



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION  
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

ESTIMATES

**(Budget Estimates)**

MONDAY, 22 MAY 2006

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE**

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

**Monday, 22 May 2006**

**Members:** Senator Eggleston (*Chair*), Senator Lundy (*Deputy Chair*), Senators Patterson, Ronaldson, Siewert and Wortley

**Senators in attendance:** Senators Adams, Allison, Conroy, Eggleston, Lundy, McLucas, Nash, Patterson, Ronaldson and Wortley

**Committee met at 9.03 am**

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

**In Attendance**

Senator Coonan, Minister for 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

**Legal**

Mr Don Markus, General Counsel

**Corporate and Business**

Mr Frank Nicholas, Chief Operating Officer and Acting Chief General Manager, Corporate and Business Division  
Mr Mike Hutchings, Chief Information Officer and General Manager, Information Technology and Facilities Branch  
Ms Cheryl Watson, Acting General Manager, Human Resources and Communications  
Mr Tim Cornforth, Manager, Regional Network Management Unit

**Finance and Budgets**

Ms Jennifer Gale, Chief Financial Officer

**Telecommunications**

Mr Col Lyons, Chief General Manager, Telecommunications Division  
Mr Brenton Thomas, General Manager, Enterprise and Infrastructure Branch  
Mr Simon Bryant, General Manager, Telecommunications Competition and Consumer Branch  
Ms Liz Forman, Acting General Manager, Regional Communications Policy Branch  
Ms Caroline Greenway, Acting General Manager, International Branch  
Mr Jason Ashurst, Manager, International Telecommunication Union Governance and Policy Section, International Branch

**Broadcasting**

Mr Gordon Neil, General Manager, Licensed Broadcasting  
Mr Rohan Buettel, General Manager, Public Broadcasting  
Dr Simon Pelling, Acting Chief General Manager, Broadcasting  
Ms Trish Barnes, Acting General Manager, Digital Broadcasting and Spectrum Management

**Information and Communications Technology**

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  
Mr Tom Dale, General Manager, Strategic Policy Branch

**Information Economy**

Mr Keith Besgrove, Chief General Manager, Information Economy Division  
Mr James McCormack, General Manager, Access Branch  
Mr Ashley Cross, General Manager, Security and Business Environment Branch  
Mr Joseph Di Gregorio, Acting General Manager, Strategy Branch

**Arts and Sport Division**

Mr James Cameron, Chief General Manager, Arts and Sport Division  
Mr Peter Young, General Manager, Film and Digital Content  
Mr Mark Taylor, General Manager, Arts, Regional and Governance  
Ms Lyn Allan, Acting General Manager, Indigenous Arts and Training  
Mr Paul McInnes, General Manager, Collections  
Ms Kate Cowie, General Manager, Old Parliament House  
Mr Andrew Sayers, Director, National Portrait Gallery  
Dr Paul Salmond, Acting General Manager, Sport  
Ms Jenny Anderson, Acting Chief General Manager, Old Parliament House

**Telstra**

Mr David Quilty, General Manager, Government Relations  
Mr Geoff Nicholson, Director, Business and Financial Services  
Mr Denis Mullane, General Manager, Regulatory Operations  
Dr Tony Warren, General Manager, Regulatory Affairs  
Mr Max Jennings, General Manager, Technology Radio Access Network  
Mr Ken Sheargold, Managing Director, Service Advantage  
Mr Don Pinel, Regional Managing Director, Telstra Country Wide Queensland  
Mr Ian Wheatley, Managing Director, Procurement

**Australia Post**

Mr Michael McCloskey, Corporate Secretary  
Mr Michael Tenace, Group Financial Controller  
Mr Stephen Walter, Group Manager, Corporate Public Affairs  
Mr Rod McDonald, Group Manager, Human Resources

Ms Elizabeth Button, Group Manager, Retail Channels and Infrastructure  
Mr Don Newman, Manager, Network Infrastructure  
Ms Catherine Walsh, Manager, Employee Relations

**Australian Communications and Media Authority**

Mr Chris Chapman, Chair  
Ms Lyn Maddock, Deputy Chair  
Ms Nerida O'Loughlin, General Manager, Industry Outputs  
Ms Andree Wright, Executive Manager, Codes, Content and Education  
Mr James Shaw, General Manager, Strategy, Analysis and Coordination  
Mr Giles Tanner, General Manager, Inputs to Industry  
Mr John Neil, Executive Manager, Sector Analysis and Report Branch  
Mr Marcus Bezzi, General Manager, Legal Services  
Ms Dianne Carlos, General Manager, Corporate Services  
Mr Darren Hooper, Chief Finance Officer, Corporate Services

**Australian Broadcasting Corporation**

Mr Murray Green, Acting Managing Director  
Mr David Pendleton, Chief Operating Officer  
Mr Gary Dawson, Acting Director of Strategy and Communications  
Ms Sue Howard, Director, Radio  
Mr John Cameron, Director, News and Current Affairs  
Mr Kim Dalton, Director Television  
Mr Colin Knowles, Director, Technology and Distribution

**Special Broadcasting Service Corporation**

Mr Shaun Brown, Managing Director  
Mr Quang Luu, Director Radio  
Mr Phil Williams, Acting Head of Policy  
Mr Jon Torpy, Chief Financial Officer  
Mr Paul Broderick, Chief Technology Officer

**Australia Council**

Ms Jennifer Bott, Chief Executive Officer  
Dr Catherine Brown-Watt, Executive Director, Major Performing Arts Board  
Ms Megan Coombs, Executive Director, Corporate Resources

**Australia Business Arts Foundation**

Ms Kathy Keele, Chief Executive Officer  
Ms Joanne Gustin, Company Secretary

**Australian Film and Television Radio School**

Mr Malcolm Long, Chief Executive Officer

**Australia National Maritime Museum**

Ms Mary-Louise Williams, Director  
Mr Peter Rout, Assistant Director  
Ms Joan Miller, Chief Financial Officer

**Film Australia Ltd**

Ms Daryl Karp, Chief Executive Officer

**National Library of Australia**

Ms Jan Fullerton, Director General

Mr Gerry Linehan, Assistant Director General, Corporate Services

**National Gallery of Australia**

Mr Ron Radford AM, Director

Mr Alan Froud, Deputy Director

**National Museum of Australia**

Mr Craddock Morton, Director

Ms Freda Hanley, General Manager, Content and Collections

Ms Suzy Watson, General Manager, Operations

Mr Jeff Smart, Chief Finance Officer

**National Archives of Australia**

Mr Ross Gibbs, Director-General

Mr James Barr, Deputy Director-General, National Coordination

**Film Finance Corporation**

Mr Brian Rosen, Chief Executive Officer

Mr Ross Pearson, Chief Commercial Officer

**Australian Film Commission**

Ms Kim Ireland, Director, Policy, Research and Communication

Mr Greg Brown, Director, Corporate Services

**Australian Sports Commission**

Mr Mark Peters, Chief Executive Officer

Mr Brent Espeland, Director, Sport Performance and Development

Professor Peter Fricker, Director, Australian Institute of Sport

Ms Lois Fordham, Director, Corporate Services

Mr Steve Jones, Director, Commercial and Facilities

**Australian Sports Anti-Doping Authority**

Mr Richard Ings, Chief Executive

**CHAIR (Senator Eggleston)**—I declare open this hearing of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee. The Senate has referred to the committee particulars of proposed expenditure for the 2006-07 budgets for the portfolios of Communications, Information Technology and the Arts and the Environment and Heritage, and certain other documents. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee is due to report to the Senate on 20 June 2006 and has fixed Friday, 28 July as the date for the return of answers to questions taken on notice. The committee also reminds senators that written questions on notice should be provided by the close of business this Friday. The committee's proceedings will begin with its examination of the Communications, Information Technology and the Arts portfolio, in particular telecommunications, commencing with Australia Post. Agencies will be called in accordance with the agenda.

Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice. I remind senators and witnesses that the proceedings of this committee are governed by the privilege resolutions for the Senate agreed to in 1988. In particular, resolution 1(9) provides:



A chairman of a committee shall take care to ensure that all questions put to witnesses are relevant to the committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a member of a committee requests discussion of a ruling of the chairman on this matter, the committee shall deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted.

Resolution 1(10) provides:

Where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall be invited to state the ground upon which objection to answering the question is taken. Unless the committee determines immediately that the question should not be pressed, the committee shall then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the committee's inquiry and the importance to the inquiry of the information sought by the question. If the committee determines that it requires an answer to the question, the witness shall be informed of that determination and the reasons for the determination, and shall be required to answer the question only in private session unless the committee determines that it is essential to the committee's inquiry that the question be answered in public session. Where a witness declines to answer a question to which a committee has required an answer, the committee shall report the facts to the Senate.

The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings: any questions going to the operations or financial positions of the departments or agencies which are seeking funds in the estimates are relevant questions for the purpose of estimates hearings.

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. The Senate has provided also that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist upon an answer, having regard to the ground which is claimed. Any claim that it would be contrary to the public interest to answer a question must be made by the minister and should be accompanied by a statement setting out the basis for the claim.

I have pleasure in welcoming the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, and portfolio officers, in particular Ms Helen Williams, the Secretary of the Department of Communications, Information Technology and the Arts. I also welcome officers from Australia Post.

[9.09 am]

### **Australia Post**

**Senator CONROY**—I would like to start with the issue of security at post offices for staff and customers. I understand there have been around 45 robberies of post offices in New South Wales over the last nine months. Is that correct?

**Mr McCloskey**—I do not have precise figures but there certainly have been some robberies.

**Senator CONROY**—I have a list of around 45 in New South Wales. I will not bore you by reading them all out, but I have indications of the outlet, the date it was robbed and the weapon used. Is this a problem across all of Australia as well as New South Wales? Forty-five sounds like a lot in nine months.

**Mr McCloskey**—It certainly does sound like a lot, but from time to time our experience is that post offices may become the victims of robberies. It is not just confined to New South Wales, although my understanding is that New South Wales has a greater problem than elsewhere in the country.

**Senator CONROY**—Could you provide the committee with a list of post office armed robberies in the whole of Australia, including LPOs and franchised outlets, for the past 12 months, detailing the type of hold-up and the location?

**Mr McCloskey**—I would be happy to take that on notice.

**Senator CONROY**—I understand that a recent CEPU survey of Post employees and LPO staff found that 27 per cent of workers had experienced an armed hold-up at work. Are you familiar with that?

**Mr McCloskey**—I am not aware of that.

**Senator CONROY**—Do you agree that post offices are being seen by criminals as soft targets?

**Mr McCloskey**—I am not in a position to speak for criminals. Certainly security is a very high and significant priority for Australia Post. We have our own internal security group, which has in place a series of policies and practices to manage security right through the organisation. It cooperates and liaises with police forces in all the states and territories. Equally, there is a sort of security advisory group, on which I think is represented the CEPU and POAAL, the Post Office Agents Association Ltd. They meet regularly on security issues as well.

**Senator CONROY**—I did not just pick the phrase ‘soft targets’. I heard Senator Ronaldson interject with some guffaws. A bank would generally be considered to be a hard target. A post office would not have the same level of security as a bank, would it?

**Mr McCloskey**—It would not necessarily have the physical security of a bank, but we do have security practices in place in terms of cash holdings and the like.

**Senator CONROY**—But you would not compare yourself to a bank as a target.

**Mr McCloskey**—I would not think so, no.

**Senator CONROY**—Is it true that Australia Post does not even have closed-circuit TV in all corporate outlets to deter thieves and capture evidence?

**Mr McCloskey**—We certainly have closed-circuit television in corporate outlets.

**Senator CONROY**—In all?

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

**Senator CONROY**—Does Post believe it needs to take action to protect its staff and the public? Are you introducing additional security measures in the light of this spate of crimes, particularly in New South Wales?

**Mr McCloskey**—Security is under constant review by our security group. I have no doubt that, if there is an emerging problem, they will be moving to address it.

**Senator CONROY**—Do you think it would be important to have closed-circuit TVs in all of your Post outlets?

**Mr McCloskey**—My impression is that we have, certainly in most. I do not know whether or not it is all.

**Senator CONROY**—As a policy?

**Mr McCloskey**—If the belief was that there was a need to have it then I have no doubt that the policy decision would be taken to ensure that they were installed in all corporate outlets.

**Senator CONROY**—As I said, there have been 45. They are from Summer Hill to Monash Park, Regents Park, Carlton, Hurstville and Lidcombe.

**Mr McCloskey**—It certainly seems to be a very large figure.

**Senator CONROY**—I am not suggesting you are responsible for them. The point is that there certainly seems to be an increase in targeting of your business, which would suggest that it might be a worthy policy to have closed-circuit TVs in place.

**Mr McCloskey**—Certainly.

**Senator CONROY**—Has Post considered things like increased use of security guards and bulletproof screens?

**Mr McCloskey**—Senator, as I said earlier, our security group look at all the options. What exactly they have considered, I am sorry, I am not in a position to say. I am just not aware.

**Senator CONROY**—If you could come back to us on issues—

**Mr McCloskey**—I am certainly happy to do that.

**Senator CONROY**—to do with ensuring that closed circuit TVs are at all centres, all outlets, and that there are security guards and bulletproof screens. Could you let us know just where Post are at in consideration of those issues?

**Mr McCloskey**—Yes.

**Senator CONROY**—Could you detail what security measures Post has taken across Australia in the last 12 months by post office location? If you have actually engaged in a program that you have been upgrading, for instance, could you let us know?

**Mr McCloskey**—Certainly, Senator, yes.

**Senator CONROY**—If perhaps you are able to take it on notice, I would like some assessment from Post about how seriously they are taking what looks like a bit of a crime wave in post offices.

**Mr McCloskey**—I am very happy to do that.

**Senator CONROY**—Thanks very much.

**Senator RONALDSON**—There is—

**Senator CONROY**—We could finally capture you on camera—or do you not cast a shadow either?

**Senator RONALDSON**—First media grab at a quarter past nine on a Monday morning!

**Senator CONROY**—In February, we talked about Australia Post's practice of sending injured employees to a medical examination by Post nominated doctors, or FNDs for short. You made clear at the time that Post policy was based on clause 26.5.10 of the award.

**Mr McDonald**—Could I clarify that? There are a couple of ways in which there is an interaction with facility nominated doctors. One is indeed clause 26.5.10, which is a longstanding award provision. In addition, we can under our injury management program request employees who suffer an injury or illness in the workplace to attend a facility nominated doctor. But that is a request.

**Senator CONROY**—Since our last discussion, I understand—and I think you indicated at the time that it was before the Australian Industrial Relations Commission—that they have said that your use of clause 26.5.10 to direct injured workers to attend an FND is unlawful. Is that correct?

**Mr McDonald**—No, that is not the phrase they used. I will refer to the decision. Perhaps for the record I will quote the clause:

26.5.10 Employee to Provide Medical Report

Australia Post may require an employee to furnish a medical report or undergo an examination by a medical practitioner nominated by Australia Post where the employee:

26.5.10(a) may be unfit or incapable of discharging duties;

26.5.10(b) may be a danger to other employees or members of the public due to state of health;

26.5.10(c) has been absent through illness for a continuous period exceeding 13 weeks;

26.5.10(d) has been absent through illness and the authorised employee believes that the employee is not fit to resume duty.

What the deputy president said is:

The ordinary ... meaning of the words ... is ... to allow the employer to obtain medical evidence to ascertain the fitness of an employee who Australia Post may consider is possibly unfit or incapable of discharging their duties.

She then went on to say:

Australia Post's entitlement to arrange and direct an attendance at a medical examination with an FND does not extend to workers compensation or sick leave applications.

That is the phrase she used.

**Senator CONROY**—I thought I might quote to you from the finding. On 8 May 2006 Senior Deputy President Drake found:

The clause is intended to prevent an employee who may be working whilst unfit or who has been absent because of unfitness from continuing to work without the employer having an opportunity to test fitness. Australia Post's entitlement to arrange and direct an attendance at a medical examination with an FND does not extend to workers compensation or sick leave applications.

She went on:

Clause 26.5.10 is not a clause whose function entitles the employer to a medical examination when a claim for workers compensation arising from a work related injury is made or is anticipated to be made.

It is fairly clear that you have been going outside, or taking a broader definition, and Senior Deputy President Drake has been pretty straightforward in saying, 'No, the basis on which you've been giving these orders is not correct.' Most of us would say that, when the AIRC say, 'No, that's outside,' given they are laws, it means that it is unlawful.

**Mr McDonald**—The situation in relation to workers compensation is not handled under that clause. We have not handled workers compensation under that; it is handled under the SRCC. We do not agree with the deputy president's decision. We have instructed our lawyers to lodge an appeal on two grounds. One is that we do not agree with it. The second is that we think the wording of the decision is somewhat unclear as to what the intent was. That appeal is—

**Senator CONROY**—I thought the intent was fairly clear: to stop you doing it. That is certainly how I read it.

**Mr McDonald**—That clause is a longstanding award provision—over 30 years. It is there, in our view, to enable us to ensure that the employee returning to work after illness is safe to do so from the perspective of both themselves and other employees. One of the clauses talks about the requirement that after 13 weeks we need to check their health in terms of return to duty or not. The wording of the decision is very broad and would cause us concern.

**Senator CONROY**—I appreciate that that is your view.

**Mr McDonald**—Yes.

**Senator CONROY**—It is just that it has already lost the first round. Has Australia Post informed its employees of their position—that you are going to appeal?

**Mr McDonald**—No, we have not. We just notified our legal people late last week to lodge the application. There are 21 days in which to lodge it. We will seek a stay of the decision pending the outcome of that appeal to the full bench.

**Senator CONROY**—I just want to clarify one point. All injury management policy directions to FND have been made under the award. I think I went through six or so last time, and I have six letters here. Five of the letters direct injured workers to attend a company doctor. In one case a worker is requested to attend an FND but is threatened with disciplinary action if they do not. They are from different Australia Post managers—David Ngo, Alexandria; J Roberts, Riverina; Robert Cook, Seven Hills; Matthew Millar, Mascot; R Harvey, Seven Hills; Con Tagaroulis, Edgeworth—in relation to Zoila Bresciani, Paul

Mirfin, Alana Weissel, Trung Dang, Ivy Leonor and Daniel Van Der Veen respectively. So I just wanted to be clear that you have been using the FND process for workers comp.

**Mr McDonald**—There are again three streams. One is the workers compensation stream, which is separate, and we have an ability under workers compensation, of course, to get whatever medical evidence is required to assess the claim. The other two streams are the stream under 26.5.10, the award provision, which we have regarded as our right. That decision of 8 May obviously raises a question on that, which will go to appeal. The third stream is the voluntary situation, where—

**Senator CONROY**—Yes, but I have not been asking you about the voluntary situation; I am talking about letters that have said, ‘You are directed, under threat of disciplinary action, to attend’—which you have considered your right, as you say—

**Mr McDonald**—Yes, that direction would have been—

**Senator CONROY**—and now the umpire has said, ‘Not a chance.’

**Mr McDonald**—Without knowing the details of each of those six cases, I would assume that those would have been made under the 26.5.10 provisions prior to the deputy president’s decision.

**Senator CONROY**—This clause has been in the award for about 30 years, I understand—

**Mr McDonald**—At least 30 years.

**Senator CONROY**—and it is only very recently that—in the way you have now interpreted it and been using it since the introduction in the last couple of years of the FND scheme—it has come to an argument. So, for the best part of 30 years, it was not interpreted or used in the way you have currently been using it.

**Mr McDonald**—No, we have used that clause to require people to attend for a medical examination in those circumstances.

**Senator CONROY**—But you have only set up this new system in recent years.

**Mr McDonald**—The national injury prevention and management system was set up five or six years ago, but that clause has been in existence, as you say, for a long time. It is a question of whether a person is sent to a doctor under the injury prevention and management scheme or whether a person is sent to an individual doctor, but that clause is a longstanding clause which we believe has given us a right to do what is in the best interests of employees, and the court—

**Senator CONROY**—Yes, but you have not interpreted it in this manner for all of the 30 years.

**Mr McDonald**—We have been using it the way I described for—

**Senator CONROY**—In the last few years.

**Mr McDonald**—In terms of those four subclauses, we have been using it on that basis to refer people to medical examination when we have a belief that one of those four provisions applies. The 13 weeks has been an automatic requirement—once a person reaches 13 weeks.

**Senator CONROY**—I accept that.

**Mr McDonald**—But also we have a concern about somebody returning to the workplace. If somebody who may have broken a leg wants to return to work, we need to be sure that that person can come back without injuring themselves or others.

**Senator CONROY**—I do not think there is any argument about that particular strand. You keep saying ‘three strands’. I do not think anyone has raised any issues around that strand. I appreciate you giving me a lengthy dissertation on it. But I am actually trying to talk about the situation where an employee notifies an injury and you then direct them to an FND under the award, using the injury management policy as the reason. That is what you have been doing in the last few years.

**Mr McDonald**—In accordance with 26.5.10, yes.

**Senator CONROY**—That is the clause that you have lost the case on.

**Mr McDonald**—We are appealing the case, as I said.

**Senator CONROY**—I appreciate that but, for the moment, that ruling stands.

**Mr McDonald**—Yes, it does.

**Senator CONROY**—So you can no longer direct injured workers under threat of disciplinary action to attend a company doctor, based on the award clause as it stands today.

**Mr McDonald**—I think that is where there is the lack of clarity I was talking about. The deputy president has said that the purpose of that clause is to ascertain the fitness of an employee who Australia Post may consider is possibly unfit or incapable of discharging their duties. That is an ongoing need, in our view.

**Senator CONROY**—Does Post accept that its managers have told its injured employees that failure to attend for examination may result in disciplinary action?

**Mr McDonald**—In the past it would have, in accordance with a person not complying with 26.5.10, because that is, in our view, a mandatory award requirement.

**Senator CONROY**—Could you repeat that? Someone was trying to give you some advice. I am happy for the person to finish giving you the advice.

**Mr McDonald**—That is the way it has been used in the past. In terms of the hearing before the Industrial Relations Commission, we gave an undertaking that we would not take disciplinary action against individuals under that clause.

**Senator CONROY**—It would be unlawful if you did, now.

**Mr McDonald**—This was while the decision was under consideration, before the decision was made.

**Senator CONROY**—Now the decision has been made, it would be even more unlawful.

**Mr McDonald**—Correct. We would not be taking disciplinary action against the individual.

**Senator CONROY**—I appreciate that you would not take it, but you are not in a position anymore where you can inform people that you may take disciplinary action.

**Mr McDonald**—We have instructed our managers that we will not be taking disciplinary action under that provision.

**Senator CONROY**—I am asking whether or not you are instructing them to stop telling the employees that they may face disciplinary action.

**Mr McDonald**—No. We have given an undertaking that our managers will not be saying that.

**Senator CONROY**—Could Post managers be open to prosecution under the Workplace Relations Act as a result of the AIRC decision, if they were to issue any more of the letters with this direction?

**Mr McDonald**—We would have to get legal advice on that, but our view is that, if somebody did, that would be a breach of an award provision or the interpretation of an award provision.

**Senator CONROY**—And could possibly see them being prosecuted under the Workplace Relations Act?

**Mr McDonald**—I do not know. We would need legal advice on that.

**Senator CONROY**—You will take that on notice?

**Mr McDonald**—Yes, I will. I think the important thing is that we have given that undertaking, and that is the way we will behave.

**Senator CONROY**—Hopefully you have no rogue managers out there.

**Mr McDonald**—I would hope not. We are a big organisation. We are particularly vigilant on that.

**Senator CONROY**—I appreciate that you are a very large organisation.

**Mr McDonald**—I would like to go back to the role of the FNDs or company doctors. Can you confirm that these doctors provide a report to Australia Post?

**Mr McDonald**—They provide a report on the ability of the person to work back in the workplace, yes, they do.

**Senator CONROY**—Is this done with the knowledge or authorisation of injured employees?

**Mr McDonald**—Yes. When a person goes to an FND they are instructed that that information may be available.

**Senator CONROY**—So, after you have instructed them and directed them to attend these doctors—which under a previous position was compulsory—it was compulsorily informed to them that their information would be passed on?

**Mr McDonald**—Yes, that is made clear to them.

**Senator CONROY**—Was their permission sought?

**Mr McDonald**—Permission is sought if there is a need for one of our doctors to talk to one of their doctors.

**Senator CONROY**—The point I am trying to get to, which I am sure will become obvious, is that you have directed under threat of disciplinary action employees to go to your doctors. Then, when they get there, they are told that their information can be passed on.



**Mr McDonald**—It is a provision we have on our form that they sign.

**Senator CONROY**—But you have directed, under threat of disciplinary action, that they attend. Therefore, by definition, they must sign this form. There is no genuine consent there. Would you agree?

**Mr McDonald**—That is because there is an award provision that we believe gives us the right to send people in those situations.

**Senator CONROY**—We have had a ruling. I appreciate the appeals process, and I am not arguing that. Right now, I would have thought that on every single one of those signed documents, given that they were compulsorily acquired, there are serious legal questions on privacy matters now that that was not informed consent. They were forced to sign these documents under threat of disciplinary action. On any material you have received from these doctors, if this ruling stands after appeal, you have serious legal issues around privacy and medical records. You have received material that you should not have if the ruling stands, and it does today. Forget the fact that you are allowed to appeal. Right now, today, you have been receiving information about individuals' personal medical details illegally.

**Mr McDonald**—We will be getting legal advice in terms of how any individual was handled under that clause, including the situation you talk about.

**Senator CONROY**—This is a very serious matter.

**Mr McDonald**—We have an interpretation made by the deputy president. As I said, we do not agree with it. It is a longstanding provision and a longstanding practice. We are appealing that. We are seeking a stay of implementation of that. Whatever the decision is in terms of that stay, we will abide by it.

**Senator CONROY**—I appreciate that, but if you are found to have interpreted incorrectly and you have then gathered information that you should not be in the possession of, how do you intend to remedy this fact? You have collected medical information, in my view illegally, under this current ruling. It may not stand, but under the current ruling, as is the law today, you—that is, Australia Post—are in possession of a whole range of information that you have coercively obtained about your employees' medical situations.

**Mr McDonald**—We will be getting legal advice on that. I cannot answer that.

**Senator CONROY**—I appreciate you are going to need to take that on notice. That is a very serious issue. If this ruling stands and survives appeal, you will have a very serious issue about the information that you have in your possession right now. You have coercively gathered seriously private information. Would you accept that there is an issue there, if the ruling stands?

**Mr McDonald**—As I said, we will get legal advice in relation to the import of that, including the issue you have raised. But I say again, for the record, that that is a longstanding provision which has been used that way for over a quarter of a century.

**Senator CONROY**—I am sorry: when you force somebody to go to your company doctor—and that is what directing them with a threat of disciplinary action is; you have forced them to go to your company doctor—and they are then presented with a form that they must sign if they are going to comply with your forced order to attend and that forced

signature then has provided Australia Post with medical information, that is serious. It does not get much more serious than that, Mr McDonald.

**Mr McDonald**—As I said, we are appealing that decision. We will take legal advice in relation to the issue depending on which way that decision goes.

**Senator CONROY**—I just want to go back to this. Have you advised your staff yet that they cannot be directed by management? I appreciate you have written to the managers and told them. Have you put out an information bulletin to staff advising of the change—albeit it may be temporary, from your perspective—in policy?

**Mr McDonald**—No, we have not as yet. As I said, we just made the decision recently to go to appeal on this.

**Senator CONROY**—Are you intending to put out a bulletin like that?

**Mr McDonald**—We will give consideration to what advice we need to put out, yes.

**Senator CONROY**—You should advise them of the AIRC decision as it stands. That would be not an unreasonable thing, I would have thought.

**Mr McDonald**—We will need to put out some advice about the import of the decision, yes.

**Senator CONROY**—Okay. I was just looking to you to say that you are going to. Thank you. Can you tell the committee whether Australia Post employees gave authority or had any knowledge that those FND medical reports were given to Australia Post to determine workers comp claims?

**Mr McDonald**—They are advised that—

**Senator CONROY**—They are advised that it can be passed on.

**Mr McDonald**—that information can be used.

**Senator CONROY**—But are they advised that it can be used in evidence against the injured worker to assess the employee's claim for workers comp?

**Mr McDonald**—They are advised that that information—

**Senator CONROY**—When they are forced to sign that form?

**Mr McDonald**—can be used in any subsequent considerations.

**Senator CONROY**—Let us just work this through. You have directed your employees under threat of disciplinary action to attend your company doctor. You have then made them sign a form giving consent—and I do not think you can actually make someone sign a form to give consent. By definition, that is not reasonable. And then the information that has been collected has not only been passed back to Australia Post for general information but has been used against the employees by management in workers compensation claims. So illegally collected medical information is then used to undermine a workers compensation claim by the employee. That sounds like a very serious problem. Put aside the privacy law, which I dealt with a few minutes ago. Now we are moving onto the fact that you have illegally collected information and then used it against your own employees when they have made a workers comp claim.

**Mr McDonald**—Under the workers compensation provisions, we are entitled to use whatever medical evidence the workers comp—

**Senator CONROY**—Providing it has been given with consent.

**Mr McDonald**—No, evidence that the workers compensation delegate believes is necessary. That can include a requirement to send somebody to other, subsequent doctors as well in assessing that claim.

**Senator CONROY**—Yes, but this is not about the subsequent doctors; this is what you have been doing. You have been forcing workers to go to your doctors and making them sign a form to give consent to pass information to you which you have then used against them.

**Mr McDonald**—Our belief has been, and still is, that that clause gives us an award right to do that process, and it has been a longstanding practice. There is now a decision which has raised an issue. That decision is being appealed. But in terms of a workers compensation decision, as I said, the delegate is entitled to get whatever medical evidence is required. The individual has a right to appeal through two levels of process if they are dissatisfied with the delegate's decision.

**Senator CONROY**—What is going to happen to these workers compensation claims that have already been denied using FND medical reports which have been obtained, frankly, under duress? Where does that leave the status of all of those claims of those workers for whom you have used illegally obtained medical information?

**Mr McDonald**—If somebody has lodged a workers compensation claim, under the SRCC provisions there is an ability to consider whatever medical evidence the delegate requires.

**Senator CONROY**—Yes, but if you have illegally collected that medical evidence I would have thought that a court of law would say, 'Well, you can't use that.' If you wanted to send them to a subsequent doctor and get further information—

**Mr McDonald**—The term 'illegal' is not appropriate. The information is—

**Senator CONROY**—When you force someone to sign a consent form, by definition it is not consent. Therefore you have obtained it illegally.

**Mr McDonald**—If a person puts in a workers compensation claim, the process allows any medical evidence to be—

**Senator CONROY**—Yes, but that is not what you have been doing. You have not subsequently sent them to one of your doctors. You have forced them at the beginning to go to one of your doctors and then used that. You have not received the workers comp claim and then sent them to a doctor. You have actually had them at your doctor from day one, virtually. That is my point. Any information that has been obtained through that process should not, in my view—and I suspect ultimately this will be a legal issue, but commonsense would suggest this—be used. My question to you is: if you have rejected workers comp decisions based on that information that is gathered, what is the status of those cases? Have your legal people come to you and said, 'We've now got a problem'?

**Mr McDonald**—No, they have not. We have done step 1, which is to lodge an appeal. We will certainly look at that issue. But I say again: under the workers compensation provisions

there is an ability to require people to attend a medical examination in assessing the claim. The delegate is making an assessment.

**Senator CONROY**—Yes, but this information that you have been using was not collected under the SRCC provisions. That is the point. It was not collected under the process.

**Mr McDonald**—The assessment of a workers compensation claim can look at any medical information—whether it is the individual's own doctor, whether it is our doctor, whether it is a past medical examination, whether there is a referral to a specialist—

**Senator CONROY**—Only if the information has been provided with consent.

**Senator RONALDSON**—What? Are you suggesting you are not allowed to get medical examinations?

**Senator CONROY**—Are you seriously suggesting you can just drag an employee into a doctor, inject them, pull their blood samples, give them the once over and say, 'Right, we're going to use that'? You are not seriously suggesting you can compulsorily examine someone like that?

