are public. We are pretty good at following what committees say and do.

Senator CONROY—I have got a couple of good ones. I hope that holds to all committees, Minister. I might try and hold you to that. I have some questions on the ABC board. There are currently two vacancies on the ABC board. Does the government intend to appoint people to each position soon?

Senator Coonan—Currently two. We had a bit of a canter on this before. I will go through it again, if you like.

Senator CONROY—Who was this with?

Senator Coonan—Sorry?

Senator CONROY—Who stole my thunder?

Senator Coonan—Oh, somebody at the table. Who was it?

Senator CONROY—It seems they have been stealing my questions. Senator Allison, my apologies.

Senator Coonan—A different committee member. Let me run through it again. What I have said is that the current membership of the board is very eastern seaboard-centric. I am interested in getting a bit of geographic diversity from WA and South Australia. From time to time some very good people get identified to you. I would like at least one of the next appointments to be somebody who is not on the eastern seaboard of Australia.

Senator CONROY—Fair enough. So have you drawn up a list of names yet?

Senator Coonan—I have a number of names that I consider from time to time.

Senator CONROY—Are there any Victorians on the board? I would not want you to be leaving us out.

Senator Coonan—I think Ramona Koval is.

Senator CONROY—Is she one of your appointments?

Senator Coonan—She is staff-appointed.

Senator CONROY—Oh, come on. You cannot sneak the staff appointment in.

Senator Coonan—She is a director. Are you saying she does not count or she is not as effective?

Senator CONROY—No, I am saying that she is not there to provide a geographic perspective.

Senator Coonan—I am relieved, Senator Conroy.

Senator CONROY—She is there because she is a staff rep and an excellent staff rep.

Senator Coonan—She is a legitimate member of the board.

Senator CONROY—She is.

Senator Coonan—And she comes from Victoria.

Senator CONROY—But she has a specific brief. I am looking—

Senator Coonan—That was your question. You asked if there was anybody from Victoria.

Senator CONROY—You would have got me cold, but I was probably more looking for that geographic balance out of Victoria other than the staff rep.

Senator Coonan—You mean from Warrnambool or somewhere?

Senator CONROY—They also indicated that you are reviewing the position of the staff elected director on the ABC board. Maybe that Victorian is heading for the chop.

Senator Coonan—No, I have not said that. I do not have that under current consideration, but it may be appropriate to have a look at it at some time in the future. But I certainly do not have it under active consideration.

Senator CONROY—In active consideration?

Senator Coonan—I said I do not have it under active consideration.

Senator CONROY—But it is there in the back of your mind?

Senator Coonan—It may be appropriate at some stage to have a look at it. There is a big difference from not ruling it out as a possibility and saying, ‘Yes, I have it under active consideration.’

Senator CONROY—So this is not part of the funding adequacy and efficiency review?

Senator Coonan—No, it is not. The funding adequacy and efficiency review is literally that. It is sources of funding and efficient use of funding with the ABC being able to retain any efficiencies that it identifies in the process.

Senator CONROY—And who is conducting the review into staff representation on the board? There is some suggestion that you actually have someone looking into that area. I could be wrong, but there is some suggestion.

Senator Coonan—I think it might be one of those reports again, Senator Conroy.

Senator CONROY—Yes, I know.

Senator Coonan—It is not something that accords with anything that I am doing.

Senator CONROY—I am always very careful about this. I am just trying to find that very report now, but it does not seem to be in my pack. Maybe if anyone is listening and had it—

Senator Coonan—I am sure they will rush it down to you.

Senator CONROY—they can get it to me. It does not seem to be in the pack. I may come back to you on that one.

Senator Coonan—That is fine.

Senator CONROY—What prompted this interest in a review? You say you have thought about it but now you have put it on the backburner?

Senator Coonan—No, I have not thought about it and put it on the backburner. It is not something that—

Senator CONROY—It has not come up?

Senator Coonan—I do have enough on my plate, Senator Conroy. I am not really looking for additional things to do.

Senator CONROY—You are going to redesign the ABC board just on a weekend?

Senator Coonan—No. The ABC board gets a lot of my attention, but that is not something that I have under active consideration.

Senator CONROY—Has the government identified an intention to review the board structure before the election? Did you indicate that before the election? Was there any suggestion in your platform or policy?

Senator Coonan—No, not that I am aware of. I could be corrected on that. No.

Senator CONROY—There was not any government position on it?

Senator Coonan—No.

Senator CONROY—It is just coming to me now. The heading is ‘ABC Review Won’t be a Witch-hunt’. It says:

Communications Minister Helen Coonan has ordered an efficiency review.

Senator Coonan—That is the efficiency review, Senator Conroy.

Senator CONROY—It says:

Staff representative Ramona Koval has been accused of leaking a board document to the ABC’s *Media Watch*.

And:

Senator Coonan she said that although she was reviewing the staff position on the board, it didn’t necessarily mean she wanted the position abolished. “I think staff representation is important, but then the question is: how do you do that?”

That is a little more expansive than you have been tonight, Minister, or are there some misquotes in there?

Senator Coonan—No, it is not. There is no active consideration about abolishing the staff elected director. That was your question, wasn’t it?

Senator CONROY—I am just looking at the quote here. Although it does seem to be not quite grammatically right, it says:

Senator Coonan she said that although she was reviewing the staff position on the board—

Senator Coonan—Let me put it this way. Where it arose, I think—and it partly arose with my predecessor—was when there were the allegations about leaking, there was obviously a matter then about whether or not the board could operate under those circumstances. That is the point at which I think we were perhaps at. That sort of spanned my predecessor and

spanned Morris Newman leaving the board. So it was in that context, not in the context of abolishing the staff elected director or reviewing it in that sense, if I can just make that distinction.

Senator CONROY—I will just read the quote again to you just so that you are—

Senator Coonan—Well, it is not actually a quote.

Senator CONROY—I am offering you the opportunity to sort of clarify it. I do not want to believe what I read here, and I am coming to the source.

Senator Coonan—But it is not a quote, is it?

Senator CONROY—No. It does say:

Senator Coonan—

and it says ‘she said’ but I will drop the ‘she’—

Senator Coonan...said that although she was reviewing the staff position on the board, it didn’t necessarily mean she wanted the position abolished.

And then there is a direct quote:

“I think staff representation is important, but then the question is: how do you do that?”

And that is the direct quote.

Senator Coonan—It is in the context of whether or not the board can function if there is some member of a board who is allegedly leaking documents or otherwise not subscribing to protocols. It is not in the context of reviewing the position. It is looking at the functioning of the board; perhaps that is a better way of putting it.

Senator CONROY—Sure. You are almost there saying that she is guilty.

Senator Coonan—No, no, no, I am not.

Senator CONROY—Are you suggesting that the context is, ‘Well, she’s guilty and, you know, she had better understand that we could review this if she keeps this up?’

Senator Coonan—You could do that just in a completely theoretical context. There are a lot of governance issues and legal issues to do with the way in which a board operates. As I said, the board gets a lot of my attention.

Senator CONROY—Thank you for that. Unfortunately you were not here, Minister, when I was talking about breaches of confidentiality earlier with the ACA. We had a lengthy discussion—I am sorry you were not here because I am sure you would have liked to make a contribution—about Professor Flint revealing extensive details of board activities, including things like the legal advice the board had received and how people voted. They were frank discussions. Do you have a view on Professor Flint’s book?

Senator Coonan—I have not read it, I am afraid.

Senator CONROY—Congratulations. Are you aware of reports that it reveals extensively details of confidential discussions on the board?

Senator Coonan—I have not read it. The ABA has not provided any advice in relation to it to me. It is an entire matter of speculation.

Senator CONROY—The department has not given you a summary of it?

Senator Coonan—I have not got a summary of the book. I have not read the advice. I have not got any advice about the book.

Senator CONROY—Let me rephrase. The department has not drawn to your attention that some of the matters canvassed in the book are confidential matters that were confidential to the board of the ABA?

Senator Coonan—Well, certainly not officially. Somebody mentioned it to me from the ACA a few days ago, but I have no formal advice in relation to it. I would have to for the purposes of the question that you are putting to me assume that what you said was correct.

Senator CONROY—I do not think it was contested by the ABA in this matter. I am not trying to verbal her. I am just surprised that the department has not—

Ms Williams—Senator Conroy, this is something that—

Senator CONROY—You were all here when we had—

Ms Williams—The ABA, being a statutory authority, would know. We would not know whether that lined up with their board minutes or not.

Senator CONROY—So you think Professor Flint may have been fibbing?

Ms Williams—We do not know what happened there. We have not got that knowledge to be able to say what was and was not. So I do not think that one is one for us.

Senator CONROY—And you did not ask?

Ms Williams—I think that is one for the ABA.

Senator CONROY—Look, your job—

Senator Coonan—You would have to know what the book said.

Senator CONROY—Sorry, Minister, if I could just finish. I just always understood the department's job was to possibly prepare answers to questions for ministers on issues that may come up. I would have thought it is possible a question may have come up about whether she was aware of reports of the book or, importantly, what the book said and the issue around confidentiality.

Senator Coonan—Senator Conroy, if you wait for a moment, I may indeed have some note about it. I will bring it up as soon as it arrives. As I said, somebody mentioned to me the other day from the ABA that there was this book. I do not know what it said. I have not read it.

Senator CONROY—*Malice in Media Land* I think it is called.

Senator Coonan—I really do not know. But in case I have some advice—I would not mislead you—just let me see if I have got something.

Senator CONROY—We will move on to digital radio while we are waiting.

Senator Coonan—All right.

Senator CONROY—I would like to ask a couple of questions about the plans to introduce a regulatory framework for digital radio. I understand that submissions on the government's issues paper closed on April 20. What is the next step in the process?

Mr Cameron—The department is providing advice to the minister on those views. There is also some technical working conducted by the ABA and the ACA in relation to matters that are the subject of a direction from the minister. Those matters relate in particular to the issue of the availability and performance of VHF and L-band spectrum, which was the appropriate spectrum for digital radio.

Senator CONROY—Has the government indicated when it plans to announce its decision on the regulatory framework?

Mr Cameron—It has not indicated a specific date, no.

Senator CONROY—The commercial radio industry has called for all incumbent broadcasters, including the national board, to be given free spectrum for the transition to digital. Has the government accepted this proposition, do you know?

Mr Cameron—The government is yet to make decisions on the framework.

Senator CONROY—I am just trying to find a bit of time while the Minister is reading.

Senator Coonan—I am just seeing if there is something here.

Senator CONROY—I am just trying to give you a bit of time here. So I might come back to you on some of these questions.

Senator Coonan—That is fine.

Senator CONROY—The Commercial Radio Association model is very similar to the model adopted for the transition to digital television. Given the slow take-up of digital TV, would the government think it will be an ideal model to follow, given that it does not seem to have given it the spark that we hoped? Would you want to follow the TV model with radio given there has been a bit of a flop?

Mr Cameron—Senator, you are entering into policy matters that are relevant to the government.

Senator Coonan—I am right.

Senator CONROY—We are about to go into it. I was just asking this: the commercial radio industry has called for all incumbent broadcasters, including the national broadcaster, to be given free spectrum for the transition to digital. Has the government considered this proposition?

Senator Coonan—It is under consideration. Once again, the framework is quite close, but it has not yet been announced.

Senator CONROY—I think you were here, Minister, when the national broadcasters indicated they had concerns about that model and felt it would not work as well.

Senator Coonan—Look, there are differences with television. A reasonable view may be that where it is possible to do something along the lines of recognising the investment of incumbents in the transition to a major new technology that they should be given some

consideration. That lines up with television, as indeed may—although no decision has been made about it—spectrum issues. But then you get into very different technologies. Digital radio is very different to digital television. There is a possibility that unless there are new services on digital radio that you would never switch off. That is a different issue. The whole way in which you transmit using the whole multiplex arrangement is very complex with radio and is not replicated in television. There are a number of differences that require different responses. But in developing the framework, the government has said publicly that we recognise the value of the incumbents. So to that extent it sits on all fours with television, but not in all respects.

Senator CONROY—The Commercial Radio Association model is, as you have described, quite similar to the model adopted for the transition to digital TV. Without being pejorative, you would probably be a little disappointed at the take-up rate so far for digital. So do you think adopting something fairly similar to the TV model, which if you were being unkind you would say has been a flop—

Senator Coonan—I certainly would not say that. I think there has been a transition—

Senator CONROY—That is being unkind?

Senator Coonan—There is a transition period and now we need to look at how you take it forward and how you drive digital. Radio has not even got onto the platform yet so I would not want to pre-empt what we would say about that. But in principle, to the extent you can encourage new services, that has been official. But I recognise that there are significant costs and difficulties in getting all incumbent commercial broadcasters and all of the community sector onto digital. So it is something that needs a lot of careful thought.

Senator CONROY—But the point I was trying to get to, accepting those issues as absolutely genuine, is that the model we have used for TV has not had the response that all of us would have hoped. Given that it has not, do we really want to follow exactly the same path? Now I know you are further indicating you would not want to follow exactly the same path, but do you see limitations in the model that we have used that we can learn from?