**Senator RONALDSON**—Surely they are entitled to get a medical assessment. You are not suggesting that?

**Senator CONROY**—I agree—but not one that they have illegally obtained consent for. They have not used the workers comp provisions. That is the problem. They are now trying to retrospectively apply provisions that had nothing to do with why you first sent them and illegally obtained this information.

**Mr McDonald**—My understanding is that under the workers compensation provisions we can look at any medical information. I need to point out that the referral to a medical practitioner is for an assessment of the condition. It is to help to get the best assessment made of the workers compensation claim.

**Senator CONROY**—I am not objecting to your ability, and I support the ability, to collect medical information. I have no problem with the SRCC process. The problem is that you have not used the SRCC process to obtain this information. You actually have not.

**Mr McDonald**—I do not think it matters. The situation is—

**Senator CONROY**—If you had done this to me, I have to tell you that my lawyer would be having a chat with you right now.

**Mr McDonald**—There is a provision under the workers compensation provision that, if a person is dissatisfied with the delegate's decision, it then goes to another level of assessment by a different individual. Failing that, it goes through to the tribunal, the AAT.

**Senator CONROY**—Yes, but at this stage they are still accessing the base information, which was obtained—in my view and according to the AIRC—illegally.

**Mr McDonald**—The decision by the AIRC made no comments in terms of retrospectivity. It spoke about an interpretation by the deputy president of that particular clause. As I said, we do not agree with that interpretation.

**Senator CONROY**—I am not contesting that you are going to appeal, that you have a right to appeal or that you may ultimately be successful. If the AIRC decision stands, will

Australia Post write to every person who was asked and directed to attend an FND and apologise to the employees and review the cases where the unlawfully obtained FND reports were used to deny claims for workers compensation entitlements?

**Senator Coonan**—Senator Conroy, how can the witness seriously answer that question? You are pre-empting a process here. He said that the corporation is going to appeal and that would be an appropriate question at some later stage, no doubt.

**Senator CONROY**—Mr McDonald, do you want to add anything on your own behalf, as opposed to the minister's?

**Mr McDonald**—No. The process is that we will have an appeal and we will see what the result of that appeal is.

**Senator CONROY**—Okay. Thanks. I will move on. I want to turn to another matter. I understand that Australia Post issued a staff information bulletin, dated 20 April 2006, which announced a change of policy in relation to sick leave being taken before a public holiday.

**Mr McDonald**—Yes.

**Senator CONROY**—Could you outline the nature of the change?

**Mr McDonald**—It was not per se about a public holiday but it was a requirement that, if anybody wanted to take sick leave in that unusual situation of one working day between the weekend and Anzac Day—the way Anzac Day fell—they would be required to provide a medical certificate.

**Senator CONROY**—This is the subject of a dispute, I understand.

**Mr McDonald**—Yes, it is.

**Senator CONROY**—I understand that Post has told the commission that it will not participate in any conciliation in relation to this dispute—is that correct? I am hoping it is not.

**Mr McDonald**—We took part in two conciliations on that matter. The commission decided it could not achieve anything further by conciliation. The matter then went back to—

**Senator CONROY**—Are you sure your definition of 'taking part' was not to walk in and say, 'We're not taking part'?

**Mr McDonald**—No. We participated in two conciliations, as I said. The matter went back to the parties, and the CEPU have now sought to get an arbitration on the issue.

**Senator CONROY**—I am advised that, for the past 100 years, the custom and practice has been that employees were not required to produce medical certificates for sick leave absences on days before public holidays. What prompted Post to make this change?

**Mr McDonald**—I think it was the unusual timing of having one day between the weekend and Anzac Day. Similarly, on Australia Day—

**Senator CONROY**—I was going to say that Australia Day also moves around and creates Thursdays and Fridays as well as Mondays and Tuesdays.

**Mr McDonald**—Yes. There was a similar situation with Australia Day. We found that, in terms of Australia Day, where that requirement was put in in New South Wales, that had a significant impact on reducing sick leave. Therefore it was appropriate to do it again for the

unusual situation of Anzac Day this year. I would point out that there is a provision in large numbers of organisations where, not only for that particular calendar year but also in other situations of a public holiday falling following a weekend or before a weekend, there is a requirement to produce a medical certificate.

**Senator CONROY**—If an employee cannot or does not produce a medical certificate for a sick leave absence before a public holiday, does that mean they will not be paid for the day?

**Mr McDonald**—Not necessarily. There would be a discussion with the individual about the circumstances.

**Senator CONROY**—Is it possible that, in a case where an employee has sick leave credits available without the need to provide a medical certificate, they would not be paid in that circumstance?

**Mr McDonald**—They may not be if they have not produced a medical certificate.

**Senator CONROY**—Even if they have sick leave credits?

**Mr McDonald**—Yes. They may not.

**Senator CONROY**—Could Post explain how that policy is consistent with the award? Surely it is in breach of the award to stop paying a worker who has available sick leave credits without a certificate.

**Mr McDonald**—Under 26.5.9 of the award, which refers to failure to produce satisfactory evidence, it says:

Despite anything else contained in this clause, where an employee has failed to produce satisfactory evidence to support an application for sick leave, Australia Post may direct that employee, in writing, that all future applications for ... such period as is specified in the direction must be supported by evidence ...

Under 26.5.2 there is also a requirement that an application—

**Senator CONROY**—That is a prospective clause, in my listening, rather than saying, ‘Right, we’re going to dock your pay for missing that day.’ If you have warned them previously, I accept that you might be able to dock their pay, but if you had not warned them that clause does not seem to support—

**Mr McDonald**—A notification went out to all employees affected, before the public holiday, to say that they would be required, if they wanted to take—

**Senator CONROY**—That is not consistent with the clause you have just read out, though. You could issue a bulletin that says the earth is flat, but it cannot override an award clause just because you make a statement.

**Mr McDonald**—Our legal advice is that that clearly gives us the right to do what we did in terms of Anzac Day. The matter has gone to the commission—

**Senator CONROY**—I am just interested. I am not trying to give you a hard time about it.

**Mr McDonald**—I say again: we gave prior advice to individuals that that would be a requirement for that day.

**Senator CONROY**—Do you think the Work Choices legislation allows you to do this, or do you think it is there right now?

**Mr McDonald**—This is the current award provision.

**Senator RONALDSON**—The answer to the question before was that there was legal advice in relation to this, unrelated to Work Choices.

**Senator CONROY**—They had legal advice that they could illegally obtain medical information, too, but that did not quite stand up. I am not just going to sit here and say—

**Senator RONALDSON**—That is not—

**Senator CONROY**—‘Okay, you got legal advice.’ Internal legal advice is, by definition, testable. So far—

**CHAIR**—Some may be. Let us let the witness answer the question.

**Senator CONROY**—I think he is talking to you, Senator Ronaldson.

**CHAIR**—I am suggesting the witness answer the question.

**Mr McDonald**—This is a longstanding award provision. We got legal advice on that provision. The legal advice is that it is an appropriate way to use that provision. Also, it is not unusual compared to other organisations.

**Senator CONROY**—I understand that the staff information bulletin of 20 April also states that employees who obtain a doctor’s certificate are now required to sign a medical release authority to enable management representatives to look at a worker’s medical history, to enable the absence ‘to be clarified’.

**Mr McDonald**—I would have to take that on notice. I do not have that SIB with me.

**Senator CONROY**—So again you are after private medical advice.

**Mr McDonald**—I need to check that SIB.

**Senator CONROY**—So even if they give you a certificate they are then required to sign a waiver so you can go and get information off that doctor. Does that seem reasonable?

**Mr McDonald**—No, it is whether or not they are fit to work, not any more than that.

**Senator CONROY**—It states that employees who obtain a doctor’s certificate—so they have provided you with the information required—are now required to sign a medical release authority. That does seem to be going a little far. You say—and the commission will deal with the matter of whether or not you can do it, but let us just say that you could—‘Give us a medical certificate,’ and they provide a medical certificate and, according to this circulated document, you then require them to sign a medical waiver. That is a fairly extraordinary step, again, and, frankly, I think, an abuse of your position as an employer.

**Mr McDonald**—I have not got that SIB in front of me. I need to check that on notice.

**Senator CONROY**—If I came to you as your boss and said, ‘I want a medical certificate and you’re going to have to sign this form so I can check on the medical certificate, and I want your records from the doctor,’ that would be pretty rough.

**Mr McDonald**—No, we are not asking for records from the doctor.

**Senator CONROY**—It says ‘to be clarified’. It says, ‘To look at a worker’s medical history to enable the absence to be clarified’. What are you proposing to do? Phone them up and just have a chat?

**Senator RONALDSON**—I think Mr McDonald said that it was in relation to the day’s absence—no more and no less.

**Senator CONROY**—I was not suggesting that it was for anything else.

**Senator RONALDSON**—You are suggesting otherwise.

**Senator CONROY**—No.

**Senator RONALDSON**—Yes, you are.

**CHAIR**—It is improper to do that.

**Senator CONROY**—I am saying that it is improper to force someone to hand over their medical record. I think it is an abuse of the employer’s position—

**CHAIR**—Why?

**Senator CONROY**—to, once they have received a medical certificate, then demand a waiver so you can access the doctor directly. That is just my opinion. I think it is just a bit rough, that is all. But the commission will determine that.

**Mr McDonald**—Yes, it will.

**Senator CONROY**—What will happen if an employee fails to sign a medical release authority? What happens if I say, ‘I have given you my medical certificate. My doctor has signed it. I’m not signing the waiver for you to go and access my private medical records for that day’?

**Mr McDonald**—We would have to consider what position we would take in relation to payment of the sick leave.

**Senator CONROY**—Does Work Choices allow you to make this unilateral change?

**Mr McDonald**—This is not to do with Work Choices. This is the award provision. We see nothing that changes our ability to operate the award provision in this way.

**Senator CONROY**—I have a copy of the staff information bulletin signed by Peter Rogan, if you would like a copy. You were saying that you were unsure of what it actually said. I have not finished my questions, but if you would like a copy I can give you a copy.

**Mr McDonald**—No, I have a copy back at the workplace. We will look at that, and it will certainly be looked at in terms of the arbitration by the Industrial Relations Commission. I do not think I can appropriately talk anymore about that until that is done.

**Senator CONROY**—I would like to turn to the proposal for franchised post offices. Could Post give the committee an update on the implementation of this initiative?

**Ms Button**—We have had some negotiations and discussions with the CEPU. That has taken a couple of months to work through. We are currently in the process of making offers to prospective franchisees. That is an interview process that we go through.



**Senator CONROY**—How many corporate and licensed post offices have been identified for conversion to franchisee?

**Ms Button**—Under EBA 6 we had an agreement to convert 20 corporate outlets.

**Senator CONROY**—I asked how many you identified. How many are you trying to convert?

**Ms Button**—We have 12 in train at the moment, with another eight to go. But we are yet to formally move on those eight.

**Senator CONROY**—Twelve plus eight equals the 20 you have just mentioned.

**Ms Button**—That is right.

**Senator CONROY**—What is Post's desire? How far do you want this program to go?

**Ms Button**—Just the corporates or in total?

**Senator CONROY**—I asked about corporates and LPOs.

**Ms Button**—At the moment we have four pilot sites we are going to convert. We have another six temporary outlets in place, with a view to franchising them, so we are going to do those as well. If we add the eight, we have about 30 we would like to commence.

**Senator CONROY**—Mr McDonald, could you give us any information on or details of actions taken against individual employees associated with that staff information bulletin we were just talking about?

**Mr McDonald**—Yes, I will take that on notice.

**Senator CONROY**—Ms Button, where are these corporate and LPO outlets located?

**Ms Button**—We have some criteria around customer numbers. They are in the metro region. So they fall within the guidelines that we agreed with the CEPU.

**Senator CONROY**—Has Post prepared financial models for the conversion of corporate and LPO outlets to franchisees?

**Ms Button**—With every corporate outlet the state has to put together a business case. It does financial modelling and puts together a business case, which is then judged in financial and commercial terms.

**Senator CONROY**—Can Post confirm whether these financial models identify labour savings as a result of the conversion?

**Ms Button**—No.

**Senator CONROY**—By definition, when it becomes a franchise. I appreciate that you could say, 'Well, Post are not going to make any savings because of the franchise.' But the issue is whether or not there is a cost saving identified as labour in the conversion from Post to a franchisee.

**Ms Button**—Could I take that on notice please?

**Senator CONROY**—You certainly can. The nub of it is whether or not you move from award conditions to, obviously, non-award conditions, in terms of the transfer. Could

Australia Post provide this committee with the financial model for each corporate outlet identified for conversion to franchisee?

**Ms Button**—We could, yes. How much detail would you need? We have an analysis which we have prepared for the CEPU. That is what we share with them. Would that do as a starting point?

**Senator CONROY**—Yes, that would be a starting point. Will Australia Post employees who are currently employed at corporate outlets lose their jobs following conversion of the outlets to franchises?

**Ms Button**—We will go through the triple R process that we use within Australia Post.

**Mr McDonald**—That is redeployment, redundancy and retraining.

**Senator CONROY**—Is it possible that there will be job losses at the end of it?

**Ms Button**—Not at this stage, no.

**Mr McDonald**—We have been successful in being able to redeploy people without compulsory retrenchment.

**Senator CONROY**—Will employees of an LPO lose their jobs if the LPO converts to a franchise? They would not be within the Post network, would they?

**Ms Button**—No. They are not our employees.

**Senator CONROY**—So they could lose their jobs as a result of this.

**Ms Button**—I am not sure that I could comment on that.

**Senator RONALDSON**—I do not see how these witnesses can possibly comment on that.

**Senator CONROY**—They are preparing the financial model, Senator Ronaldson.

**Senator RONALDSON**—I do not think they can comment on what will happen to employees who are not their employees.

**Senator CONROY**—I appreciate that may be your view. I thought Ms Button was doing a pretty good job of answering the questions without your intervention.

**Senator RONALDSON**—They are not in a position to answer the questions.

**Senator CONROY**—I was wondering if the chair might allow the witnesses to answer the questions rather than Senator Ronaldson.

**Senator RONALDSON**—They are not in a position to answer the questions, Chair.

**CHAIR**—If the witness is able to answer the question and considers it reasonable—

**Senator CONROY**—I do not think the witness got a chance before Senator Ronaldson came in with his bovver boots.

**CHAIR**—she may do so.

**Senator CONROY**—Ms Button.

**Ms Button**—Sorry, Senator. The business cases that I have been referring to are really relating to the corporates. We have not actually got any around LPO buybacks at this stage, but I am not sure that I can comment on that.

**Senator CONROY**—Take it on notice.

**Ms Button**—All right.

**Senator CONROY**—I understand Australia Post is proposing to revamp its corporate image, including changes to its colours. Can you confirm that these changes will be made?

**Mr Walter**—That is news to me. We are certainly not changing our corporate identity at all.

**Senator CONROY**—No change to colours?

**Mr Walter**—No.

**Senator CONROY**—I would have thought you were pretty heavily branded. I was very surprised when I heard this rumour.

**Mr Walter**—It is the most recognised brand in Australia.

**Senator RONALDSON**—In the world.

**CHAIR**—After Vegemite.

**Senator CONROY**—No plans to do that?

**Mr Walter**—Not at all. No plans whatsoever.

**Senator CONROY**—So we can put this one absolutely to bed.

**Mr Walter**—Absolutely.

**Senator CONROY**—At least between now and the next estimates.

**Mr Walter**—It would be madness to change Australia Post's corporate identity.

**Senator CONROY**—I agree with you. I turn to the impact of the rising fuel prices on mail contractors. Could you outline Post's process for adjusting payments to mail contractors in the face of increasing fuel prices?

**Mr Newman**—There are a couple of tiers to the process we use. There are two types of contract. First there is a specified term contract. Under their clause 9 they have a general increase 12 months after the signing of the contract. They have an additional clause, clause 10, which says that if there is a seven per cent rise after three months we will make an adjustment to the fuel price. The unspecified contracts—the ones that are not for any particular term—do not have any general cost rises included, but during the recent 18 months or so of high fuel rises we have made, I think, three one-off adjustments to those contracts.

**Senator CONROY**—That is within the seven per cent range?

**Mr Newman**—Yes. The seven per cent range came in from July last year. I think there was one adjustment prior to that.

**Senator CONROY**—We all understand petrol prices have been skyrocketing over the last 12 months.

**Senator RONALDSON**—Was it seven per cent or within a seven per cent range?

**Mr Newman**—That is the hurdle. It has to get to seven per cent after three months. So that seven per cent can get there after four months. Prior to that it was 10 per cent in six months. We reduced that as the petrol prices started to rise.

**Senator CONROY**—The process you describe involving three months seems perfectly reasonable on paper. Past movements were not quite as dramatic, and I appreciate you have already modified your policy once. That is a considerable delay for a contractor feeling the effects of fuel price increases and increased payments. Does Post accept that this can put contractors under considerable financial stress?

**Mr Newman**—We are reviewing that all the time. I might add a bit more information. The change was made last year after we did an industry search. It was our view that it was very important that we aligned ourselves to be better than or at least as good as the best industry practice, which we did. There are a couple of other points. Firstly, there is this issue of the lag. I assume that is what you are talking about. We wait three months and the price goes up. In fact Australia Post has a right to reduce that price under the same conditions. To date we have chosen not to do that. An example of how that would work is that the fuel prices peaked, I think, in September or October last year. The majority of adjustments were made during October. After that the price dropped and we chose not to reduce that price. So the lag worked in favour of the contractors for the last six or seven months. The issue is that, during April, the prices have gone back up virtually to where they were back in September last year. Clearly we are faced with another round of potential payments to contractors when that seven per cent amount is relevant. I would also like to say that we are in the process of reviewing whether or not we can reduce that to a monthly cycle.

**Senator CONROY**—I was going to raise that issue.

**Mr Newman**—Yes, but its own problems come with that. Were we to fit the price increases that closely to a monthly basis, obviously we would need to consider administration costs. The other thing is that the lag—working back the other way—would have to be addressed. So it would mean we would have to consider dropping under the same terms as we increased.

**Senator CONROY**—You would find that your fuel bill went up at Easter, like everybody else's, and dropped the following week.

**Mr Newman**—Economics would say we would have to consider that. We are doing some modelling at the moment to see what difference it makes and how much it helps. We expect to have that decision in the next month or two.

**Senator CONROY**—My next question was whether or not it was possible. I appreciate it is an administrative issue. I would imagine it is a very complex web.

**Mr Newman**—Yes. It is quite difficult, actually.

**Senator CONROY**—You have contractors all over the country and you have different prices at different petrol stations, and they would have to supply information. I appreciate that there would be a genuinely complex issue, but I know it is causing stress to some of the contractors. I would have thought Post would be in a better position to manage the risk associated with fluctuating fuel prices than the licensees, given that it is a reimbursement issue, essentially.

**Mr Newman**—I do not quite understand your question.

**Senator CONROY**—I would have thought Post would be in a better position to manage this fluctuation, rather than the individual licensees, given that you are essentially reimbursing them for their costs.

**Mr Newman**—Of course, in terms of paying for fuel rises. I want to add that we paid just short of \$4 million in the last 18 months already. The issue is, though, that managing it closely to the curve of upward trend down to that monthly level brings in the secondary issue of having to consider managing it down again when the price drops. Of course that makes the administrative effort almost exponential. That is really the issue at the moment.

**Senator CONROY**—I appreciate you have to find a balance.

**Mr Newman**—Yes.

**Senator CONROY**—I accept the point you made that you are actively considering the one-month proposal at the moment.

**Mr Newman**—Yes, we are.

**Senator CONROY**—I understand that in January 2006 Post announced that it will no longer accept international mail postings of firearms and firearm parts.

**Mr McCloskey**—That is correct.

**Senator CONROY**—Could you explain the rationale for that?

**Mr McCloskey**—Yes. I probably need to go back a couple of years to 2002, when there started to be 100 per cent X-ray screening of all incoming mail items, by Customs and quarantine. Prior to that, the volume of mail scanned and checked was somewhere in the order of 15 per cent—so it went to 100 per cent. Since then we have experienced an increasing incidence where items identified as firearms, firearm parts and the like have caused interruptions to processing of incoming mail, to the point where last year we had 81 instances in our international gateways where processing was interrupted or stopped for periods of up to three hours following detection, through the X-ray system, of—

**Senator RONALDSON**—Can you explain what actually occurs in that situation, please.

**Senator CONROY**—Do they just pull it off when it shows up, or is it a more complicated process?

**Mr McCloskey**—It depends on the particular item, on what the X-ray actually shows up. It is Customs who do the X-raying, who intercept and, as I understand it, who determine whether or not any immediate action is required, in terms of shutting down what is going on.

**Senator RONALDSON**—If the X-ray shows up a hand gun, for example, what are the processes that follow? Where does the disruption occur?

**Mr McCloskey**—It could show up a hand gun or it could show up what looks like a grenade or something like that.

**Senator RONALDSON**—What are the processes? Once it shows up—

**Senator CONROY**—I am talking specifically about firearms. I do not normally define a grenade as a firearm, unless it is very inefficient.

**Mr McCloskey**—The prohibition that we have put in place is on firearms, weaponry, firearm parts and the like.

**Senator RONALDSON**—So after it shows up on the X-ray what are the processes?

**Mr McCloskey**—If a suspect item shows up, it is a Customs issue. I am not an operational expert, so I am imagining what may happen. For some reason the processing of that line needs to be brought to a halt while the particular item which has been identified by Customs is dealt with in some way.

**Senator RONALDSON**—Why can't that item just be removed?

**Senator CONROY**—Why can't it be pulled off?

**Mr McCloskey**—In some cases I have no doubt that that is what would happen. In other cases for whatever reason—

**Senator CONROY**—If it is a grenade, I understand. You have got to get a bomb expert in. That is perfectly obvious. It is different if it is just a hand gun or an object that will not possibly explode.

**Senator RONALDSON**—There must be someone here today who knows. You said there have been 81 disruptions.

**Mr McCloskey**—There were 81 instances last year where there were interruptions of up to three hours in our international gateways.

**Senator RONALDSON**—Can someone please tell me what are the processes that are followed that will interrupt for up to three hours?

**Senator CONROY**—Pulling a package off that clearly contains a gun or a firearm part.

**Senator RONALDSON**—Why does that take three hours? That is my point.

**Mr McCloskey**—It is up to three hours.

**Mr Newman**—I may be able to assist here, even though it has been a little bit of time since I have been in that environment. The processes for safe operating and safe handling of detected firearms are dictated by, obviously, Customs. We screen 100 per cent. Actually, I should say we make available for screening 100 per cent of all articles coming through Post at the moment. Of course Customs and quarantine do that—

**Senator CONROY**—Does that suggest that 100 per cent are not being screened?

**Mr Newman**—No.

**Senator CONROY**—You changed your language from 'we do' to 'we make available'.

**Mr Newman**—First off I said that we screen them but in fact we make them available to Customs to screen 100 per cent. We X-ray everything. When they detect an X-ray of a firearm or anything else they have a set procedure. I guess it is a product of today's environment where that set procedure operates irrespective of what the item is if it is potentially dangerous. For example, they do not know whether that firearm would be loaded, cocked or whatever. There is then a procedure that is put in place. People are removed from the general area. The item is then handled in the best way that they see suitable. Then it is removed from the

building. It is a bit hard for me to give more detail, because we rely on our friends in Customs to guide us. We do not just pick up the parcel and carry it out the back.

**Senator RONALDSON**—But it is your processes that are being stopped for up to three hours, isn't it?

**Senator CONROY**—Customs are doing the X-ray.

**Senator RONALDSON**—Customs are pulling it off—

**Senator CONROY**—It is Customs that say, 'We need three hours for any object.'

**Senator RONALDSON**—So what are the processes that could cause a three-hour delay? Do they clear the building?

**Mr Newman**—In some cases they do, yes.

**Senator RONALDSON**—With each hand gun? With each firearm?

**Mr Newman**—That level of detail I would have to take on notice.

**Senator RONALDSON**—Would someone take it on notice, because it seems to be an extraordinary extension of time. I would like to know exactly what the processes are. These are often legitimate gun dealers and others who are carrying out their business, and no-one can tell me today what the processes are which are so dramatic that they have led to these people not being able to put it through the post.

**Mr McCloskey**—That was not the only reason. That was what sparked it. These increasing instances caused Australia Post to look at this issue quite seriously because of the implications for and the interruption of our operations. In addition to that, there is also increasing security screening going on internationally, not always in the postal context but just in transit with aircraft and the like. Last year we had an incident where a legitimate firearm in transit was identified in Heathrow. The whole mail dispatch—not just that item but the whole container with the mail dispatch—was removed by the airport security people, and it lay unprocessed for 20 days before it was possible for us to get that moving again. On top of that, when we were looking at it we also got advice from our legal people that there are specific elements of state laws which effectively make it illegal to send or receive firearms, and in some cases also firearm parts, through the post.

**Senator RONALDSON**—What states are they?

**Mr McCloskey**—All states have different provisions. For example, for outgoing items it is effectively illegal to send a firearm in the post from any state except Queensland. For incoming items, New South Wales prohibits firearms and firearm barrels coming in in the post; Victorian legislation prohibits firearms in the post; Tasmanian and ACT legislation prohibits firearms and all firearm parts in the post. Obviously, from an Australia Post perspective, when we were fully aware of all of these implications we could not knowingly be complicit in any breach of legislation. So that was also a consideration in terms of putting in place this prohibition.

**Senator RONALDSON**—Was that the primary consideration?

**Mr McCloskey**—No, the primary consideration that caused us to look at it in the first instance was the interruption to our operations, but then the whole issue grew as more and more focus went on it.

**Senator CONROY**—Did you consult with the minister about the decision?

**Mr McCloskey**—No, there was not any consultation with the minister. The Customs Department was kept fully informed of the thinking as the proposal was developed.

**Senator CONROY**—Did you consult with sporting shooters associations for instance?

**Mr McCloskey**—No, there was no consultation prior to the imposition of the prohibition. With the benefit of hindsight we could perhaps have consulted more widely. However, we did keep Customs fully informed and equally we had no reason to believe that, in the absence of any—

**Senator RONALDSON**—They were informed when a package they were expecting did not arrive. That is the level of the consultation.

**Mr McCloskey**—Not with Customs, Senator.

**Senator RONALDSON**—You kept them informed after the event, didn't you?

**Mr McCloskey**—What I am going on to explain is that in terms of consultation with bodies other than Customs we had no reason to believe—in the absence of any commercial contractual relationship with anybody for sending or receiving firearms and also given the provisions of state legislation—that the use of the post for sending or receiving firearms was other than ad hoc or occasional.

**Senator Coonan**—What I might say, though, is that of course there is some consultation going on. What is being looked at—Mr McCloskey has quite rightly identified the fact that it has thrown up a much broader issue—is whether or not there is any flexibility relating to parts, like screws and small parts of firearms. So the current position is that there is some consultation around what might be done about international carriage of firearms by post. There are some suggestions about it, but I will not go into them all. We are having a look at what might be done by way of a separate mail stream, for example. Also I am about to seek the advice of the Attorney-General as to how there may be complementarity between states. The quite significant issue that Post has now identified of domestic carriage of firearms might well infringe state and territory legislation is another stream to the problem. But we are having a look at it, we are seeking some advice in relation to it, and Post is cooperating with respect to seeing if we can get a better and much more seamless way of dealing with it.

**Senator CONROY**—Thank you. Mr McCloskey, you mentioned that some states have different laws. You gave a quick verbal rundown, but is it possible to give us some advice—just a note—outlining all of those different things? You did not mention Tasmania, for instance. Could you take that on notice and supply the committee with that information.

**Mr McCloskey**—I have some information here that I can refer to.

**Senator CONROY**—If you could table it with the committee that would be great.

**Mr McCloskey**—Specifically, if we look at state legislation as between an export effect and an import effect, under the ACT legislation both export and import of firearms and all



parts thereof are prohibited through the post; in New South Wales, firearms and firearm barrels both incoming and outgoing are prohibited; and in Victoria firearms both ways are prohibited. In Queensland, the export effect of their legislation is that essentially firearms and major component parts, not including barrel, breech bolt or top slide, are prohibited unless there is a lawful authority justification or excuse; and in terms of incoming items, firearms and major component parts, not including barrel, breech bolt or top slide, are also prohibited in the post unless for a licensed firearms dealer or a person with lawful authority, justification or excuse. In South Australia the export effect of its legislation is to prohibit firearms in the post, while the import of firearms through the post is prohibited unless a licensed firearms dealer or the holder of a permit is the recipient. In Western Australia export of firearms is prohibited in the post, but incoming firearms are not prohibited except in a number of specified circumstances, for example, where a silencer is fitted. As I think I said earlier, both incoming and outgoing firearms and all parts thereof are prohibited under Tasmanian legislation. In the Northern Territory the export effect of its legislation is that firearms and some firearm parts—for example, a rifle or a shotgun action, a pistol or a revolver frame—are all prohibited in the post, and the import effect is that firearms and some firearm parts—for example, a rifle or a shotgun action, a pistol or a revolver frame—are prohibited in the post unless the recipient is a licensed firearms dealer. So it is a very complex and varied series of legislative provisions across the states.

**Senator RONALDSON**—Have you communicated this to the National Firearm Dealers Association?

**Mr McCloskey**—We have communicated this information in the broad to anyone who has made representations to us in relation to this issue, such as the Sporting Shooters Association that Senator Conroy asked about earlier. Also Pistol Australia, I think, and the National Firearm Dealers Association were party to that as well, and a number of others who have made representations.

**Senator RONALDSON**—Could you take on notice my question before about some details of the processes that follow the detection of a firearm or similar through the x-ray by Customs.

**Mr McCloskey**—On the operational side, yes, but in the final analysis the point I am seeking to make is that the legislative provisions constrain Australia Post quite significantly in this area in any event.

**Senator RONALDSON**—If there was something put in place which would preclude a three-hour delay and there were not the interruptions, you would not send them anyway because of those state requirements?

**Mr McCloskey**—We are subject to all state legislation, and our belief is that we could not be knowingly complicit in what would in effect be a breach of state law.

**Senator CONROY**—I understand that Post have advised people aggrieved by this ban that they should use companies that specialise in the handling of the goods. What sort of companies are they—couriers like DHL?

**Mr McCloskey**—I believe that DHL , TNT, UPS, FedEx and those sorts of companies will carry firearms and firearm parts provided they have been consigned to them through specialist handling companies.

**Senator CONROY**—But won't they have the same problems with the state laws that you have just said you have?

**Mr McCloskey**—No. The state laws to which I refer specifically relate to sending or receiving firearms and firearm parts through the post. They are couriers, and my understanding is that they would not fall under those particular provisions.

**Senator CONROY**—What about your express courier international service? Would that have those same problems?

**Mr McCloskey**—I suspect that it would, because it depends on how legislation defines through the post—

**Senator CONROY**—The couriers are not operating 'through the post', but your courier would be 'through the post'?

**Mr McCloskey**—I think that the legislation defines 'through the post' as going with Australia Post. It is not within our—

**Senator CONROY**—So you are defined as 'the post'?

**Mr McCloskey**—I think so, yes.

**Senator RONALDSON**—So the answer to my earlier question was that even if these processes were refined to the extent where they did not interrupt the day-to-day operations and the 81 that you have had, that you would not authorise it again to go through the post because of the state and territory legislation. Is that your answer?

**Mr McCloskey**—Our view is that, yes, we cannot be knowingly complicit in any breach of state legislation.

**Senator CONROY**—I would like to talk about mailbox clearances in North Queensland. Can Post confirm that in Cairns, Mackay and Townsville boxes are now not cleared on Sunday nights?

**Mr McCloskey**—My information is that they are cleared on Sunday nights.

**Senator CONROY**—So you can confirm categorically? I have received some correspondence suggesting otherwise.

**Mr McCloskey**—That is the advice I have received. I think your office did contact us on that issue in the last week or so. We confirmed late last week that there have been no changes and they are cleared.

**Senator CONROY**—I have been receiving correspondence from constituents saying that they are posting letters at 6.30 on Friday to a local address and it is not getting there until Tuesday, rather than what you expect, which is Monday. If the letter is going elsewhere in the state it is not delivered until the Wednesday.

**Mr McCloskey**—That certainly should not be the case.

**Senator CONROY**—I will let them know that you assure us that if there is that delay it is not caused by a change in policy in the clearances.