Senator Coonan—I think you can learn from any process, particularly when it involves new technology, that involves requiring or expecting a consumer response or a consumer behavioural change. The television model is really geared to having a switch-off and getting people to move to digital. Radio may not have quite that imperative. I think we just have to be aware of where it is reasonable to do the same thing or the same principles. That is okay. But it is not something that sits across all of the aspects equally.

Senator CONROY—That is fair. Now just back to Professor Flint, have you discovered that he has breached all of his confidentiality provisions, he has actually contravened a number of criminal acts?

Senator Coonan—No, I have not.

Senator CONROY—You have not?

Senator Coonan—I have not, but I have got—

Senator CONROY—What is your office doing?

Senator Coonan—What I have got, however, is some advice from the relevant regulator as to the publication of a book called *Malice in Media Land*, a book by the former ABA chairman in which they advert to some things in the book that could be characterised—they have not made that allegation but they say it is possible that it certainly could contravene the code of conduct incorporated in the Public Service Act. But they took the view, as I understood it, that just about everything said was pretty much in the public domain in any event.

Senator CONROY—How people voted and the legal advice—

Senator Coonan—They did not consider that the information was of particular sensitivity and the advice I was given was that they did not consider that there was much point at this stage in protracted and very lengthy potential proceedings.

Senator CONROY—But do you think it is appropriate for someone who held that position to detail these things? I am just reading from not the actual book but reports of the book. They say:

Both rundowns read like gospel, according to David—

and apologies for the dramatics here—

“hard as” Flint, as he stood up to “forceful and repeated” arguments from other members. While he does not name names in his Packer discussion, on 2UE Flint says he and Robert Le Tet were the only two members who were against the referral.

That indicates how everybody voted. Do you think that is appropriate behaviour?

Senator Coonan—Look, Senator Conroy, I think in the circumstances what we are dealing with here is an independent regulator. What may or may not be appropriate really has to be a matter for them to decide. I do not really know what is in their board minutes. I do not know exactly the extent to which there may have been departures from confidentiality. You are asking me to speculate and to assume a whole lot of things and then make a comment. Please understand this is an independent regulator, they are independent proceedings. I would expect that if they were concerned they would take action. If in all the circumstances they decide not to take action, it is obviously for good reason.

Senator CONROY—But Professor Flint is unrepentant. He is quoted here as saying, ‘I don’t regard them as confidential. I think what I have done is put an explanation for some of the decisions.’ He is telling people how people voted on the board and, as far as he is concerned, that is not confidential. I would have guessed it was confidential. I would have assumed it was confidential. If you are going to give him a free leave pass on this, Minister, it does actually then—

Senator Coonan—It is not for me.

Senator CONROY—I am asking whether you think it is appropriate.

Senator Coonan—They are an independent regulator.

Senator CONROY—No, I am asking you as the minister—

Senator Coonan—Independent regulators—

Senator CONROY—who appoints them.

Senator Coonan—Just a moment. Let me just finish. An independent regulator is able to control their own process, is able to take judgments and make judgments about whether or not their code of conduct has been infringed. If there has been some infringement of their confidentiality, they can decide what to do about it.

Senator CONROY—I was not asking for you to refer it to the DPP. I was asking whether you thought it was appropriate. I actually think it is a little more serious than the discussion we are having.

Senator Coonan—I am not being flippant about it, no.

Senator CONROY—No. To just stand up and reveal this information and then say, ‘Well, I don’t think it’s even confidential. I don’t regard them as confidential.’ It is about how people voted on the board and the arguments they used to justify how they voted being revealed. If that is okay, if are you not even going, ‘Well, I think it is a bit rough’ or ‘I really think he shouldn’t have done it’, if you are just going to let him off, then you will give permission for everybody else to do the same.

Senator Coonan—I do not agree with you because Professor Flint is no longer the chair. I do not think it is appropriate that—

Senator CONROY—Come on. He is not that much of a sacred cow, is he?

Senator Coonan—He is no longer the chair. If you seriously think that as the minister I could or should be second-guessing the decision of the regulator as to what they do about this, well you would be living in the pockets of every regulator that was within your portfolio. It would be equally inappropriate of me to be making that kind of intervention, I would have thought.

Senator CONROY—But it is actually a code, Minister. It is the law.

Senator Coonan—Well, it may not be the law unless there has been a breach of it. Nobody is alleging a breach of the law.

Senator CONROY—I am prepared to allege it right now. I think he has breached the law.

Senator Coonan—I would not be saying that, Senator Conroy, without knowing more than I do.

Senator CONROY—You are not prepared to say anything at the moment. You are not even prepared to give him a slap on the wrist with a wet tram ticket, Minister. Obligations do apply after resignations.

Senator Coonan—I understand all of that. But he is no longer the chair. The regulator, if they were of the view—

Senator CONROY—I know he is the Prime Minister’s favourite.

Senator Coonan—That board could have done what it wished as far as referring the matter for investigation. I just do not fling around lightly allegations that people have broken the law. I simply do not know whether or not that occurred.

Senator CONROY—But it has decided not to even investigate it. It is not like somebody had a look at it and decided. Ms Maddock admitted to us she did not even seek her own internal legal advice.

Senator Coonan—She may have come to her own view with the board.

Senator CONROY—And she is not a lawyer.

Senator Coonan—They do not have to get legal advice. The board is able to make a decision. Unless are you suggesting that somehow or other the board has acted improperly—it is sort of impropriety upon impropriety—you have to let regulators make their own views about these things.

Senator CONROY—You can have a view, Minister, and your view is important because you send a message to all the people who have been on boards and currently are on boards on how to behave in complying with their obligations after they resign. You can send a strong message to people.

Senator Coonan—What I have said is that sending strong messages about the way regulators' boards make decisions about their process in private I do not think is my role.

Senator CONROY—I can only draw on the fact now it is going to be okay for anybody on any board or who has resigned off a board to quote the Coonan defence.

Senator Coonan—That is just nonsense, Senator Conroy.

Senator CONROY—They will say, 'They let Flint off. Why are they picking on me? I know he's the Prime Minister's pet, but they let him off.'

Senator Coonan—That is complete nonsense. That is not worthy of you, Senator Conroy. That is not worthy of you.

Senator CONROY—I do not think you are taking this seriously enough, Minister.

Senator Coonan—That is not worthy of you and it is certainly not what I have said. I have given an explanation for why I do not think it is appropriate to be second-guessing decisions of regulators.

Senator CONROY—I am not asking you to second-guess. I am asking you for your opinion.

Senator Coonan—I do not have to have opinions, Senator Conroy.

Senator CONROY—I am not even asking you to say it is a breach of the law. Just is it appropriate?

Senator Coonan—Let me just explain to you that no doubt in the fullness of time you will have this kind of situation before you in one way, shape or form. I am not here to be flinging around opinions. I am here to try to administer the government's policy. Regulators are set up there to provide advice and to enforce regulations. It is not up to the minister to be always in the board's ear about decisions they make. This may not have been a wise one. I do not know.

Senator CONROY—That is all I am asking for.

Senator Coonan—I said it may not have been wise. I do not know, but it is not something that I should be directing or having opinions on the side on. It would be like if I disagreed with everything that Mr Samuel did. You cannot do it. You either have a regulator or you do not. You have to have some distance.

Senator CONROY—Well, Minister, you are quite happy to have a view about the board's structure, about whether Ramona Koval allegedly got—

Senator Coonan—Because that is my role. That is my role, for goodness sake. It is my role to set—

Senator CONROY—It is independent. The ABC is an independent organisation.

Senator Coonan—No. It is my role to appoint people to the board, Senator Conroy, and it is in that context that I was talking about whether or not the board is functioning. Now that has to be my role. It is a bit different to a board decision about whether or not they had some issue with a previous chair.

Senator CONROY—I know you keep trying to confine this discussion to me suggesting that you should comment on the board's decision not to do anything. That is not what I am asking you, Minister. I am asking you for your opinion of Professor Flint's behaviour.

Senator Coonan—I have not read the book, Senator Conroy.

Senator CONROY—I am not asking you to comment on what the actual ABA did. I am asking you whether you think it is appropriate for information that would normally be considered confidential to be revealed by a past member of any statutory authority or board or regulator. I am asking your opinion about that, not about the ABA's decision. I am happy for you not to go there. But surely you have some sort of view about whether or not Professor Flint is acting appropriately by revealing this information.

Senator Coonan—Look, I have not read the book. What I will do for you, Senator Conroy, if you like, is I will go away and I will have a look at the book so that when we come back on the next estimates I will give you—

Senator CONROY—Even I would not ask you to do that.

Senator Coonan—I will be in a position to give you a view of the book.

Senator CONROY—Surely undermining confidentiality provisions affects the way statutory boards function. Surely you have a view on that as a minister.

Senator Coonan—I think in principle certainly confidentiality should not be undermined, of course.

Senator CONROY—Well, perhaps the department can draw it to your attention, given it does not appear to have noticed. I am happy for Ms Williams or Ms Holthuyzen to suggest that the department did notice it and gave a briefing at any stage to the minister, drew it to her attention and prepared a question time brief just in case I got up or someone else got up and asked her about it.

Ms H. Williams—Senator Conroy, could I just say again that although the department knows this book was there—it read about it in the press, it talks about it—it did not have any information in the board meeting that it could say whether this was a proper leak of the board meeting or not.

Senator CONROY—My point is that Professor Flint is naked and says he does not care.

Senator Coonan—But that requires you to read the book. I am not going to be making judgments about Professor Flint or his book not having read it. I really do not like just relying on newspaper reports of it or what you might say.

Senator CONROY—This is a direct quote from Professor Flint.

Senator Coonan—I do not care, Senator Conroy. I am not going to accept that that is a basis to condemn Professor Flint. Others can if they see fit. I have grown up in a system where you are fair to people rather than make allegations about them.

Senator CONROY—But I am not making an allegation. I am quoting his own words. The professor said he did not think he had breached any rules or, for that matter, board confidentiality.

Senator Coonan—He has not said it to me.

Senator CONROY—So he has to say it to your face before you are going to react to it?

Senator Coonan—No. Senator Conroy, I have not—

Senator CONROY—He goes on to say—

Senator Coonan—I have not read his book and I am not going to be drawn into agreeing with you about the accuracy of comments that you say he made.

Senator CONROY—I am not quoting his book. I am now quoting to you his—

Senator FERRIS—Senator Conroy, Senator Coonan has already said that she will read the book. That is a big plus for you.

Senator CONROY—Please, I would not in any way—

Senator FERRIS—Why don't you move on?

Senator Coonan—I withdraw it. I will not read the book, and I am certainly not going to be drawn into agreeing with summaries of his comments.

Senator CONROY—I would not do that to you, Senator Coonan. I would not do it to you. But I am asking you to comment on his statement that he does not regard them as confidential. He says, 'I think what I have done is put in explanations for some of the decisions.' He is actually saying, 'I don't regard that I have any confidentiality obligations. Discussions of the board are free for report.'

CHAIR—You have not read the book and are making your own opinion up about it. It is a very reasonable point of view that the minister has put. So let us accept it and move on, I think.

Senator CONROY—I appreciate that I have laboured the point. As I said, I am genuinely surprised that the minister does not have a view about—

CHAIR—Well, she is surprised that you are surprised.

Senator TCHEN—Senator Conroy, have you read Dr Flint's book?

Senator CONROY—I said no, and I have no intention of it. I was simply quoting from his—

Senator TCHEN—In that case, how can you find it objectionable?

Senator CONROY—I am quoting from a comment he made in a newspaper, not the book.

Senator TCHEN—Well, do you accept his comment? His comment said that he did not breach confidentiality. Do you accept his comments?

Senator CONROY—He says he does not care.

Senator TCHEN—No. He said he did not breach confidentiality.

Senator FERRIS—That means you are away, Stephen.

Senator CONROY—I repeat: he has stated clearly in his book, which is mentioned in these articles, that he has revealed how people voted on the board. It is a simple test.

Senator TCHEN—He might be just teasing you.

Senator CONROY—He has written it in the book.

Senator TCHEN—Knowing how you would respond, he might be just teasing you.

Senator CONROY—This is actually a serious issue.

Senator FERRIS—Could be Chinese walls.

CHAIR—Well, it is a serious issue, I agree. But I think the minister has provided a reasonable basis upon which she will in due course, if necessary, comment on it. You have conceded you have not actually read the book—

Senator Coonan—No, I withdrew that.

Senator CONROY—And I am glad you did. I said I would not do that to you.

Senator Coonan—I said that I withdrew, Senator Conroy, and would not read the book.

Senator CONROY—I would not do that to you. But I can honestly say to you, Senator Coonan, I think you have treated it a little flippantly, and I am surprised.

Senator Coonan—No, I have not treated it flippantly. In fact, I am really deadly serious about this. I just do not accept random quotes out of newspapers as a basis to be critical of somebody unless I know the facts.

Senator CONROY—But no-one is getting them for you. You have a department that has not attempted to draw it to your attention. The department has not even phoned the ABA and said, ‘Do you think there is a problem here?’ Quite honestly, I am amazed.

Senator Coonan—They have given an explanation. Look, we have answered the question, Senator Conroy. We really have endeavoured to answer the question.

Senator CONROY—Did you contact the ABA at any stage when it was drawn to your attention what was in the book? Did the department?

Ms Williams—The ABA spoke to me about it and I said, ‘Well, you must brief the minister.’ I think my memory of the time is that they said exactly what Ms Maddock said now.