**Mr McCloskey**—It is not caused by any change to the clearance of street posting boxes, no.

**Senator CONROY**—In terms of those details you just listed, is it possible—and you do not have to do it now; you can take it on notice—to let us know which specific sections and acts cover those?

**Mr McCloskey**—I am happy to do that.

**Senator CONROY**—Without putting you to the trouble now. I have one final set of questions. Is Post aware of the existence of a campaign to encourage Post employees who are members of the CEPU to resign from the union or stop having their union fees direct-debited?

**Mr McDonald**—No, we are not.

**Senator CONROY**—I understand Post employees have received mail urging them to take this action. The mail includes a reply paid envelope addressed to the CEPU's New South Wales division, of which I have a copy. I am sure you have seen this sort of thing before. I am happy to give you a copy and to table it. I am interested that the address on these letters to the members of the CEPU include second names. In my case, it would say 'Stephen Michael'. Not many people have access to people's second names.

**Mr McDonald**—If we had an allegation made like that we would be happy to investigate it.

**Senator CONROY**—Who in Australia Post has access to the home addresses of your staff?

**Mr McDonald**—We do at head office through our payroll system, the shared services division.

**Senator CONROY**—You do collect the second names of people, I presume, when they fill out their employment paperwork.

**Mr McDonald**—We would have their full name and address. That information is kept absolutely confidential.

**Senator CONROY**—I am sure. I would hope that would be the case. When you supply union rolls to the Australian Electoral Commission, do they normally include the full second name? It might have an initial. Would you include the initial or the full second name?

**Mr McDonald**—I do not know. That would certainly have to be checked out.

**Senator CONROY**—Would you take that on notice?

**Mr McDonald**—Yes, I can.

**Senator CONROY**—I do not think that is the case. I have seen the odd union election roll over the years, and I do not remember getting the second names.

**Senator RONALDSON**—You are not a collecting officer.

**Senator CONROY**—I have seen the odd electoral roll. I am a member of a union and I have participated in a few ballots over the years.

**CHAIR**—I am sure you have.

**Mr McDonald**—I need to check that. I am mystified as to why we would provide union rolls of union members.

**Senator CONROY**—Sometimes the Electoral Commission goes direct to companies to check. Not always. It may not be the case with your particular union. Sometimes they come straight off payroll deductions and things.

**Mr McDonald**—I would have thought the unions would be handling their own electoral rolls. I can certainly check that.

**Senator CONROY**—Most of the time that is the case. Sometimes they do checks. I am aware, particularly in the cases of large employer groups, for instance—and you are one employer so for you it is slightly different—that, because the address written on the membership form of the union is care of the business, sometimes the Electoral Commission go to the business and say, ‘Can you give us the home addresses of these people so we can send them ballot papers.’ They do not like to send them to workplaces. But that may not be the case for you.

**Mr McDonald**—My advice is that, as we understand it, the CEPU do their own and send them directly to members.

**Senator CONROY**—That may be the only other explanation I can conceivably think of as to how whoever is behind this campaign is getting the full second names. Perhaps you can check it at your end.

**Senator RONALDSON**—Does it belong in the too-hard basket?

**Senator CONROY**—No. That is my point; it doesn’t. That is why I am intrigued.

**Mr McDonald**—I will say it again: we have a very strict confidentiality cloak around our employee details.

**Senator CONROY**—You will check to make sure no-one has accessed your databases?

**Mr McDonald**—Yes.

**Senator CONROY**—I am offering you the opportunity to clear yourself of any suggestion that Post management or a rogue manager has—

**Mr McDonald**—We have never had any evidence of that in the past. I will be confident that is not the situation, but I will check it.

**Senator RONALDSON**—Chair, I think that is one of those questions that begs the question.

**Senator CONROY**—I am offering him the opportunity.

**Senator RONALDSON**—The bottom line is that Australia Post have already told the committee that they have the full names of their employees. For the implication to be that it has been misused by someone—

**Senator CONROY**—I was about to move on.

**Senator RONALDSON**—when that information is there I think is totally unreasonable.

**Senator CONROY**—He is not asking a question. I have one last question, and we can finish.

**Senator RONALDSON**—I think it is totally unreasonable.

**Senator CONROY**—He is giving commentary. I have one last question. As I mentioned, there is a reply paid bar, so there is no postage stamp required, which usually means that the person receiving the letter back is picking up the tab. Clearly the union is not involved in advising its own members to resign and providing a pre-paid envelope back to them. So is the CEPU being billed for this reply paid mail?

**Mr McDonald**—I have not seen that. If there is an allegation—if it is sent in—we would investigate it, but I have not seen it.

**Senator CONROY**—Could you explain how the reply paid system works?

**Mr Newman**—Yes, certainly. Each day when reply paid mail comes back to the business at the address, we consolidate those, count them and then debit their charge account, in the main. Smaller ones have a cash settlement but, in the main, it would be by charge account to the recipient.

**Senator CONROY**—My point is that, in this particular case, this is not actually authorised by the CEPU. The concern is to ensure that the CEPU are not being billed for a campaign to de-unionise their own members.

**CHAIR**—Heaven forbid!

**Mr Newman**—We will definitely have a look at that.

**Mr McDonald**—If we had an allegation, as I said, we would take it seriously and refer it to our security area.

**Senator CONROY**—It is not an allegation per se. This is the reply paid envelope contained inside that indicates ‘no stamp required’. That would mean automatically, normally, that you would just bill the recipient.

**Mr Newman**—That is correct. I would also suspect that they would immediately tell us that there was something wrong.

**Senator CONROY**—They do a lot of mail-outs. They may not notice it. I am sure this is going to be very successful—it is a very good union.

**Mr Newman**—As Mr McDonald said, we would refer it to security.

**Senator CONROY**—I am happy to table this for you to have a look at so you are aware that this is a bit of a sneaky campaign going on. Thank you.

#### **Proceedings suspended from 10.33 am to 10.52 am**

**Senator WORTLEY**—I think it said in your report that there were 64 applications for freedom of information. On what sorts of things does Australia Post get freedom of information requests?

**Ms Walsh**—A range of requests come through under FOI. We have requests, at times, in relation to workers compensation, from former employees, in relation to cases being run against the organisation, and as a pre-emptive step prior to discovery. There are also some

customer requests. If they are concerned or looking for further information around articles, parcels or issues that have gone astray, they can do it through FOI.

**CHAIR**—I would like to ask you some questions about mail services to the north of WA. They used to have an airmail service that went all the way up to Kununurra, I think, and people got their mail very quickly—the day after it was posted. But I gather that the airmail service only goes as far as the Pilbara at the moment, to Karratha, and from there on it is carried by trucks. Is that basic information correct?

**Mr Newman**—I would have to take that level of detail on notice. However, as far as I am aware, we have an airmail service to Broome which has not changed. The airmail really relates to standard letters, large letters and express post. As far as I know, that still goes to Kununurra. Certainly I am not aware of any change.

**CHAIR**—How frequent is that airmail service to Kununurra? That is one of the areas I have had complaints from about the mail service.

**Mr Newman**—Once again, I would have to check the detail, but the last time that I was familiar with that area it was daily, as was Broome.

**CHAIR**—What about the small towns in between in the Kimberley, like Halls Creek and Fitzroy, which are serviced by Airnorth? Do you use them to supply airmail service to those towns? In the Pilbara there are places like Tom Price, Paraburdoo and Newman, which are significant mining communities of BHP and Rio Tinto respectively, where a good mail service is important.

**Mr Newman**—The best way for me to answer that would be to take that on notice and give you a full detail of mail circulation in the north-west. I could add that our general policy is that if there is an airmail service going to—

**CHAIR**—A regional centre.

**Mr Newman**—any town and there is capacity we would use that aircraft. That is a general policy we have.

**CHAIR**—Do you take it to regional centres, like Port Hedland, Karratha and Broome, and then send it by road from there?

**Mr Newman**—Once again, it depends on where it is. There are a lot of small towns up there that do not have air services. For example, some of the remote areas have corporate air services, or the company towns have company air services. Once again, we pick the best and fastest way. If it is a mixture of air and road we choose that way; if it is air and air we choose that way. I do not have that level of detail here today about the full array of services provided. That is a general policy that we have had for years.

**CHAIR**—I would be grateful if you could provide me with some up-to-date details which I can then pass on to people in that area who have raised these issues with me.

**Senator ADAMS**—I wish to come back to gun parts being sent through the states. I come from Western Australia. For example, if roo shooters up around the Wiluna area were needing gun parts from Perth, would they be allowed to be sent through the post or not?

**Mr McCloskey**—The state legislation applies within Australia as well as to and from Australia. It would depend on what the particular details of the Western Australian legislation was as to whether or not it was legal to send firearms and firearms parts through the post within Western Australia. I do not have that answer off the top of my head. A difference for Australia Post is that with, say, international items coming in we know, because it is declared what the item is, whether or not it is a firearm or firearm part and therefore whether or not it is legal to carry it through the post. Domestically we do not have any way of knowing what it is we are carrying, so the onus is on the individual, the company or the dealer in a particular state who may be considering items of that sort through the mail to ensure that they are acting legally. We make available through our post guides high-level summaries of what the legal situation is. But we are dependent upon people themselves abiding by that.

**Senator ADAMS**—The problem being, of course, that there are no couriers or any other way of getting this sort of thing. So if I could have that on notice.

**Mr McCloskey**—I would be happy to do that.

[11.00 am]

#### **Telstra**

**CHAIR**—We welcome the officers from Telstra to the table.

**Senator CONROY**—I note that Mr Trujillo does not seem to be here.

**Mr Quilty**—That is right.

**Senator CONROY**—Not good enough for him, again! Is there any chance your boss Dr Burgess is coming, Mr Quilty?

**Mr Quilty**—Not today.

**Senator CONROY**—We seem to be missing Mr Gratton.

**Mr Quilty**—The corporate secretary is currently doing a course at Harvard.

**Senator CONROY**—So we have no-one from Telstra senior management present today at all?

**Mr Quilty**—We have a range of Telstra executives here today.

**Senator CONROY**—I used the word ‘senior’. It is not a reflection on anybody at the table—I do want to make that point. Even in the past when Mr Scales graced us with his presence, he would have been considered to be at the senior management level. But there is nobody from Telstra at the senior management level present today.

**Mr Quilty**—I would say that we have here some very senior—

**Senator CONROY**—Some fine and excellent people and I have met with many of them over many years now, but nobody from senior management.

**Senator RONALDSON**—Mr Quilty, if this continues, you will be bringing in the office cat for this in about two years time. There has been a reduction every time where you are bringing down the level of representation. Again, to take up Senator Conroy’s point, that is no reflection on anyone at the table now, but it has been reduced Senate estimates after Senate

estimates after Senate estimates. Can I ask you a question? Does Dr Burgess know anything about ULL?

**Mr Quilty**—I think he would, yes.

**Senator RONALDSON**—Does he know anything about fibre to the node?

**Mr Quilty**—I think he would.

**Senator RONALDSON**—Does he know anything about the CDMA 3G changeover?

**Mr Quilty**—Like the senior executives here today, I think he would.

**Senator RONALDSON**—Does he know anything about regulation?

**Mr Quilty**—Similarly.

**Senator RONALDSON**—Does he know anything about Connect Australia?

**Mr Quilty**—Similarly.

**Senator RONALDSON**—Does he know anything about Extel?

**Mr Quilty**—Most likely.

**Senator RONALDSON**—New ground? He knows all these matters, doesn't he? Isn't he head of government relations, effectively?

**Mr Quilty**—No. I am head of government relations.

**Senator RONALDSON**—Who do you report to?

**Mr Quilty**—Dr Burgess.

**Senator RONALDSON**—Does Dr Burgess have overall responsibility for government relations?

**Mr Quilty**—I have responsibility for government relations. He has responsibility for public policy and communications.

**Senator RONALDSON**—But you report to him, so presumably he has overall responsibility for government relations.

**Mr Quilty**—That is right.

**Senator RONALDSON**—When was Mr Burgess last in Canberra?

**Senator CONROY**—He has had his passport revoked for Canberra, Senator Ronaldson!

**Mr Quilty**—I am not aware of the exact date of his last visit. I would have to take that on notice.

**Senator RONALDSON**—Do you know whether he has been here this year?

**Mr Quilty**—I think he has, yes. He definitely has been here this year.

**Senator RONALDSON**—Has he been to Parliament House this year?

**Senator CONROY**—I want to follow up on that, Senator Ronaldson. I understand that, under the strict new guidelines introduced, passes get revoked if they are not used a sufficient number of times in the course of the year. Will Dr Burgess qualify to not have his pass revoked?



**Mr Quilty**—I presume that would be a matter for Parliament House.

**Senator CONROY**—We have this quite strict new system where, if you do not come a minimum number of times a year, they are automatically revoked.

**Mr Quilty**—If that is the case and he has not reached the requirement, I presume it will be revoked.

**Senator RONALDSON**—So you do not know when he was last in Parliament House?

**Mr Quilty**—I would have to take that on notice.

**Senator RONALDSON**—Do you know whether he has been to Parliament House?

**Mr Quilty**—He certainly has been to Parliament House, yes.

**Senator RONALDSON**—If I said to you that he has not been here this year, would that be a reasonable or unreasonable statement?

**Mr Quilty**—It is a reasonable statement. In terms of the response, I am not sure what that is. I would have to take that on notice.

**Senator RONALDSON**—Do you know when he last met with the minister?

**Mr Quilty**—With Minister Coonan?

**Senator RONALDSON**—Yes.

**Mr Quilty**—That is probably a question better put to Minister Coonan, seeing she is here. I am not sure. I do not know offhand.

**CHAIR**—You are the manager of government relations, you told us, so you try to answer the question.

**Senator CONROY**—Are you in the wrong subfaction of the Liberal Party? That is very cruel from the chair, that is all!

**Senator RONALDSON**—So you do not know the answer to that?

**Mr Quilty**—No, I do not know the answer to that offhand.

**Senator RONALDSON**—Isn't it a bit unusual that, as the man responsible for government relations, you do not know when he was in Canberra last, you do not know when he met with the minister last? Isn't that a bit unusual?

**Mr Quilty**—I am not saying it is unusual. I am just saying that I cannot give you a specific date as to when he was last in Canberra or when he last met the minister.

**Senator CONROY**—He is almost certainly going to have his pass revoked at this rate.

**Senator RONALDSON**—So you have acknowledged that he could quite comfortably appear before this committee today. He has knowledge of all the matters I raised before.

**Mr Quilty**—As do people here.

**Senator RONALDSON**—Absolutely, yes, but I do not think you want me to reinforce the point I made earlier on. He is the head of government relations, he is a senior executive, he could well have been here. What is his view on the Australian parliamentary process and the

Senate estimates process, do you know? Does he hold it in contempt? Do you know what his views are?

**Mr Quilty**—Certainly not, nor does Telstra. In terms of the team that Telstra has here today, it is exactly the same team we had here in February. The only difference is that Mr Gration is on a course overseas; it is a long course. As a result it was decided that I would take his position; otherwise the team members are the same as they were in February.

**Senator RONALDSON**—So Mr Burgess knows of the matters to be raised today. According to you—and I will take it as a no—he does not view with contempt the Senate estimates process. Why isn't Mr Burgess here?

**Mr Quilty**—Telstra has taken a decision that I would lead the team and that, other than that, the team would remain the same as that which was here in February. We believe that we have the people here to answer the questions you will ask.

**Senator RONALDSON**—Mr Quilty, this is not a reflection on you; this is an indication of the level of senior management—

**Senator CONROY**—I think it is the Costello camp sizing up the Howard camp. That is how it looks to me.

**Senator RONALDSON**—that Telstra is prepared to commit to this committee. I take it from your answer that there is no good reason why Mr Burgess is not here.

**Mr Quilty**—I am not at liberty, if you like, to inform you as to where Dr Burgess might be at this point in time. However, I can assure you that Telstra puts a great deal of effort into making sure that it has people here who can answer questions.

**Senator RONALDSON**—He is at home, isn't he?

**Mr Quilty**—What do you mean, 'He's at home'?

**Senator RONALDSON**—He is in the US, isn't he?

**Mr Quilty**—I cannot verify that.

**Senator CONROY**—Is there anybody here at the table with an American accent?

**Senator Coonan**—I am afraid not.

**Senator RONALDSON**—That was a very legitimate question. I might leave it at the moment and let somewhere else ask questions.

**Senator CONROY**—Just following up on Senator Ronaldson's comments, Mr Gration made an appearance before another parliamentary committee recently that I saw some commentary on in the newspapers. He indicated—and I do not have the exact quotes but I hope to have them shortly—that Telstra did not really bother speaking much to Minister Coonan anymore. Are you familiar with that newspaper report?

**Mr Quilty**—I am not sure of that particular quote.

**Senator CONROY**—It did get a little bit of coverage at the time. You may not have been in your current role at that point. That may have been in the transition period. I remember seeing some coverage of it in the newspapers.

**Mr Quilty**—Put it this way: I am certainly aware of a newspaper article stemming from his appearance at a committee where he made comments in relation to the universal service obligation. In terms of any comments about—

**Senator CONROY**—Was he suggesting that it was not in the universal service obligation that Telstra had to talk to the minister?

**Mr Quilty**—No, that was not the context of the statement. But what I can say is that, in terms of Telstra talking to the minister and her office, the dialogue is ongoing and frequent. I can inform you of that from a personal basis. There is no lack of dialogue between Telstra and the minister and her office.

**Senator CONROY**—I just thought that might have been the reason why Mr Gration suddenly got an overseas study tour—

**Mr Quilty**—No, I do not think that had anything to do with it.

**Senator CONROY**—so he did not have to front up here—

**Mr Quilty**—No. I am sure he is missing it!

**Senator CONROY**—and sit next to the minister, right where you are.

**Mr Quilty**—That is right.

**Senator RONALDSON**—Does Mr Trujillo speak to the minister or her office?

**Mr Quilty**—Yes.

**Senator RONALDSON**—Does Dr Burgess?

**Mr Quilty**—Yes, I think Mr Burgess has, since his time at Telstra, spoken to the minister or her office.

**Senator RONALDSON**—How long has he been here for?

**Mr Quilty**—He came here in the second half of last year. Mr Trujillo started in July and he started subsequent to that—I think about August or September, from memory.

**Senator CONROY**—Mr Short used to regularly talk to Senator Minchin's office, as I understand it. Is he still with Telstra?

**Mr Quilty**—He still works with Telstra.

**Senator CONROY**—Is he still chatting away merrily to Senator Minchin's office?

**Mr Quilty**—I am not at liberty to inform you of his day-to-day workings, but certainly he is still employed by Telstra, yes.

**Senator CONROY**—He has not paid for any more cartoons to Senator Minchin using Telstra's money?

**Mr Quilty**—Not to my knowledge, but I am happy to take that on notice.

**Senator CONROY**—You might want to research that one.

**Mr Quilty**—I am happy to take it on notice, if you wish.

**Senator CONROY**—You might want to research that and go back into his previous period—any gifts to the minister from Senator Short.

**Mr Quilty**—Senator Short?

**Senator CONROY**—Sorry, Mr Short. I certainly do not want to promote him; he is doing quite well enough as it is! I want to talk about the fibre to the node negotiations. What is the status of Telstra's current negotiations with the ACCC regarding the roll-out of a fibre to the node network?

**Mr Quilty**—They are progressing. They continue to be constructive. We are continuing to work with the ACCC and are going through a range of details with them. I think you will understand that they obviously are negotiations between us and the ACCC, so it is difficult for us to go into that detail here.

**Senator CONROY**—The minister stated that she expects these negotiations to be resolved in a matter of weeks. Is that an accurate statement?

**Mr Quilty**—All I can say is that we continue to have constructive talks and that they are progressing. We are not setting strict time lines or deadlines. What is important for us is to get a regulatory result that enables us to make this investment on behalf of our shareholders. In terms of what the minister said, I think you probably need to ask her about that. Obviously it is quite likely she has been talking to the ACCC as well.

**Senator CONROY**—I hope not. I cannot find anywhere in the act that says that she gets to help negotiate. But I will move on. In fact, the minister has been spruiking Telstra's plans to roll out a fibre to the node network in a number of speeches recently, as though it was a done deal between Telstra and the ACCC. Is a deal with the ACCC inevitable?

**Mr Quilty**—I would not say that.

**Senator CONROY**—What is the geographical extent of Telstra's fibre to the node plans that are currently the subject of negotiations with the ACCC?

**Mr Quilty**—The five mainland capital cities.

**Senator CONROY**—Just the five mainland capital cities? No regional, no rural areas?

**Mr Quilty**—That is right.

**Senator CONROY**—If this network roll-out proceeds, what broadband access speeds will this network offer to consumers?

**Mr Quilty**—We envisage that it will offer consumers speeds in the vicinity of 12 megabits per second. Is that right, Dr Warren?

**Dr Warren**—That is correct.

**Senator CONROY**—I presume the nodes with fibre connected will get an ADSL 2 Plus type of speed, which is up to 24 megabits. Are there any problems, or did you pick 12 for a reason—because of attenuation problems or degradation problems? Why 12 and not closer to 24?

**Dr Warren**—A speed of 24 megabits is the best-effort estimate of what ADSL 2 Plus can achieve. A speed of 12 megabits is much more likely to be a number that you can guarantee. I do not want to go too much into the service description discussions, because clearly that is a key matter in our discussions with the ACCC, but in the framework of general discussion there are parties out there who are currently claiming that they supply 24 megabits per second.

It is highly unlikely that that is what customers are getting all the time. It is much more likely that, on a national or large-scale network using ADSL 2 Plus, at the moment you would look at a guaranteed speed of around 12 megabits.

**Senator CONROY**—The construction of the fibre to the node network would also provide an infrastructure platform for future broadband infrastructure upgrades, wouldn't it?

**Dr Warren**—Yes.

**Senator CONROY**—For things like VDSL?

**Dr Warren**—Yes.

**Senator CONROY**—Upgrades of nodes would allow the delivery of bandwidth of up to 50 megabits?

**Dr Warren**—It is true that, if you change cards like VDSL, the numbers start to scale up.

**Senator CONROY**—And the extension of fibre past the node to the home, for instance, could deliver bandwidth of up to 100 megabits.

**Dr Warren**—Fibre to the premises clearly offers much greater speed options than fibre to the node, yes.

**Senator CONROY**—Up to 100.

**Dr Warren**—As I understand it, yes.

**Senator CONROY**—What is the cost of such a network? Has Telstra calculated the costs of rolling out a six-megabit network to uneconomic areas?

**Dr Warren**—A six-megabit network, not a fibre to the premises kind of thing?

**Senator CONROY**—Both. I am interested in both.

**Mr Quilty**—We calculated last year a range of options under our national broadband plan. The six-megabit option nationally was costed at \$5.7 billion. Obviously the 12 megabits was a good deal more expensive.

**Senator CONROY**—So your fibre to the node that you proposed last year was costed at \$5.7 billion, you said.

**Mr Quilty**—The proposal last year was not entirely fibre to the node. It had a range of parts to it. It included the roll-out of fibre to the node, particularly in capital cities; the upgrade of exchanges; the roll-out of some fibre in regional areas; some upgrade of transmission; and some wireless and satellite in more rural and remote areas. So it was a combination of solutions.

**Senator CONROY**—What types of broadband speeds does Telstra estimate will be required by consumers in five years time?

**Mr Quilty**—I am not sure whether we have made an estimate of that. I do not know whether Mr Mullane knows. It is obviously a—

**Senator CONROY**—Would it be more than two megabits?

**Mr Mullane**—I think the generally accepted requirements, when you look at the developments by the vendors and the more advanced markets around the world, would be 12

mbps plus—in some parts of Asia they have higher speeds than that already. But I think the real issue is what the applications are that are going to demand those sorts of bandwidths. So we think the ultimate architecture of fibre to the premises is a fairly solid architecture and one which we are looking at in new estates and so on where it is economic today.

**Senator CONROY**—But most applications would need more than two megabits?

**Mr Mullane**—It depends on the customers themselves. For every customer, no, but for customers who are seeking a high capability range of video and data services it is more than likely, yes.

**Senator CONROY**—But two megabits is not going to deliver most applications—what can two megs give you?

**Mr Mullane**—It will not do a lot in terms of high quality video services. I think the generally accepted requirement there would be a minimum of three megabits for some sort of compressed video signal. So we think a delivery of 12 megabits that has been mentioned would provide a very good combination of multiple video channels, high speed data, digital voice et cetera.

**Senator CONROY**—You have heard the triple play discussed—there would be no chance of getting triple play on two megs?

**Mr Mullane**—No, I don't think so.

**Senator CONROY**—So large-scale network investments made today should take these future bandwidth needs into account if you are actually thinking ahead?

**Mr Mullane**—Yes, but that would not mean that you would automatically be able to provide those sorts of bandwidths to every premise in the land.

**Senator CONROY**—Would the roll-out of a FTTN network on a national basis reduce Telstra's maintenance costs?

**Mr Mullane**—On a national basis, as Mr Quilty advised previously, we have not had a fibre to the node—

**Senator CONROY**—No, I am just saying if that were to happen.

**Mr Mullane**—I do not think it would be feasible for the whole of Australia, to be honest. There are some areas where we have very long access networks, radio networks et cetera—

**Senator CONROY**—But what I am asking about is the maintenance expenditure—

**Dr Warren**—At our November strategy day last year one of the benefits of a fibre to the node network that was highlighted was the maintenance—the reduction in operational expenditure as a result of that network.

**Senator CONROY**—Those CAN maintenance costs are growing significantly at present aren't they?

**Mr Quilty**—Certainly it is an ongoing challenge, given the legacy network and how long it has been in place. Yes, there has certainly been an increase this financial year in terms of the CAN rehab expenditure.

**Senator CONROY**—CAN performance is currently significantly worse in rural and regional Australia—I think your statistics show that and we have had some discussion on these sorts of things in previous estimates.

**Mr Quilty**—The fault rates are slightly higher in regional areas, yes.

**Senator CONROY**—So an FTTN upgrade would significantly improve the quality of the customer service to rural and regional Australia?

**Mr Quilty**—Hypothetically, yes, though in terms of the reality at the moment we are not contemplating a fibre to the node network—

**Senator CONROY**—No, I am not suggesting Telstra is; I am not trying to verbal you in any way, so don't worry.

**Mr Mullane**—The improved maintenance situation you are referring to would come at a cost. We would have to spend more money in those—

**Senator CONROY**—There is a capital cost to put the fibre in and then—

**Mr Mullane**—And to put the distribution copper network where we were putting those nodes, and to bring that up to a state where it could deliver the requisite bandwidth. In some places that would require some additional work.

**Senator CONROY**—At last year's regulatory presentation, Telstra GMD public policy and communications stated that Telstra would need legislative reform of the existing anticipatory exemption regime before it could come to an agreement with the ACCC. Has that position changed?

**Mr Quilty**—Telstra's position in terms of its belief about the need for legislative change largely remains the same. We continue to consider that there are flaws in the current legislative regime that may prevent us from getting the level of certainty that we need to make such an investment. We put such a proposition to the government and to the minister. The minister indicated that her preference was for Telstra to reach agreement with the ACCC under the current special undertaking and exemption provisions, and that is what we are now doing. Whether that will be effective in terms of giving us the investment certainty we think we need, that remains to be seen.

**Senator RONALDSON**—Am I right that the fibre to the node costing, you have costed about \$5.7 billion and on that basis you will reach about 98 per cent of the community?

**Senator CONROY**—I was just about to ask that very question, Senator Ronaldson. That was the actual statement in the document.

**Mr Quilty**—That was the costing that we provided in our national broadband plan: to provide broadband to 98 per cent of the population at a speed of six megabits per second or better. In terms of the technologies utilised, it would be a combination of fibre to the node and other solutions, including wireless and satellite.

**Senator RONALDSON**—That was that \$5.9 billion?

**Mr Quilty**—Five point seven billion dollars.

**Senator CONROY**—At the last round of estimates Telstra was very forthright that it required reform of the appeal rights under the existing anticipatory exemption regime to

prevent a reoccurrence of the Foxtel digitalisation scenario before it could come to a deal. Is Telstra still as forthright in that view?

**Mr Quilty**—Telstra still has concerns in relation to the potential effect of the current appeal rights in terms of precluding it from getting timely certainty around this investment. There are particular circumstances around the Foxtel situation that related to, obviously, the loss of that appeal. Whether those circumstances exist in this situation, though, I think would be something for our legal advisers. I am not absolutely sure that there are the same circumstances, but the general point in terms of getting certainty in a timely way to enable investment to occur exists.

**Senator CONROY**—At the last round of estimates Telstra also expressed concerns with the services based nature of the anticipatory exemption regime. Is Telstra still of this view?

**Dr Warren**—The way we have assessed this is that we have looked at the current arrangements and said we fully accept there will be appeals on any of these undertakings or exemptions if that is the route we go down. What we do not want is to have a situation where there are technicalities that can knock out any certainty. We have some concerns. One of the ones you point to is that we actually do not invest in services but in infrastructure. The current regime as it is written gives exemptions for services, so one of the problems we have is trying to fully disclose and describe all of the services that we would need an exemption for when many of those services have not even been thought of yet. So that is part of the problem with the way the legislation is currently drafted. We are in discussions, clearly, with the commission and with government, and we have let people know what these concerns are. But I think the process is really one of, ‘Is there scope to actually fundamentally agree on the basics? If so, are there any legislative amendments that are needed to make sure that that is not subject to silly knocking out on appeal on the basis of a technicality?’ Just to be clear, we are not talking about fundamental policy changes in the legislative amendment process.

**Senator CONROY**—I would like to move to Telstra’s response to recent suggestions of a joint venture approach to the roll-out of a fibre to the node network. Telstra originally claimed that the gang of eight, as I affectionately called them, joint venture proposal was a stunt because no-one had contacted Telstra about a joint venture proposal. Didn’t Telstra recognise at the last round of estimates that it had been approached by Optus about an FTTN joint venture? I asked:

Optus has publicly approached Telstra on a number of occasions with offers to roll out this network through a joint venture vehicle. Telstra has rebuffed these offers on the grounds of regulatory uncertainty. Is that still your position?

Your answer was yes. That implies that you were aware that Optus had approached. I am not trying to belt you; I am offering you the opportunity to clarify.

**Dr Warren**—I think the ‘yes’ was to regulatory uncertainty. I do not think I was sitting there saying, ‘Yes, Optus have given us detailed joint venture proposals.’ My understanding is they have not—and they still have not.

**Mr Quilty**—Optus last year wrote to Telstra about a proposal, and Telstra responded. I am not sure of the exact quote from the newspaper article. But the latest proposal is not an Optus-only proposal; it is a proposal from eight particular telcos, which include Optus. So it is



obviously a somewhat different proposal, in terms of who is involved in it, from the proposition put solely by Optus last year.

**Senator CONROY**—Has Telstra ever been contacted by Optus about a joint venture approach to fibre to the node?

**Mr Quilty**—As I said, Telstra was approached by Optus last year, I think.

**Senator CONROY**—Yes. I saw a quote saying:

It's Groundhog Day again for Singtel Optus—it's at least the third time Singtel Optus has suggested this, but now they want to cut their proposed minor investment ... seven ways.

Does that sound familiar? I am not sure who drafts your press releases.

**Mr Quilty**—It certainly sounds familiar, yes. They do want to cut it eight ways, if you include us.

**Senator CONROY**—It suggests that, at least two other times, they have spoken to you.

**Mr Quilty**—Certainly I am aware of one written approach by Optus to Telstra, and Telstra responded.

**Senator CONROY**—How many times have Optus been in touch?

**Mr Quilty**—I am aware of one written approach. I can check whether there have been any further approaches. I am aware of one, which we responded to in writing.

**Senator CONROY**—What was Telstra's response?

**Mr Quilty**—We politely declined the offer. We are in the business of competing, and we think Optus should be.

**Senator CONROY**—So Telstra's original response that the JV proposal was a stunt because Telstra had not been contacted about it was not completely true; it actually rejected participating in a joint venture.

**Mr Quilty**—I am not aware as to the timing, if you like, of the announcement by Optus and our initial media response vis-a-vis the timing of any written approach. It may well have been that the written approach was subsequent to the announcement.