Senator CONROY—So did they brief the minister?

Senator Coonan—A couple of days ago. As I said, a day or so ago I got a note, which is what I called for, so that I could deal with your question appropriately as to what my information was.

Senator CONROY—But they did not indicate to you what was in the book, though, did they?

Senator Coonan—No. Well, they—

Senator CONROY—Is it a secret? Are they trying to keep it a secret from you?

Senator Coonan—Look, they provided a summary to me.

Senator CONROY—I will buy you the book if we are getting this silly. No, I will not. I retract that. I am not prepared to buy that book.

Senator Coonan—They have given me some information about what was alleged in the media and—

Senator CONROY—They have not looked at the book? You do not have to look at the media. They could open the book and have a read. I think Ms Maddock did indicate she had opened the book.

Senator Coonan—they make a statement that the book contains descriptions of certain things, but I do not know whether they have read it either. I do not know that.

Senator CONROY—They have given you a briefing note about something they have not read?

Senator Coonan—No. I said I do not know whether they have read it. Do not take it further, Senator Conroy. I am very precise about my answers. I said I do not know if they have read it. They have given me a description of certain things in it.

Senator CONROY—Would you presume that they had read it before they gave you a briefing note?

Senator Coonan—I would certainly think that they would know what they were talking about—

Senator CONROY—I would hope so.

Senator Coonan—which is to provide some descriptions of things.

Senator CONROY—So you would make an assumption that before they came to you with a briefing on a document or a book they would cast their eye over the original text, not just newspaper reports?

Senator Coonan—No. I would think they would have gone beyond newspaper reports and that they would have had regard to text.

Senator CONROY—But they had chosen to not tell you what they found in that brief?

Senator Coonan—Oh, well, that is not quite correct. They have told me what the allegations are and then they have said that it certainly was not sensitive material because it was all pretty much in the public domain and that they had taken a decision as a board not to pursue the matter further. That is the note. That is almost everything in it.

Senator CONROY—I appreciate that, Minister. Is it in the public domain how members of the ABA vote on every issue? I have never seen it before.

Senator Coonan—I do not know. They do not say that that is what one of the allegations is, I do not think.

Senator CONROY—It is not a question of allegations. They have had had a look at the book and in the book he describes how people vote.

Senator Coonan—That is not in my brief.

Senator CONROY—I appreciate that, Minister. But it just seems they have gone to an extraordinary length not to tell you what is in the book. That is the only point I am making at this stage.

Senator Coonan—But if it is a book, how do you tell somebody what is in a book? You either attach the book to the brief and say: ‘Minister, between now and tomorrow morning, Senator Conroy is most exercised about this book. Read it.’ I have not got that. I have got a note.

Senator CONROY—But the point Ms Williams makes is that the department were not in a position to comment on whether or not these were an accurate portrayal or an inaccurate portrayal. In other words, they do not know what happened on the board to be able to tell you that these matters are a revelation on what happened on the board. I accept the department’s statement that they were not in that position. I am surprised they did not seek to ascertain that, but I accept that they say they did not know it. So the only organisation that can tell you whether or not matters have been revealed is the ABA. You have a very short note from them.

Senator Coonan—I have. They talk about board discussions. They did not talk about confidential information. A lot of this stuff—

Senator CONROY—It is now.

Senator Coonan—I understand that what the concern may have been was not a concern because it is all in the public domain. Events overtook the book.

Senator CONROY—I am not familiar with any reporting of how people have voted on the ABA board.

Senator Coonan—They do not refer to that in the note.

Senator CONROY—I know. But Professor Flint does in his book.

Senator Coonan—I have not read his book.

Senator CONROY—It is pretty silly and circular, don’t you think, Minister?

Senator Coonan—I think it is very circuitous and I can understand that you might think that there is a serious point about it. From my perspective, I have indicated why I think it is a matter for the regulator. They have indicated, as I understand it, that none of this really was confidential. They have given a reason as to why they decided not to proceed with it.

Senator CONROY—Okay, Minister, you have forced me to this point. I am going to have to read you quotes from the book. Then we do not have to worry whether the department briefed you. We do not have to worry that the ABA did not brief you.

Senator Coonan—I just warn you before you start: I am going to want to see the book.

Senator CONROY—I am happy to give you a copy.

Senator Coonan—With the passages underlined.

Senator CONROY—I am happy to give you a copy. I am honestly not trying to trick you here, Minister.

Senator Coonan—And I would prefer an autographed copy so I know it is genuine.

Senator CONROY—I think you are being a little unfair, Minister. Here is a statement off page 250 of the book. It says:

Robert Le Tet, the only member with any experience of commercial radio, agreed with me. Others disagreed, arguing that the breaches were serious and merited prosecution.

I am not aware—

Senator Coonan—What breaches are we talking about?

Senator CONROY—I can go back and read you the whole page. But the point I am making—

Senator Coonan—I have no idea what is being referred to, Senator Conroy.

Senator CONROY—They are having a discussion about 2UE and cash for comment.

Senator Coonan—Gee, that is a broad topic.

Senator CONROY—Yes. What is not broad, but quite narrow and defined, is this statement in the book:

Robert Le Tet, the only member with any experience of commercial radio, agreed with me.

That is not me; that is Professor Flint. It continues:

Others disagreed ...

So he has clearly identified how at least one member of the board voted. My question to you is: can you point me to any other public instances where members of the board have been identified about how they voted in ABA deliberations?

Senator Coonan—I do not know whether this was at a board discussion or whether it was out in the corridor or whether they were out sailing. I am not going to enter into this game, Senator Conroy. I just think it is inappropriate. I cannot agree with passages put to me because you simply cannot put them in that kind of context.

Senator CONROY—Minister, I again say I think you are treating this a little flippantly.

Senator Coonan—No, I am not. I am treating it very seriously. Senator Conroy, people's reputations are important.

Senator CONROY—And he is trashing them.

Senator Coonan—Just a minute. A lot of things have been said about this whole matter, right through from the cash for comment, Professor Flint, the ABA. I just do not think that in Senate estimates we can get to a point where we can fairly treat all the people. I am speculating and I assume, because you were not there, you are doing your best with whatever quotes you have. I just do not think we can really take it any further in this forum.

Senator CONROY—Minister, I think the absolutely appropriate forum to find out whether the government are going to support the upholding of the law and the upholding of

confidentiality contracts and those sorts of issues is the place where we should have this discussion, Minister.

Senator Coonan—That is fine, but I have answered the question. I cannot add to it. I really cannot add any more. There is an independent regulator involved. It is not a decision for government.

Senator CONROY—I am not asking you to comment on that.

CHAIR—Senator, I think the minister has made her position quite clear. We are scheduled for an evening tea break anyway so we might take it at this point.

Senator CONROY—Fine.

Proceedings suspended from 8.42 pm to 9.01 pm

CHAIR—We will formally resume. We have finished with 3.2 and we are now moving to corporate services and output 3.3, which includes NICTA.

Senator CONROY—I have a few questions concerning the performance of NICTA. What is the level of the government's financial support for NICTA?

Mr Allnutt—NICTA is receiving a total of \$129.5 million in the five years to 2005-06 and is forecast to receive a further \$251 million in the period five years to 2010-11.

Senator CONROY—I get a total of about \$380 million in federal funds through to 2011.

Mr Allnutt—That is correct.

Senator CONROY—That is not an insignificant amount of money, is it? That would be a big spend by any organisation?

Mr Allnutt—Yes. It is a larger program.

Senator CONROY—It is a fundamental part of the government's ICT development policy.

Dr Badger—It is a significant part.

Senator CONROY—We cannot get NICTA before the Senate to account for how it is spending the government's substantial investment? I am surprised. It is such a large expenditure over a relatively short period of time and I am surprised I could not actually get them before us.

Dr Badger—NICTA is a company limited by guarantee. It is an independent company established under the Companies Act. It receives a large grant from the government. But the largeness of the grant does not change the formal arrangement.

Senator CONROY—Telstra is a government company.

Dr Badger—It is a wholly owned government company.

Senator CONROY—It is not wholly owned. It is 51 per cent owned.

Dr Badger—Yes. But NICTA is not owned by the Commonwealth. The members of NICTA are the New South Wales government, the ACT government, the University of New South Wales and the Australian National University.

Senator CONROY—What accountability measures has the government put in place to monitor the performance of NICTA? Specifically, how much does NICTA account to the government concerning how it is spending the government's money and whether it is performing to its objectives?

Dr Badger—Dr Hart will go through the series of accountability arrangements. There is a funding deed between the Commonwealth and NICTA and a series of milestones which are reported on I think six-monthly. All the reports are public.

Dr Hart—Clearly, as Dr Badger said, NICTA is responsible to its board of directors. In terms of its accountability to the government, it is responsible to two Commonwealth agencies, which constitute the project's executive, which is DCITA and the ARC.

Senator CONROY—That is the Research Council?

Dr Badger—The Australian Research Council.

Dr Hart—The Australian Research Council. We jointly administer the funding deed, which sets out the milestones which NICTA is required to achieve in order to get the government funding. It also sets out the significant reporting requirements in terms of its annual activity plan and its annual report and its annual interim report and the fact that they are made public documents.

Senator CONROY—And its objectives, targets—how do you measure them?

Dr Hart—Its objectives are clearly set out in broad terms in the funding deed, which also goes to the specific achievements it has to have against its four main pillars, which are research, research training, commercialisation and linkages.

Senator CONROY—I appreciate that NICTA must also account to the board. But the board of an organisation like this is only as good as its shareholders or those who elect the board members. How active is the government in its involvement with the board of NICTA?

Dr Hart—Indirectly, the government actually has two nominations on the board and will also have nominations on the electoral college, which appoints the members.

Senator CONROY—Two direct appointments?

Dr Badger—Two direct appointments.

Senator CONROY—And then there is a college?

Dr Hart—An electoral college.

Senator CONROY—What is the voting balance?

Dr Badger—There are two Commonwealth members, a participant from each of the members—that is, the full founding members, the members of the company—and two independent industry representatives. I think that is right. There are eight, aren't there?

Dr Hart—I think there are eight altogether, yes.

Dr Badger—One of the major selection criteria when the NICTA bid—the National ICT Australia bid—won the original bidding process for this grant to establish the centre was to do with the independence of the company and the board structure. They have put in a board structure which makes the selection of the board independent of the shareholders. The only

jurisdiction that has involvement through directly choosing and nominating its board members is the Commonwealth.

Senator CONROY—And do those board members report back to you? How does the accountability with your direct board appointments work?

Dr Badger—As you would appreciate, the board directors are directors of a company under the Corporations Act. There is one member who by convention is nominated by the Minister for Communications, IT and the Arts, so we have regular discussions with that board member.

Senator CONROY—Who are the eight board members at the moment? Who is the Commonwealth one that Senator Coonan nominates?

Dr Badger—At the moment, the Commonwealth representative on the board is Mr Neville Stevens. Senator Coonan did not nominate him.

Senator CONROY—But her predecessor did.

Dr Badger—Yes. The other Commonwealth nominee on the board is Professor Greenfield—is that right?

Dr Hart—Yes.

Dr Badger—He was nominated by the ARC through the minister for education.

Senator CONROY—And who keeps in close contact with Neville Stevens? Who does Mr Stevens have? Is it you or Dr Hart?

Dr Badger—It would be a combination. Mr Allnutt is on the project executive. Dr Hart is responsible for the division in which the branch functions. I am the deputy that has general responsibility for that side of the department.

Senator CONROY—So what would you define as regular contact—weekly, monthly or even more regular?

Dr Badger—It depends.

Ms H Williams—I think, Senator Conroy, it depends on what issues are running. Sometimes we have very frequent contact, sometimes not as frequent. It really depends whether there is an issue we need to discuss.

Senator CONROY—I would imagine it is fairly frequent at the moment.

Dr Badger—A lot of things have been happening, yes. We have just had a briefing from the new interim CEO of NICTA, the chairman of NICTA's board and deputy chairman. Neville Stevens is the deputy chairman.

Senator CONROY—Are you concerned about the resignation of NICTA's CEO and how this will impact on NICTA's ability to meet its objectives, especially in the area of commercialisation?

Dr Badger—It is clear from the arrangements that we have with NICTA that we do not get involved in the day-to-day running of the company. In most instances, you would prefer not to have significant change in organisations, but with the arrangements between the board and the CEO and the arrangements the board have put in place in the event of the CEO going we

believe that they will enable NICTA to continue to meet its milestones, to continue to build on the good establishing work that has been made. So we are confident that the arrangements put in place will enable the organisation to continue to meet its objectives.

Senator CONROY—It is a pretty sensitive time at the moment for NICTA, I understand, in terms of commercialisation particularly.

Dr Badger—I do not know that this is a particularly sensitive time. I would need to know the context. I do not know that there is any particular deals that are running. But certainly one of NICTA's pillars, as they describe it, is its understanding and involvement with the commercial world. We have to always go back to the premise that NICTA was basically established in response to what was seen as a long-term decline in Australia's public funding of long-term research in ICT R&D. One of the things about the ICT sector is that historically the public funding for ICT research was in the order of, say, 30 per cent of total ICT research funding whereas in most other services in Australia it is the other way around. There was a significant report done by the Prime Minister's Science and Engineering Council which identified this as one of the long-term problems for the industry. The government responded to that. NICTA is a body that has been established to deal with longer term, next generational research. However, having said that, to get that right it needs to have an understanding of the commercial environment and that is why it has that as one of its pillars. I do not think you could say that aspect was particularly it.