**Senator CONROY**—I understand that the initial contact you politely declined was back in October last year.

**Mr Quilty**—That sounds right.

**Senator CONROY**—So your statement of only a few weeks ago—

**Dr Warren**—The seven-party proposal was not something we were aware of before they went public. Optus have, over many years, I think, spoken publicly—I am at least aware of it—of some sort of joint venture model. As Mr Quilty suggests, they have also written to us. My understanding is that that was not in a vast amount of detail. But they have written to us and, as Mr Quilty said, we politely declined. We were not contacted before the public announcement by the group of seven.

**Senator RONALDSON**—So there was no contact from the potential JV group with you prior to your reading about it in the paper—is that right?

**Dr Warren**—Prior to us hearing that there was a briefing about to go on in the market, yes.

**Senator CONROY**—Telstra has also made a series of other comments about the gang of eight's joint venture proposal, along the lines that these companies were not willing to invest their own capital in such a network. I have a few examples here:

... they want to risk our shareholders' savings, not their own capital, to build their own fibre network.

Another is:

This is a self-serving plan to rip-off Telstra shareholders and taxpayers.

Which is pretty funny when you think about your proposal last year. It continues:

they are welcome to risk their own capital to build their own fibre network.

And:

What they are doing is becoming the ultimate parasite on Telstra's network.

However, Paul O'Sullivan, the CEO of Optus, has publicly stated that he is willing to invest around \$1 billion in such a joint venture. He has also said that the joint venture partners are aware the network would cost in the range of \$3 billion and that the joint venture partners are all comfortable and aware of those numbers. In the light of this public commitment of capital to a joint venture, how can Telstra claim a joint venture proposal is a plan to rip off Telstra shareholders and taxpayers?

**Mr Quilty**—I think Telstra's view is that when it comes to the provision of high-speed broadband networks in the locations we are talking about in the capital cities there is clearly the opportunity for infrastructure competition in those markets. There is clearly the ability for multiple providers to invest their shareholders' capital if they see fit. Telstra's proposition, if it gets the regulatory certainty that it needs, is to invest its shareholders' capital.

**Senator CONROY**—You think Optus and the gang of eight should all build their own nodes and build fibre to those nodes?

**Mr Quilty**—I am not talking on their behalf—

**Senator CONROY**—No, but you are saying there is scope for infrastructure competition. What we are talking about is a fibre to the node piece of infrastructure, and you are now suggesting that these companies should build fibre down the same streets as you and have a node next to yours. Is that your idea of infrastructure competition?

**Mr Quilty**—What I am saying is that in large capital cities where there are clearly significant markets there is opportunity for multiple providers to build infrastructure. That infrastructure may not be a replication of fibre infrastructure. It might be, for example, Optus fully utilising its HFC cable. It might be other providers, such as Unwired, providing wireless infrastructure. We are going to get better competition if we do not give up the ghost in terms of infrastructure competition in mainland capital cities.

**Senator CONROY**—But I am talking about fibre to the node. This is a debate about fibre to the node. You have dragged in three or four red herrings which have nothing to do with fibre to the node. Are you suggesting that these companies should invest fibre to the node themselves, should have their own fibre in the ground and their own nodes?

**Mr Quilty**—I think it is a matter for them.

**Senator CONROY**—But you have made the assertion that there will be competition in the cities.

**Mr Quilty**—I am making the assertion that in the capital cities Telstra considers that there is the ability to compete at the infrastructure level, and Telstra wants to compete at the infrastructure level. Telstra does not think that in the capital cities we should reach a lowest common denominator position where we have only one network, everyone necessarily has to provide services over that network and no-one else makes any other capital investment.

**Senator CONROY**—So you believe other companies should put a fibre to the node into the ground.

**Mr Quilty**—It is up to other companies what capital investment they make. I am not going to speak on their behalf.

**Senator CONROY**—No, but you just asserted that there is the capacity for competition—

**Mr Quilty**—Yes, there is.

**Senator CONROY**—In fibre to the node.

**Mr Quilty**—In terms of broadband infrastructure in the capital cities.

**Senator CONROY**—Please do not switch the question. We are talking about fibre to the node. You were suggesting there can be infrastructure competition in fibre to the node. Does Telstra modelling of the profitability of fibre to the node take into account the assumption of competing fibre infrastructure?

**Mr Quilty**—We already have competing fibre infrastructure in capital cities.

**Senator CONROY**—Not to the node.

**Mr Quilty**—We have HFC cable which goes beyond the node.

**Senator CONROY**—We are talking fibre to the node. I appreciate you keep changing what we are talking about.

**Dr Warren**—If the question is, ‘Do we believe there will be multiple fibre to the node networks in the cities?’ the answer is that I do not think that is the case. What we understand and what the discussions with the ACCC are about is how we have some kind of wholesale service over that fibre to the node. What Mr Quilty has been saying is that there will be alternative infrastructure investment as well in the five capital cities, which will not be, I would anticipate, fibre to the node but could be things like HFC and wireless.

On the broader question of our reaction to a joint venture to fund a fibre to the node rollout, the problem with joint ventures—as I think has become patently clear in some of the public comments of, to use your words, the gang of eight—is that most parties in joint ventures do not have necessarily the same objectives. The problem is that Telstra, for example, might want to extend its fibre to the node network to greater areas, whereas some hypothetical joint venturers might want to stay in the cities—which is their want. That dramatically reduces flexibility. What happens when you want to upgrade? As you said before, there is an upgrade path there. If you have multiple parties, you have to get agreement of all the parties.

Unless the technology is something like undersea cable, which is extremely stable over a long period of time, the JV model runs into all of these coordination problems and that is one

of our complete concerns. Even if we were to treat seriously these offers—and they have increased in seriousness over the years, although I still do not think we have seen a detailed proposal—the fundamental problem is this. What do you do with an upgrade path and how do you manage the coordination problems in any JV? A JV of eight parties means that you have eight by eight coordination problems. It is very difficult.

**Senator CONROY**—You have had these sorts of problems with your 3G joint venture with Hutchison?

**Dr Warren**—The joint venture models are difficult, yes.

**Senator CONROY**—That is so you have expansion?

**Dr Warren**—Our joint venture with Hutch has two parties. I think eight parties is going to prove to be a coordination nightmare.

**Senator CONROY**—Aren't they a governance—

**Dr Warren**—No-one has ruled this out. We have not ruled any of this out, but we have said we would find it very difficult to have people explain to us how in a technologically dynamic world, in which coverage, network growth and network upgrades are going to be big problems, a JV could be made to work.

**Senator CONROY**—You are doing that with your 3G network with Hutchison. You are upgrading. You seem to manage in a joint venture there.

**Dr Warren**—With two—that is, us and Hutch. Eight people would be very difficult.

**Senator CONROY**—You have governance mechanisms to deal with these issues inside your current joint venture.

**Dr Warren**—Yes, we do, and it is an ongoing issue, as all joint venturers will tell you. If you look at the evidence of multiple joint ventures from around the world, they tend to work where you have technologically stable and clearly defined investments. Where you have an investment that is anticipated to grow and change over time, JVs do raise a lot of problems. That is the literature.

**Senator CONROY**—All these JVs around the world you are quoting still seem to be operating, though. They seem to have overcome these insoluble problems.

**Dr Warren**—I am not aware of many JVs that have—

**Senator CONROY**—You were quoting them a second ago.

**Dr Warren**—I am not aware of many JVs that have been utilised to do a fibre to the node network.

**Senator CONROY**—But you were drawing on them as an analogy for a problem here.

**Dr Warren**—No. I was saying that, if you look at the literature on joint ventures, the literature suggests that it works far better if you have a stable technology with a defined—

**Senator CONROY**—Shall I call Hutchison for you?

**Dr Warren**—Pardon?

**Senator CONROY**—Shall I call Hutchison for you?

**Dr Warren**—What for?

**Senator CONROY**—To tell them that you are not happy with your joint venture and you are getting out.

**Dr Warren**—That is not what I am saying.

**Senator CONROY**—With all of these insoluble problems you have with joint ventures, if I were a Hutchy watching at the moment I would be getting nervous waiting for that phone to ring.

**Dr Warren**—That is not what I am saying.

**Senator CONROY**—You have also described the joint venture approach as like pitching a tent on top of a skyscraper and then demanding rent from all the tenants. Who comes up with these? Mr Quilty, are you responsible for this?

**Mr Quilty**—No, that is not mine personally.

**Senator CONROY**—I am not even sure what this means. I was hoping someone could explain it to me. That is why I was hoping it was you, Mr Quilty.

**Mr Quilty**—Do you want me to explain what that means?

**Senator CONROY**—I am looking for an explanation.

**Mr Quilty**—I think it is about somebody paying the cost of building a very significant piece of infrastructure, namely a high-rise, and then somebody else pitching a tent on the top and expecting to have equal rights as far as access to that high-rise goes.

**Senator CONROY**—Proponents of the joint venture approach have suggested that, by utilising the capital infrastructure of a number of partners, the joint venture approach may be able to reach 50 per cent more homes and businesses economically than would be possible by Telstra investing alone. Does that sound right to you? It does not sound like a tent on the top of the skyscraper. It sounds like—

**Dr Warren**—Fibre to the node is an upgrade of the Telstra network, so you basically take the Telstra network and you add quite substantial amounts of additional capital to provide the end service. If you asked the joint venture proponents what they would pay for the existing Telstra network, they start to obfuscate a vast amount. To go back to the analogy, which, let me hasten to add, unfortunately was not mine either—

**Senator CONROY**—You have almost gone bashful. Is Telstra bashful all of a sudden?

**Dr Warren**—Yes, that is what people say all the time. The skyscraper, if you like, was the existing Telstra network. The FTTN, I have to admit, is a very expensive tent, but it is the tent on top of it. I hope that is clear.

**Senator CONROY**—I would have thought that it was more like you were knocking down the existing building and putting up a pretty much new one.

**Dr Warren**—No, that is not what has happened, if you think about the ducts and the nodes and their changed conditions.

**Senator CONROY**—But the partners would have to pay for Telstra's existing network. No-one is suggesting that they suddenly get a free ride—let me rephrase that.

**Dr Warren**—That would be unusual for them. It would be unusual if they were not suggesting that.

**Senator CONROY**—They might be, but in a serious negotiation, if you are pulling this together, they are still going to be paying for access to the rest of the network that is your skyscraper, if I can borrow your analogy.

**Dr Warren**—That would be an interesting question to put to them.

**Senator CONROY**—If a joint venture proposal is able to reach so many more customers, why does Telstra believe it is not in the best interests of consumers?

**Mr Quilty**—We have no detail on how many customers their proposal will reach.

**Senator CONROY**—If you talk to them you might.

**Dr Warren**—I am not sure why expanding the financing from one company to eight companies increases the reach. I do not understand the logic of that. It is beyond me.

**Senator CONROY**—I am shocked.

**Dr Warren**—If we got efficient capital markets out there, we could get—

**Senator CONROY**—More money, more cable, more reach—it seems pretty obvious to me. Given the ability of joint venture partners to contribute their own infrastructure, potentially reducing the total cost of a fibre to the node network roll-out, why isn't Telstra interested in reducing the cost of the network roll-out? If you can just connect up with their existing fibre in some areas, that would reduce your costs.

**Dr Warren**—I think if we did find a lower cost option we would grab it. What I am saying to you is there is no evidence that what is being proposed, in all its opaque glory, is going to actually reduce costs.

**Senator CONROY**—Would you like the phone number of someone to call? Maybe if you stop throwing insults to them in the newspapers and have a chat with them you could get a few more details. Then it would not be quite as opaque.

**Dr Warren**—Yes, quite possibly.

**Senator CONROY**—I will get you their number.

**Dr Warren**—Thank you.

**Senator CONROY**—When Telstra CEO, Sol Trujillo, first arrived in Australia he was not at all hostile to the concept of shared infrastructure in Australia. In Lismore on 2 August in a speech titled 'Yesterday, today and tomorrow: Telstra's commitment to regional, rural and remote Australia'—now abandoned, given that your proposal is only for five capital cities—Mr Trujillo stated:

We have to get an *industry* focus on meeting these challenges. Getting the best possible telecoms service to everyone is not going to be solved by Telstra acting alone.

That sounds suspiciously like a joint venture.

All of the industry—Telstra included—needs to work together, with the government, to make sure Australia leads the world in providing 21<sup>st</sup> century communications to everyone.

... ..

It is the job of Telstra, other providers, and governments, acting together for the benefit of everyone, no matter where they live.

What noble sentiments. Have you beaten the nobility out of Mr Trujillo in such a short time?

**Mr Quilty**—He remains just as noble as he was on the first day he arrived.

**Senator CONROY**—But he had such noble sentiments in the speech he gave on 2 August in Lismore. Was that just PR spin?

**Dr Warren**—If you read our national broadband plan, you will see that there are two components to it. One is the Telstra funded component, which was essentially the city footprint, and then we specified a government funded open access network which could be done either by a JV or by Telstra. What we specified is what we would bid if government were to put the money up. This is how much we think we would have to bid to get to that 96 per cent.

**Senator CONROY**—You mean 98 per cent?

**Dr Warren**—Yes, 98. Sorry. That is completely consistent with what Mr Trujillo said at Lismore: that if we are going to get beyond the commercial bits to the bits that at this moment do not prove in we will need to all work together to do that. There will need to be a government contribution. That is what we specified in the broadband plan. There is an alternative approach with broadband connect doing that. That to us seems to be what that is talking about. So I think that is completely consistent with what Mr Trujillo said.

**Senator CONROY**—These are very fine words—the industry working together, not just Telstra and the government. He talks about industry focus—all of the industry, Telstra included, needs to work together. These are fine sentiments. It is just that Telstra's attitude to shared infrastructure changed a lot in the last six months or so, from emphasising the need for the industry to work together to deliver 21st century communications.

**Mr Quilty**—I think the fundamental difference is between what the eight telcos are putting up, which is predominantly a fibre JV in capital cities which we consider are economic markets, where the market should decide and where there should be competition. Obviously in regional and rural markets there is certainly a lot less likelihood of there being infrastructure competition in terms of high speed broadband. In those markets Telstra recognises that if we are going to get the high speed broadband out there it is highly likely there will be a need for some government involvement. Also I think it is the case in those areas where it is going to be difficult to have infrastructure competition there may be an argument for the industry working together.

**Senator CONROY**—Yes, but you do not want equivalent infrastructure competition. Trying to suggest that wireless is going to be an equivalent infrastructure competitor to fibre is a novel concept. So you are not actually advocating equivalent infrastructure to deliver equivalence of service even in the cities.

**Dr Warren**—That is why we are in discussion with the ACCC on an access type arrangement over the FTTN, because that accepts that there is some access needed to be supplied at the FTTN—

**Senator CONROY**—At the starting point, initially. Your original document last year was about closed access; you wanted an access holiday, which the minister correctly rejected.

**Dr Warren**—And the access holiday is a far cheaper option for obvious reasons, but it has been made clear that we are not to get that. So the question becomes: can you give an open access model that makes sure we can recover our costs? That is the point of the discussions.

**Senator CONROY**—Senator Ronaldson has indicated he would like to pursue this line.

**Senator RONALDSON**—Can you give the committee a very brief overview of the new ground program initiative?

**Mr Quilty**—As you know, there was a trial of New Ground last year. That trial has been completed. The business case for the wider deployment of new ground is currently being considered. A decision, to my knowledge, is not imminent. There are a range of issues that impact on whether we commercially roll out new ground. To some extent new ground covers locations that may be covered by the fibre to the node roll-out, so issues around when—

**Senator RONALDSON**—New Ground is basically a change in policy, is it not, as opposed to anything else? It relates to attenuation loss—isn't it a change in policy?

**Mr Quilty**—It would be a change in policy but it would also involve costs.

**Senator RONALDSON**—You are not getting confused with Extel, are you, in relation to this?

**Mr Quilty**—No.

**Senator RONALDSON**—Basically, it requires a policy change, doesn't it, to give significant numbers of people access to ADSL? Indeed, in metropolitan areas right throughout the country it requires that for quite significantly increased access. I think in early 2005 you said it would be operational by September 2005. What do the trials indicate? Have they been successful or otherwise?

**Mr Mullane**—There was a range of outcomes from the trial. In some cases, for some customers, it did not work at all. In other cases customers had to have additional equipment installed. In many cases the wiring at the customers' premises caused issues. So there was quite a range of issues that raised matters for Telstra, should we consider proceeding. We have been considering and continue to consider how those issues can be properly dealt with.

**Senator RONALDSON**—Why would you talk about rolling it out in September 2005 if there were all of these issues? With the greatest respect, I think you are putting a very negative spin on a set of trials. My understanding is that they clearly showed that, with the policy change, you are going to enable a lot more people in metropolitan areas throughout the country to have greater access to ADSL. Why aren't you doing it?

**Mr Mullane**—It is beyond metropolitan areas. It would impact any exchange area where customers were beyond the 56 dB range. Even the fact that it goes beyond metropolitan areas raises issues of how you treat costs in some of those other areas. It is more than a policy change. It certainly needs a policy change, and the policy change can only be arrived at when there is a feasible economic approach that is agreed by the company. That is the way we would want to proceed.



**Senator RONALDSON**—When and where were the trials done?

**Mr Mullane**—I think they were done in late 2004, from memory. They were done with about 700 customers and they were spread in various places around Australia. They were not confined to one particular area.

**Senator RONALDSON**—Did they conclude that there would be greater access?

**Mr Mullane**—As I said, they drew a number of conclusions. I do not have the list in front of me. For some customers it did not work at all, some customers' voice service levels were impacted negatively, some customers required additional equipment to make both the ADSL and the voice services work, for some customers the ADSL modems needed to be configured in a different manner of operating so that they had improved performance margins and for some customers there were premises wiring issues. These issues ranged across this sample of 800 or so customers that we had in the trial, so we got a very complex set of outcomes out of the trial. Some customers were able to work trouble free during the trial but many were not.

**Senator RONALDSON**—How many extra customers could you put onto ADSL broadband tomorrow if there was a policy change?

**Mr Mullane**—It would be more than a policy change, as I said before.

**Senator RONALDSON**—How many could you put on, if there were other changes?

**Mr Mullane**—If the transmission limit was increased and the requisite processes and mechanisms to allow that to happen across the customer base were able to be put in place economically, it would provide us with approximately another two per cent of lines addressable.

**Senator RONALDSON**—How many people?

**CHAIR**—How many people?

**Mr Mullane**—Roughly 200,000 telephone lines would become addressable. How many people in that base would be interested in purchasing an ADSL service? Our current take-up rates are probably 20 to 30 per cent, so that sort of quantity of customers would take up over a period of time.

**Senator RONALDSON**—Two hundred thousand customers. What is the cost of that?

**Mr Mullane**—There is a range of fixed and incremental costs.

**Senator RONALDSON**—You said you were looking at the economic case, so I presume you know what the economics are. What is the cost of getting those 200,000 people on?

**Mr Mullane**—There are some systems changes that would have to happen, and the systems changes tend to run into millions of dollars.

**Senator RONALDSON**—Mr Mullane, these trials finished in late 2004—

**Mr Quilty**—In March 2005.

**Senator RONALDSON**—It was in March 2005, was it? We have discussed this at Senate estimates twice now. There was a lot more of a positive picture painted of it at the last two estimates hearings. It is now very negative. What is the cost of getting these 200,000 people

on? You must know. If you prepared the economic case, you must know how much it is going to cost.

**Mr Mullane**—That is the problem: the economics are not quite stacking up. We are looking at how it is possible to find another approach to the economics that will allow it to—

**Senator RONALDSON**—What is the cost?

**Mr Mullane**—Millions of dollars.

**Senator RONALDSON**—You do not know what the cost is, do you?

**Mr Mullane**—Several millions of dollars to do the system work and on a per service basis we would need to incur costs of several hundred dollars per service to install the requisite equipment.

**Senator RONALDSON**—So you get potentially 200,000 extra subscribers on for \$2 million?

**Mr Mullane**—No. We would get probably 30 per cent of 200,000, say, over a period of two to three years. It is not 200,000.

**Senator RONALDSON**—Where does that 30 per cent figure come from?

**Mr Mullane**—It is the take-up of the number of people with a telephone service who have a broadband service.

**CHAIR**—But it is going up all the time.

**Mr Mullane**—It is going up but it is not 100 per cent. You cannot assume 200,000; it will never be that.

**Senator RONALDSON**—What is the cost of the new equipment?

**Mr Mullane**—The only new equipment that you need is a central filter in each customer's premises to mask the impact of customer wiring. That is one item of equipment and that is on a per service basis. You need a technician visit to install that equipment so there is the cost of a visit, which is not inexpensive. The fixed cost tends to be in the cost of the systems and process development to allow all this to happen. As I said before, we would need to change the service qualification limits and there would be different processes if a service exceeded 56 decibels because we would have to do some checks on voice service levels and establish whether there was any other work required on the voice circuit. There is a range of things that have to happen. We have to adjust the modem to operate in a different way.

**Senator RONALDSON**—Yes, I understand all that—

**Mr Mullane**—These are all costs, Senator. That is my point.

**Senator RONALDSON**—But these were trials finished in March 2005. At the last estimates we were a shake of a lamb's tail away from getting some outcomes.

**Senator CONROY**—I think you are optimistic.

**Senator RONALDSON**—Would you provide the committee with the costings? Presumably, your economic case has on the one hand the cost and—

**Senator CONROY**—That would be commercial-in-confidence, surely, Mr Mullane.

**Mr Mullane**—I think we responded to a question on notice with some information on that score, if I recall, following the last estimates.

**Senator RONALDSON**—I think the cost was about \$2 million, wasn't it?

**Mr Mullane**—Something of that nature, if I recall it, yes.

**Senator RONALDSON**—Are you saying that you are not going to proceed with it?

**Mr Mullane**—No, I have not said that. We continue to examine how we can make this an economic proposition.

**Senator RONALDSON**—If I assume that it has not been done now and you finished your trials in March last year, it is now May of 2006—

**Senator CONROY**—Barnaby will change it, not you.

**Senator RONALDSON**—What is going to change it?

**Senator CONROY**—Barnaby, not you.

**CHAIR**—Thank you, Senator Conroy.

**Mr Mullane**—If there was, for example, some commensurate systems development that were required for some other program of work in addition to new ground we could spread the costs that would apply to the new ground project.

**Senator RONALDSON**—So this is tied up with fibre in the node, is it?

**Mr Mullane**—It would certainly be impacted by fibre in the node.

**Senator RONALDSON**—It would not also be tied up with regulation by any chance, would it, so you have your three steps?

**Senator CONROY**—You are finally getting it.

**Senator RONALDSON**—Unrelated to that, is it?

**Mr Mullane**—I am not aware of any regulatory issue.

**Senator RONALDSON**—What about Extel—is that in a similar situation? What is the economic cost on Extel?

**Mr Mullane**—Mr Pinel is the expert on Extel but, in a nutshell, Telstra has developed a way to move forward with Extel and we have taken a decision that we will be doing that.

**Senator RONALDSON**—Have you done the economic case on that?

**Mr Mullane**—Yes, we have.

**Senator RONALDSON**—What did that say?

**Mr Mullane**—It said we needed a broadband-connect subsidy for every service to make it economic.

**Senator RONALDSON**—Do you have 200 bits of equipment sitting in warehouses waiting to go in to exchanges?

**Mr Mullane**—I am not sure what the situation is with the equipment side of it. We have only just taken the decision.

**Senator RONALDSON**—Is the article in the *Financial Review* today correct? Have you read the *Financial Review* article?

**Mr Mullane**—I think Mr Pinel is more across that side of it.

**Senator RONALDSON**—Welcome, Mr Pinel. What is the answer? Is there any truth in that article?

**Mr Pinel**—The article was not a fully accurate assessment of the situation. You are right to the extent that we have purchased 200 units. We are in the process of deploying those, we are purchasing a small quantity of additional units and we will learn from this deployment about exactly what we can expect to gain from this particular technology.

**Senator RONALDSON**—But you have already made the decision to roll it out, haven't you?

**Mr Pinel**—We are rolling it out. It is one piece of technology that fits in with other types of technologies.

**Senator RONALDSON**—But you have made the decision to roll it out, so presumably you made the decision that it was going to work.

**Mr Pinel**—We did a pilot last year that demonstrated that in a particular set of circumstances this offered an opportunity to provide broadband to some relatively small group of customers that have not to date been able to be provided by standard means. Once again, the pilot was a relatively small number of customers. There were some on the Gold Coast, some in Victoria and I think one in Yeppoon. The trial was sufficiently successful that we decided we would use this technology in appropriate places.

**Senator RONALDSON**—What extra numbers of people were going to benefit?

**Mr Pinel**—That is part of what is happening now. We made some early assessments about it and we are learning more as we go about how many of these applications we can find. We are actually finding that the deployment is somewhat more difficult than we had expected. There are more issues with finding appropriate locations, but we are looking for those locations right now. All of our Country Wide areas are seeking appropriate places where they might be used.

**Senator RONALDSON**—As of May, how many potential customers have you identified?

**Mr Pinel**—I cannot give you a figure on that at all at this stage.

**Senator NASH**—If you are only working on that now, what did Doug Campbell base his assumptions that this would deliver to many thousands more homes on?

**Mr Pinel**—The assessment was based on the advice from the manufacturer about the equipment and, if you like, a desktop study about how it might be deployed. There is some difference between a desktop study and the reality, and you learn more as you go along about exactly where you can use this technology.

**Senator NASH**—Why would Telstra go out so obviously early with such a limited amount of knowledge on this particular technology?

**Mr Pinel**—We thought, and we still think, that the technology has application, and we intend to use it.

**Senator NASH**—So you do intend to use it? You are going to do it?

**Mr Pinel**—These things are under review all the time but, yes, we are intending to use it.

**Senator RONALDSON**—So this decision to roll out is under review, is it?

**Mr Pinel**—All decisions are under review continuously. We are in a dynamic market.

**Senator RONALDSON**—You have 200 boosters sitting in warehouses and you are telling this committee that this program is now under review.

**Mr Pinel**—No, what I am saying is—

**Senator RONALDSON**—That is what you said.

**Mr Pinel**—that we are seeking to deploy those units, as appropriate, and as we find suitable locations for them to be deployed. That is a combination of groupings of customers, the condition of the plant, the take-up rate and a whole host of other things—and associated with that are some issues around systems enhancement as well. But we will use that as appropriate where we can find locations to apply them.

**Senator RONALDSON**—How many more potential subscribers have you found in the last three or four months for example?

**Mr Pinel**—I think the number is relatively small at this stage.

**Senator RONALDSON**—Take a punt, Mr Pinel.

**Mr Pinel**—I would say probably about 50.

**Senator RONALDSON**—Fifty thousand?

**Mr Pinel**—Fifty units. That is since we have been looking at this for deployment.

**Senator RONALDSON**—Fifty?

**Mr Pinel**—Yes, it is early days. We are still learning as we go.

**Senator RONALDSON**—Are you aware of any numbers at all for approximately how many customers will benefit from the program?

**Mr Pinel**—If I went back to what has been said publicly, as I said, our original desktop assessment was something up to 14,000. That is on the public record, and we have said that.

**Senator RONALDSON**—But it did not say ‘up to’; it said approximately 14,000—so it is not ‘up to’ at all.

**Mr Pinel**—Okay, I would have to go back and see what the exact words were.

**Senator RONALDSON**—It was question 52, if you like, and the answer in February was that current expectations were that approximately 14,000 customers will benefit from the program.

**Mr Pinel**—Our work since then has shown us in many ways that the deployment is not as easy as we had thought it would be.

**Senator NASH**—How many of your technological roll-outs—say this particular one, Extel—are based on a desktop study and how many are based on proper studies? I am assuming 3G GSM has not been done on a desktop study.

**Mr Pinel**—It is a different scenario, but the first step in any of these engineering assessments is a desktop study. You do not go to the next stage until you have made some assessment that it is worth looking at.

**Senator NASH**—How do Telstra judge at which point to tell the public about their roll-outs? Obviously this one got announced a bit early with Doug Campbell's rather out-of-line predictions of how many would be used. At what point do Telstra decide to inform the public? Is it the desktop study stage? You are saying it is only now you are really getting into the detail of Extel.

**Mr Pinel**—Once again, we are in a fairly dynamic industry. As you would appreciate, the technology is changing all the time and circumstances change regularly. What you are asking is: when do we make the announcement? We make it when we have reasonable confidence that we have an option that is credible.

**Senator RONALDSON**—Make what announcement?

**Mr Pinel**—The senator asked about when we announce a new technology, at what point.

**Senator NASH**—At what point do they announce.

**Senator RONALDSON**—But you have already announced that you are going to roll it out.

**Mr Pinel**—Am I answering your question, Senator?

**Senator NASH**—Yes, you are, Mr Pinel.

**Senator CONROY**—Mr Chair, the witness was badgered there.

**CHAIR**—No. Senator Nash had a question. Senator Ronaldson had a query.

**Senator RONALDSON**—Ask Senator Ronaldson to stop interrupting.

**CHAIR**—It was quite legitimate. Please proceed.

**Senator NASH**—We can manage, thanks, Senator Conroy.

**Senator CONROY**—I am just trying to keep order here.

**CHAIR**—Thank you, Senator Conroy. We appreciate your assistance but it is not entirely necessary.

**Senator NASH**—That did answer my question. I am trying to ascertain the confidence that we can have in Telstra's announcements about future technology if we take Extel as an example, because you said at the time, under Doug Campbell, that this was going to be rolled out to many thousands of homes, and you are now saying you are looking at it further and it is under review. I am a bit worried about the confidence level.

**Mr Pinel**—As I say, it is a dynamic technology place that we operate in. For example, the part that 853G plays now, or is intended to play, does change the dynamics because you have two technologies with different economics, and there will be some cases where that particular technology will be a better, more economic option and still provide the solution that customers want. That is one aspect of why things change. We get new technologies coming along all the time. There is an old saying that you do not institutionalise your mistakes. If we

provide disclosure on what our intentions are and then find that the ground has shifted then we need to make adjustments to our commercial decisions on that basis.

**Senator RONALDSON**—It is ‘Goodnight, nurse,’ for Extel, isn’t it?

**Mr Pinel**—I read the article this morning—

**Senator RONALDSON**—It is all over.

**Mr Pinel**—I do not accept that that is the case and I am sure that Extel would not accept that that is the case.

**Senator RONALDSON**—I reckon it might be all over, Mr Pinel. How much are these boosters worth?

**Mr Pinel**—Which boosters are you referring to?

**Senator RONALDSON**—The Extel boosters. You have a warehouse of them. How much are they worth?

**Mr Pinel**—The ones that we have 200 of? Sorry, there are a number of bits of technology. I am not quite sure which part. I cannot quote you those figures. I do not know. They would be subject to a contract between ourselves and Extel, I expect. It may be commercial-in-confidence.

**Senator RONALDSON**—The cost of the units is commercial-in-confidence? Ballpark. Give me a rough figure. Is it 10 bucks, is it \$2,000 or is it 10 grand? Give me a ballpark.

**Mr Pinel**—No. I would be misleading you if I gave you even a guess at what the figure was. I will come back to you, if I may.

**Senator RONALDSON**—You must have a rough idea.

**Mr Pinel**—I will ask Mr Mullane if he knows, but I do not have a figure.

**Mr Mullane**—I think there is a cost on the unit that is remote, or closer to the customer, and there is a cost for the unit in the exchange. I am not sure whether there are 200 of both or 200 of the exchange unit and a different number of the ones out in the field.

**Senator RONALDSON**—So you are not entirely sure what you have in the warehouse.

**Mr Mullane**—We can certainly get the information for you and respond accordingly and accurately.

**Mr Pinel**—Keep in mind that the cost of the equipment is only part of the full equation. There can be significant labour costs involved with conditioning the cable that it goes on. For example, if we are going out to 20 kilometres, we often find that the cable is what we call loaded cable—it has been built as a transmission path. To use this equipment our field techs have to go out and remove some of that conditioning. So there are many costs associated with this, including that, including systems costs and including the transmission design costs. It is a complex equation. I am more than happy to take it on notice and give you some better visibility of the costing as far as I am able. Honestly I would be misleading you to tell you today.