Senator CONROY—But you must have some concern when the CEO resigns.

Dr Badger—I do not think I could add much more to what I have said. One likes stability better than instability. If you lose a CEO, almost by definition there is some instability there. However, if you set up a framework that works properly and the board is able to do the right things, and you come out the other side with something you believe will enable the thing to continue to meet its objectives, then you remain satisfied that the whole thing is on track.

Ms H Williams—I think in this instance it was extremely lucky that Dr Skellern had company experience and was able to step in and take over and is acting. He is by reputation very good.

Senator CONROY—There have recently been media reports that the Chair of NICTA, Neville Roach, may stand down or not stand for re-election. Is the parliament concerned about NICTA's failure to meet its objectives if it loses both its CEO and its chair at the same time? That looks like from outside that there seems to be a bit of a problem.

Dr Badger—The situation with the members of the board is that for the chairman, along with a number of other members of the board, their time, if you like, their appointments are up at the next AGM. It is really a matter for the NICTA board and the processes that they have in place for board selection to make judgments about whether there should or should not be change to the board.

Senator CONROY—But I am saying that there are indications that Neville Roach, the chair, will not renominate. An organisation that loses its chair and its CEO at the same time is normally considered to be in a state of crisis, quite frankly. Look at recent corporate circumstances. This is a corporation, as you have described it, and they have lost their CEO.

Dr Badger—I cannot comment on what Neville Roach may or may not do. From all the evidence that we have, and certainly the role of the acting CEO or the interim CEO, and the fact that over the time of its grant NICTA has met all the milestones or virtually all the milestones for all intents and purposes, and because there are other people of strength on the board, we believe that the processes they have put in place will enable them to get through whatever happens.

Dr Hart—It is also the case that the acting CEO has had a close association with NICTA from the outset, so he has a clear understanding of its objectives.

Dr Badger—He was a board member for some time.

Senator CONROY—He was a board member as in past years and we brought him back, or was he on the board and he has now stepped into the acting CEO position?

Dr Badger—He has been on the board and stepped into the CEO's role.

Senator CONROY—Is there some suggestion he may end up as the CEO? Hansard does not pick up shakes of the head.

Dr Badger—I do not know what his intentions are. I am afraid that those things are for the operations of NICTA and his own personal decisions.

Senator CONROY—You mentioned a moment ago that they had missed some milestones. Which ones are those?

Dr Hart—Very few, in fact. I think they have met most of their milestones against the four pillars that I talked about before. I think there may have been a couple where—possibly on accommodation—they were slightly behind schedule. But in most cases I think, even on accommodation, by the time that the actual money was paid the milestone had been met.

Senator CONROY—I was wondering if we could have a few questions taken on notice. Can you get a list of what ones they have not made. To balance that, I would be interested in other specific targets that they have met.

Dr Hart—We are happy to do that. They will be available as soon as the annual report is published. So the ones that they failed to meet last year would be already available on the web site. But we would be happy to do that.

Senator CONROY—Does that include the commercialisation milestones?

Dr Hart—Yes, it does.

Senator CONROY—Are they in the four pillars? I was not sure.

Dr Hart—Yes.

Senator CONROY—Those pillars seem very general.

Dr Hart—They translate into more specific ones when you look at the schedule to the funding deed. So, yes, in general terms—

Senator CONROY—Are the schedules of the funding deed available?

Dr Hart—The funding deed has not been a public document to date.

Senator CONROY—Is it possible for us to get it? As I said, it is a little hard for me to make any sort of call, given how general those pillars are. I am not being pejorative when I say that it would be easier if there was a more detailed description. Even if you do not give me the actual funding deed—

Dr Hart—The same information is actually set out in the annual activity plan, which is available as a public document. So the same information is available in that form.

Mr Allnut—The annual activity plan, which NICTA publishes on its web site, shows all the milestones which it is required to meet. The progress report, which it puts out each six months, and then a final report each 12 months show each milestone. There is a chapter which shows each of the milestones in the activity plan and then whether each was met or not.

Dr Badger—We will get the information out in the form—

Senator CONROY—I am not asking you to give me anything that is confidential.

Dr Badger—I can get the information out of the deed and put it in the form that allows you to make the judgments.

Senator CONROY—That would be great. Thanks very much. I was just saying before that any other company in the country that loses its CEO and chairman all at the same time would normally be considered to be in some form of crisis. But even if it is sort of a step below that, continuity of a board—you indicated a number of members were coming up for re-election—and continuity in selecting a CEO is an important part of the process in succession planning. This is only my first foray into NICTA, so I am happy for your guidance. The media reporting is certainly suggesting that there seems to be a problem. It just seems like there are succession issues. How can you get the right CEO if the board is all new? There are those sorts of issues.

Dr Badger—I understand the point. I think the only thing I can say is that the processes that are in place to select the board, the electoral college processes, for example, are sufficiently robust to ensure that in terms of continuity that is one of the issues the people address in selecting who may be the next board.

Senator CONROY—Maybe even at the next board they will select that, did you say?

Dr Badger—No. There is a process that is under way at the moment to put together, if you like, a board which will be—whatever the formal process is—chosen, voted on, whatever, at the AGM on 31 May.

Senator CONROY—Who is conducting that process?

Dr Badger—The responsibility for conducting the process rests with the full members. They convene a meeting of the electoral college. The Commonwealth has the responsibility to nominate its board members, and that has been done.

Senator CONROY—Have you announced your nominee?

Dr Badger—No, we have not as yet announced it.

Senator CONROY—Minister, a small scoop: who is the nominee for NICTA? Just a small scoop?

Senator Coonan—No go, Senator Conroy.

Senator CONROY—You are very tough. When is that AGM?

Dr Badger—On 31 May.

Senator CONROY—So it is very soon?

Dr Badger—Very soon.

Senator CONROY—There has also been a significant comment about the level of remuneration received by NICTA directors. Is the department comfortable with the level of remuneration received by NICTA directors?

Dr Badger—There was a press report which I think confused the issue about the actual level of remuneration, because I think some of the reporting included more than one financial year and some remuneration to a director which was the result of doing some other work.

Senator CONROY—I will run down them and you can correct these figures.

Dr Badger—All I can tell you—

Dr Hart—They were actually published in NICTA's annual report.

Senator CONROY—Let us make sure I do not make that same confusion. I will just run down these figures. NICTA paid its 11-member board \$1.3 million in its first year of operation. Four directors received more than \$100,000 and one received more than \$430,000. I presume that is the chair. I am guessing there, but I am hoping that is the chair. CEO Mel Slater was on \$600,000 plus.

Dr Badger—The difficulty we have is that we are looking at the 2004 figures. It is the 2003 figures which were in the press release which we still have problems with.

Senator CONROY—Can we confirm that CEO Mel Slater was on \$600,000 plus?

Dr Badger—I do not know. I would have to take that on notice.

Senator CONROY—You have the annual report there, I just assumed. That is a package including a unit in Sydney, I understand.

Dr Hart—The annual report sets out the different levels. It does not identify individual members.

Senator CONROY—Does that comply with the Corporations Law? I thought the Corporations Law for at least a number of years now has required individual remuneration for directors.

Dr Badger—If NICTA has not complied with the Corporations Law—

Senator CONROY—I am not actually joking.

Dr Badger—I am assuming they are.

Senator CONROY—I actually moved the amendments in parliament myself and it got up.

Dr Badger—I am not disputing that. I am just saying that I am assuming NICTA is complying with the Corporations Law. If not, I would want to know why.

Senator CONROY—They are just bashful?

Dr Badger—I just have to check.

Ms H Williams—Senator Conroy, you would realise also, of course, that those individual amounts include provisions for leave, for superannuation.

Senator CONROY—Sure. As I said, I understand it includes a unit in Sydney.

Ms H Williams—They include all kinds of things. It is more than just remuneration or remuneration type things. It is leave type things.

Senator CONROY—I am hoping this can be sorted. I am happy for you to come back to me on Mr Slater's salary—I understand it is a package—and what the components were.

Dr Badger—The financial report for the year ending 31 December, which is the one we have got, is that the one you have?

Senator CONROY—I will just confirm to you which year. Yes. I understand there is a unit, a couple of trips backwards and forwards to the US. Sounds like a good gig to me. I just want to confirm it is a fact.

Dr Badger—I do not know the CEO's salary package. And the numbers that you have read out do not fit with the numbers. So we will check that for you. We have the financial report for 2003 and 2004.

Dr Hart—Yes, for 2003 and the 2004 figures. I think the general point, Senator, is that they obviously have to attract people in a particular field.

Senator CONROY—I have not yet been critical of these amounts. I may get around to that, but I have not yet.

Dr Hart—And also the level of remuneration is set by independent benchmarking.

Senator CONROY—I spend quite a while discussing the levels of CEOs' and boards' remunerations. I am fully aware of the smoke and mirrors game. As I said, I am just trying to establish the facts before I actually make any comment.

Dr Badger—I think all we can do is give you the information that we have and the information that is supposed to be disclosed.

Senator CONROY—As I said, I am actually surprised.

Dr Badger—But it probably has been. What I am saying is that we do not have it in that form that you are describing.

Senator CONROY—Could you take on notice what the remuneration of Mr Slater was and what the components of the package are.

Dr Badger—We will find out what we can.

Senator CONROY—The four directors, I understand, have received more than \$100,000 and one received more than \$430,000, which I am assuming is the chair.

Dr Badger—The CEO is the director. That is why I am a little confused about the numbers.

Senator CONROY—Okay. It could be that with the CEO being the director that may be his cash salary, plus then there are the other benefits I have talked about that make up the package.

Dr Badger—I think, as you say, the best thing to do is—

Senator CONROY—It would be nice if NICTA were here. I could ask them. I would not have to bore you with these questions. You could invite them to come.

Dr Badger—Yes.

Senator CONROY—Minister, are you going to invite NICTA to come?

Senator Coonan—Sorry, I was momentarily distracted, Senator Conroy.

Senator CONROY—I was just saying that all this confusion would easily have been able to be overcome if NICTA were invited to appear before us.

Senator Coonan—Invite who, sorry?

Senator CONROY—NICTA.

Senator Coonan—NICTA? Right, yes—good point!

Senator CONROY—We could have avoided all of this. I was offering you the opportunity to invite them as one of their stakeholders.

Dr Badger—Bit of a precedent.

Senator CONROY—Telstra turn up.

Dr Badger—But the Commonwealth owns them. The difference we have here—

Senator Coonan—We are not even a shareholder.

Dr Badger—No, we are not even a shareholder.

Senator CONROY—Are there shares? I am trying to understand the structure. You said you are one of the two stakeholders. You get automatic board nomination positions.

Dr Badger—It is in their constitution. As I said, there was a process. There were three bids to win and each of the bids put in an arrangement for governance. There was a set of criteria and suggestions. A lot of that was about the independence of the research organisation and being run independently of its shareholders. Their governance structures—

Senator CONROY—Telstra is run independently of the government.

Dr Badger—But the legal structure is different. The Commonwealth—

Senator CONROY—It is incorporated under the Corporations Act. Telstra is incorporated. It runs independent to—

Dr Badger—But isn't it different that the Commonwealth is the major shareholder? That is the difference. As the minister points out, NICTA, as we discussed earlier, is a not-for-profit independent company limited by guarantee. But the Commonwealth's relationship with it is that we provide it with a grant-in-aid, albeit a very large grant-in-aid.

Senator CONROY—That is my point. It is actually one of the largest outgoings of an individual organisation. All I am trying to discover is what the accountability path is just so that we as the parliament can ask what is actually happening to this money and whether it is meeting its targets and who is getting paid what.

Dr Badger—The arrangements are reasonably similar to the other centres of excellence established at the same time—the biotechnology one.

Senator CONROY—As I said, I am happy for you to take it on notice. From my reading of the information, NICTA paid its 11 board members \$1.3 million in its first year of operation. That is an old figure. I will read them out and you can take them on notice and we do not have to worry about it after that. Four directors received more than \$100,000 and one received more than \$430,000. CEO Mel Slater was on \$600,000-plus. Salary accounts for five per cent of revenue at NICTA, which is a bit of a high figure, so I want to have a bit of a chat about that. Then I want to ask whether this remuneration was performance based.

Dr Badger—We do not get involved in the processes for setting the remuneration of the CEO of NICTA. That is done by the board.

Senator CONROY—I understand that. But as someone who appoints people to the board you must have ultimately some view about whether the remuneration should be performance based.

Dr Badger—I think it is, but I do not know. As part of the information, we will find out about, if you like, whatever the salary package is and how it is made up.

Senator CONROY—Sure. That is fair. If you can come back to us on that. I would not want it to be a situation where you just fund and forget.

Dr Badger—No, believe me!

Senator CONROY—I am afraid Hansard cannot capture that look on your face; I wish it could. Has the department made any representations to NICTA concerning the level of remuneration of its directors?

Dr Badger—Not that I am aware of, no.