**Senator RONALDSON**—It seems quite extraordinary to me that you have said you are going to roll it out, you have bought the equipment, there are people waiting for it, there are 14,000 that we know of that are going to benefit, and—

**Mr Pinel**—No, that 14,000 was an estimate. We need to refine that figure in the light of the better information we have today.

**Senator RONALDSON**—However, our current expectation is that approximately 14,000 customers will benefit from the program. Was someone making that up?

**Mr Pinel**—No, that was the assessment at the time that was stated. All I am saying is that our experience to date in actually deploying this has indicated that we need to reassess that figure.

**CHAIR**—Upwards or downwards?

**Mr Pinel**—My expectation is that it would be down from 14,000.

**CHAIR**—So it becomes ever smaller?

**Mr Pinel**—Once again I hesitate to quantify it, or I will end up in the same problem I am in now.

**Senator RONALDSON**—Did you do any trials?

**Mr Pinel**—If I say 2,000 it might turn out to be 8,000; if I say 8,000 it might turn out to be 2,000. We just do not have that level of clarity. We have been working with Extel over the last weeks—

**Senator CONROY**—Senator Ronaldson has asked the question eight different ways now and got the same answer. I am just wondering if tedious repetition was going to be invoked at any stage.

**Senator RONALDSON**—I will let you know when we are getting to that stage. Did you do trials?

**Mr Pinel**—We did a very small number of initial trials. We have now moved beyond those trials. There were trials done at Mudgeeraba on the Gold Coast, there were some in Victoria and I think there was one in Yeppoon. But they were relatively small numbers. As I say, we learn as we go and as we try to fit these into the network.

**Senator RONALDSON**—Did you base the 14,000 on those trials?

**Mr Pinel**—The 14,000 was reverse engineered, if you like, from a look at the customer base, an assessment of how many people fitted into those geographic parameters that we apply to this technology, an estimate of take-up rates and a whole range of other parameters.

**Senator RONALDSON**—So on the basis of the trials you thought there would be about 14,000 people. You went out and bought equipment for the roll-out. Have there been new trials that have brought this back?

**Mr Pinel**—As part of our moves to deploy the product now, we are finding that some of the assumptions that we made at the time are not valid.

**Senator RONALDSON**—So you have done new trials. You have not rolled it out, so you could not have got it from that—



**Mr Pinel**—This is not a trial; this is actual deployment that we are talking about. We have sought locations from our countrywide areas of where we believe there are groups. Remember that you need to have a grouping of customers—a minimum of either four or five; there are a few issues there—in that area that is within that range of the technology, fed by the right sort of cable, has no blocking technology and has no alternative, better option. It is not a simple assessment. It will take us some time. We are working with Extel over time to get a better idea. I understand the issues for Extel in terms of their production issues, believe me.

**Senator RONALDSON**—I am not concerned about Extel. You are the ones who went out and purchased the equipment, so I am not concerned about Extel at all. What I am concerned about is the program you said you are going to roll out. It looks to me as if it is gone. I am wondering whether it just might be a part of this whole go slow in relation to servicing potential customers and risking wireless operators coming in and snatching them—you are prepared to risk that—and a part again of this regulation issue, where the organisation has just slowed down, obfuscating about the whole thing: maybe Extel is in; maybe it is not. It is just part of this whole regulation debate, isn't it? You are prepared to put Australian consumers—

**Mr Pinel**—Let me deny that.

**Senator RONALDSON**—behind their international peers for the sake of an argument about regulation.

**Mr Pinel**—Let me make a clear denial of that. That is not the case.

**Senator RONALDSON**—Isn't it? I will need a lot of convincing.

**Senator CONROY**—It is a capital strike, Ronno; what are you on about?

**Mr Quilty**—Mr Chairman, before we move on, I have just been told that an answer we gave earlier regarding the \$5.7 billion national broadband plan—where I think I indicated the range of technologies involved with that plan—may have given the impression that the wireless and the satellite comprised the 98 per cent. They are obviously in the other two per cent which would not be getting access to the six megabits per second. So the range of technologies was right, but the wireless and the satellite side of it is in the other two per cent.

**CHAIR**—Thank you for that clarification.

**Senator CONROY**—Thanks very much; I appreciate that. I want to move on to a few technological questions about broadband infrastructure. There has been a lot of discussion in recent times about the provision of government funding of wireless broadband for the delivery of fixed broadband services. What is Telstra's view of the technological appropriateness of the delivery of fixed broadband services via wireless compared to fibre to the node? What are the physical constraints on the download speeds available via WiMax as a result of spectrum capacity, Dr Warren or Mr Mullane? Come on, Dr Warren, don't be shy; you know the answers.

**Mr Jennings**—I cannot give precise answers on this, but both fibre based technology and wireless technology have a role to play. Wireless technology is particularly more suited to situations where there are—

**Senator CONROY**—I am talking about the technological constraints, not roles to play.

**Mr Jennings**—There are a number of technology constraints. If you are talking wireless, there is availability and type of spectrum. There is the ability of the wireless system to support certain data throughput and then, depending on the throughput that you need overall, you will need to have more or fewer base stations to cover that territory and provide capacity to that territory; whereas the fibre based approach has much fewer constraints on the actual bandwidth.

**Senator CONROY**—The theoretical peak speed of WiMax is 70 megs per second—is that correct?

**Mr Jennings**—I am not aware of what the WiMax peak speeds are.

**Senator CONROY**—Anyone else?

**Mr Jennings**—It sounds high to me.

**Senator CONROY**—That sounds too high?

**Mr Jennings**—Yes.

**Senator CONROY**—Okay. These speeds suffer from attenuation and require large bandwidth, 20-megahertz bands, and require good signal conditions?

**Mr Jennings**—That is correct.

**Senator CONROY**—Is it correct to say that these restrictions typically limit WiMax cells to four to five megabits per second?

**Mr Jennings**—It is very hard to generalise. It is probably around that range, but with wireless you always have this trade-off between coverage and throughput.

**Senator CONROY**—I am coming to throughput issues. I am just trying to get to know what actual, regular sorts of speeds are available. WiMax cell speeds also must be shared by all users within the cell—that is correct, isn't it?

**Mr Jennings**—That is correct.

**Senator CONROY**—So if a cell provided four megabits and there were two people within the cell, they would really only have access to two megabits?

**Mr Jennings**—Assuming that their need was concurrent.

**Senator CONROY**—And eight users in a cell would bring the speed down to 256 kilobits?

**Mr Jennings**—Yes.

**Senator CONROY**—The attenuation problems with WiMax have more of an impact on uplink speeds, don't they?

**Mr Jennings**—The attenuation has impacts on both uplink and downlink. I am not sure of the characteristics of WiMax. They differ depending on technology.

**Senator CONROY**—My understanding is that a WiMax broadband service would become more asymmetric the greater the distance.

**Mr Jennings**—I do not know the answer to that.

**Senator CONROY**—You can take that on notice. How would this impact on applications that require significant uplink speeds, like VoIP, for instance?

**Mr Jennings**—Any voice based capability is susceptible to overload of a data cell like that. If you are running it over data, you normally would have to make arrangements for the voice traffic to take priority over data traffic because of the real time based nature of voice traffic. In answer to your question, voice is more difficult to carry over—

**Senator CONROY**—Over wire.

**Mr Jennings**—wireless.

**Senator CONROY**—What if a user in a cell was using a bandwidth intensive application like VoIP or a video service? This would dramatically reduce performance, wouldn't it?

**Mr Jennings**—It depends how you have dimensioned your wireless system. If you have dimensioned it to cater for that sort of traffic level and you have quality of service management techniques in that network to cater for the different sorts of traffic, then there is no reason why it could not perform adequately. If you have not dimensioned your system correctly and you have not used quality of service then, yes, you are quite right. You would have performance impacts, but that goes for any traffic.

**Senator CONROY**—Over wireless?

**Mr Jennings**—Yes.

**Senator CONROY**—How would widespread use of VoIP within a cell impact performance? I appreciate you made some qualifications there before but in general terms.

**Mr Jennings**—Again, it is very difficult to answer that question, because it depends on the capacity of your cell and the number of VoIP users. VoIP does not use very much bandwidth, but again it comes down to dimensioning and it comes down to quality of service control.

**Senator CONROY**—What about VoIP's requirement for real time data? How would this impact WiMax download performance?

**Mr Jennings**—VoIP's or any voice technology's need for real time throughput is affected by total cell loading, so if cell loading gets too high then you will have delays to your VoIP traffic, and of course you cannot tolerate too much delay to voice traffic because it is in real time and you will have holes in the voice pattern.

**Senator CONROY**—Would latency and jitter impact VoIP performance in WiMax?

**Mr Jennings**—Potentially.

**Senator CONROY**—Ultimately, given these constraints, WiMax would only be able to deliver 256-kilobit broadband over 10 kilometres, would it?

**Mr Jennings**—I do not know the answer to that.

**Senator CONROY**—Given the three or four factors I have talked about?

**Mr Jennings**—To put a number on it is almost impossible without knowing the rest of the story.

**Senator CONROY**—And for two megabits over two to three kilometres?

**Mr Jennings**—Same issue.

**Senator CONROY**—Given all of these things that materially affect it?

**Mr Jennings**—I think two megabits over two to three kilometres would be attainable, but I would not like to be held to the accuracy of the number. As for the order of magnitude, I would say yes.

**Senator CONROY**—If these were not some of the concerns then I cannot understand why Telstra has not just signed up to WiMax and done the deal. You have not on the basis that there are some technological constraints.

**Mr Jennings**—WiMax is a little way away. Its standards were only completed late last year. It is probably two years away from being reality.

**Senator CONROY**—Let's talk about a recent report by the OECD on the impact of WiMax on telco competition that stated that:

... one cell could theoretically allow hundreds of business connections at 1.5 Mbit/s and thousands of residential connections at 256 kbit/s.

Does that sound like a totally whacky suggestion or does that sound like a reasonable suggestion?

**Mr Jennings**—I think that sounds implausible.

**Senator CONROY**—Implausible that it could be—

**Mr Jennings**—Single cell and that many customers.

**Senator CONROY**—You just could not get that many on?

**Mr Jennings**—You would need spectrum. Personally, without knowing the ins and outs of WiMax but knowing the capabilities of some other technologies, I would say that that sounds like a very high customer load to me.

**Senator CONROY**—These speeds I have been talking about are not comparable to fibre to the node, are they? Fibre to the node is far in excess of any of these?

**Mr Jennings**—I will defer to my colleague, Mr Mullane, but I do not think so.

**Mr Mullane**—I think you are correct, senator.

**Senator CONROY**—Thank you. Would the two megabits per second broadband service provided by WiMax be able to support broadband based triple play services?

**Mr Jennings**—I do not believe so.

**Senator CONROY**—So Australians serviced by, say, the Austar network would not be able to access broadband based triple play?

**Mr Jennings**—According to my previous statement, that would be difficult.

**Senator CONROY**—How does the level of service provided by WiMax compare to the HSDPA service Telstra will be providing over the 3G network it is currently rolling out without the government subsidy?

**Mr Jennings**—Its principal difference is that it has much greater reach than WiMax. WiMax operates typically in a piece of spectrum much higher than the 850 spectrum that HSDPA is using.

**Senator CONROY**—We talked earlier about the future roadmap for infrastructure upgrades of fibre to the node to, say, VDSL or fibre to the home. How does the future roadmap for WiMax compare with FTTN?

**Mr Jennings**—I do not know the answer to that. My belief would be that they are very different technologies and they probably run quite different roadmaps.

**Senator CONROY**—As we heard, it is possible to upgrade fibre relatively simply on current projections, as we have talked about. Are there suggestions that the WiMax speeds can be picked up in the near future?

**Mr Jennings**—I will talk generally, not about WiMax. Generally, in wireless technology, data throughput speeds are increasing, so that as you look further down the roadmap they increase quite markedly within quite a short space of time. Where WiMax fits in there I do not know.

**Senator CONROY**—Would you say that WiMax is more of a complement to FTTN than a genuine competitor?

**Mr Jennings**—I would say that wireless generally is a complement to FTTN.

**Senator CONROY**—So you would say there will be a role for both but at the end of the day they will be playing very different roles?

**Mr Jennings**—Yes.

**Senator CONROY**—Has Telstra discussed space in the Broadband Connect program with the department?

**Mr Quilty**—Yes.

**Senator CONROY**—And have you decided to participate?

**Mr Quilty**—We have not made a final decision. Obviously it is a bit early to do so, given that we are waiting for the expression of interest documents to be issued by the government.

**Senator CONROY**—I heard a rumour that you were not going to participate.

**Mr Quilty**—That rumour is not accurate. We have not made a decision.

**Senator CONROY**—I want to get Telstra's views on the government's intention, announced as part of its recent media reforms, to require IPTV providers to obtain broadcasting licences from the government. The government claims that the delivery of IPTV would already require a licence under the Broadcasting Services Act. Was this Telstra's understanding of how the existing law operated?

**Dr Warren**—I am not completely sure of the legal answer on that; I am sorry. We can take that one on notice.

**Senator CONROY**—We are going to be here for a while today. Is there anyone you can check with—

**Dr Warren**—I will check.

**Senator CONROY**—and maybe get back to us after lunch?

**Dr Warren**—Sure.

**Senator CONROY**—Is Telstra currently providing IPTV services to its BigPond customers?

**Mr Mullane**—No, it is not.

**Senator CONROY**—I understand that Telstra has broadcast V8 supercar races and AFL video services to BigPond customers.

**Mr Mullane**—Yes, but it is not—

**Senator CONROY**—Did Telstra obtain a broadcasting licence to deliver its BigPond TV service?

**Mr Mullane**—That is video streaming services, as I understand it. In terms of the broadcasting licence, I understand that is done under a content arrangement with the content producers.

**Senator CONROY**—But this is about the government's view not a private commercial deal that you have made. Presumably you did not believe that it required a licence under the existing act.

**Dr Warren**—This goes back to your previous question—we will answer that and get the answer to you—but I do not think—

**Senator CONROY**—By definition if you have—

**Dr Warren**—Exactly.

**Senator CONROY**—You do not think it is an IPTV.

**Dr Warren**—You have spotted a good way to short circuit the answer. Let me get you the answer on that. We do not believe we are engaging in IPTV with what we are doing on BigPond and V8 super cars.

**Senator CONROY**—And AFL video services.

**Dr Warren**—Yes. I think it is more of a download model rather than a broadcast push model but let me get you the details on that.

**Senator CONROY**—There has also been talk of these laws applying to mobile TV services. Wasn't it Telstra's understanding that mobile TV services currently required a broadcasting service?

**Dr Warren**—No.

**Senator CONROY**—Apparently Mr Gration is a lawyer, from previous discussions. He might have been able to help us.

**Mr Quilty**—He might have, Senator, although this is a rather specific part.

**Senator CONROY**—Any lawyers in the room? Telstra do not have lawyer with them? I find that extraordinary. You are not a lawyer, are you, Mr Quilty?

**Mr Quilty**—No, but I have some knowledge of media reform, probably too much.

**Senator CONROY**—I heard that red pen you had worked overtime.

**Mr Quilty**—I think that probably depends a lot on the regulatory regime that the government comes up with in terms of what sort of licensing would be required because my presumption is—

**Senator CONROY**—Well what I am asking is: wasn't it Telstra's understanding that mobile TV services currently required a broadcasting service?

**Mr Quilty**—Those services certainly had been trialled by Telstra and others. My recollection is that those trials have been undertaken in concert with ACMA. It may be that a temporary licence—

**Senator CONROY**—That is what I was going to ask. Had Telstra previously obtained broadcasting licences for video broadcasts provided over your mobile phones?

**Mr Quilty**—I probably need to get back to you on this but those trials are with others which may well be the network providers. Under the current regime, there are licences in terms of both the network providers and also, I think, to some extent, the content providers. But I think we need to get back to you on the detail.

**Senator CONROY**—What I am asking is: did you obtain a broadcasting licence? It is a factual issue rather than an opinion. I am happy for you to come back after lunch with an answer.

**Mr Quilty**—We have to get you an answer on that.

**Senator CONROY**—When are we breaking for lunch, Chair?

**CHAIR**—One o'clock.

**Mr Quilty**—We can get back to you.

**Senator CONROY**—Thank you. I am also interested in Telstra's view of whether or not you need a licence for both IPTV and the mobile. I understand your BigPond movie service is provided on a point-to-point basis and is therefore exempt from the regime. However I understand that Telstra does provide some BigPond TV services that are point-to-multipoint services. Is that correct?

**Dr Warren**—I think that is correct.

**Senator CONROY**—Oh dear! Have you got your licence?

**Dr Warren**—I am absolutely confident that we are doing it within the legal requirements.

**Senator CONROY**—That sort of pre-empts your previous answers?

**Dr Warren**—No, let me get you our answers on that, but this is a rather obscure part of the law. Let me get you answers on that because I am very confident that we are operating within the legal regime.

**Senator CONROY**—Has Telstra received any correspondence from either DCITA or ACMA regarding its failure to obtain a broadcasting licence for these services?

**Dr Warren**—We will check.

**Senator CONROY**—Has Telstra written to either DCITA or ACMA to seek clarification of the application of the broadcasting licence regime to IPTV?

**Dr Warren**—We will check that too for you.

**Senator CONROY**—What is Telstra's view of the practicalities of the government attempting to require broadcasting licences for IPTV services. Is it realistic to try and regulate these services? I am happy for you to take that on notice and you can come back and answer this suite of questions after lunch if you like.

**Dr Warren**—On media reform more broadly, we have a position of maximum flexibility and we believe, like everyone else, that the more we can start to adopt a converged approach between media regulation and telco regulation the better. The sooner we can do that the better. To the extent licensing is required, clearly we would like it to be as open as possible. But I will get these specific answers to you.

**Senator CONROY**—What impact does Telstra believe extending broadcasting regulation into the area of IPTV will have on the development of IPTV markets? Telstra has previous stated:

Our view is that the policy announced yesterday seems to be very heavily tilted towards protecting free to air broadcasters. It is a dyslexic policy. We are clearly seeing a minister who believes regulation is the answer to everything.

If you could come back to me on those questions. I appreciate that Mr Gratton and Telstra miraculously do not have a lawyer in the room.

**CHAIR**—Senator Conroy, are you wishing to proceed onto another topic?

**Senator CONROY**—I was going to move to another topic.

**CHAIR**—I think Senator Adams has a question.

**Senator ADAMS**—I would like to discuss the CDMA handsets. I guess, Mr Pinel, you will be the person whom I will be asking the question.

**Mr Pinel**—Mr Jennings and myself will share the answers, as appropriate to our understandings.

**Senator ADAMS**—I have been told that some of the Telstra shops are telling customers that they do not stock CDMA phones any longer because the network has been closed down. Is that true?

**Mr Pinel**—I cannot vouch for what has been said other than it certainly is not in accordance with our current policy. It is true that in some metropolitan areas we have removed CDMA handsets from display, so they are not on display but they are in general still available to customers where it is the right solution for them to purchase. We are working to a framework where we want to make sure that customers do make the best purchase that they can in a meaningful way, but CDMA handsets are still very much on the market. The network will be there at least until early 2008, and for many customers in regional Australia it is the best option.

**Senator ADAMS**—It seems rather strange. I live right down the bottom of Western Australia. If I were going to buy a mobile phone, I think I would be going to Perth to buy it,



because you just do not have a choice. It is far more convenient for me to go up to Perth than to go anywhere else. If it is not available, how do you get your phone fixed? What is going on? We have had a number of constituents—

**Mr Pinel**—Let me reiterate that CDMA handsets are still available in the metropolitan shops, they are just not on display. But they are available on approach to the staff. If a customer comes from a regional area, and the staff member in the shop understands that, they will find out where they want to use the service, and a CDMA handset is still very much available. That is 100 per cent complied with by all our retail outlets. If you have an instance with an outlet, I will make sure that that is reinforced. But that is certainly the policy.

**Senator ADAMS**—It seems that a number of the stores may not be making it available, so I suggest that you send a memo to them so that everyone is aware that CDMA phones are to be available.

**Mr Pinel**—I will take that on notice. There has been quite a deal of communication through all of our channels, shops and dealers et cetera about where we are going with CDMA handsets. The CDMA handset boxes are now tagged with an advice that says that the service will terminate sometime after early 2008. But I will take on notice your point and we will continue to reiterate that with our shops and dealers. If you have instances of that, please let me or Mr Fairclough know and we will deal with it. It is certainly not in our best interests not to sell CDMA handsets to customers where it is the best option.

**Senator ADAMS**—It seems very strange. I suppose when people are trying to get them in the metropolitan area, metropolitan sales staff do not have that many requests, so when someone comes along they cannot see why they could not buy another handset. That is probably what is happening.

**Mr Pinel**—There is an element of that, I suppose. Although quite a number of customers from the country do make their purchases in the metropolitan area—it is not unusual, by any means. But in a volume sense it is probably quite small. We will take that on board and reinforce it.

**CHAIR**—Senator Nash do you have some questions?

**Senator NASH**—I do on this, thanks, Mr Chair. How are the trials going for the new 3GSM network?

**Mr Jennings**—Very well. We are very happy with the way they are going. I think we had a discussion at the last estimates that we were expecting three major software enhancements. Senator Conroy obviously remembers that. I am pleased to report that the first one of those has been done and has worked as it should. So the roll-out is going to plan.

**Senator NASH**—Are there any difficulties at all so far?

**Mr Jennings**—None, other than the usual difficulties that you strike with a roll-out of that size and speed. There is nothing that is an issue or that is going to be an issue beyond the roll-out.

**Senator NASH**—So there is nothing significant that has not been able to be fixed thus far?

**Mr Jennings**—No.

**Senator NASH**—That is good to hear. I do hope that, as you say, there will be equivalent coverage—as good if not better—with the new network, which will be great. We all are very hopeful that that will be the case.

**Mr Jennings**—I reiterate our position on that. We are right behind that objective.

**Senator NASH**—That being the case, what is the date at this point on which Telstra is looking at switching off CDMA? Will it be once we have reached that concurrent coverage?

**Mr Jennings**—It depends. If we reach that concurrent or equal or better coverage before the end of January 2008, we will not close. But after the end of January 2008, if we have reached equal coverage, we will close the network from that point.

**Senator NASH**—So under no circumstances would Telstra switch off that CDMA network if there was not at least equivalent coverage?

**Mr Jennings**—Correct, and not before the end of January 2008 in any case.

**Senator NASH**—So if the government were to entertain the thought of perhaps having a licence condition that said that you were not to switch off that CDMA until the coverage had been met, that would not really be an issue for you. What would Telstra's view of that be?

**Mr Quilty**—We would see that as unnecessary regulation—

**Senator CONROY**—At least they are consistent!

**Mr Quilty**—given that we have made a commitment. Not only that, but also we are working constructively with the government through the 3G working group to make sure that we meet that commitment. We would certainly not see that as something that is necessary at this point.

**Senator NASH**—It is good to see that you have such confidence in that coverage being met, so it would not be at all onerous really. There should be no problem at all for you if that coverage is going to be met.

**Mr Quilty**—That is right, Senator. It may not be onerous, but, if it is not necessary, why regulate?

**Senator NASH**—You are saying that it is not necessary—you are saying, 'Trust us—we'll do it, therefore there is no need to have any kind of regulatory option in place.' Is that what you are saying?

**Mr Quilty**—I think what we are saying is that regulations should not be put in place unless it is clear that there is a problem that the regulation needs to solve.

**Senator NASH**—What if I just take you back to the example of Exel. Early on in the desktop study, work had been done on what could be rolled out technologically. Now it seems—oops!—that was not quite right. What I am trying to make sure of is that, for those people who live out in regional Australia, we do not get to the end of the roll-out and hear Telstra again saying, 'Oops—we didn't get that quite right.'

**Mr Quilty**—That is a valid concern, I think, in terms of your constituents. The commitment which Mr Jennings has reiterated today is that, unless we have that equivalent coverage, we are not going to turn off the CDMA network. To my knowledge there is no evidence to date that we are not going to meet that commitment.

**Senator RONALDSON**—Mr Jennings, can you just whisper to me what you were going to say in response to Senator Nash's question?

**Mr Jennings**—The same as Mr Quilty said.

**Senator RONALDSON**—No, it was not.

**Mr Jennings**—It was.

**Senator RONALDSON**—It was not. You know it was not. You were just about to say that you would be very comfortable with the licence condition.

**Mr Jennings**—Let me just get that straight, Senator Ronaldson. I was actually—

**Senator CONROY**—Chair, it seems that Senator Ronaldson is verballing—

**Senator RONALDSON**—Sorry, Senator Conroy, but you are not sitting where I am. You have become the protector rather than the attacker.

**Mr Jennings**—Senator Ronaldson, for the record, I was going to say that I did not think it was necessary. Maybe my lips moved in a different way.

**Senator RONALDSON**—Just watch my lips—'Yes' is what you were going to say. So you are absolutely confident—

**Mr Jennings**—Yes.

**Senator RONALDSON**—that you will have the coverage and that, if there was a licence imposed, you would be able to meet that licence condition?

**Mr Jennings**—Yes.

**Senator NASH**—That is very good to hear. In terms of the roll-out, correct me if I am wrong but my understanding was that part of the new 3G GSM network being rolled out was that it could not operate concurrently with the current CDMA because you need the spectrum. Is that correct?

**Mr Jennings**—Yes.

**Senator NASH**—I am not a technological guru by any stretch of the imagination. If we had the worst case scenario, that we did not get equivalent coverage at that point—once we get to that 2008 date—how long can Telstra maintain operation of those two networks? I am being devil's advocate, and let us all hope it all rolls out perfectly—I am sure it will, given your level of confidence—but how long can Telstra operate the two networks concurrently, given that your proposition is that you need the CDMA spectrum to run the 3GSM network?

**Mr Jennings**—I think in practical terms the answer is: not very long. I say that from two perspectives. One is that it will be increasingly difficult to operate two networks (a) commercially and (b) practically from a technical perspective. On the other side of the fence, I think it would be very bad for our customers because we are going to capacity-constrain both of these networks very quickly by not using the spectrum in its most efficient way—and that is with one technology. So it would be a very bad outcome on all fronts.

**Senator NASH**—Absolutely. How long is not very long?

**Mr Jennings**—Six months.

**Senator NASH**—What if the coverage is not met within that six months?

**Mr Jennings**—We have guaranteed that it will be.

**Senator NASH**—What if it is not?

**Mr Jennings**—We have already said what happens if it is not.

**Senator NASH**—You said you will not switch off the network. Now you are telling me that on the other hand there is only a six-month grace period.

**Mr Jennings**—That is right. So there is huge incentive—

**Senator NASH**—I would say!

**Mr Jennings**—to get the coverage to be equal or better.

**Senator NASH**—Let me get this absolutely clear. You have unequivocally stated this morning that you will not switch off the CDMA network until there is equivalent coverage, and yet you are telling me that ‘not very long’ means six months. So you will not switch it off until there is equivalent coverage but there is only a six-month period at the end of which you would have to switch CDMA off anyway regardless of whether there was equivalent coverage.

**Mr Jennings**—I did not say that it would not work beyond six months; what I said was that, in practical terms, it would be an unsatisfactory outcome for all concerned. You could leave it switched on for longer than that—

**Senator NASH**—If there is no licence condition what requirement is there on Telstra not to do away with this unsatisfactory environment and switch it off anyway?

**Mr Jennings**—There is a huge requirement on Telstra, commercially and from a marketing perspective, to get the new 3G network working with equal coverage and to our customers.

**Senator NASH**—I agree with that entirely. How many other places in the world is this exact network operating at the moment?

**Mr Jennings**—In the United States, it is Cingular. Rogers in Canada is also moving to this technology.

**Senator NASH**—They are only just moving to that, aren't they? They have not got it in yet.

**Mr Jennings**—Correct.

**Senator NASH**—So there is only one implemented network in the world.

**Mr Jennings**—At the 850 megahertz level. UMTS is a technology that operates at different frequencies: 2100 megahertz and 850 megahertz. That is just change of frequency. But the core technology is actually working operationally in over 100 networks as we speak—105 to be exact.

**Senator NASH**—It makes me a little nervous that this absolute commitment to not switching off is counterbalanced by the fact that you are saying Telstra could really only run the two networks for six months after that point.

**Mr Jennings**—Yes. We are confident that we will not get to that point.

**Senator NASH**—So you are really saying to us, ‘Just trust us: it’ll be right.’

**Mr Jennings**—We have made a commitment.

**Senator NASH**—Would that be right, Mr Quilty?

**Mr Quilty**—I do not think that is right. Not only are we obviously reiterating our commitment but we are working with the government through the 3G working group, which includes DCITA and ACMA, to ensure that this commitment is fully met. We will obviously have certain responsibilities in terms of that working group and we are committed to meeting those responsibilities. It is not just a ‘trust us’ proposition; we are going to demonstrate that through the working group.

**Senator NASH**—There is obviously a very strong commitment, as there was to Extel, by Doug Campbell. That is my point. Can I move on to the issue of handset costs. Again, correct me if I am wrong, but I think Telstra has made some comment about there being a zero dollar value for a handset if it was accompanied by a plan. Is that correct?

**Mr Jennings**—That is correct.

**Senator NASH**—Is it not right to say, though, that that handset cost is actually absorbed into the plan?

**Mr Quilty**—That is correct.

**Senator NASH**—What if somebody did not want to go on a plan? What would be the cost of the handset to buy?

**Mr Jennings**—That has not been determined yet. That will depend—

**Senator NASH**—When will it be determined?

**Mr Jennings**—Closer to when we launch. Clearly we are not going to flag our retail prices at this early stage.

**Senator NASH**—Why not?

**Mr Jennings**—It is a very competitive market out there.

**Senator NASH**—It will not be a competitive market. There will only be that network.

**Mr Jennings**—No, that is not so. There is huge competition in—

**Senator NASH**—In regional Australia it will be. As far as I can see, there will only be that network. Am I wrong?

**Mr Quilty**—In many of the towns there will be a competing network.

**Senator NASH**—A lot of people in regional Australia do not live in the towns.

**Mr Jennings**—Telstra’s pricing is not differentiated—it never has been—between city and country, so whatever the city prices are, the country prices are. In such a highly competitive market, that is your guarantee that the pricing will be as good as you get in that country.

**Senator NASH**—But that is my point: there will not be an option on a handset for many people because they will only have the Telstra network available. What I am asking is: at what point will you be telling people living in regional Australia, who only have the 3GSM network capability, what the cost of the handset will be?

**Mr Jennings**—I am not sure of the timing, but it will not—

**Senator NASH**—Does anybody in Telstra know?

**Mr Pinel**—I do not think there is a decision on the timing of that at this stage, the same as there is no decision on the timing of the commissioning of the network. But the two will have to be brought together in some cohesive way. The network is still being built at this stage, so it is premature.

**Senator NASH**—What about things like aerials and car kits? Will the aerials be compatible with the old CDMA network or will they be new technology?

**Mr Jennings**—No, they will be compatible.

**Senator NASH**—And car kits? Is there any kind of value on those yet, or is that just the same as for the handset?

**Mr Jennings**—With car kits now, if you change your CDMA phone, the chances are you will have to change your car kit as well. So there is no—

**Senator NASH**—That is right, so if they did not have to change their CDMA phone they would not be changing their car kit. But they will have to, so what will the value of it be?

**Mr Jennings**—On average our customers change over their handsets after an 18-month to 24-month period. So in the sort of time frame we are looking at here in bringing in a new network it is highly likely that they will undergo a change of handset in any case.

**Senator NASH**—Do you have a rural and regional breakdown of those figures or just across the board?

**Mr Jennings**—That is across the board.

**Senator NASH**—Could you have that broken down into rural and regional figures?

**Mr Jennings**—We could do that.

**Senator NASH**—If you could look at doing that, that would be good. What about prepaid phones? There is no option to go on a plan there.

**Mr Jennings**—That is right. There will be a prepaid offer.

**Senator NASH**—Is it the same deal? Will we find out about prepaid offers at the same nebulous time that we will find out about handsets?

**Mr Jennings**—Nearer to the changeover, yes. I expect so.

**Senator NASH**—Basically this affects anybody who has to buy a new CDMA prepaid phone now, bearing in mind a lot of people in rural and regional Australia have children and they buy prepaid phones for safety issues.