Senator CONROY—I understand that NICTA is currently undertaking a review of its performance to be completed by 30 June. In this review, NICTA will present a report on its performance against the milestones agreed with the government. What will be the department's role in this review or do you just await it?

Dr Badger—Sorry, can you just go back to the review part.

Senator CONROY—I understand NICTA is currently undertaking a review of its performance to be completed by 30 June.

Dr Hart—No, the project executive is facilitating a review of performance, but it is not to be undertaken by 30 June.

Senator CONROY—Mr Allnutt is on that, did you say?

Dr Hart—No. The project executive is facilitating a review. The review will comprise a panel for peer assessment. It will involve both people within Australia and overseas.

Senator CONROY—And that is to be completed by 30 June?

Dr Hart—No. About September.

Dr Badger—Just to clarify things, NICTA has a series of internal review processes which relate to their doing things so that they can provide presumably their own board for where

they are going and their strategy et cetera. They do a series of things for us related to providing us with information about meeting their milestones.

Senator CONROY—As I said, tragically, because it is my first foray, as I said, into NICTA, I am not familiar with all of their processes. But I do believe it is the internal review re the milestones that I am interested in. Is that consistent with what Dr Hart was describing before? Is that the September review or is that a different review?

Dr Hart—No. The review I was talking about is a review actually established under the funding deed. It is taking place against the background of the government's continuing funding, but it is a performance review which will facilitate the next funding deed. What it will basically do is look at NICTA's performance to date. It will look at the environment in which it operates in Australia and, more generally, look at features of the ICT environment which may be impacting on NICTA's performance.

Senator CONROY—It is never a good time when the CEO jumps ship just before the outcome of a performance review.

Dr Hart—It is a review which is timely because NICTA is moving from its establishment and development phase into its fully operational phase, so arguably it is a good time for a change.

Dr Badger—The review is called for in the deed. It is the one that basically is done virtually of every research centre that the ARC is involved in funding. It is that type of thing.

Senator CONROY—What would be the department's response if NICTA failed to meet its milestones?

Dr Hart—There would be difficulty, as with all funding deeds, in making the payment. Assessment is made by the project executive as to whether the funding is warranted in those circumstances.

Dr Badger—I think the other thing is we have the ability not only to prevent funding, if you like, which is the ultimate sort of sanction, but also to get them to take remedial action if we believe milestones are not being met. To be honest, I would not imagine us ever being in that situation because of the fact that we do have nominees involved in the board processes.

Senator CONROY—Not if they are jumping ship too.

Dr Badger—I would be very concerned about our ability to do this if the bulk of the NICTA board jumped ship.

Senator CONROY—So would I. What are the government's expectations with respect to the amount of funding that NICTA should be receiving from private partners? If there is confidence out there in the broader community that they are doing their job, you would expect money to be flowing in. Conversely, if there was not confidence in how they are performing, private funds may not be flowing in.

Dr Hart—The members other than the Australian government do make a contribution.

Senator CONROY—The private sector, I guess.

Dr Hart—At this stage, NICTA is forging relationships rather than actually getting contributions from the private sector. But it is in the process of forging a number of

relationships. You will have seen announcements relating to partnerships with Microsoft and Telstra.

Senator CONROY—That is what I am talking about. What has been put to me is that if some of these major corporations you are describing actually had any serious confidence in this organisation a lot more money would be received.

Dr Hart—The Microsoft one, for example, is a \$2 million contribution. It is a collaboration exercise.

Senator CONROY—For a company the size of Microsoft, \$2 million is a fairly nominal amount, which is the point I am making.

Dr Hart—I think the other point to be made about commercialisation activities is that, as I said before, NICTA has been very much in its establishment phase. What it has been putting in place is all the things it needs to do, such as establishing IP arrangements and so forth, which will allow those partnerships to actually be established. We have many indications that that is actually happening now, both with the multinationals like Microsoft but also with the SME sector.

Senator CONROY—Could I be unkind and put it perhaps a bit harsher than to try and make my point. It has been put to me not by Microsoft but by other people in the market that if Microsoft had any real confidence in this organisation it would have \$20 million stumped up already with more to come.

Dr Badger—My response to Microsoft putting \$20 million into NICTA would be: what would Microsoft expect to get for its \$20 million?

Senator CONROY—For an organisation without a CEO and a chair, probably not a lot initially.

Dr Badger—No. But more in terms of the type of research. NICTA was established to work in longer term research which would change the nature of Australia's basic capabilities in ICT R&D. It is quite clear from the original documents that there was an expectation that the bulk of the funding would be long-term public funding.

Senator CONROY—Sure.

Dr Badger—It was quite different—

Senator CONROY—\$20 million as against \$300 million over a long period is still a relatively small amount.

Dr Badger—Yes. But you would expect that in the initial stages an organisation like NICTA, while it is growing and establishing itself, is likely to focus on getting its research program in place rather than expecting it to gain significant income from commercial partnerships. But it is still working on those.

Senator CONROY—Sure. Just a few months ago I attended a conference in Europe where there were a number of Microsoft speakers. One of the things that they absolutely championed was their participation and working closely with research centres funded by governments. They talked about some very significant dollars that they were putting in. Europe is a bigger place than we are but, even given the size, the sort of money they were

putting into these organisations is very serious. They have a very serious partnership and cooperation with organisations that have a similar focus. More importantly, they are actually crying out in Europe for organisations like NICTA. This brings me back to my point that the \$2 million is at least, ‘Oh, my God, we’re not giving up on it completely, but’. I am just asking whether or not you felt that the level of contributions from the private sector towards the organisation and partnership and financial relationships would be a KPI. Dr Hart is shaking her head. Am I just on the wrong track?

Dr Badger—I think you are being somewhat harsher on NICTA than it deserves to be at this stage of its growth. I have been involved in long-term research activities for a long time and I would be very concerned, say, after NICTA had been well and truly established towards the end of the second tranche of the government funding, if it was not getting sufficient international recognition as a centre for excellence and research that it was not getting substantial amounts of money from the private sector in partnership arrangements. But I also would not want NICTA’s research program to be dominated by—

Senator CONROY—But the phrase ‘commercialisation’ does lead you to envisage partnerships and joint ventures?

Dr Badger—There is no two ways about it.

Senator CONROY—That is the actual point, isn’t it?

Dr Badger—The organisation is not just about commercialisation. The commercialisation arm, particularly for a long-term public funded research organisation dealing with next generational research, is more about understanding the commercial environment than it is about getting shorter term commercial returns. If that is what NICTA was supposed to do, then it would have set up a different environment. We have the CRC programs. One of the differences there is that they tend to have their research much more oriented towards the shorter term because of the demands of their commercial partners. The difficulty in the Australian system was that we had ‘a bit of that’ and where we had the real dearth or dropping back of investment was at the longer term end.

Senator CONROY—I have one final question. Do you think there is any point in having a sort of measure, a milestone, that relates to their success in partnering up?

Dr Badger—Certainly over time that will become an increasing part of the milestones. Now there are milestones, if you like, which take into account the need to establish the framework for doing that. As well as setting up their research strategy, getting the staff and the organisation settled so we can inculcate into the whole process and understand the commercial environment, that is where that pillar comes in.

Senator CONROY—Thanks very much. I am finished.

CHAIR—Thank you, Senator. Senator Lundy.

Senator LUNDY—I have further questions on NICTA. I want to know where the development of new nodes of NICTA is at and whether or not NICTA is currently contemplating additional nodes.

Dr Hart—I think you would be aware of the ones that have been established in Melbourne and Queensland in addition to the founding nodes. I think that it is possible that a further node is being considered on the west coast.

Senator LUNDY—Can you give me more detail about the west coast.

Dr Hart—Not at this stage because we do not have it, but there is the possibility that they will be looking for some sort of collaboration with universities on the west coast.

Senator LUNDY—What would the process be for NICTA to establish another node, particularly in relation to the department but also any cabinet level or ministerial decisions?

Dr Badger—We would not get involved in the day-to-day negotiations on the establishment of a node. The only way it would come back under the present funding agreement to us would be if somebody decided they wanted to put a proposal to us for more money, which I consider somewhat unlikely. But the responsibility for running NICTA and its engagement with the research community and with the commercial community rests with the NICTA executives and its board. One of its overall objectives relates to it becoming an Australia-wide, if you like, research organisation. That gradually becomes part of the milestones and activity plan. But we get involved then. We do not get involved in telling NICTA what is the best way to go about engaging with researchers et cetera.

Senator LUNDY—Perhaps, Minister, this is a question for you. What is the government's view on the merit of establishing additional nodes for NICTA? I certainly understand that Curtin University in conjunction with Edith Cowan University have got quite a substantial ICT research effort. What interest does the government have? Are they encouraging that, facilitating discussions or providing the impetus for collaboration between NICTA and other world-class ICT research facilities?

Senator Coonan—I am sorry, Senator Lundy, I do apologise.

Senator LUNDY—That is all right; I will go through it all again. I am wanting to know what involvement you as minister have or the government has from a policy perspective in encouraging dialogue or discussion or collaboration between NICTA and other world-class ICT research facilities like the Western Australian Telecommunications Research Institute and so forth which I understand have expressed an interest in closer ties with NICTA.

Senator Coonan—I am sorry, Western Australian—

Senator LUNDY—Western Australian Telecommunications Research Institute and the multcentres of processing and content analysis located at Curtin University. I am really just trying to gauge if you have a policy view on the merits or otherwise of this sort of interest.

Senator Coonan—I think it is fair to say that one of the objectives of NICTA is to be a national research organisation. I suppose that is really the answer to your question. The answer is, yes, there is a policy objective that that would happen.

Senator LUNDY—And how do you hope to realise that objective, given one of the other sort of impetuses behind the establishment of NICTA was to consolidate the research effort and therefore achieve more critical mass? Do you think that can still be achieved in having a greater number of nodes around the country but operating from the same pool of funds, like the current envelope of funds?

Senator Coonan—If you are talking about NICTA's funding, it obviously operates independently of government. We have a role in funding it and we obviously have a contribution on the project operational team, but we do not actually run NICTA.

Senator LUNDY—No, I appreciate that. So what role could you or would you be prepared to take in facilitating the establishment of additional nodes?

Senator Coonan—I suppose you could say that if you were to do that it would help to build scale in ICT research. I suppose that is something that could be said about additional nodes.

Dr Badger—In practice, there does not seem to be any need to encourage NICTA to explore opportunities to build scale and to become a national organisation. What happens is the total pool of resources available to NICTA expands with the nodes and the type of research. Part of the challenge designing the research program is to do that so you draw more participants into the research web, if you like, so NICTA becomes the centre of the national research infrastructure. But its challenge is to do that at the same time without undermining the sort of scale aspirations it has at any particular part of ICT research.

Senator Coonan—Another point is that I am about to revive the ministerial online council. I have yet to fully consider the agenda—for instance, discussing with state ministers how this could have a better national reach and how you can build scale as a national research centre. Reaching out in the way in which is contemplated could be, for instance, something that I would see a role for perhaps the ministerial online council. It is something from a policy objective you could draw together perhaps in a better way.

Senator LUNDY—That is all I have on NICTA. Perhaps we could go now to the general output of 3.3. So the corporate people can go home, I have a few questions for them relating to the IT contract for the department. Could I get an update on the current status of that contract?

Dr Hart—The outsourcing contract?

Senator LUNDY—Yes. I will come to the industry development component.

Mr Nicholas—We have a contract, since the completion of group five, with Kaz Technologies for our IT services. It is proceeding and operating extremely well.

Senator LUNDY—Have you allocated any industry development commitments against that new contract?

Mr Nicholas—No. Our contract is below the threshold amount.

Senator LUNDY—Of \$20 million?

Mr Nicholas—Yes, of \$20 million.

Senator LUNDY—But I understand the government's policy is that it would be open to departments with their autonomy to determine to apply some industry development outputs or at least SME involvement. Is that not the case?

Mr Nicholas—No.

Senator LUNDY—No?

Mr Allnutt—There is no formal requirement for government departments to impose an IT development.

Senator LUNDY—I know there is no formal requirement. I just thought that as the department, looking after ICT industry development, you might take the initiative.

Mr Allnutt—What departments are required to do is to give every opportunity to SMEs to participate. They have to make sure they give appropriate opportunities for SMEs to participate under the Commonwealth procurement guidelines. So that requirement would be followed as a matter of course.

Senator LUNDY—And what is the total aggregate expenditure on the DCITA web site to date?

Mr Nicholas—I would not have a figure with me.

Ms H Williams—Can we come back to you on that one, Senator Lundy? It is not something that we came prepared for. Are you talking about our current contract or are you going back?

Senator LUNDY—I think it would be a far more impressive figure if we went back a few years. If you have to hand what you have spent on the web site in the last financial year or perhaps year to date in this current financial year, I think that would be interesting as well. The DCITA web site now has legendary status, of course, given you have spent so many millions and millions of dollars on it; so I just thought it might be fun to have an update.

Mr Nicholas—We keep adding. I would have to take the spend this year on notice.

Ms Williams—We would have to take it on notice.

Senator LUNDY—You may as well make it the whole number.

Mr Nicholas—The whole number?

Senator LUNDY—Dating back to the beginning of the group five contract and all expenditure within that period of time.

Mr Nicholas—We can do that.