**Mr Jennings**—Yes, I understand that.

**Senator NASH**—So they are going to have to change those over and you are still not telling them how much that will be.

**Mr Quilty**—They obviously will not have to change any phones until the end of January 2008 at the earliest.

**Senator NASH**—I follow that, but when people are saying to me, ‘What is the cost of the handset going to be?’ I have to say I do not know. I must say, it would give them a lot more confidence in Telstra if I could give them a response.

**Mr Jennings**—One of the difficulties, apart from the competitive aspects, of striking a price now is that, particularly in the early stages of a technology, your input costs change very quickly. I will just give you an example. The wholesale costs of wideband CDMA 2100 handsets have fallen so quickly that they are now less expensive to buy than equivalent CDMA handsets. We would expect that the 850 handsets would move in cost as well, so it is almost impossible to set a price at this point in time—not that we would anyway, for competitive reasons.

**Proceedings suspended from 1.00 pm to 2.01 pm**

**Mr Quilty**—We promised to get back to Senator Conroy in relation to a series of questions regarding the licensing or otherwise of various services. I can inform the committee of where we have got to in relation to that advice. Senator Conroy, you asked about the licensing of IPTV. We are not currently doing IPTV. However, our view at this point is that, because IPTV involves delivery of services over the internet to a television, it would be covered by the exemption at the moment in point-to-multipoint internet services. Similarly, you asked about the V8 Supercars. Because that is an over-the-internet service, we believe it would be exempt; similarly with the 3G service we offered during the Commonwealth Games. You asked whether the regulator had raised any concerns in terms of our licensing or lack of licensing of these services. To our knowledge, none. In terms of the issue of mobile television, which would use the broadcasting spectrum, or the datacasting spectrum obviously at the end of the day, licensing is a matter for the government but we would envisage, because it is using the broadcasting spectrum, there will be some licensing. For example, if we were able to access that spectrum and we used it to offer subscription based mobile television services, we would envisage a subscription licence. Alternatively, it may be a narrowcasting licence, but again that is probably a matter for the government.

**Senator CONROY**—Thank you very much.

**Mr Quilty**—The only other matter is that you asked a number of questions about Optus being in touch with us about the joint venture. I have just learnt that there has now been a second approach from Optus in recent weeks and that that approach I presume—it is subsequent to the announcement by the Group of 8—is on behalf of the Group of 8.

**Senator CONROY**—Thank you.

**Senator RONALDSON**—Is that a formal proposal?

**Mr Quilty**—I believe a letter has been written to us. I am not sure. I do not think the letter has great detail in it. I have really learnt no more than that there has been a second proposal put to us in recent weeks, or a second piece of correspondence coming to us in recent weeks, from Optus and I presume on behalf of the Group of Eight, which they are now part of.

**Senator RONALDSON**—So you are not too sure whether that is a formal proposal or a letter of engagement?

**Mr Quilty**—I think it is probably more the latter.

**Senator CONROY**—They are not going to send them the details until they sign up. I think Senator Nash was mid-question .

**CHAIR**—All right.

**Senator NASH**—I have a question on the consultation process with the change to the new network. What has Telstra undertaken to date so that stakeholders are briefed and do understand about the changes and what is actually in the pipeline for the future?

**Mr Quilty**—We are very keen to consult with stakeholders. Stakeholders are customers, either actual or potential. Obviously, what we are looking to do here is to retain and expand our customer base as much as possible. We are consulting with stakeholders now. I have personally consulted and been involved in consultations with the National Farmers Federation on a number of occasions. We are very happy to consult as widely as we need to with stakeholders to ensure that everyone is aware of what our plans and our commitments are. We see that as being in our interests, because we obviously want to get people positive and excited about the new 3G network so that we get as many customers as we can.

**Senator NASH**—Just on that exciting new network, obviously part of that is the data capability, which will be a real bonus. I certainly understand that. In terms of the data capability—this is a technological question, I guess—and the spectrum that it will entail to run the new network as maximum data capability, does Telstra currently have enough spectrum or do you have to purchase more?

**Mr Jennings**—We have enough to get started. We would envisage that down the track we would need more. We could either do that by utilising some of our 2100 spectrum or potentially look at some other spectrum, undefined as yet. But heavy data usage does use the spectrum up quite quickly.

**Senator NASH**—That is why I asked the question. Do you envisage any problems in procuring spectrum down the track? Do you see any problems in doing that; otherwise, it would seem that perhaps you would not be able to run the new network at maximum capability?

**Mr Jennings**—Not to date. I think our view is that we have got sufficient for the present. But some of the longer term evolutions of the technology do use other spectrums, and presumably those spectrums will be the subject of spectrum auctioning in time. But that is not for a few years yet.

**Senator NASH**—Finally, on the current CDMA network, what is the current practice in terms of reselling?

**Mr Jennings**—We have a resale agreement with Optus and we have a roaming agreement with Hutchison Orange, which will terminate shortly when they close their CDMA network.

**Senator NASH**—And what is the—

**Mr Jennings**—And a roaming agreement with Globalstar.

**Senator NASH**—What is the proposed environment, I guess is probably the word to use, under the new network in terms of reselling?

**Mr Jennings**—We will honour existing agreements.



**Senator NASH**—Can you expand on that? What does that mean?

**Mr Jennings**—Existing contracts that we have with those folk. The intent of those contracts and the letter of those contracts will be honoured.

**Senator NASH**—I imagine they would be all due to expire then before the 2008 switch-off date?

**Mr Jennings**—Yes, and there are periods of notice that need to be given and so forth. My understanding is that we have given notice.

**Senator NASH**—What is the period of notice?

**Mr Jennings**—I am not sure.

**Mr Quilty**—Two years.

**Senator NASH**—Two years.

**Mr Quilty**—We gave notice earlier this year.

**Senator NASH**—Earlier this year. I am doing the dates in my head. And in terms of the reselling under the new network?

**Mr Jennings**—Our belief is that our shareholders' interests are best served by a retail construct. However, having said that—

**Senator NASH**—Can you just say that in English?

**Mr Jennings**—Yes, we believe that we will run a retail organisation—that we will be better served by that than doing wholesale arrangements with the new network. Having said that, we have undertaken that we will assess on a commercial basis any proposals for wholesale access to the network that are put forward.

**Senator NASH**—So, with the changeover, obviously you will be the only ones with the new technology?

**Mr Jennings**—Perhaps.

**Senator NASH**—If you chose not to resell it, you would be the only provider of that particular—

**Mr Jennings**—Of that technology.

**Senator NASH**—Of that technology. It then would stand to reason that, certainly out in regional Australia, there will be only one network?

**Mr Jennings**—The other networks serve in excess of 90 per cent of the Australian population—all of them. So, for the portion of the coverage footprint outside that population coverage, the answer is yes.

**Senator NASH**—You mentioned stakeholders. This question does not really fit into any particular group. Perhaps someone could come back with an answer on the shareholders. We do hear a lot about Telstra's responsibility to its shareholders, which is quite right and quite correct. Does anybody here have the figure for what proportion of the network was built prior to privatisation and what proportion post?

**Mr Quilty**—CDMA network?

**Senator NASH**—No, sorry. I was just shifting to the bigger picture of your entire network, which I think I did ask Dr Warren at some stage about last year. I am just trying to ascertain what percentage of Telstra's entire network was built prior to privatisation and what post. I am quite happy for you to take that on notice.

**Dr Warren**—Let me think about how we answer that, but I would make one point, which I think is quite important, which we may have made last time. Of course, the whole network was sold at T1. Sure, the government kept back two-thirds of the network, but the whole network was sold. It is not like a third was sold. The whole network has been privatised. You are right, some of it was built pre-privatisation, a large part of it, and then it was sold at—

**Senator NASH**—I understand.

**Dr Warren**—Just as long as we are clear that the government has got good money for that.

**Senator NASH**—You are very clear, Dr Warren. I would just like a figure for that network built prior to privatisation and post.

**Dr Warren**—We will see what we can do.

**Senator NASH**—Thanks for your indulgence, Senator Conroy.

**CHAIR**—Senator Conroy, do you wish to proceed?

**Senator CONROY**—No, I would like to ask a few other questions, some of which have been covered by Senator Nash and Senator Ronaldson, about your plans to switch off CDMA. In the past, Telstra has made a number of assurances that it has vendor commitments its 3G base stations will be able to deliver equivalent coverage to the existing CDMA network. Has Telstra made contingency plans in the event that 3G base stations are not able to deliver the promised coverage?

**Mr Jennings**—The first part of that answer is that we do not believe that we will need contingencies, but there are some contractual contingencies in place, yes.

**Senator CONROY**—What will happen if Ericsson is unable to deliver base stations capable of providing the projected range of 200 kilometres?

**Mr Jennings**—That is a matter for Ericsson and Telstra, but there are elements in the contract that we have that cover that contingency.

**Senator CONROY**—Has Telstra undertaken any analysis of what remediation requirements may be required to deliver equivalent coverage in such a situation?

**Mr Jennings**—No, because our principal belief is that the coverage requirements will be met first up.

**Senator CONROY**—Would Telstra be prepared to install additional 3G towers to ensure equivalent coverage is provided?

**Mr Jennings**—Again, I will refer to the contractual contingencies that we have in that regard.

**Mr Quilty**—I do not think that we are ruling that out at all. In fact, I think we have announced, for example, on some highways that in the 3G roll-out we are going to put out additional base stations.

**Senator CONROY**—How will Telstra handle customer complaints that you receive over the CDMA from people who receive CDMA but cannot receive 3G coverage after the network switch-off? What is your proposed plan to deal with any customer complaints that come in? In the initial stages there may be some hiccups.

**Mr Jennings**—I think it really is on a customer-by-customer basis that we deal with this. Going back to when we rolled out CDMA originally, there is quite a large communication issue up front. But where a customer still had issues, we would go out and observe the issue. Quite often we would find that we could actually fix the coverage problem there and then. It was a matter of choice, say, where people that had previously had an external antenna on their car were trying to get the same level of coverage with a hand-held phone. Once we showed them that you could connect up your new phone to an external antenna, everything was okay. It was really case-by-case and very much customer focused/field focused.

**Senator CONROY**—You are not going to set up the same sort of never-ending loop that you are planning for the removal of the pay phones around the country?

**Mr Jennings**—Sorry, I do not understand the question.

**Senator CONROY**—A leaked proposal for the removal of payphones around the country suggested that you were going to put customers into an endless loop where they never actually got on to any human beings. I just want to make sure that you are going to have a proper complaints process.

**Mr Quilty**—I am not sure that that is accurate as to how we respond to customer input on payphone removals. We have a range of means by which customers can provide input, including by phone, by email and by letter, and certainly in terms of any complaints that are made by email or by letter we not only acknowledge them by letter but also respond to them by letter. I would hope that we do not do what you are saying.

**Senator CONROY**—So would most Australians. Some of these issues were covered by Senator Nash, but I might just recap quickly. Has Telstra been able to source car kits with external aerials yet for its 3G network?

**Mr Jennings**—Yes we have. We have had extensive consultation with a number of the manufacturers of phones and accessories, and we believe that the picture is looking very good for the availability of those accessories—not just car kits but other accessories as well.

**Senator CONROY**—Has Telstra considered the commercial terms upon which it might provide competitor access to its 3G network?

**Mr Quilty**—That is the same, I think, as the question Senator Nash asked. We are willing to enter into discussions on commercial terms for third party access.

**Senator CONROY**—Presumably access terms would be something you would take into account when you are assessing the financial viability of rolling out such a network. That would be a pretty standard operating procedure?

**Mr Quilty**—Yes.

**Senator CONROY**—The determination as to whether it would be profitable to provide access on commercial terms to the 3G network would be a consideration that led into the decision to switch to 3G, would it not, for example, when you are flicking the switch?

**Mr Quilty**—We would have taken all of those aspects into consideration. Obviously, we had to take into consideration the likelihood or otherwise of regulated access, which we did in our deliberations. Obviously, any request for access and whether they are commercial or not and whether the numbers stack up for Telstra is fundamental, yes.

**Senator CONROY**—I believe that Telstra has been testing the coverage of a 3G GSM 850 base station. I think you were having a discussion earlier about how well that was all going. Have you been able to achieve voice and data coverage, say, at half the 200 kilometre target yet—at 100 kilometres?

**Mr Jennings**—No. The first increment was to 80 kilometres, and we have in fact done that. We have also tested HSDPA data capability and achieved greater than one megabit per second at 78 kilometres. We tested alongside our existing EVDO capability, and that did not provide coverage beyond 55 kilometres.

**Senator CONROY**—At what distance have you been able to maintain voice calls or is that all you have tried so far—the 80 kilometres?

**Mr Jennings**—The 80 kilometres.

**Senator CONROY**—Will this distance decrease as usage on each cell increases?

**Mr Jennings**—As the usage on cells increases, so then we need to increase our capacity in the cell. It is a capacity planning issue. We would aim to keep the same cell size by doing that. Cells do change in size if you run yourself low on capacity, but the capacity planning process would put more capacity into the network and restore that cell footprint. It is a very common approach to cellular engineering. You look at your capacity usage and you provide capacity to suit the traffic that is being offered to that particular cell. That is what we do with wide-band, that is what we do with CDMA today, and that is what we do with GSM.

**Senator CONROY**—So was that a yes or a no?

**Mr Jennings**—It is a yes, we will maintain the footprint.

**Senator CONROY**—Are you still expecting to extend this voice and data coverage to 200 kilometres?

**Mr Jennings**—Yes.

**Senator CONROY**—Your vendor Ericsson has claimed in a paper headed Facts and Benefits:

For consumers and businesses, the ongoing development of 3GSM means faster data download speeds, average 500 kilobits to 1.2 megabits from day one, providing wireless broadband to parts of the country that would not otherwise gain this convenient and productivity-enhancing service. Planned increments will take the data speeds to 1.5 to 2.2 megabits average, 6.5 megabits peaks planned in the near term, then to 14 megabit peaks with HSPA release.

Are these claimed enhancements, 6.5 and 14 megabits, realistic?

**Mr Jennings**—They are peak speeds. The speeds that I have quoted to the estimates committee have been average. I think last time we talked about 550 kilobits to 1.1 megabit per second. One is peak, one is average, or the average speeds that our customers will experience.

**Senator CONROY**—Telstra said in the 15 November media release ‘Telstra’s strategy for growth’ that Telstra will be the first Australian telco to ‘deliver nationwide wireless broadband to all its mobile customers’. Is that still your intention?

**Mr Jennings**—Yes. We will certainly have the capability to do it.

**Senator CONROY**—Are there any exceptions to this promise?

**Mr Jennings**—In what respect? If we deliver that capability to our—

**Senator CONROY**—Does this include all the sites in the Torres Strait islands and places such as Lightning Ridge and Bogan Gate?

**Mr Jennings**—My belief is yes.

**Senator CONROY**—Yes?

**Mr Jennings**—Yes.

**Senator CONROY**—What steps is Telstra taking to ensure that there is sufficient backhaul from each site to provide effective broadband from consumer to the internet backbone?

**Mr Jennings**—From each site we have quite a large transmission construction program under way right now to provide backhaul from the new base stations back into the network. What will happen when we close the CDMA network is we will transfer the backhaul on the CDMA network across to the 3G network.

**Senator CONROY**—Will broadband—

**Senator RONALDSON**—That document that Senator Conroy was referring to I think was the Ericsson 3G GSM850 Facts and Benefits, was it?

**Senator CONROY**—Facts and Benefits, yes.

**Senator RONALDSON**—Have you seen that document? It mentions Telstra’s name a number of times. Is there anything in there that you disagree with? I just want to ascertain that.

**Mr Quilty**—I am not aware that I have—

**Senator RONALDSON**—Perhaps you can take the question on notice, Mr Quilty. If there is anything that you disagree with in that document, perhaps you could let us know.

**Mr Quilty**—Yes.

**Senator RONALDSON**—It quotes the organisation extensively and what will be delivered, so you should perhaps have the opportunity to say if you disagree with it, because it is very much on the public record as it stands.

**Mr Quilty**—I think it is unlikely because, to a large extent, we rely on Ericsson as the vendor in terms of the commitments that can be made.

**Senator RONALDSON**—They are giving undertakings in your name effectively about footprints et cetera.

**Mr Quilty**—I will take it on notice.

**Senator RONALDSON**—Thanks.

**Senator CONROY**—Will broadband data be delivered to all mobile customers?

**Mr Jennings**—It is available to all, yes.

**Senator CONROY**—What about those 100 kilometres from the base station?

**Mr Jennings**—At the cell edge, to achieve what you might term as broadband, we believe that can be done. We believe that it will need a high-gain antenna to achieve it. But with a suitable high-gain antenna we believe that in the order of 200 to 250 kilobits a second is realistic.

**Senator CONROY**—So 200—

**Mr Jennings**—To 250 kilobits per second.

**Senator CONROY**—At 100 kilometres?

**Mr Jennings**—If the coverage can extend to 100 kilometres, yes. One of the things is—

**Senator CONROY**—That is using an antenna, you said?

**Mr Jennings**—Yes, a high-gain antenna. There are some base stations where, because of terrain, you will never of course get to 100 kilometres, but where you can get signal to 100 kilometres, yes.

**Senator CONROY**—How far from a base station would broadband be received? What is the absolute outer limit?

**Mr Jennings**—The absolute limit will be 200 kilometres.

**Senator CONROY**—What speeds do you expect consumers to average at, say, 50, 75, 100 and 150 kilometres from the base station?

**Mr Jennings**—That is a ‘how long is a piece of string’ question. It will depend entirely on the radio path conditions between the base station and the user, and it will vary in each case. As an example, in the testing we have done in Victoria we were able to sustain around 1.2 megabits per second at 78 kilometres. As a benchmark you can use that. But, again, that will vary depending on location. It depends what sort of terrain you have got, whether it is hilly or flat.

**Senator CONROY**—Refresh our memory. I know you told us about the terrain last time. What is the terrain in Victoria that you are testing?

**Mr Jennings**—It is very flat.

**Senator CONROY**—Very flat?

**Mr Jennings**—Yes, flat. The base station is quite elevated.

**Senator CONROY**—Are they normal?

**Mr Jennings**—You get a full range of terrains. Base stations sometimes are mounted low, sometimes they are mounted very high, and that dictates what your maximum range is going to be from the base station.

**Senator CONROY**—What about those sites that use repeaters? Do they have the same sorts of speeds and distances?

**Mr Jennings**—The same sorts of speeds are capable through a repeater, but remember a repeater is a lower powered device usually. If it is a repeater now with CDMA, it will have a certain range. With 3G 850 it will have a similar range, the same range, but it will not be the range of what we call a macro base station, which is a higher power device that is capable of much greater range.

**Senator CONROY**—Will those sites be able to handle backhaul for broadband services?

**Mr Jennings**—Yes. They do not really need backhaul. If they are a repeater, because all they are doing is picking up a signal off air and repeating it, there is no backhaul per se.

**Senator CONROY**—Thanks.

**CHAIR**—Senator Ronaldson does have some questions, if you are happy to let him keep going in this vein.

**Senator RONALDSON**—I will ask a couple of quick ones unless you want to move on.

**Senator CONROY**—I have more on different topics, but I know Senator Ronaldson said he had questions on this.

**CHAIR**—Yes.

**Senator RONALDSON**—Can I just give you some scenarios, and I will be quite up front—they are from the CDMA development group and some commentary that they have made. I am happy for anyone to take it. I will read from that document and I would like your response:

CDMA in Australia is already a 3G technology, according to the International Telecommunications Union, offering coverage to 98 per cent of the population. CDMA is at least two years ahead of UMTS in its evolution, which means that even if the new network matches what CDMA offers today it will not match what CDMA will be offering in 2008. Even by Telstra and Ericsson's own admission, coverage issues still exist and, while comparable coverage is being promised, it is by no means assured and requires scrutiny. The dubious rationale we have seen for the move to UMTS 850, for example, handset availability, data speed performance, has been shown to be flawed.

Can I have your comments on those matters?

**Mr Jennings**—I will start from the top. The first point that they make there is actually right. The existing network does cover 98 per cent. The second point about being two years ahead I would question. If it was two years ahead, how is it that HSDPA already can exceed the coverage footprint of 1XEVD0, which is the current 3G CDMA technology we have in the network? So I refute that point. Also, the current CDMA 3G capability cannot do simultaneous voice and data. The 3G 850 can. Neither can the current CDMA technology do video point to point, whereas the current 3G 850 technology can. I think their estimate of the CDMA technology being two years ahead is rather a gross overstatement. Coverage issues: as I said earlier on, we are confident that we will meet or exceed the coverage of CDMA with 3G 850. Handset availability: we have identified currently 12 handsets that are commercially available at the 850 frequency.

There are a further six data cards which are also commercially available for 3G 850, and we expect within the next 12 to 18 months that we will have 30 handsets available. Just as an example of how quickly handset availability changes, the 2100 version of 3G UMTS a year

ago had about 170 handsets available. Today there are about 355 handsets available, so it doubled in availability in just 12 months, and we expect that same sort of growth to occur with 3G 850. After all, the engine in these handsets is the same. They are just different frequencies. They are different channels that they are on, so it is not a big deal to get them operating on another channel.

The data speed performance was the last point that I have written down here. Again, as per our discussion with Senator Conroy just a minute ago, we are seeing equivalent data speeds, and a little more, I have to be honest, with EVDO, when you are close into the base station. The reason for that is that the 3G 850 data cards that we are using for testing right at this moment have a throughput limit of 1.8 megabits per second. But when we launch that throughput will be lifted to 3.6 megabits per second on the data cards. Clearly, beyond the 55-kilometre range of EVDO we have coverage with 3G 850 today that we do not have on EVDO.

**Senator RONALDSON**—That is interesting.

**Senator CONROY**—I want to ask a few questions about Telstra's approach to protecting children from extreme pornographic and violent material on the internet. I understand that Telstra offers its customers PC based filters at cost price; is that correct?

**Mr Quilty**—Correct.

**Senator CONROY**—How much do these filters typically cost to customers? What is the price range?

**Mr Mullane**—The NetNanny filter is about \$54.

**Senator CONROY**—I think NetNanny is around \$55. Can you advise the committee what proportion of Bigpond customers have taken up these filters?

**Mr Mullane**—I would have to take that on notice, but it is not a high percentage.

**Senator CONROY**—What about the kids in those households where parents have not installed a filter to their PC?

**Mr Mullane**—I would expect that the parents would be operating some form of parental supervision. There is also quite a lot of information about what to be aware of with children using the internet.

**Senator CONROY**—So at present Telstra does not provide kids in these households with any protection from exposure to things like child pornography and violent sex sites?

**Senator RONALDSON**—With the greatest of respect to Mr Mullane, it is a bit hard for him to say what is happening in households without filters.

**Senator CONROY**—I asked about what Telstra was doing.

**Senator RONALDSON**—The question before. There could be a wide variety—

**Senator CONROY**—This is just straight-up interference in—

**Senator RONALDSON**—I think we need to—

**Senator CONROY**—Mr Mullane is answering the questions perfectly competently—

**Senator RONALDSON**—The question needs to be—



**CHAIR**—We are probably drifting away from technological sorts of answers into sociological ones.

**Senator CONROY**—I am asking what Telstra is doing. Cut it out.

**CHAIR**—I am not really sure that is Telstra's responsibility, but there you are. If you wish to answer, please proceed.

**Mr Mullane**—Telstra is making information available to its customers and we are providing filters for those customers that desire to access those. We operate in close conjunction with the Internet Industry Association and the codes of conduct that they recommend their members follow. The ACMA has done some analysis of what is going on in the industry in this regard, and Telstra Bigpond was given a tick on all counts. Basically, this is an issue where Telstra's position is that we are very happy to go to great lengths to advise our customers what they should be aware of. We recently emailed all of our customers about dangers to internet users and what sorts of steps they need to be aware of and to take. I think there was a mail-out to 2.3 million customers quite recently. We will continue to adopt those sorts of proactive approaches.

**Senator CONROY**—A remarkably non-technical answer there, and quite detailed I thought, Senators Eggleston and Ronaldson. You may be aware there is a trial of ISP filtering to be held in Tasmania at the end of July. I understand that Telstra does not intend to participate in this trial; is that correct?

**Mr Mullane**—That is correct.

**Senator CONROY**—Can you explain why?

**Mr Mullane**—We fundamentally believe that the protection achieved through PC based filtering is much more effective than any network based approach. The PC based approach can actually be configured to suit the particular situation that exists and the customer's requirements. It can block other services, not just web based content—so chat rooms, news services, peer-to-peer types of traffic. In fact, the PC based filters are quite difficult to circumvent. On the other hand, ISP web based filtering only blocks out particular web pages. It is a sort of one-size-fits-all approach and it does require a large amount of processing power, particularly for large ISP operations. It has the potential to degrade network performance. We are concerned about the scalability of this for a large operation like Bigpond. I think the overriding issue that we will have, or the area of concern, would be that it would lead to a false sense of security for our customers. They would think that everybody is going to be now safe because we have undertaken this activity and, as I say, it does not—

**Senator CONROY**—Is there a suggestion that, accompanying this, nothing else would happen—you would stop selling the filters, you would stop writing to them explaining the dangers? You would just automatically do that as well, would you?

**Mr Mullane**—There could be a tendency for customers to form that impression themselves.

**Senator CONROY**—Not if you wrote to them and told them it was not sufficient.

**Mr Mullane**—Yes, but we—

**Senator CONROY**—Like you are doing with the filter.

**Mr Mullane**—Exactly. You cannot make customers' minds up for them. You can inform them. We would not want customers to be of the opinion that their household was fully protected.

**Senator CONROY**—To use your own description, you said that the number of people who have taken up filters was on a 'small scale'.

**Mr Mullane**—By their choice.

**Senator CONROY**—So a small number have taken up the—

**Mr Mullane**—A small percentage, I would say.

**Senator CONROY**—A small percentage? Yes, that would be a small number.

**Mr Mullane**—Not necessarily.

**Senator CONROY**—So the overwhelming majority, the vast majority, of children do not have any protection and Telstra is not interested in assisting in the process—

**Mr Mullane**—No.

**Senator CONROY**—of protecting children from child pornography?

**Mr Mullane**—I think all the answers I have just given would not lead to agreement with that.

**Senator CONROY**—The proponents of the trial think they can do a bit better than the current filters. They are not advocating doing away with filters; they are not advocating with the other arms of your policy. Why not be in it and see if it adds an enhanced protection for children?

**Mr Mullane**—We are not persuaded that it has sufficient merit for the size of Bigpond's operations.

**Senator CONROY**—Is ISP filtering just bad for business?

**Mr Mullane**—People are interested in purchasing internet services for a very wide range of reasons, and they do so in significant numbers. I think filtering is a very important part of what customers are able to access and we will continue to make sure they are well aware of it.

**Senator CONROY**—Would it reduce traffic over your network if you filtered? Would it be bad for business and would customers would leave?

**Mr Mullane**—Let me put it this way. Spam is another thing that is perhaps not so great for business. We are filtering out something like 24 million emails a day that are from spam related sources. That is a very high percentage of traffic. It is bad for business. We do not like it. We wish it was not there, but it is. It is there and it is a fact of life.

**Senator CONROY**—Have you made any estimate of what proportion of the traffic over the internet is porn?

**Mr Mullane**—No. I have not.

**Senator CONROY**—No figures at all?

**Mr Mullane**—I do not have it here, but—

**Senator CONROY**—If I said to you that I have heard statements that the two biggest items on the net are gambling and porn, would that be a surprise to you?

**Mr Mullane**—I am not sure. I have not thought about it.

**Senator CONROY**—No idea?

**Mr Mullane**—Spam is pretty big, too.

**Senator CONROY**—No, but spam coming in is something that you do not want. These are things people are going out and getting.

**Mr Mullane**—I do not have a view on that. If you would like me to see if Telstra has a view on it, I could take that question on notice.

**Senator CONROY**—No. I was asking if there was a factual issue here, not for a review—

**Mr Mullane**—I do not have information to that extent, but I can—

**Senator CONROY**—Is anyone else in Telstra familiar with this?

**Mr Quilty**—If you look at the most frequently visited web sites, which are sometimes published, I think you usually find that NineMSN, ABC and of course Sensis are usually up the top. We can provide more detail on that, I am sure.

**Senator CONROY**—Thank you. In the UK, BT offers a clean feed to its customers. Why does Telstra not offer its customers a service that blocks access to these illegal sites identified by ACMA?

**Mr Quilty**—I think we do make sure that those sites that are blocked by ACMA are blocked by our filters.

**Mr Mullane**—If any sites are given a take-down notice, we will take them down immediately. We certainly comply with all the requirements.

**Senator CONROY**—BT reckons it has blocked 30,000 web pages that contain these sorts of offensive, violent and child pornographic images. Do you block these 30,000 websites or are they available through Telstra?

**Mr Mullane**—I would have to get the numbers. I suspect not, but let us get the numbers.

**Senator CONROY**—You do not block any. I know it sounds silly, but you are not blocking anything.

**Mr Quilty**—We certainly take down—

**Mr Mullane**—We take down—

**Senator CONROY**—They are Australian sites. These are 30,000 overseas sites. BT blocks them, but they are available through Telstra.

**Mr Mullane**—I would have to have more details of those.

**Senator CONROY**—Is this not a case where you are just doing the minimum that the government requires you to do?

**Mr Quilty**—I know we are fully complying with the law. I also presume that the filters made available to a PC level would block a significant proportion of the objectionable content.

**Mr Mullane**—Absolutely, very much so. It is our position that the filters are the way to go, and anyone who has concerns can get a filter.

**Senator CONROY**—I am voicing a few at the moment. BT did this off their own bat. The government did not make them. BT did not need the government to increase regulation or suggest it. They just did it off their own bat. But there is an extra option here to protect children from these sorts of child pornographic images and violent depictions, and Telstra are just sitting there saying, 'No, we are not going to do anything about it,' when there is an extra step you could take by participating in this. Is Telstra happy to be used for child porn?

**Mr Mullane**—I would not agree with that description.

**Mr Quilty**—Certainly not.

**Senator CONROY**—Why do you not block these 30,000 sites?

**Mr Mullane**—For a start, I have only got your word that that is happening.

**Senator CONROY**—No, it is quoted in an article in the *Herald Sun*, Saturday, 15 April 2006, page 10, Weekend section, 'The evil trade'.

**Mr Mullane**—I am quite happy to go away and assess what Telstra's own views on that sort of information is.

**Senator CONROY**—Minister, you have said you are interested in seeing the results of the Tasmanian trial.

**Senator Coonan**—Yes.

**Senator CONROY**—Are you disappointed that Telstra has refused to take part in it, given you are interested in the outcome?

**Senator Coonan**—I would expect that the people participating in the trial would be capable of seeing whether this technology will work and I am vitally interested in whether or not it can work and will work, and will act if it does.

**Senator CONROY**—Are you disappointed that Telstra does not want to participate in this trial, given that you have raised concerns about these issues?

**Senator Coonan**—That is a matter for Telstra.

**Senator CONROY**—It is a matter for you to have an opinion on.

**Senator Coonan**—It is entirely a matter for Telstra.

**Senator CONROY**—You do not have an opinion on whether Telstra should participate in a trial that could block child porn sites?

**Senator Coonan**—That is a matter for Telstra. If they wish to do so, of course they can.

**Senator CONROY**—You are one of the two shareholding ministers.

**Senator Coonan**—Excuse me, Senator Conroy, let me answer the question. The trial, I understand, will trial the technology. That is the purpose of it. Whether Telstra participates or not is a matter for them.

**Senator CONROY**—You are currently one of the two designated ministers under the legislation who acts as a 51 per cent owner of Telstra. So it is not just a matter for Telstra's

management. It is actually a matter for the owners of Telstra, which at the moment is you. So as the owner of Telstra are you comfortable—

**Senator Coonan**—The objective of the test is to trial the technology. If it is trialled by people who participate in it and you get an answer, that is the objective.