Senator LUNDY—But not necessarily within the group five contract.

Mr Nicholas—It was not part of the group five contract arrangement, though, Senator.

Senator LUNDY—Yes, it was outside that.

Mr Nicholas—It was outside that, yes.

Senator LUNDY—The e-security report from the Joint Committee of Public Accounts and Audit made a series of recommendations that were accepted by the government about e-security upgrading within agencies and departments. Has DCITA complied with the requirements under the government's agreed response to the e-security report? The technical name of the report was *Inquiry into the management and integrity of electronic information in the Commonwealth*.

Mr Nicholas—What was the date of that report?

Senator LUNDY—Now you are testing me. I think it was about this time last year. The government response came about six months later or maybe three or four months later.

Mr Nicholas—Broadly, our e-security and our security arrangements comply with the requirements that are there in the standards. It is something that we look at on a regular basis to make sure that we have in place appropriate controls at our gateways and policies in place to support the usage of government information.

Senator LUNDY—I appreciate that. Could you take the question formally on notice. I understand AGIMO was charged with responsibility for cross-referencing and checking on all agencies and departments, so I am hoping that they will be able to give me a full appraisal of the performance of all agencies and departments in relation to that report.

Mr Nicholas—We could take it on notice.

Senator LUNDY—Thank you. That is all I have for corporate services.

CHAIR—So where to now, Senator?

Senator LUNDY—I think generally 3.3.

CHAIR—3.3 needs to stay and corporate can go.

Senator LUNDY—And 3.4. Can we have the officers from 3.5 available now because some of the questions may cross over. Perhaps I should start with asking the department to give an explanation for the changes to the outputs in DCITA.

CHAIR—First of all, let us find out if the officers from 3.5 are here. They are. We will go ahead.

Senator LUNDY—I note in the portfolio budget statements that the description of the outputs at 3.3, 3.4 and 3.5 has changed. AGIMO has also been transferred to the Department of Finance and Administration. I will ask the minister to give an assessment or an opinion or a view as to why these changes took place and the purpose behind them.

Senator Coonan—The issue really was that we had to give somebody portfolio responsibility for this. It fell, in a policy sense, more within the Attorney-General's ambit than in DCITA's ambit.

Senator LUNDY—What is in Attorney-General's?

Senator Coonan—Policy issues to do with copyright are more within the purview of the Attorney-General, as I was saying, than in DCITA. The Attorney-General has primary responsibility for copyright. I will be consulted in relation to the development of policy that impacts on our department.

Senator LUNDY—So within 3.4—is that what we are talking about?

Senator Coonan—Yes.

Senator LUNDY—Within 3.4, the development of copyright and intellectual property policy has been moved to Attorney-General's?

Senator Coonan—Outcomes as such, yes.

Senator LUNDY—How many people?

Senator Coonan—You will have to ask the department. I do not know that.

Senator LUNDY—No, I appreciate that. How many people were involved in that transfer?

Ms H Williams—Before we go on to the numbers of people, Senator Lundy, we still obviously have a policy-advising function on the particular aspects that relate to the portfolio. It is just general policy that has been moved.

Senator LUNDY—So that is one element of it. Is there a number of people—a unit or something—that was transferred over?

Dr Hart—3.5 staff were transferred with the function.

Senator LUNDY—I notice that 3.4 has an expanded reference to, I think, content.

Dr Hart—What 3.4 was trying to do was really to capture the range of policy interests that the department has in intellectual property. We have always maintained a strong interest in intellectual property really because it affects every area of communications, information technology and the arts. So what that output measure is trying to do is to capture that range of interests and suggest the areas in which we will continue to provide policy input to IP arrangements.

Senator LUNDY—But the US free trade agreement had quite a focus on intellectual property in the end. Is this move some reflection on DCITA that adequate advice was not provided to the government about the nature of the IP issues within the US free trade agreement?

Ms H Williams—I do not think you could say that at all, Senator Lundy. I think it was more the fact that responsibility for this area was shared. When the administrative arrangements orders are being looked at, it is always useful if you have one prime responsibility rather than two. So it was just a tidying up issue.

Senator LUNDY—Output 3.4 in this area of the department also now makes reference to the promotion of reasonable access to research and cultural materials. Does that include the availability of government publications?

Dr Hart—It really, I think, reflects the fact that we do have the cultural institutions within the portfolio and so we do have an interest in access policies and in terms of legal deposit and issues such as that. Again, as I say, that output measure was really trying to capture the full range of interests across the portfolio, including indigenous cultural protection and the content side of things, the cultural side of things.

Senator LUNDY—But it does not cover access to government publications?

Dr Hart—No. That was one of the functions which was actually transferred to the Attorney-General's.

Senator LUNDY—That was?

Dr Hart—Well, the Commonwealth copyright administration was a particular program which relates to Commonwealth copyright arrangements.

Senator LUNDY—So just let me follow the path here. When the government bookshops were shut down, I understand NOIE was given some allocation of funding to take on the role

of ensuring online publication and availability. So now that function has gone to Attorney-General's as well?

Ms H Williams—That would have gone to Finance, with NOIE now called AGIMO.

Senator LUNDY—AGIMO. Okay, sorry. So it did not go to Attorney-General's.

Dr Hart—No. There is a particular thing called the Commonwealth copyright administration deed.

Senator LUNDY—I am just trying to get it clear. Now the issue of AGIMO going to the Department of Finance and Administration, Minister, this is probably one for you. The long history of IT outsourcing and what can only be described in many respects as the Department of Finance's former efforts in IT outsourcing as maladministration, why on earth has the government made a policy decision to move AGIMO back to the Department of Finance and Administration given the history? It is a retrograde step. Potentially it is asking for the same sort of problems that occurred before. So how can you let that happen?

Senator Coonan—Well, I think lessons are learnt from previous situations. I do not accept entirely your summation of it. But clearly one department needed to be responsible for all of the very complex issues to do with outsourcing and procurement and, particularly given the entry into the FTA, Finance was the best department to take that on. So it was a logical fit.

Senator LUNDY—I put to you—and I think this was certainly the thoughts and policy motivations that led it to be moved out of the Department of Finance—that the Department of Finance orientation around finding a saving for the government and their lack of interest in either quality outcomes or industry development and innovation within agencies and departments were some of the reasons why they got it out of there. So what guarantees are there in your mind that innovation, industry development and quality outcomes will not now be sacrificed again?

Senator Coonan—Well, there are a couple of reasons to start with. On my understanding, outsourcing was not ever moved out of Finance. That is my understanding. Now you may have a different recollection, but that is my advice and my understanding. The second thing is there does need to be a central agency involved in government outsourcing. There really does need to be that in order to be able to administer it properly. Thirdly, I would defend the move on the basis that I think there really is a great capacity to influence a whole of government approach. That is what we are trying to achieve. That is what we have been talking about. I understand that is what you, for instance, have welcomed—that there needs to be a whole of government approach to outsourcing. So for all of those reasons I would certainly feel that it was appropriate.

Senator LUNDY—Do you think the move is a reflection on the frustrations experienced by your predecessor in actually getting some policy changes and attention on industry development issues?

Senator Coonan—I do not know really which predecessor you are mentioning and I certainly do not know what they thought about that. But they are the policy positions underpinning the transfer that I have just outlined.

Senator LUNDY—And I put to you that it is not a vote of confidence in you or your portfolio that this move has been made, particularly looking at some of the poorer outcomes with respect to industry development and what I would hope would be politically sensitive areas and important policy areas. What is your response to that?

Senator Coonan—I would strongly take issue with that. In fact, my department partly initiated this move to enable, firstly, a whole of government approach. Secondly, there had to be a central agency that really coordinated all of this. Thirdly, of course, we continue to have some input. So I certainly do not think that your summation of the basis for the move is correct.

Senator LUNDY—So how will you still have an input given the development of the information economy, other ICT industry development matters are still with DCITA and the main agency, if you like, AGIMO, is no longer in your department? How do you hope to have that influence?

Senator Coonan—Because we are consulted.

Senator LUNDY—You will be consulted?

Senator Coonan—Because we are consulted.

Senator LUNDY—We heard earlier in asking your own department about any sense of obligation as an individual department you had to achieve industry development outcomes. What is your comment now on the role and possibility of government purchasing to deliver outcomes for Australian SMEs through government purchasing?

Senator Coonan—Well, I think it has immensely improved. The ICT SME joint industry-government working party was formed, as you would know—I do not know whether you have gone through all this before; this is the first time I think you have asked me these kind of questions—to look at ways of improving SME access to government ICT procurement business. The working party has concluded that government will continue to work to help SMEs across government ICT procurement through carrying forward initiatives that have been identified through the government working party. So I am very confident that we will continue to make sure that we can facilitate the development of ICT SME participation. It is interesting that an independent consultant has estimated that for 2002-03 and 2003-04 the SME share of government ICT procurement business was around 30 per cent. If that is correct—and that was an independent consultant—it does demonstrate that SMEs are winning a substantial share of government ICT procurements. Certainly that is what is intended and what our programs are designed to do.

Senator LUNDY—Just on that particular study, what was the core data that that study used to build their percentages on?

Senator Coonan—I do not have it in front of me.

Senator LUNDY—I can tell you it was the gazette data and certainly ICT stakeholders were of the view that the gazette data does not tell the full story. I certainly for one have tried to compile accurate statistics of SME involvement using that data and it is not possible because the government does not keep them.

Senator Coonan—Well, we do not accept those arguments, Senator Lundy, and I can go through all the reasons why we do not if you wish. But Mr Allnutt has the data. You asked, first of all, a question about the data.

Dr Hart—I think the starting point is that the finding of the consultant was broadly consistent with the participation rates in the outsourcing contracts. So that is the starting point. But Mr Allnutt can take you through the methodology.

Mr Allnutt—The consultant, first of all, did an analysis of what the appropriate methodology should be and looked at the option of using the financial management information system data and also using the GAPS data and formed the view that the most cost effective way of measuring the participation would be to use the GAPS data. What they did was take a sample of 11 agencies who covered about 80 per cent of the contracts by value and then they just went through the GAPS data individually. They looked at each item.

Senator LUNDY—And did they include IT contractors in that or actual engagement of companies?

Mr Allnutt—They included all sorts of ICT contracts as defined. That is hardware, software, services, contractors—

Senator LUNDY—And the engagement of contractors?

Mr Allnutt—Yes.

Senator LUNDY—So not just companies?

Mr Allnutt—Yes.

Senator LUNDY—That is the Intermedium report?

Mr Allnutt—That's right.

Senator LUNDY—So, Minister, when you did put on your web site the report from the ICT SME joint industry-government working party why did you not put out a press release when the report was tabled?

Senator Coonan—I am sorry, I just cannot hear you, Senator Lundy.

Senator LUNDY—When was that report that you referred to put on the department's web site?

Senator Coonan—I am advised it was 22 April.

Senator LUNDY—And did you issue a press release on that to announce it?

Senator Coonan—Yes.

Senator LUNDY—I could not find the press release on your web site.

Senator Coonan—I will get you a copy.

Senator LUNDY—Is it on your web site?

Senator Coonan—I think so. Certainly it is my policy to put all my press releases on the web site.

Senator LUNDY—Yes, I would have thought so. Minister, have you received any other report from the working group?

Senator Coonan—Yes. There was a separate industry report, as I recall.

Senator LUNDY—Was that separate industry report a report from all of the industry participants in that working group?

Senator Coonan—Yes. I believe so.

Senator LUNDY—And what did that report say?

Senator Coonan—It was a report, Senator Lundy.

Senator LUNDY—I beg your pardon.

Senator Coonan—I said it was a report. I cannot recall now what it said.

Senator LUNDY—Well, I put to you that it was a substantial and grave indictment on the government's SME participation policies and the reason the industry was so motivated to submit it to you was because they were profoundly unhappy with the conclusions that the joint industry-government working party were able to conclude. If you like, I can reference some of the quotes. But the bottom line is the covering letter of this report—and I have a copy here—and it says:

Industry members have identified effective and practical measures to facilitate improved access. Some of these require changes to government policy. While the government members of the working party were able to discuss the proposals, they could neither endorse nor take a lead role in their development. As a result, industry members have felt compelled to express their views through this separate report. The report, which contains important recommendations, practical measures and outlines the next step in this process is fully supported by all of the industry members who represent the key industry bodies—the Australian Computer Society, the Australian Information Industry Association and the Australian Electrical and Electronic Manufacturers Association.

Have you responded to this separate report?

Senator Coonan—Well, let me just put my comments in some sort of context for you, Senator Lundy. I have met with this group.

Senator LUNDY—It is your committee.

Senator Coonan—Yes, I know. I have met with them and talked to them about their report. I have met with them. I will be considering their views going forward. I must say that in the whole context of government procurement, the government's view about this, irrespective of what reports come our way, is that government procurement must always proceed on the basis of value for money and be fit for purpose. I do not know whether or not in your line of questioning you are suggesting that there should be some other basis. There is always criticism of government procurement. But I am looking at what this group has said and looking at the report and I will be considering their views going forward.

Senator LUNDY—One of the key points highlighted in this dissenting report to you is that, if you look at the overall expenditure by governments, and indeed expenditure on ICT, the average participation of SMEs is about 55 per cent. However, in a standout proportion, the overall figure of 20 per cent or less than 20 per cent is the federal ICT expenditure figure when it comes to SMEs. The basis of the argument presented by this industry group is that the federal government continues to discriminate against Australian SMEs by virtue of the way federal ICT procurement policies are constructed.

Senator Coonan—Yes, I know. I have met with them and talked to them about their report and I will be considering their views going forward. But I must say that, in the whole context of government procurement, the government's view about this, irrespective of what reports come our way, is that government procurement must always proceed on the basis of value for money and be fit for purpose. I do not know whether or not in your line of questioning you are suggesting that there should be some other basis. There is always criticism of government procurement, but I am looking at what this group has said and at the report and I will be considering their views going forward.

Senator LUNDY—One of the key points highlighted in this dissenting report to you is that, if you look at the overall expenditure by governments, and indeed expenditure on ICT, the average participation of SMEs is about 55 per cent. However, in quite a stand-out proportion, the overall federal ICT expenditure figure is below 20 per cent when it comes to SMEs. The basis of the argument presented by this industry group is that the federal government continues to discriminate against Australian SMEs by virtue of the way in which federal ICT procurement policies are constructed. They go to great lengths to articulate what I certainly think are well-known and well-argued views. Yet not only is there no acknowledgment of these issues in anything the government has prepared, including the report that you have published on your web site, but there is no acknowledgment at all by the Howard government that SMEs are being discriminated against and have been for many years. I cannot see why the federal government finds it so necessary to continue its discrimination against SME ICT companies in this way.

Senator Coonan—I do not know whether that is a question or some sort of editorial statement.

Senator LUNDY—It is a bit of both.

Senator Coonan—Then can I please say something in response to it because I certainly do not think that that is an accurate description. The government certainly do not discriminate against SMEs. I have already said that we always follow the basis of value for money and fitness for purpose. We are very keen to remove barriers to SMEs. Surely that is an acceptable basis to go forward from. Quite apart from a figure that you do not accept, the government have in fact been working on a number of other initiatives, as no doubt you would be aware, but I will remind the committee of them anyway. We worked on the publication *Selling ICT to government—a guide for SMEs*. That provides practical advice on how to bid for and win government ICT business. This is hardly the action of a government who do not want to encourage and facilitate SMEs.

Senator LUNDY—With due respect, Minister—

Senator Coonan—Can I finish, please? You have made a statement; I am trying to answer it as though it were a question. Secondly, there was the implementation of the Australian government tender system—AusTender—which allows firms to be notified of Australian government public business opportunities. Once again, these are hardly the actions of a government that does not want anyone to succeed here. There are targeted workshops and briefings for SMEs entering the Australian government procurement market and the establishment of an information unit for ICT SMEs within DCITA.

Also, since I have come into the portfolio I have personally been working with a number of SMEs on the development of guidelines on liability and insurance in government ICT contracts, which was an issue that was brought to my attention and that we are addressing. We have conducted a review of the ICT intellectual property guidelines as part of the whole-of-government approach to IP management and also a review, the need for which was identified by this group and others, of the government information technology and communication contracting framework used in government ICT purchasing. Admittedly, that part of it is not being run out of my department now, but we are consulting on it. Across all of these initiatives—and we would say there is clear evidence of at least 30 per cent of contracts being awarded to ICT SMEs—there does not appear to be a firm foundation for you to be talking about discrimination against SMEs.

Senator LUNDY—As I said, Minister, the figures seem to speak for themselves. The SME part of the industry represents 55 per cent generally but in the federal procurement area it is a much smaller percentage. The other point that this group make in the report is:

It is equally clear that the ICT SME Joint Industry Government Working Party has been singularly ineffectual in making any significant changes to improve the plight of ICT SMEs.

Before you respond to that, there is a range of initiatives of the type that you read out, but you will notice that most of those initiatives place the onus back onto the ICT SME. This is a well-trodden path; I remember a joint AIIA-DCITA report back in 1999 which suggested the same thing. It found that there were barriers and recommended ICT SMEs get better access to information, be notified of opportunities, that it all be done online et cetera. So it is a well-trodden path, but each of those effectively places the onus back on the ICT SME. It is a characterisation of those types of initiatives.

The complaint of these industry groups, quite specifically, is that that is all good but there are structural impediments within the federal government that prevail. Their report goes to the heart of those issues. They have called it the Procurement Reform of Australian Government Major Acquisitions from Telecommunications and IT Companies, which usefully spells the acronym PRAGMATIC, so they have called their policy suggestions to the government the PRAGMATIC program. They have suggested an overarching working group to oversee its implementation. My question is: what is your response to these remaining structural impediments that they have identified in their report, given the well-trodden path of getting ICT SMEs to do more for themselves and for government to facilitate that? I can run through them if that is useful.

Senator Coonan—If you wish to you can, by all means, but it is your time. What I have said is that the government have not dismissed what this group has said out of hand and I am considering the report in the mix of things we take forward. What I said to you, in response to the earlier question, was that I do not really think characterising the government as setting out to discriminate against ICT SMEs can stand with the evidence of the initiatives that have been taken to try and make information more available, to try and make procurement much more accessible, and to try and understand some of the particular difficulties of small groups. The government want small groups provided there is value for money and provided that taxpayers' money, once again, is spent efficiently and effectively. So long as there is value for money and they are fit for purpose, we want SMEs to have a fair shot. Now what more we could or

should do is something that you would obviously take forward. So my answer to you is that nothing that has been said is dismissed. It is simply taken forward in how we consider making a response.

Senator LUNDY—I will reference a couple of the recommendations directly. For completeness, issues that prevail are the financial guarantees required by SMEs and the size, structure and scope of contracts. One of the commonly identified factors was that the magnitude of some of the clustered contracts was a formidable barrier. Tender response times and the requirement of certain levels of insurance for SMEs all conspire very specifically to make it extremely difficult for SMEs to compete.

Senator Coonan—I think that is a very fair point. It is why I am very interested to know whether some of those things can be addressed, for instance having a particular level of insurance just to be on a list may not be strictly necessary just to be considered. It may be that you would take out specific insurance if you were to be considered for a particular job. There are certain things that can be done that I am willing to look at.

Senator LUNDY—One of the major points raised in the pragmatic recommendations includes the difficulties that Australian SMEs have, by virtue of their size, in accessing the US market. One of the strong promotional points by the Howard government of the benefits of the US free trade agreement was the increased access to US procurement markets. What is asserted in this report is that US legislation—the set-aside legislation—specifically prevents Australian companies, by virtue of their size and the type of work they do, from competing. The US set-aside legislation effectively sets aside a substantial percentage of US government contracts not only for SMEs in the US but for wholly owned American SMEs, which effectively blocks that space for Australian SMEs seeking to increase their exports to countries such as the US. Do you have a response to that point made in the report? Are you considering set-aside legislation to improve the proportion of SME participation in Australian government contracts?

Senator Coonan—I am not quite sure what your first or second questions were.

Senator LUNDY—The first question is: are you aware of that problem and is that your understanding of the problem facing SMEs?

Senator Coonan—I have an understanding that SMEs probably have some particular difficulties in understanding the benefits that can be available from the FTA. That is why we have provided \$25 million to help Australian exporters get on top of some of the complexities of dealing with the provisions of the FTA. Austrade and the department are undertaking—I am not quite sure where they are up to but I know they are certainly in very near prospect—a range of seminars with experts from the US and other countries to help people to understand what is required.

Senator LUNDY—Can you confirm that, despite having earlier believed that the US free trade agreement would not exclude Australian SMEs, it is now the case that Australian SMEs are excluded from the US government's small business set-aside program?

Senator Coonan—I would have to get some advice about that.

Senator LUNDY—I do not know whether you can straightaway, but there is a very clear statement in this report from industry members. I am keen to find out whether the government has also formed that view.

Senator Coonan—I am certainly not aware of that having been conclusively agitated with government, but I will get some advice about it.

Dr Hart—In general terms the agreement does specifically ban offsets but, insofar as the offset ban is subject to exclusions here which provide for continuing access for our SMEs, there may be a reciprocal mirroring arrangement in the US.

Senator LUNDY—My understanding is that the exclusion for our existing offsets program is not related to any new or ongoing program; that the programs that are currently applying to the industry development cluster requirements will finish at the end of those contracts; that the current policy, because it is not a mandatory policy, complies for that reason; and that we do not specifically have any more offset programs on the books—and we could not, because the US free trade agreement prevented it. I am looking for confirmation that what I am saying is correct.

Dr Hart—I will have to take that on notice in terms of the future application.

Senator LUNDY—Let us turn to the department's report on SMEs' share in major Australian government IT contracts over \$20 million in 2002-04. This report is on the web site and it seems to reference specifically the non-cluster contracts industry development components as required by an Audit Office report. If you scroll through the various contracts over \$20 million, you will find that the majority that are listed seem not to have applied any SME percentage or proportion—or, where they have, it has been in accordance with the average SME involvement, which is, as we have already determined, far less than the open-market proportion of SME participation. For example, the Bureau of Meteorology has a four-year \$24 million contract—actually, that was a supercomputer, so there is probably a reason why no SME was involved in that one! In a Department of Defence contract the applicable participation level is 20 per cent as the contract is for software and services. The contract provides for no SME participation levels and no SME participation has occurred to date in this specialised contract.

Senator Coonan—What I have here I think you referred to a moment ago, but I do have some information on SME participation in ICT contracts over \$20 million.

Senator LUNDY—Is this the report I referred to?

Senator Coonan—No. This is advice to me. The advice is that to further facilitate SME access—and I think that is the topic we are still dealing with—the government implemented a policy back in June 2002, which certainly predates me, that for ICT contracts over \$20 million minimum SME levels of 10 per cent for hardware and 20 per cent for software and services would apply. The advice continues that, consistent with Australian government procurement arrangements, individual agencies are responsible for complying with the policy and, given the core principle of value for money in government procurement, the policy provides for an agency to adjust the level downward—for example, where the minimum SME levels would unfairly exclude potential suppliers or if the minimum levels are impacting on the efficient supply of ICT goods and services.

Senator LUNDY—In other words—and we have been through this in estimates before—we know that there is no compliance measure for this and we know there is no sanction on departments and agencies that do not reach it. The report that I am now looking at on the web site is the only degree of accountability associated with that. So, yes, there is a policy, but it is nothing like the previous offsets program, Partnerships for Development or the industry development commitments under the cluster programs. In essence, it complies with the US free trade agreement, because there is no mandatory nature to it; it is a general direction. What we now know from this report is that it is interpreted very loosely by agencies and departments for the reasons that you have just read out. They have complete discretion; if it does not fit they do not have to do it. There is no answer back.

Senator Coonan—Flexibility is built in to accommodate the policy intent of what this is saying—namely, that there is some discretion there to allow greater participation of SMEs. That is the purpose behind it. If you are too prescriptive you end up not being able to accommodate the circumstances of some very deserving case. That is one of the real difficulties here. If you get too rigid you cannot do anything for anyone. Of its very nature, involving SMEs who otherwise might not meet guidelines means you need to be able to be more flexible. That is the policy intent behind it, as I understand it. I appreciate that the report you are looking at does not accept all of this but, in order to move along from the discussion we are having, I have said that I am prepared to look at what they recommend—which I am doing. I think that one has to accept the governments' good intentions here because, as I have outlined again here tonight, it is not as if the government are standing back and saying that we do not want anything to do with this. It means that we want to encourage them, and all of the policies that I have read out to you are designed to do that—not to frustrate ICT SMEs but to facilitate ICT SMEs.

Senator LUNDY—Another one of the recommendations—and this is the first recommendation and I think that emphasises the weight this industry group has put on it—is the accurate collation of data about procurement. I know that you are using GaPs data, Gazette data, and two surveys and I have to say that for the government itself to have to use surveys and rely on only 80 per cent of the value of IT contracts is a very clear signal, I think, that accurate data is not kept. We will probably always argue over it because you will put the best possible interpretation on that data and I will put the worst possible interpretation on that data.

Mr Allnutt—For the first time we took a sample of the top 80 per cent and it is probably fair to argue that the bottom 20 per cent, which would be of the smaller contracts, if anything, would be more likely to be won by SMEs anyway. In future years we are thinking of doing a 100 per cent survey, but basically to measure the top 80 per cent gave a fairly good indication of the overall value.

Senator LUNDY—What was your logic for including the individual IT contractors? That would arguably flesh out the proportion of small contractors.

Mr Allnutt—We included all contracts let under the GAP system that were ICT contracts so that included the full gamut.

Senator LUNDY—I remember going through an exercise with the tax department in calculating the number of individual contractors and it was a huge proportion. It was hundreds

of millions of dollars. So I know it has the capacity to skew the result if you start looking beyond just Australian SMEs that have the capacity to become exporters in their own right. In doing the survey could you create a subset of data that excludes the individual contractors?

Mr Allnutt—The MNCs also include contractors, so if you are looking at the percentages the MNCs would include a percentage of contractors as well.

Senator LUNDY—Who would work for the MNC?

Mr Allnutt—Contractors work for the MNCs.

Senator LUNDY—So they are still working for the MNC?

Mr Allnutt—But the percentage appears in both. Some contractors work for MNCs and appear as MNCs rather than as SMEs, so the MNC figures include contractors.