**Senator CONROY**—You do not think it would be helpful for Telstra to be—

**Senator Coonan**—Not to require every ISP provider to participate.

**Senator CONROY**—It is not every; it is just Telstra. You own it. You control it. If you told them to do it—

**Senator Coonan**—Senator Conroy, I cannot understand why you wish to engage in this sort of argumentative nonsense. The objective here is to trial the technology, and I am satisfied it will be trialled.

**Senator CONROY**—Have you made any representations to Telstra that they should participate in the trials?

**Senator Coonan**—I do not make representations to Telstra.

**Senator CONROY**—I know they do not talk to you, but you could put out a press statement.

**Senator Coonan**—This is argumentative crap. Stop it, Senator Conroy, and get on with something sensible.

**Senator CONROY**—You do have the power to direct them to participate, do you not?

**Senator Coonan**—I would not be directing Telstra to do something like that.

**Senator CONROY**—No, I said you have the power.

**Senator Coonan**—It is not necessary. I do not have to have Telstra participating to achieve the objective.

**Senator CONROY**—Do you have the power to direct them?

**Senator Coonan**—You know what is in the act.

**Senator CONROY**—Section 9 of the Telstra act.

**Senator Coonan**—I am not going to engage in this any further. If you want to continue to ask Telstra questions, please do.

**Senator CONROY**—If you want to run away from issues to do with child pornography, that is fine.

**Senator Coonan**—I do not run away from it.

**Senator CONROY**—It will be on the public record that you are running away.

**Senator Coonan**—Labor's clean feed is an absolute cop-out and you know it. It is not going to achieve what the government hopes to achieve with trialling this technology. We wish to proceed in a way that we will get the very best outcome, not some half-baked one.

**Senator CONROY**—I thought you just said a minute ago that if it worked you would act?

**Senator Coonan**—It is being trialled.

**Senator CONROY**—I thought you just said if it works you would act?

**Senator Coonan**—It is being trialled.

**CHAIR**—I think it would be a good idea to move on, Senator Conroy.

**Senator CONROY**—Thanks for your advice as always, Chair, but I get to decide my own questions per the rules of the Senate.

**CHAIR**—Just helpful advice.

**Senator Coonan**—Can I just say something.

**Senator CONROY**—Senator Ronaldson got to ask nine times the same question to Mr Mullane and Mr Jennings. I have asked three and I have to move on. You sat there on your hands and shut up while Senator Ronaldson asked the same question nine times.

**CHAIR**—This seems to be going around in circles.

**Senator RONALDSON**—You got an answer and I did not, so that is entirely different.

**Senator CONROY**—No, I just got abuse and was told it was ‘crap’ by the minister.

**Senator RONALDSON**—It was.

**Senator CONROY**—I did not know that was parliamentary, by the way.

**Senator Coonan**—Mr Chairman, I—

**Senator CONROY**—Is that parliamentary?

**Senator LUNDY**—Only when the minister says it, it seems. How about a bit more impartiality.

**CHAIR**—It is in the *Oxford Dictionary*, so we should proceed.

**Senator CONROY**—The message is ‘crap’ is parliamentary now.

**Senator Coonan**—Mr Chairman, could I answer. What I have been advised is that one of the limitations of clean feed—and by no means are they comprehensive—is that it cannot block all forms of content. It is very doubtful that this system can scale to cover the whole range of pornography on the net. There is an inability for it to be able to analyse and block web sites based on some of the more sophisticated techniques, such as skin tones. As soon as a website has been identified and put on the list, the providers of the site simply change their host and get around it. It certainly cannot protect children from offensive material on email and it certainly provides no help for them using chat rooms. I might add to this—

**Senator CONROY**—That is—

**Senator Coonan**—No, since you have raised it, Senator Conroy, you just sit there and listen. And the really important issue here is that parents should not be misled that a clean feed would provide the kind of protection that they think they are getting. I have always said that I think it is very important that we do not jump to conclusions about this, that we trial it. If it works, it provides a whole different range of ways for the government to be able to do it. I want the most effective result, not just some half-baked result that gives parents some reassurance that they are not entitled to have.

**Senator RONALDSON**—Policy on the run again.

**Senator LUNDY**—Whose—the government’s policy?

**Senator RONALDSON**—No, yours.

**Senator CONROY**—Firstly, your system does not provide protection for at least two-thirds of households that do not have a filter. Secondly, I am just interested if all of those alleged shortcomings of a clean feed are covered off by your filters. Do your filters cover off on all of those issues just raised?

**Senator Coonan**—Yes, they actually do.

**Senator CONROY**—Cover off on all of them?

**Senator Coonan**—They actually do.

**Senator CONROY**—People do not change their names and get around them?

**Mr Mullane**—They can be reconfigured as soon as there is another breach.

**Senator CONROY**—Really!

**Mr Mullane**—They are very effective.

**Senator Coonan**—The most that—

**Senator CONROY**—So people do not change their names, find ways around your filter? Parents can rest assured that, once they have your filter, that is it?

**Senator Coonan**—They certainly have greater assurance with an experience that they can control in their own homes. It is certainly not perfect. No-one has ever claimed it has been. It is the best we have got at the moment, but that does not mean to say that we do not continue to look for a better response. That is precisely what I am trying to do.

**Senator CONROY**—If you want the headlines ‘Telstra soft on child porn’, Mr Quilty, that is fine.

**Senator Coonan**—I think that is a very unfair conclusion and I do not for a minute think that that is appropriate.

**Senator CONROY**—Because, of course, you would never tell a mistruth and your reputation is really important. You have been stressing that all day.

**Senator RONALDSON**—Chair, are the estimates allowed to be used for the Labor Party to try and push a flawed policy? Is that the way it normally works?

**CHAIR**—As I said, I think it would be helpful to move on, Senator Conroy.

**Senator CONROY**—It is the minister that jumped back in. I was about to—

**CHAIR**—I do not think we really are getting anywhere and it is—

**Senator CONROY**—I was about to move on.

**CHAIR**—degenerating into interpersonal comments. So let us proceed.

**Senator CONROY**—I was not the one accusing someone of crap.

**CHAIR**—If the cap fits.

**Senator CONROY**—Okay. Let us be clear about the partiality of the chair. That is a disgraceful comment. You did not want to bring the minister into line and now you have added to it, but I will survive.

**Senator RONALDSON**—We have lots of stuff to get on with.

**Senator CONROY**—You are the one sitting there pretending you are an impartial chair. Just do not bother in the future.

**Senator Coonan**—Can we move on, please, Mr Chair.

**Senator RONALDSON**—He is being an impartial chair. It is a reflection of—

**CHAIR**—My interest is simply to see the—

**Senator CONROY**—It is certainly not an impartial chairing, that is for sure. It demonstrated that.

**CHAIR**—estimates progress, so let us proceed to the next comment.

**Senator Coonan**—Just because I am not a fan of clean feed, Senator Conroy, does not mean that we cannot move on.

**Senator CONROY**—You are the one that said ‘crap’ ideas. You are the one tossing around the profanities.

**Senator Coonan**—I have given very comprehensive reasons why I think that it misleads parents as to how effective it can be, and I have also—

**Senator CONROY**—It is no more misleading than your belief in—

**Senator Coonan**—given an absolute assurance to parents—

**Senator CONROY**—filters and nothing else.

**Senator Coonan**—that the government will act, whenever we think it is appropriate, to protect children. It is something that we take very seriously.

**CHAIR**—That is a very clear, rational statement, so let us now proceed.

**Senator CONROY**—There has recently been considerable committee concern in Melbourne regarding the safety of Telstra mobile phone towers installed on the roof of the RMIT building in Burke Street in Melbourne. Is Telstra familiar with this issue?

**Mr Quilty**—Yes, we are.

**Senator CONROY**—What regulations govern the acceptable level of electromagnetic emissions from mobile phone towers?

**Mr Jennings**—There are levels set by ARPANSA and enforced, I believe, through ACMA.

**Senator CONROY**—Does the Telstra mobile phone tower on the roof of the RMIT building comply with these regulations?

**Mr Jennings**—Yes, they do.

**Senator CONROY**—When was the last time EMEs from this phone tower were measured?



**Mr Jennings**—The way that our compliance regime works with the industry is that every time a change is made to a site—and in the case of the RMIT site the last change made was in August last year—an assessment is made of the changes to any EME levels as a result of that change. In August last year it was assessed by an independent assessor, and the compliance certificate signed by that assessor is available to everybody. There is public access on the national site archive on the Internet.

**Senator CONROY**—Has Telstra been in touch with RMIT since this issue?

**Mr Jennings**—Yes, we have.

**Senator CONROY**—Has Telstra been in contact with any regulatory authorities on the issue?

**Mr Jennings**—I do not believe so, no.

**Senator CONROY**—What procedures do Telstra have in place to ensure compliance with ACIF codes governing community consultations on the installation of low-impact mobile phone tower facilities?

**Mr Jennings**—We comply with the code. There are opportunities for the community—for interest groups and so forth—to complain if they feel Telstra is not following the ACIF code, or if any of the other players in the industry are not following the ACIF code, and those results are published. Since the ACIF code has been introduced, the level of complaint and the number of sites to which those complaints refer has been steadily diminishing.

**Senator CONROY**—Is Telstra aware of any situation in which it has failed to comply with this code?

**Mr Jennings**—Not that I am aware.

**Senator CONROY**—Can you just take it on notice and come back to me if there are any instances and give us any details.

**Mr Jennings**—Sure.

**Senator CONROY**—What action does Telstra take when it becomes aware that it has failed to comply with the code?

**Mr Jennings**—Normally there is a process of consultation—the exact details I do not have, but we could provide those on notice as well if you wish—where those complaints are addressed.

**Senator CONROY**—I think Senator Wortley has a couple of questions on a similar topic.

**Senator WORTLEY**—Is it correct that in 1994 Hutchison entered into an agreement with Telstra to share the infrastructure that provides coverage for the 3G customers?

**Dr Warren**—No.

**Senator WORTLEY**—Sorry, 2004. I stand corrected.

**Dr Warren**—It is true we have a joint venture agreement with Hutchison for 2100 3G.

**Senator WORTLEY**—So that means that the infrastructure is shared and therefore it results in not as many towers being put up. Is that correct?

**Mr Jennings**—Yes, that is correct. There is also a more general sharing of infrastructure outside of that agreement with Hutchison, too, where mobile operators share their infrastructure.

**Senator WORTLEY**—Does Telstra currently have a map of mobile towers that have already been erected and future towers to be erected?

**Mr Jennings**—We would have a map or, if not, we could produce a map.

**Mr Quilty**—I think there might be a map on the website.

**Senator WORTLEY**—For the future—

**Mr Jennings**—I think we do. I think we have planned coverage on our website, yes.

**Senator WORTLEY**—You would be aware that the practice by Hutchison Telecommunications of swapping out ETSA stobie poles for larger poles to create, together with new antenna, a new telecommunications station has caused, and is continuing to cause, concern in many communities across Australia. In particular I draw your attention to the recent High Court appeal in the matter of *Hutchison v Mitcham City Council*. This case involved the installation of 3G mobile phone towers on existing ETSA stobie poles. Is the department aware of this case?

**Mr Quilty**—Yes, we are aware of it.

**Senator WORTLEY**—The Telecommunications (Low-impact Facilities) Determination 1997 permits the installation of mobile towers on existing infrastructure. Is that correct?

**Mr Quilty**—Yes, that is correct.

**Senator WORTLEY**—However, in light of the recent High Court decision in *Hutchison v Mitcham City Council*, carriers are now permitted to demolish existing infrastructure and build significantly larger infrastructure in its place in certain circumstances. Is that correct?

**Mr Jennings**—From my perspective, the intent of the ACIF code is not changed as a result of that decision.

**Mr Quilty**—I think our interpretation is that that High Court decision maintained the status quo in terms of the regulation under the low-impact determination.

**Senator WORTLEY**—I am still waiting. I think they are consulting on that.

**Mr Jennings**—I am sorry, that was the conclusion of my answer. I do not believe that that High Court decision changes the ACIF code intent one iota.

**Senator WORTLEY**—The low impact facilities regime was designed to provide for the exemption of telecommunication carriers from local planning laws for the installation of certain infrastructure that did not have a significant visual impact. Is that correct?

**Mr Jennings**—Sorry, was that in reference to the ACIF code?

**Senator WORTLEY**—In relation to the change to the towers.

**Ms Williams**—Sorry, I do not mean to interrupt, but if you asked some of these under the DCITA output 3.1 we could talk to you a bit more about them.

**Senator WORTLEY**—You could answer them? Yes, I will do that.

**Mr Quilty**—Yes, just from Telstra’s perspective.

**Dr Warren**—We are advised that the High Court decision does not change or diminish our responsibilities to adhere to the code of practice. So, while we are aware of the decision, it does not appear to have any effect on our community consultation proposals and we do not envisage changing as a result of that one way or the other. We certainly would not downgrade them as a result of that.

**Senator WORTLEY**—I will direct my further questions to the department, thanks.

**Senator CONROY**—I am happy to move on. I just offered you the opportunity to jump on in there, and you declined and now you—

**Senator RONALDSON**—My notes have gone yellow, Senator Conroy, while I have been waiting to get on. Can I just talk about the *Now we are talking* website. We could have some discussions. Do you want to flick to the appropriate bit in your brief, Mr Quilty?

**Mr Quilty**—I think I can do this one with my eyes closed.

**Senator RONALDSON**—I very much hope that is correct. How many people are assigned to work on the website?

**Mr Quilty**—I am not sure if anyone is assigned full time. It does have an editor.

**Senator RONALDSON**—So it has one staff member?

**Mr Quilty**—There is an editor, but that staff member has a lot of other duties as well.

**Senator RONALDSON**—Who is that?

**Mr Quilty**—Mr Rod Bruem. He does an excellent job.

**Senator RONALDSON**—He is a very regular contributor, isn’t he?

**Mr Quilty**—Editors often contribute to—

**Senator RONALDSON**—Does he contribute both as the editor and from elsewhere?

**Senator CONROY**—Welcome to the world of cross-media deregulation.

**Mr Quilty**—Certainly one thing we make sure of is that people who contribute to this website contribute in an up-front way. We certainly do not support people who use pseudonyms or whatever on the website. It is all about getting the facts out straight.

**Senator RONALDSON**—You do not support people who use pseudonyms?

**Mr Quilty**—Certainly I do not support that sort of behaviour.

**Senator CONROY**—Who has been naughty?

**Senator RONALDSON**—I just want to write that down. What is Mr Bruem’s official title?

**Mr Quilty**—He works for the national media office. He is a senior media officer, so he is a Telstra spokesman with the media.

**Senator RONALDSON**—Does he have any particular outlets that he deals with or is it in a general sense?

**Mr Quilty**—The media office does not work in that way, in that all of the media officers deal across the sphere of media outlets. They may, to some extent, focus on particular parts of the Telstra business, but they do not, to my knowledge, focus on particular parts of the media sphere.

**Senator RONALDSON**—Fundamentally, this website is about whipping up public support for your campaign in relation to deregulation. So are Mr Bruem's dealings with the media, as well as his editorial responsibilities, along those lines?

**Mr Quilty**—Not specifically. He does not, if you like, have the task in terms of the wider media. It is not his role to prosecute Telstra's regulatory case. That is prosecuted more widely by Telstra media.

**Senator RONALDSON**—Does he prosecute the deregulation case in a de facto sense on behalf of others?

**Mr Quilty**—On *Now we are talking* or more widely?

**Senator RONALDSON**—More widely?

**Mr Quilty**—To no greater extent, to my knowledge, than any other media spokesperson.

**Senator RONALDSON**—Is he a commentator on speeches given by government ministers or other members of government?

**Mr Quilty**—He does comment on occasions, but I am aware that he is not the only one who comments on such matters.

**Senator RONALDSON**—So part of his role is to comment on speeches given by government ministers in the media. Is that right?

**Mr Quilty**—He does not have that role alone, if you like.

**Senator RONALDSON**—But that is part of his role?

**Mr Quilty**—Part of the role of Telstra media spokesman, when asked by media, is where appropriate to comment on such speeches.

**Senator RONALDSON**—So one person who is prosecuting the case against regulation or for deregulation—or the other way around, whichever way you want it—is also the person who is running the public website pushing these issues as well? That is his role, is it? Let us just be up front about it.

**Mr Quilty**—I am being up front. He has a much wider role than that. He will comment on all sorts of matters completely unrelated to issues around deregulation.

**Senator RONALDSON**—How many hits per day is the website getting?

**Mr Quilty**—I do have a figure on that.

**Senator Coonan**—It has improved since prior to—

**Senator RONALDSON**—It is literally at your fingertips, Mr Quilty, is it? You are flicking through there.

**Mr Quilty**—Yes, that is right. We are told there is an average of more than 5,000 unique visitor sessions each week.

**Senator RONALDSON**—Is this the website?

**Mr Quilty**—Yes. That is right. You asked how many people visited and we are told there is an average of 5,000 unique visitors, or unique visits, each week.

**Senator RONALDSON**—There are four or five lines there which I will leave alone. How many staff hours are spent administering the website?

**Mr Quilty**—I do not have that figure. What I can say is that there are no staff who, if you like, have a full-time role in administering the website. What we tend to find is that staff have taken on this role to a large extent in their own time due to their commitment to the cause.

**Senator CONROY**—Get a life!

**Senator RONALDSON**—Can you just run that past me again?

**Mr Quilty**—As I said, we have no staff that, if you like, are given the full-time role of looking after the website. What we do find is that people provide services to the website often outside normal work hours due to their commitment to the cause.

**Senator RONALDSON**—Can you give me an indication of how many of these people are accessing Telstra offices around Australia and providing free services?

**Senator CONROY**—You are really getting up the minister's nose.

**Senator Coonan**—I think it is very amusing.

**Mr Quilty**—Sorry, I missed the question.

**Senator RONALDSON**—How many people are accessing Telstra offices after hours doing this honorary work for the organisation?

**Mr Quilty**—I can try and take that on notice, but to do this work they do not necessarily have to access Telstra offices.

**Senator RONALDSON**—So they can do it from home?

**Mr Quilty**—They can do it, if they have the necessary—

**Senator CONROY**—Get their PC—

**Senator RONALDSON**—Do you have a list of the good souls who are making this contribution?

**Mr Quilty**—I do not have it on me, but I can—

**Senator RONALDSON**—What numbers are there?

**Mr Quilty**—It would be a pretty small number. There are people, if you like, who assess that issues may warrant interest on this website and may take it upon themselves to talk to the editor or to provide some material that the editor might see fit to put on the website.

**Senator RONALDSON**—Are they using pseudonyms or are they identifying themselves as Telstra staff working after hours, when they have their input into this website?

**Mr Quilty**—I would not support anyone using pseudonyms. Guaranteeing 100 per cent that no one has is beyond my control.

**Senator RONALDSON**—Have you seen the website? Are there any names on there as contributors who identify themselves as Telstra staff?

**Mr Quilty**—I am not sure.

**Senator RONALDSON**—I think the answer is probably no. So how are they making their contributions, either during work hours or after work hours? If they are not identifying themselves, what work are they actually doing on that website?

**Mr Quilty**—For example, if Telstra has a particular issue on which it wants to put forward its position, staff may produce material that enables that position to be put on the website—

**Senator RONALDSON**—Under the guise of public contributions?

**Mr Quilty**—No, I am not—

**Senator RONALDSON**—Because they are not identified as Telstra employees.

**Mr Quilty**—I am certainly not saying that it is under the guise of public contributions. I presume we may be mixing up, if you like, contributions by people from outside that are on discussion groups with the editorial material put on there by the Telstra staff or the editor of—

**Senator RONALDSON**—Did Telstra staff participate in the discussion groups?

**Mr Quilty**—I believe that some of the discussions are likely to have started as a result of questions put on the website, yes. Presumably that is done under the—

**Senator RONALDSON**—So the Telstra staff initiate these public discussions, pushing the lines that you are running in relation to the regulation issue?

**Mr Quilty**—I am not saying that that is always the case, but what I am saying is that—

**Senator RONALDSON**—But it does happen, though, doesn't it?

**Mr Quilty**—I believe it would happen, yes.

**Senator RONALDSON**—Do you think that is an appropriate use—

**Mr Quilty**—Entirely.

**Senator RONALDSON**—of shareholders' funds—

**Mr Quilty**—Entirely.

**Senator RONALDSON**—to have people—that is, employees who you say do not have pseudonyms—who do not actually identify themselves at all, whether with or without a pseudonym? Do you think it is an appropriate use of the organisation's time to peddle this regulation material that you—

**Mr Quilty**—Absolutely, entirely.

**Senator RONALDSON**—You do? I think there might be a lot of shareholders who would vehemently disagree with you in relation to that, but that is a comment not a question. What is the cost to date of the website?

**Mr Quilty**—The cost I have is that we have spent \$63,000 in site build and operational costs to date.

**Senator RONALDSON**—Are you saying that, since February this year, you have only spent another \$3,000 on the website?

**Mr Quilty**—That is right. There have been no significant development costs since February.

**Senator RONALDSON**—What about staff costs?

**Mr Quilty**—As I said, staff have their jobs which, obviously, they have been employed to do and, largely, they fit this work in as well as doing their other jobs.

**Senator RONALDSON**—So there has only been \$3,000 allocated from Mr Bruem's salary to the website since February. Is that right?

**Mr Quilty**—No, it is not his total salary. I do not think we allocate salaries to the costs of the website.

**Senator RONALDSON**—Was the website coming out of the government relations budget?

**Mr Quilty**—The cost of the website comes from the public policy and communications group of Telstra.

**Senator RONALDSON**—Are they the same people who are responsible for Telstra.com?

**Mr Quilty**—No.

**Senator RONALDSON**—Which group is responsible for that?

**Mr Quilty**—It is BigPond, I believe.

**Mr Mullane**—No, it is the wider retail products and marketing—

**Mr Quilty**—It is Telstra consumer and marketing. So, no, they are separate.

**Senator RONALDSON**—I refer to your group manager for ITS finance and administration, Mr Howard Tuxworth. Has any of his time been allocated to the web staff time?

**Mr Nicholson**—Yes.

**Senator RONALDSON**—How much, Mr. Nicholson?

**Mr Nicholson**—I noticed the other day that Mr Tuxworth made a contribution which, I am sure, as we said before, was done in his spare time.

**Senator RONALDSON**—Perhaps you might like to tell us about the contribution.

**Mr Nicholson**—It is a light-hearted sort of a comment, I think.

**Senator RONALDSON**—In what form?

**Mr Nicholson**—I do not exactly know the details.

**Senator RONALDSON**—You do not?

**Mr Nicholson**—I just glanced at it very briefly.

**Senator RONALDSON**—It would not have been a cartoon, by any chance?

**Mr Nicholson**—I did notice his name on the website when I visited there.

**Senator RONALDSON**—Did you see it?

**Mr Nicholson**—I did not read it in any detail.

**Senator RONALDSON**—How do you know it was light-hearted, then?

**Mr Nicholson**—I saw his name and, yes—

**Senator RONALDSON**—He is a light-hearted chap, is he? You assumed that it would be light-hearted?

**Mr Nicholson**—I saw his name there and I did happen to notice that it was in the form that you mentioned.

**Senator RONALDSON**—Do you think it is funny that a group manager, someone with his responsibility, is a cartoonist for this self-serving website? Do you think that is funny?

**Mr Nicholson**—I think that he is entitled to put a view forward on that website, just the same as any other participant in the company. That is the idea of the website.

**Senator RONALDSON**—Was he identified as the group manager for ITS finance and administration?

**Mr Nicholson**—That is what caught my eye.

**Senator RONALDSON**—Mr Quilty, how long do you expect to—

**Senator CONROY**—You are taking yourself a bit seriously there, Senator Ronaldson.

**Senator RONALDSON**—I think you know the point I am getting at, Senator Conroy. How long do you expect to operate the website?

**Mr Quilty**—We have no plan to cease the operation of the website. We see it at this stage as being an ongoing operation and we think a successful one.

**Senator RONALDSON**—What? It is successful in that you are not spending any money on it? It is successful because you have staff who are voluntarily putting their time in?

**Mr Quilty**—No, I think successful because it is providing a forum—

**Senator RONALDSON**—Who is ‘he’?

**Mr Quilty**—by which there can be discussion.

**Senator RONALDSON**—Who is ‘he’? Or did you say ‘we’?

**Mr Quilty**—No, I said it is successful because it is providing a forum through which issues of significant relevance to Telstra can be discussed and can be debated openly. It is providing opportunities for our shareholders to understand more about the issues affecting Telstra.

**Senator RONALDSON**—It is providing opportunities for staff to generate the output of this website. I would have thought the use of this website and the way it is conducted was probably a gross abuse of Telstra’s position.

**Mr Quilty**—I thoroughly disagree. I think, if staff want to put a position on issues that affect the company they work for, which pays for their livelihoods, then should have every right to do so.



**Senator RONALDSON**—So it is a staff generated website—you have just admitted that—that you are funding, and they are the ones who are driving the community debate. Why do you not put it up as a staff input website rather than under the fraudulent notion of a *Now we are talking?* The only people who are talking are the people from Telstra who are generating this website. It is fraudulent.

**Mr Quilty**—That is not right. That is completely wrong. Our statistics indicate that there have been more than 100,000 individual site visits, more than a thousand comments to discussion groups and more than 650 comments through the blogs.

**Senator CONROY**—Did the cartoon look like you, Senator Ronaldson?

**Mr Quilty**—There are an awful lot of people from outside Telstra accessing this website that I would think are actually seeing it as something that might be relevant to them. Now, obviously some of our staff are involved in it but to say that, basically, it is only our staff and no-one else I do not think that is accurate.

**Senator RONALDSON**—Have you advertised to your staff that this website is available for comment?

**Mr Sheargold**—They already know it is available for them to use for comment. I think they can do that, David, can't they?

**Senator RONALDSON**—So they know it is available for them to use?

**Mr Sheargold**—I think there are a lot of hits on it and there is a constructive debate about the telecommunications industry in this country.

**Senator CONROY**—Will this transcript be on it?

**Senator LUNDY**—That is a good idea.

**Senator CONROY**—You should put this transcript up.

**Mr Sheargold**—We had no idea of that.

**Senator RONALDSON**—It will not go on there unless you are a Telstra employee.

**Mr Quilty**—I do not think that is right.

**CHAIR**—Very interesting. Senator Lundy, Senator Conroy or Senator Adams, do you have any questions?

**Senator RONALDSON**—I have other matters.

**Senator CONROY**—I have a number of questions about a recent article in the *Financial Review* regarding Telstra's procurement practices.

**Mr Quilty**—We envisaged there might be questions on this and we are very happy to answer them.

**Senator CONROY**—I understand you put out a statement at the time?

**Mr Quilty**—Yes, we have a short statement, which might inform you, which we would like to read into the *Hansard*. Then we are happy to answer your questions.

**CHAIR**—Does the committee agree to that procedure?

**Mr Sheargold**—I am relaxed.

**CHAIR**—And I am happy for that.

**Senator CONROY**—Otherwise I will just have to log on to the website and get a look at it.

**Mr Quilty**—I am happy to distribute the statement as well. Mr Chairman, committee members—

**CHAIR**—Could you provide this to the secretariat? That will be provided to each member of the committee. You may now proceed, Mr Quilty.

**Mr Quilty**—A lengthy article entitled ‘Connections line up at Telstra’ was published by the *Australian Financial Review* on 5 May. Telstra would like to take this opportunity to make a brief statement to the committee and set out its position in relation to this article. The article contains more than 30 unattributed quotes. It is Telstra’s understanding the journalist did not take several opportunities that were afforded to her by both Telstra and other parties to produce a balanced story. The Telstra board has delegated certain powers to its chief executive officer. The general board delegation has not changed since the arrival of Mr Trujillo on 1 July. Telstra’s standard procurement rules and policies have not changed under the new management. The board has specifically considered Telstra’s sourcing processes in the context of the transformation and has been involved in all decisions with respect to transformation activities. The CEO and the management team have acted with the approval of the board and complied with Telstra’s relevant procurement rules and vendor selection policies at all times. Telstra acts commercially in its procurement processes.

The company are engaged in the fastest and most dramatic transformation of any incumbent telco company worldwide. We are investing in new technology, reducing complexity in the business, rebuilding the core network and significantly reducing the number of operating systems and product platforms. Also, we can deliver better services to our customers and cost savings to our shareholders. We are making our processes faster and less bureaucratic so they also serve the interests of our customers and shareholders rather than suppliers. Telstra is purchasing fully integrated systems from a few large suppliers and signing end-to-end retail supply chain agreements with industry leaders. This means that those suppliers carry risk that was previously borne by Telstra.

It means that our customers benefit from economies of scale and scope, and it also means that Telstra no longer pay the additional cost of integrating multiple components into a finished product. Telstra have selected some of the world’s largest and most reputable suppliers because they offer the best solutions in combination with competitive prices, the widest range of products and the speediest delivery. Our contracts include consequences for non-performance and are backed by the commonsense truth that large companies with international reputations to protect have the most at stake. It is natural that organisations and individuals who feel disappointed by decisions may seek to criticise them, but no criticism will discourage the company from doing what best serves the interest of our customers and shareholders.

**Senator CONROY**—This is your second statement. I understand you put out a statement on Friday.

**Mr Quilty**—The statement was put out on the Friday, yes.

**Senator CONROY**—Why did you need two?

**Mr Quilty**—I think this statement takes it a deal further in making absolutely clear, in terms of the delegation from the board to the CEO, the board's role in these sourcing arrangements. It also makes clear the statement that the CEO and the management have acted with the approval of the board and complied with Telstra's procurement rules and selection process at all times.

**Senator CONROY**—Thank you very much for that. I did want to try to go through this systematically, because there were, as you say, a lot of unattributed statements, accusations and allegations. I wanted to have a discussion about those. I appreciate some of the issues you have raised today may cover some of the questions, but I may want to explore a bit further some of those. Telstra has undertaken a series of large-scale procurements since the new management team took over last year. That is right?

**Mr Quilty**—Yes.

**Senator CONROY**—The most high profile of those procurements has been the IP network transformation, with Alcatel, of about \$3.4 billion; the 3G city-to-country mobile network, with Ericsson; the IP core network upgrade, Cisco; the IT network and software transformation, Tribold; the integration of the billing system, Accenture; and the mobile phone warehousing and distribution, Brightstar. What has been the total value of these major projects since the new management team took over? It is estimated at around \$11 billion. Is that correct?

**Mr Wheatley**—The \$11 billion figure, in my mind, is a little bit high, mainly because the values in the contract are estimated values. None of our contracts have volume commitments in them. The network transformation one with Alcatel is correct, and we announced that in the strategic review on 15 November. It was \$3.4 billion. I would have to take that on notice and come back to you with the total value of the other commitments in the contract.

**Senator CONROY**—Sure. Thanks for doing that. Who in Telstra has direct responsibility for procurements? You have a total that includes the word 'procurement', so you are obviously one of the individuals. Who do you report to and how far up the chain do procurement issues go?

**Mr Wheatley**—I report to Greg Winn. Greg is the chief operations officer and, as you are aware, Greg reports in—

**Senator CONROY**—Has it always been the case that the COO has held responsibility for procurement?

**Mr Wheatley**—Prior to the new organisation arrangements, that sat within finance and administration.

**Senator CONROY**—That would be Mr Stanhope?

**Mr Wheatley**—Yes.

**Mr Nicholson**—Even so, we did not have a COO position prior to June.

**Senator CONROY**—I think you were quoted a couple of times in the article, Mr Wheatley, but in particular you stated in the statement issued after the article that Telstra's procurement rules and policies have not changed under the new management.

**Mr Wheatley**—That is correct.

**Senator CONROY**—That is a bit of a change, though, when you are moving from one department—that is, finance—to become another department's chief operating officer.

**Mr Wheatley**—No, that is only an organisation shift where the accountability for procurement is. Our policies and our processes they have remained unchanged.

**Senator CONROY**—But there is a different individual in charge of it?

**Mr Wheatley**—Yes.

**Senator CONROY**—So some responsibility has moved within the organisation?

**Mr Wheatley**—Yes.

**Senator CONROY**—But the board accountability has not changed?

**Mr Wheatley**—No. It remains unchanged.

**Senator CONROY**—It was made clear in the second statement. Presumably the board signed off on the change of moving you from finance across to Mr Winn?