Dr Hart—Also they are an established part of the industry just as—

Senator LUNDY—I am not suggesting that they are not. The point I am making about doing this assessment for the exercise of finding out the proportion of participation is about industry development and capacity of Australian companies to leverage the work they do for the Australian government to gain experience and expertise and to innovate and, hopefully, export more. So it is geared around those corporate entities as opposed to contractors who are, as you say, an entirely legitimate part of the industry but have perhaps a lesser role in boosting Australia's ICT exports than companies per se—unless of course they export themselves, which is not particularly good news for us at least in the short term. Another recommendation of the PRAGMATIC group is:

That current Software Engineering practices be adopted by Government for all ICT project procurements.

Given the recent or impending demise of Software Engineering Australia, what is the government's current policy on Software Engineering standards?

Mr Allnutt—The government commissioned a report from the Software Quality Accreditation Working Party and is considering that report at the moment.

Senator LUNDY—What is the status of Software Engineering Australia?

Mr Allnutt—SEA National is no longer in existence. It wound up its operations.

Senator LUNDY—When?

Mr Allnutt—I think it was in April.

Senator LUNDY—Why?

Mr Allnutt—The board of SEA National reached the conclusion that it was not commercially viable on a long-term basis and decided to close down its operations.

Senator LUNDY—SEA were embarking on a new direction over the last few years, which was to try to promote software engineering standards. I presume this review the government is doing will come up with an alternative way to embark on such an exercise.

Mr Allnutt—Yes. The report, which was an industry-government report, identifies a number of areas that industry and government could consider working into further development of software.

Senator LUNDY—When will you be reporting back or making an announcement on that issue?

Mr Allnutt—Comments were invited from industry and were received in April. The government is considering those comments now and will respond, I imagine, fairly soon.

Senator LUNDY—Is the government likely to set up another body to try to facilitate software engineering standards for industry?

Mr Allnutt—That is a policy decision for the government at the time.

Senator LUNDY—Over to you, Minister.

Senator Coonan—The government is currently consulting key stakeholders on the report's findings and recommendations. We will obviously develop an appropriate implementation plan.

Senator LUNDY—Given that one of the recommendations of the industry group was to look specifically at engineering standards, what sort of priority are you giving that issue?

Senator Coonan—I am not going to pre-empt the response.

Senator LUNDY—Minister, how long have you had the dissenting report on SME barriers?

Senator Coonan—I think since about 22 April.

Senator LUNDY—Were you planning to make it public?

Senator Coonan—It is public.

Senator LUNDY—The dissenting report is?

Mr Allnutt—Yes, it is on the ACS web site.

Senator LUNDY—It is very hard to find a link to, but that just might be due to the quality of the DCITA web site. I am presuming it does have a link to it. I only ask that question because the DCITA web site has been known to have documents on it that do not have any links to them.

Mr Allnutt—We will certainly ensure that there is a link. It is referred to in the report and it is located on the ACS web site.

Senator Coonan—Certainly the intention was that it would be publicly available.

Senator LUNDY—It is a fascinating report and highly critical of the government.

Senator Coonan—The dissenting report?

Senator LUNDY—Yes, the dissenting report.

Senator Coonan—Dissenting reports usually are.

Senator LUNDY—It depends how much of a whitewash you make the government report.

Senator Coonan—Dissenting reports, of their very nature, are usually critical.

Senator LUNDY—Aren't you embarrassed that this industry group, which is about as representative as you could possibly make it, has decided to do this? It is a pretty big statement.

Senator Coonan—This report makes a number of recommendations, and it is based on certain data. Not all of it is accepted by government as being accurate. We have different data. That is not to say that every recommendation they make will not be considered and taken into account, and I have said that we have under consideration the report and the recommendations. There is no hiding anything here; that is why everything is out in public. I am certainly not embarrassed. I like to get input because that is how you make good decisions.

Senator LUNDY—Still, it is an unprecedented move by industry to conduct themselves in this way.

Senator Coonan—I do not know that that is right.

Senator LUNDY—I think it is. Can you point to other dissenting reports of this nature?

Senator Coonan—You say that never in the history of reports to government has there been a dissenting report of this kind. That seems to be a fairly ambitious statement.

Senator LUNDY—I am not saying that, but I have to say that the nature of—

Senator Coonan—But you did just say it. You said it was unprecedented.

Senator LUNDY—It is in this area, because the government is always in ICT—

Senator Coonan—No, it is not. I am advised it is not.

Senator LUNDY—with the government going to great lengths to manage the circumstances, including the *Framework for the future* report, which was criticised by industry when it was seen as a farce.

Senator Coonan—People who make reports to government deserve some respect.

Senator LUNDY—They do.

Senator Coonan—That is what they have got, but do not overstate it and call it unprecedented. It is not.

Senator LUNDY—If it is not unprecedented, perhaps it is just another grave indictment on the performance of the previous minister as well as you.

Senator Coonan—It is very late at night, and we do not want to get into a slanging match, but it could even be an indictment on the previous government. But let us not go there.

Senator LUNDY—Very clearly the legacy of IT outsourcing in industry development has only become a complex and controversial issue under the Howard government.

Senator Coonan—I am sure you wish that were true, but you know we do not accept that.

Senator LUNDY—You say you will respond to this report. What is the time frame for that response, given that a number of the recommendations call for immediate action? Are you going to sit on it for four years?

Senator Coonan—I think that is a bit unkind.

Senator LUNDY—That is how long it has taken to get to this point.

Senator Coonan—Senator Lundy, 22 April 2005 does not seem to be a long time to have had a report of this complexity under consideration. We are consulting some stakeholders about it, and we will make an appropriate response.

Senator LUNDY—How will you implement your response given that, according to your own statement earlier, you have been quite happy to see AGIMO go to the Department of Finance and Administration. Will you just ask them nicely?

Senator Coonan—It is our report.

Senator LUNDY—Will you just nicely ask the department of finance to implement these measures?

Senator Coonan—You will have to wait for the response; I will not pre-empt it.

Senator LUNDY—With regard to the industry development performance of the existing cluster contracts, the most recent report has its usual cumulative figures and difficult to penetrate data. However, I did manage to find one where the identification development outputs were not achieved. IBM, in the health group, did not quite achieve their required payments to SMEs in their in-scope achievements for 2003-04. What sanction was applied to IBM for their failure to achieve that requirement?

Mr Allnutt—As you say, IBM missed its target of \$20.7 million by \$2.7 million. Overall, in the four years of its contract it has exceeded its dollar values and its percentage values for SMEs. So although there is a \$2.7 million shortfall in this particular year on this particular contract, overall they have exceeded their contracts by far more than \$2.7 million.

Senator LUNDY—So you let them off.

Mr Allnutt—No, we are working with IBM to correct the shortfall for this year.

Senator LUNDY—In 2003-04 did the department allow any of the companies to withdraw from any of their commitments, as you have done previously? Or did they comply?

Mr Allnutt—The report shows the targets and the achievements against the targets for each of the contracts. There have been occasions where there have been contract variations with some of the contractors.

Senator LUNDY—Did that have the effect of reducing or altering the industry development outcomes?

Mr Allnutt—Yes—altering but not reducing.

Dr Hart—Occasionally reducing—

Senator LUNDY—Occasionally reducing?

Dr Hart—Substituting.

Mr Allnutt—Substituting for.

Senator LUNDY—I am trying to recollect how long those contracts have to go.

Mr Allnutt—All the contracts will be finalised this year on 30 June.

Senator LUNDY—So Health is finished in June and IpeX or group 8 is finished in June. Tax has already been renegotiated, or does it finish in June as well? Did it finish last year?

Mr Allnutt—Yes. There are only two contracts still going.

Senator LUNDY—Is there any discussion at this stage about any ongoing or future industry development commitments under the group 8 or Health contracts?

Mr Allnutt—The industry development provisions for future contracts are the \$20 million rule and the provisions under the Commonwealth procurement guidelines.

Senator LUNDY—Do you have any involvement in that at all?

Mr Allnutt—We measure the outcome of the \$20 million principle by making reports, as we have done this year—the report you referred to earlier.

Senator LUNDY—I know I have asked this before, but is there any obligation on agencies and departments to formally meet that 20 per cent number?

Mr Allnutt—Yes, I believe that forms part of the Commonwealth procurement guidelines. It is a policy under those guidelines and agencies and departments have to have regard to the policy.

Senator LUNDY—I met with an Australian company that manufacture, I think, memory chips. Their message to me very clearly was that now the mandatory obligations for involvement of Australian SMEs in government contracts had been removed they found that the multinational partners that they had worked with for many years were walking away from them because they were happier to use the components of their global partners rather than Australian SMEs, even though the Australian company—and this is a really important point—was competitive on cost.

Mr Allnutt—I cannot comment on specific or individual cases.

Senator LUNDY—I am editorialising again for the benefit of the minister. The point is that Australian companies need these policies to be mandatory, otherwise multinational companies will walk away even when local companies are cost competitive. That is the experience of, certainly, this company. Will the government consider putting back in place a mandatory policy for Australian SME involvement? And if not, why not?

Mr Allnutt—We will continue to monitor the outcomes by publishing reports of the contracts over \$20 million, and then by measuring the total level of SME participation in ICT contracts overall through the other reports that you have been referring to that will be a way of informing the government of the overall outcomes of its policies in SME achievement. I suppose the government would then form a view, having looked at the actual participation levels of SMEs, as to whether or not it wished to take further action.

Senator LUNDY—The minister just said she was not going to consider it.

Senator Coonan—My view, and obviously this is just a view, is that having some sort of mandatory carve-out is very difficult to reconcile with value for money that I have been talking about throughout our discussion. Senator Lundy, we can have differences in policy approach. I do not think the overall objective of trying to help SMEs is really very much different between you and me, but this government is not seriously about subsidies, which the subtext of all of your questions seem to be suggesting. The government has, I think, a very good record of very targeted assistance to SMEs and we will continue, subject to the constraints that I have talked about tonight, to assist them.

Senator LUNDY—It is not a subtext about subsidies; it is about removing discrimination against them. If the US can have set-aside legislation, I would not expect there would be any problem for us to have similar set-aside legislation in Australia, regardless of the US free trade agreement. I put to you that you do have the policy tools available that are about cost efficiencies, about innovation and about helping Australia improve their exports—very important given the state of the ICT trade deficit—and you just—

Senator Coonan—With great respect, Senator Lundy, they are just words; it is just rhetoric.

Senator LUNDY—You are choosing not to use the policy.

Senator Coonan—There is nothing wrong with this set of policies that we have talked about now for about an hour which are consistent with the policy parameters that I have outlined. This government is all about removing barriers to SMEs, I have detailed what we have done and what we are doing, I have said that I am prepared to consider the particular recommendations that we have also discussed in some detail; but I just do not want to sit here at this time of night and accept the rhetoric.

Senator LUNDY—We have run out of time anyway. What I fail to reconcile is the rhetoric from the government about small business and a program here where—

Senator Coonan—We actually have initiatives and programs.

Senator LUNDY—Sorry, do not interrupt—where the Howard government has consistently discriminated against SMEs, and when presented with a set of practical and pragmatic ideas by industry groups you point-blank refuse to take a step in the right direction that would improve the opportunity for Australian small businesses.

Senator Coonan—Senator Lundy, I—

Senator LUNDY—I do not think they need subsidies.

Senator Coonan—have not point-blank refused to do anything. I have said that I have under consideration some recommendations. That is hardly point-blank refusing to do anything. I do take exception to the suggestion that this government discriminates against ICTs. Basically, all of the initiatives that I have—

Senator LUNDY—The facts are there.

Senator Coonan—outlined are about being proactive and about facilitating ICT SMEs, and we have actually the policy runs on the board to prove it.

Senator LUNDY—That is not the view of the vast—

Senator Coonan—It may not be your view.

Senator LUNDY—No, it is not the view of the industry; otherwise, they would not have made such strident comments and criticisms of the government about purchasing from small business.

Senator Coonan—I do not think you can draw those conclusions, and this is not the end of the report.

Senator LUNDY—I think you only need to read the report. Read the covering letter.

Senator Coonan—I have said that I am having a look at that report and responding to it. I am actually in dialogue with some people in the industry and—

Senator LUNDY—I certainly hope you follow through because these people have run out of patience.

Senator Coonan—I am not going to be developing policy here at 11 o'clock at night in estimates. It is hardly the place.

Senator LUNDY—I think that was a big hint to the chair.

CHAIR—It is in fact 11 pm, and I think that concludes this session. Have we concluded the procedural outputs?

Senator LUNDY—I presume the e-security follow-up issues come under the auspices of AGIMO.

Dr Badger—The government's side of it, yes.

Senator LUNDY—So I can do that in the Senate Finance and Public Administration Legislation Committee. I did have a couple of questions about digitisation of information assets of the Commonwealth government. Would that fall under the intellectual property/content output, 3.4?

CHAIR—You could put them on notice.

Senator LUNDY—I could put them on notice.

CHAIR—We would like to finish with the broadcasting side of things and move tomorrow onto communications.

Senator LUNDY—Then I think we should do that. I have finished.

CHAIR—That is very good of you, Senator Lundy. I thank the minister and the officers for being here, and the staff of the committee and Hansard.

Committee adjourned at 11.01 pm