**Mr Wheatley**—I would have expected that the board were aware of the organisational arrangements.

**Senator CONROY**—Yes. I assume that that is right—like you. There has been a large burst of activity in the last eight months or so. Have you and Mr Winn engaged any consultants to assist with this procurement responsibility?

**Mr Wheatley**—Telstra constantly engage expertise externally as we require it on the way through, and that can range from individuals through to organisations to help us in some of our analysis. Yes, we have, and a fairly wide range of organisations have supported us in it.

**Senator CONROY**—Are there any prominent examples of individuals or companies you would like to share with us?

**Mr Wheatley**—It is well known that companies such as Bain, Accenture, IBM and others have helped us with it, yes.

**Senator CONROY**—Have any individuals been brought on board?

**Mr Wheatley**—Yes.

**Senator CONROY**—Particularly in this procurement area?

**Mr Wheatley**—With regard to procurement, not directly, no.

**Senator CONROY**—Indirectly?

**Mr Wheatley**—I am not sure of the question.

**Senator CONROY**—In the past what has Telstra's procurement policy required from Telstra executives with respect to the letting of large contracts?

**Mr Wheatley**—On the procurement policy, the letting of large contracts, there is an internal approval process that has to be gone through after the contract is negotiated. That requires a number of people to sign off on the document, and that depends on the level of expenditure. The transformation documents invariably have gone through my office and have been signed by me, as you would expect, because of the size of them, and ultimately through to the CEO.

**Senator CONROY**—Did you say the CEO or the COO?

**Mr Wheatley**—COO and CEO.

**Senator CONROY**—So they go all the way up?

**Mr Wheatley**—Yes, they do.

**Senator CONROY**—Would ones of this size have gone to the board?

**Mr Wheatley**—The board has visibility of all the contracts that have been executed, yes.

**Senator CONROY**—You are going to have to help me with what that means. What do you mean by visibility?

**Mr Wheatley**—What that means—

**Senator CONROY**—What? Did they sort of look out a window and they were there, in the street?

**Mr Wheatley**—No. At each board meeting we provide an update of all the contracts that have been executed and give them an outline of what the details are—that is, the level of expected expenditure.

**Senator CONROY**—So the finance committee of the board does not look at them particularly?

**Mr Wheatley**—The finance community has visibility of the decisions on the way through so that they are within the plan.

**Senator CONROY**—The finance committee?

**Mr Wheatley**—Community, so that is the —

**Senator CONROY**—No, I was asking about the board subcommittee?

**Mr Wheatley**—No, there is no need for any direct involvement.

**Senator CONROY**—That is what I am just trying to—

**Mr Wheatley**—It is within—

**Senator CONROY**—Do they oversight that process or not and is it with the whole board?

**Mr Wheatley**—It is within the delegated authority from the board for the CEO to execute the contracts.

**Senator CONROY**—Does Mr Winn have a technology adviser?

**Mr Wheatley**—Yes, he does.

**Senator CONROY**—Who is that?

**Mr Wheatley**—Tom Lamming is one individual that gives the COO advice on IT and IT structure.

**Senator CONROY**—And procurement?

**Mr Wheatley**—No, not on procurement.

**Senator CONROY**—He had no involvement in procurement?

**Mr Wheatley**—Obviously, he gives us input into some of our evaluations, yes, but the decisions in terms of any analysis—

**Senator CONROY**—I was not asking that. I was asking if he had any involvement.

**Mr Wheatley**—Sorry.

**Senator CONROY**—So Mr Lamming does have involvement?

**Mr Wheatley**—In terms of his expertise, yes.

**Senator CONROY**—And what is his expertise?

**Mr Wheatley**—His expertise is in the area of IT and IT structure, in organisational structure and capability that we require.

**Senator CONROY**—What is Mr Lamming's pay?

**Mr Wheatley**—I have no idea.

**Mr Quilty**—What is he paid? I do not think we are able to inform you about that, unless it is in the annual report.

**Senator CONROY**—You are, actually, if I ask.

**Mr Quilty**—We can take it on notice, but I presume that there is a privacy issue in terms of people's individual pay.

**Senator CONROY**—No, we have talked about a whole range of people's in the past.

**Mr Quilty**—Indeed. I repeat what I said.

**Senator CONROY**—Is he an employee or a contractor?

**Mr Wheatley**—He is a consultant.

**Senator CONROY**—A consultant? So he is paid an hourly rate?

**Mr Quilty**—I am not sure of the terms of his consultancy. We can take that on notice, if you like. You are obviously asking about the size of the consultancy and how much he gets paid. Why don't we take that on notice—

**Senator CONROY**—That is not a person, you see?

**Mr Quilty**—That is right. Why don't we take that on—

**Senator CONROY**—You can tell me how much a contractor gets paid.

**Mr Quilty**—The first point, I think, is that we do not know offhand now, but we can take it on notice and see what further information we can provide you.

**Senator CONROY**—Sure. So we have agreed that he is not an employee?

**Mr Quilty**—That is right.

**Senator CONROY**—He visits often, does he? Does he have a desk? Could you have brought him along today? Is he in the country?

**Mr Quilty**—To my understanding, no.

**Senator CONROY**—Has he ever visited the country?

**Mr Wheatley**—Yes, he has.

**Senator CONROY**—How many times?

**Mr Wheatley**—I would have to that on notice. I do not know.

**Senator RONALDSON**—You are talking about Mr Burgess, I think.

**Senator CONROY**—No, an even more mysterious character called Mr Lamming, of whom there is not even a photograph. We are not sure how many times he has been in the country—I mean on work business, not whether he has popped in for a holiday in the past.

**Mr Wheatley**—I am not in a position to answer that; I do not know.

**Senator CONROY**—Hands up anybody who has met him. Two people put up their hands.

**Mr Nicholson**—My understanding is that Mr Lamming is a regular visitor to Telstra at the moment.

**Senator CONROY**—Who has seen him? Only two people?

**Mr Nicholson**—Mr Lamming has been at a number of meetings that I have been to in person over the last six or nine months. Perhaps the reason that a number of these people would not be familiar with Mr Lamming is that they are not working on the BSS and OSS transformation that is taking place in the company.

**Senator CONROY**—Nothing to do with procurement, though?

**Mr Nicholson**—That is a major part of the transformation that we are undertaking.

**Senator CONROY**—Procurement is a major part of the transformation he is working on?

**Mr Nicholson**—And of course purchases of goods and services are part of that.

**Senator CONROY**—I am not surprised by your answer, Mr Nicholson. I am a little surprised by Mr Wheatley's, but I am not surprised by yours. Mr Wheatley, how many times have you met him?

**Mr Wheatley**—I have spoken with Tom on numerous occasions.

**Senator CONROY**—I said met him in person.

**Mr Wheatley**—Three or four times.

**Senator CONROY**—Mr Nicholson, have you met him three or four times?

**Mr Nicholson**—Probably similar, yes.

**Senator CONROY**—Was that in Melbourne or Sydney? Does he still have his *Melways* tucked under his arm?

**Mr Nicholson**—That was in Melbourne.

**Senator CONROY**—That is good. He has seen the best. Given you say that Telstra's procurement policy has not changed—there is a sort of tense issue here—does the procurement policy require open international tenders?

**Mr Quilty**—No.

**Senator CONROY**—Did Telstra's procurement policy require the public advertisement of large contracts of this kind?

**Mr Wheatley**—No, and I cannot recall the last time I have actually publicly advertised a tender.

**Senator CONROY**—Did Telstra's procurement policy require formal tendering for large contracts?

**Mr Wheatley**—It requires us to undertake an appropriate level of commercial analysis of the arrangements in place, but we can direct source.

**Senator CONROY**—Do many companies run tenders on the basis of appropriate levels of commercial analysis?

**Mr Wheatley**—Sorry, I may be a little bit confused in the question. We can direct source, but the process we use is to undertake, as I said, the appropriate level of commercial analysis.

**Senator CONROY**—What does the appropriate level of commercial analysis involve for a \$4 billion contract?

**Mr Wheatley**—It involves many things. It involves not only looking at the cost but looking at the capability of the organisation to meet our needs. It involves making sure the organisation has the capability to deliver within Australia, because a transformation of that size is a significant activity, as well as making sure it has demonstrated expertise to be able to meet our outcomes.

**Senator CONROY**—Let us eliminate what does not fall in the category of appropriate level of commercial analysis, given you say lots of things do fall within it. So for a \$3 billion to \$4 billion contract the appropriate level of commercial analysis does not include advertising or formal tenders?

**Mr Wheatley**—No, but it required us to consider other organisations that may have the capability to do what Telstra required.

**Senator CONROY**—How do you determine how many others would—

**Mr Wheatley**—We are constantly examining the capability of the vendors in the marketplace, so we have a very good understanding of the capability of the vendor base and those who might be able to meet our needs. If we think they do, we seek direct formal proposals from them.

**Senator CONROY**—So for a \$3 billion to \$4 billion contract there would have to be a couple, I presume, of worldwide organisations or local organisations that could meet your needs.

**Mr Wheatley**—We did seek proposals from other organisations with regard to that activity, yes.



**Senator CONROY**—How many others?

**Mr Wheatley**—There were probably four to five.

**Senator CONROY**—You said the procurement policy has a clause in allows direct source. Is it just any time you want? Is there a dollar limit? How does that work? What is the trigger to go direct source?

**Mr Wheatley**—It depends on a raft of things. It depends on speed to market. It depends on our understanding of the vendors that have the capability that meet it. In many instances it is not many, because of the size of the demands we place on them. It also depends on, as I said, the assessment against the business fit or the business outcome that we are trying to deliver.

**Senator CONROY**—Assessment against the business fit. Speed to market is obviously an important one. In roll-out of a fibre network is there a speed to market issue?

**Mr Wheatley**—I would expect so, yes.

**Senator CONROY**—Given that it is stuck in a regulatory negotiating process that has taken at least three months and is probably going to take another couple of months, what sort of speed do you need?

**Mr Wheatley**—Obviously, one of the things we looked at was the capability of the vendors to meet our requirements. At the time of making the decision, we made it clear it was subject to appropriate regulatory outcomes.

**Senator CONROY**—Yes, I understand that. But at the time you were making that decision you had no idea how long that appropriate regulatory outcome would take. I am working through this issue of speed to market, in this particular instance being one of your triggers that gets a tick next to it. It just seems to me that back in November, given the level of uncertainty—when I do not think the government were even speaking to each other except through megaphones, as opposed to the diplomacy we have taking place at the moment—speed to market probably was not the highest criterion.

**Mr Wheatley**—No, but speed to market also looks at the capability within a reasonable time frame of that vendor to be able to meet our requirements. At the time we had no regulatory certainty, but we were in a position to make a call on the capability that we needed in terms of that vendor.

**Senator CONROY**—Have you in the past engaged in formal tendering?

**Mr Wheatley**—Yes.

**Senator CONROY**—When was the last time you did a formal tender? I think you might have said you cannot remember, but in the past there have been—

**Mr Wheatley**—No. Sorry, I said I cannot remember the last time we actually advertised a formal tender.

**Senator CONROY**—So when was the last time you did a formal tender?

**Mr Wheatley**—We are running formal tenders all the time. We currently have tenders in the market for a wide range of products and services.

**Senator CONROY**—What are the criteria you use to decide between a formal tender process and the appropriate level of commercial analysis? What are the triggers that make you go down a formal tender process rather than that one, the appropriate level?

**Mr Wheatley**—Where we assess the capability of only one vendor to be able to meet our requirements after that first level of analysis. If we have sought proposals from a vendor and undertaken a level of analysis to determine that vendor is clearly one that can meet all our requirements and is clearly the vendor that we need to go with, we will then move to direct source rather than run a formal competitive tender.

**Senator CONROY**—Was the Alcatel one a direct source, where you said, ‘Right, we’re taking Alcatel’? It was not that, was it?

**Mr Wheatley**—No, we had considered other proponents.

**Senator CONROY**—I just want to make sure I heard you correctly. In this particular instance, when you chose Alcatel you engaged the appropriate level of commercial analysis. I think you indicated that you looked at—rather than went to a formal tendering process—four to five. Is that correct?

**Mr Wheatley**—We invited proposal from other organisations, yes.

**Senator CONROY**—In the form of a formal tender process?

**Mr Wheatley**—It was not a formal tender as such. It was a proposal.

**Senator CONROY**—What does such an invitation look like? I have seen formal tenders and I have seen sent out to four or five organisations: ‘Here are the specs. Please tender.’ That is not what you did; there were no formal specs. So what is an invitation? An expression of interest?

**Mr Wheatley**—It is similar to expressions of interest, where we detail what we see as our requirements to move forward at a high level.

**Senator CONROY**—So you indicate to four or five companies that they should make an expression of interest to you.

**Mr Wheatley**—We invited them to give us a proposal, yes.

**Senator RONALDSON**—What did the proposal require?

**Senator CONROY**—That was my next question. What was the level of detail?

**Mr Wheatley**—I would have to take that on notice, because there were other people directly involved in that part of the activity.

**Senator CONROY**—You signed off on it.

**Mr Wheatley**—At the end of the day, yes, I did, on an MOU.

**Senator CONROY**—On a \$3.4 billion one that you are telling me would be your single biggest?

**Mr Wheatley**—No. If I can just explain the process. Once we moved through with Alcatel and chose them, we entered into an MOU, which was the instrument that we then moved forward to put the formal contracts in place, which was subsequently negotiated—

**Senator CONROY**—Who made the decision, then? You are the manager.

**Mr Wheatley**—Managing director procurement, yes.

**Senator CONROY**—That \$3.4 billion would be the biggest you have done for a while.

**Mr Wheatley**—Yes.

**Senator CONROY**—You were not involved in the selection process.

**Mr Wheatley**—I moved into the role in September at the end of—

**Senator CONROY**—This was late in November.

**Mr Wheatley**—I was involved in the tail end of the process, yes.

**Senator CONROY**—Senator Ronaldson has asked the same question, but I asked what was the level of detail given to the invitees for them to express an interest, and you are not familiar with it.

**Mr Wheatley**—No, sorry. It is a broad document where we asked them to propose solutions to a full network transformation.

**Senator CONROY**—A broad document?

**Mr Wheatley**—Where we asked them to put a proposal to us to outline what a full network transformation might look like.

**Senator CONROY**—I have never participated in one of these processes, but that sounds a little bit woolly.

**Mr Wheatley**—It is specific enough for them to understand that we were looking at undertaking a full network transformation, because we had some capability and some issues where the network required change-out, so there was normal network growth and requirements to meet as well as the transformation to move to a fully transformed network.

**Senator RONALDSON**—Did the responses include likely cost? Was that part of the brief?

**Mr Wheatley**—Cost was part of the analysis, yes.

**Senator CONROY**—Thank you for that. I think I have an understanding of the different ways that you can engage in procurement in Telstra. Mr Stanhope has said in relation to Telstra's previous tendering policy:

Many times we would go out to tender and we knew half of them wouldn't be able to deliver.

Is that a fair statement?

**Mr Wheatley**—That is a fair statement.

**Senator CONROY**—I am trying to reconcile that with where you said:

I cannot remember the last time we ran an open tender rather than seek bids from a range of ... suppliers. We don't waste our time or our suppliers' time running open tenders ...

Given you have only just got this job, is that a bit of a broad statement from you?

**Mr Wheatley**—No. What I was referring to when I said 'open tender' was that we do not advertise the open tenders.

**Senator CONROY**—So you were referring, really, to the advertising part, the more formal tendering process, as opposed to the expression of interest style?

**Mr Wheatley**—Yes.

**Senator CONROY**—That clears that up for me. Have you reduced the number of parties involved in your tenders? You mentioned four to five. Do you have a situation where you say, ‘This is what we are after, and we know that, say, of those five or six that are on our shortlist, three or four of them cannot so we would only ask the one or two’? How do you go through that process? Help me through that process.

**Mr Wheatley**—That is an internal process we have where we engage the expertise from the lines of business in terms of the product or services required.

**Senator CONROY**—Is that where Mr Lamming comes in?

**Mr Wheatley**—Mr Lamming advised on some of the IT aspects, but I am talking more broadly about everything we do from a procurement point of view. We then, with our market knowledge, look at who we believe could meet our requirements, and they are the companies that we would shortlist to send a tender to.

#### **Proceedings suspended from 3.46 pm to 4.03 pm**

**Senator McLUCAS**—Mr Pinel, these questions might be for you. Can you indicate to the committee how many customers are still without phone lines following both cyclones Larry and then Monica?

**Mr Pinel**—I cannot give you an up-to-date figure. I will pass that one to Mr Sheargold and see whether he has today’s figures. It would be a very small number that are without service now. Largely that would be where, unfortunately, people no longer have a dwelling to have a telephone connected to.

**Mr Sheargold**—As you know, there was a major response to the Larry disaster. One hundred and ninety-one sites had lost power, and it affected up to 35,000 customers when it hit on 19 and 20 March. All the faults related to Cyclone Larry were completed on 29 March. Of course the provision of power to a lot of these sites was difficult given that even access to the sites was also difficult because of the devastation in that particular area. The customer service levels were back to normal levels from 29 March. In North Queensland, like every region in Australia, there are always faults. I cannot particularly speak for the number of faults that are there today. There were a number of projects that had to be scoped post the cyclone, as well, that required infrastructure to be built because of the devastation, and that will continue. The faults related to Larry were completed on 29 March. All mobile stations were restored on 25 and 26 March. I think Telstra’s response to our customers in North Queensland and our coordination with Countrywide was representative of how seriously we take service to our customers all across the country.

**Senator McLUCAS**—I can indicate to my constituents that their phones were fixed by 29 March?

**Mr Sheargold**—Absolutely, yes, directly related to Larry. They were back to normal levels of work from that period, yes.

**Senator McLUCAS**—So nine days?

**Mr Sheargold**—Yes.

**Senator McLUCAS**—What about Monica?

**Mr Sheargold**—I do not have the details on Monica, but I am happy to find out for you. As you know, during that period there was not only Monica; we had cyclones across WA as well. I will find out and take that on notice for you.

**Senator McLUCAS**—If you could tell us the same sort of data, such as the numbers of sites and the numbers of customers.

**Mr Sheargold**—I am happy to take that on notice for you.

**Senator McLUCAS**—Also, as of today how many customers still do not have a landline. There might be some mitigating circumstances to that.

**Mr Sheargold**—Absolutely. I will certainly take that on notice. Some may, unfortunately, not have dwellings. I will find out.

**Senator McLUCAS**—There was not the loss of homes with Monica compared with Larry.

**Mr Sheargold**—I hope not.

**Mr Pintel**—If there are any people who do not have their services restored—and that would amaze me, because of the figures Mr Sheargold quoted in terms of all being restored by that date—for whatever reason, such as the inadequacy of the dwelling, if Telstra customers are not able to use their landline service, those services have been redirected to their mobile services at fixed line costs until such time as we can restore the fixed line service. There has been quite an amount done on the ground by the service business and the commercial part of the business to do what we can.

**Senator McLUCAS**—When you say ‘mobiles’, do you mean satellite phones?

**Mr Pintel**—Cellular phones, yes.

**Senator McLUCAS**—Satellite phones? On Cape York Peninsula, the mobile coverage, as you know, is—

**Mr Pintel**—I will have to take that on notice. My understanding is that it is the cellular. I am not aware of any circumstance where we have transferred it to a satellite phone. I am aware of one circumstance where a customer was using a satellite phone. I do not know the answer. I will have to take it on notice.

**Senator McLUCAS**—I understand when the power goes off an exchange or a repeater station reverts to a battery—is that correct?

**Mr Pintel**—Yes, that is correct. In the majority of cases, our equipment that requires power is provided with backup batteries that will maintain it during periods of lack of power for a variable period of time.

**Senator McLUCAS**—How long do those batteries last?

**Mr Pintel**—It is variable, depending on the circumstances. I suppose as a broad rule of thumb you would say eight hours, but in a place like Lockhart River, for example, I think it is 72 hours that we provide stand-by diesel and battery power to keep it going. There is stand-by diesel at many sites, too, which will run for days, as long as you keep the diesel up to it.

**Senator McLUCAS**—I understand that the first power source post loss of power is battery, and then the next level is a generator that is on site?

**Mr Pinel**—That is correct, yes.

**Senator McLUCAS**—I wish to ask about Mount Misery, at Cooktown, in particular. How do the gensets get turned on?

**Mr Pinel**—There is a range of options. Some are automatic; some are remotely started. I believe they all have remote activation capability. As I say, they have either automatic or remote capability to start them.

**Senator McLUCAS**—I am no technician, but if you could give me an indication of how the remote—

**Mr Pinel**—It means that at a site distant from that exchange, probably in the global operations centre, they can monitor battery levels and they can activate the start sequence. So it is operated by an individual at another location.

**Senator McLUCAS**—Someone physically has to go there—is that right?

**Mr Pinel**—People are there 24 hours a day, so it is part of the normal standard process.

**Mr Sheargold**—The global operations centre, which manages the alarms within our network, is managed 24 hours a day. So they can physically see an exchange, if it goes off the air, within less than 20 minutes, normally. Normally, if they have a redundant path around that, they would use the redundancy within our SDH infrastructure. If not, they would activate these sort of auto back-up type power arrangements for the exchange to keep going. Using Cyclone Larry as an example, obviously power becomes critical, because not only can it destroy an exchange literally but also water ingress and other issues can affect not only the battery but also the generator back-up to those sites.

**Senator McLUCAS**—Generally, and I might ask more specifically, what was the time frame of most of the exchanges, from when the batteries failed and when the generators kicked in?

**Mr Sheargold**—I could not give you that detail. I will take that on notice. Obviously our key priority, from the setting up of the disaster coordination centre for the provision of services, is to first get the power to the exchanges back up. I could not give you a date that was completed, but I can find out and take that on notice.

**Senator McLUCAS**—Please do not misunderstand me. I am actually asking how long it was within the Telstra operation from when the batteries ceased to function and when the generators run by Telstra kicked in.

**Mr Sheargold**—I do not know, but I can find out. I will take that on notice.

**Senator McLUCAS**—I seemed to understand from your earlier comment, Mr Pinel, that this was straightforward—you flick a switch somewhere and they turn on.

**Mr Pinel**—That is correct.

**Senator McLUCAS**—That is not my understanding of what happened.

**Mr Pinel**—A lot of them are automatic, so that when they sense battery voltage deteriorating, they will start the genset.

**Senator McLUCAS**—No. The question I am needing to get answered is: for the exchanges affected both by Larry and then by Monica what was the time delay between the batteries dying and the generators turning on?

**Mr Pinel**—Not all sites have generators on site. We actually flew in a large number of generators from the southern part of the state and deployed those to the critical sites or the priority sites so that we could provide that. The time to deliver that was probably a day after the gensets were dropped on site. It would vary from site to site. We would have to give you a map of which sites were out for what period of time.

**Mr Sheargold**—We could go back and look at site specific for you.

**Senator McLUCAS**—The 191 only effects the area affected by Larry.

**Mr Sheargold**—That is right.

**Senator McLUCAS**—I am very interested in what happened in Cape York Peninsula. How did Telstra source the replacement gensets?

**Mr Sheargold**—I was not on the ground, but they would source it from multi areas, I would imagine.

**Mr Pinel**—They were sourced largely through a contractor of ours, Silcar, who has accountability for our power operations. This did not happen on the day; this is part of the contingency planning that goes into preparation for any of these major events. There is a significant amount of work done before the event to look at the circumstances and what we need to do to be ready. Silcar had in place the ability to source gensets. Obviously we did not know where we were going to need to deploy them and in what order we needed to deploy them, but it had access to them and were able to deliver them in a relatively short period of time. We also really did not know the intensity of the cyclone. We had a fair idea it was a big one, but there was a lot of pre-work done to have in place all of those things that were necessary.

**Senator McLUCAS**—How did the replacement gensets get to North Queensland?

**Mr Pinel**—Some were taken by road and some, I understand, were flown in, but I would have to check on the numbers in each category.

**Senator McLUCAS**—Did the SES arrange to bring them in?

**Mr Pinel**—When you have had a cyclone, the areas are categorised into different areas. The green zone is at one end, the red zone is at the other end and the yellow zone is in the middle. You have different procedures. Nobody goes in the red zone because it is too dangerous. It probably means there are powerlines down et cetera. In other circumstances, people need to be escorted in by SES. There was really a very cooperative circumstance on the ground there between all the elements of restoration—the SES, the power authorities and Telstra—both technically and commercially. All of those bits and pieces that have a well-integrated plan for these types of emergencies work together. Some of the generator sets that we flew in ended up being attached to sewerage pumping stations, for example, because that was seen by the people on the ground to be the priority, rather than telephony. Some of our

own staff took gensets of their own to power telecommunication facilities. It was a very active, on-the-ground management process to access and deploy all that equipment.

**Senator McLUCAS**—How many emergency gensets are kept in North Queensland in preparation for cyclones?

**Mr Pinel**—I cannot quote you the number, but there is a lot of work done, once again, on preparedness. The provision of these gensets is based on the priority and importance of the various sites; an assessment of how long we would expect to be without power in various circumstances. In a general sense we get that right, but in something like Larry, which is a significantly aberrant event—we would always like to have more.

**Senator McLUCAS**—I wonder if you could take that on notice. I would like to know how many gensets are in North Queensland and where they are located—Cairns, Atherton, or whatever town. I understand that Cummins diesel is contracted to maintain the permanent gensets—is that correct?

**Mr Pinel**—If they are, they would be contracted through Silcar. I do not know who does the on-site maintenance.

**Senator McLUCAS**—That would be contracted to Silcar?

**Mr Sheargold**—Yes, that is right.

**Senator McLUCAS**—Now that it is a subcontract—it is possibly hard to answer this, but I wonder if you can you tell me—is it true that Cummins had informed Telstra management many months previously that the genset at Mount Misery, near Cooktown, should have been replaced? You would be aware that phone lines were out twice after Monica for considerable periods of time. Could you confirm that Cummins had advised either Telstra or Silcar that the genset on Mount Misery should have been replaced?

**Mr Pinel**—I will have to take it on notice.

**Senator McLUCAS**—I understand that. How many staff do Silcar and Transfield have in Cairns?

**Mr Sheargold**—I would have to take that on notice as well, in terms of exact numbers of people that are contracted to the company.

**Mr Pinel**—It is probably a variable number, depending on the operational needs at the time, but we can certainly find some basic information around the time of the cyclone.

**Senator McLUCAS**—Generally, how many people should be there? Secondly, how many were there between 17 and 20 March? Also, was there a Telstra emergency service liaison officer in Cairns in that couple of days prior to Larry coming in? You will have to take that on notice. I have also received reports that generators were being sold as a result of the outsourcing to Silcar of the back-up power supplies—is that correct?

**Mr Pinel**—I know of no instance of that, but once again I will ask the question. I do not know.

**Senator McLUCAS**—Can you also confirm that Silcar has an emergency plan that would fit, I dare say, into the Telstra emergency plan?



**Mr Pinel**—What I can say is that we sit with Silcar on a regular basis, particularly in North Queensland and in other parts of the country that are subject to these weather circumstances and other natural hazards, and we plan with them, prior to that period each year, to emphasise the needs and to make sure all the elements are in place as best as we can predict.

**Senator McLUCAS**—The question on notice that you could take would be: does Silcar have an emergency plan?

**Mr Pinel**—I will take that particular question on notice also.

**Senator McLUCAS**—The other thing I would like you to check for me is that local staff of Telstra advance services, otherwise known as NDC, had trucks, gensets and fuel ready for action, ready to move, on Tuesday 21 March but were told to stand down because it was Silcar's responsibility. Can you confirm if that is correct?

**Mr Pinel**—I certainly know the answer to the first part is yes, they had equipment there. I am certainly not aware of them being told to stand down, but I will ask the question more specifically.

**Mr Sheargold**—We certainly will. I will take that on notice. I think the point to raise there is that post the event, of course, a number of disaster zones are declared on our side of the house where we do not, for safety reasons, have our people enter a site. I am speaking of these red zones that Mr Pinel raised. Clearly the safety of our people will come first in terms of the provision of emergency services. One of them is we cannot go there, or cannot get access to them. I hope in this case the reason for the stand-down was based on that alone, rather than that we did not need the resources. But I will take that on notice and certainly get back to you.

**Senator McLUCAS**—It goes to the question of outsourcing and where the chain of command is. You have got, clearly, a very committed workforce in events like this, who are wanting to get there and do the job. Can you also confirm that they did not follow the instruction to stand down and that they, in fact, probably protected the optic fibre repeaters which ensured that we remained connected through that line. The allegation is that if they had not done what they did, as Telstra employees, the optic fibre network would have gone down.

**Mr Pinel**—I will take that. I do know for a fact that the advance services people were on the ground and operational there as soon as it was safe post the cyclone and that they had done a lot of preparatory work, such as having generators and their own food supplies and water et cetera available so that they could operate in the area for a considerable period of time quite independent of local supplies.

**Senator McLUCAS**—They were working 20 hours a day.

**Mr Sheargold**—They were.

**Senator RONALDSON**—Wally Donaldson, Karyn Stacey, Georgia Lee, Andrew Maiden, Dr Hugh Bradlow, John Mills. Rod Bruem we know works for Telstra. Lisa Pham, Megan Yann, Keith De La Rue, Lucas White—are they all Telstra employees?

**Mr Nicholson**—I know of a number of those employees. Of course I cannot vouch for them all because I do not recognise all the names. Dr Bradlow, Andrew Maiden, Georgia Lee and those sorts of people, yes.

**Senator RONALDSON**—Are you aware that we are fortunate enough to have Rod Bruem's blog:

Rod shares his unhealthy interest in communications, public policy and regulation.

I wonder if we are going to get an article from Mr Bruem about his response to government members as well, and the health or otherwise of that. Mr Quilty, just following on from that, you indicated earlier you do not support people who use pseudonyms.

**Mr Quilty**—Certainly I do not, and I believe editorial policy does not support that either.

**Senator RONALDSON**—I presume you still agree with your previous statement.

**Mr Quilty**—Certainly.

**Senator RONALDSON**—I presume that the use of pseudonyms in an endeavour to deceive others would be a particularly heinous crime, would it not?

**Mr Quilty**—I do not support deceptive conduct, no.

**Senator RONALDSON**—Is Chris from Waramanga known to you?

**Mr Quilty**—Yes. Mr Fry is known to me.

**Senator RONALDSON**—What is Mr Fry's claim to fame in relation to deceptive behaviour and the use of pseudonyms?

**Mr Quilty**—I am aware of it. I am not sure of its relevance to the estimates.

**Senator RONALDSON**—I am sorry?

**Mr Quilty**—I am aware generally of what you are talking about but I am not sure of its relevance to Telstra.

**Senator RONALDSON**—I think it is very relevant. You have already said that you do not support people who use pseudonyms. You do not support people who use that type of behaviour to deceive others. You are aware that Mr Fry was hauled over the coals by *Media Watch* for making talkback calls promoting Labor without disclosing his identity when he worked for Mr Crean.

**Mr Quilty**—I am. How many years ago was that?

**Senator RONALDSON**—Given your comments before and his history, do you think it is appropriate to employ him in the government relations position?

**Mr Quilty**—He is not employed by Telstra; he has a part-time consultancy with Telstra. The answer to the question is: given the length of time since the allegation you are talking about occurred—

**Senator RONALDSON**—It was not an allegation; it was a fact.

**Mr Quilty**—With the length of time since the episode occurred, I do not consider it inappropriate to employ him, no, as a consultant.

**Senator RONALDSON**—He is not employed by Telstra; he is a consultant.

**Mr Quilty**—He is a part-time consultant.

**Senator RONALDSON**—What is his role?

**Mr Quilty**—He assists with government relations on behalf of Telstra, particularly liaison with non-government parties.

**Senator RONALDSON**—Senator Conroy, for example?

**Mr Quilty**—And more widely.

**Senator RONALDSON**—He was a former Crean staff member, was he not?

**Mr Quilty**—Senator Conroy? No.

**Senator RONALDSON**—Mr Fry.

**Senator CONROY**—Very good.

**Senator RONALDSON**—Was Mr Fry?

**Mr Quilty**—I think that is right, yes.

**Senator RONALDSON**—Surely you know the background. You and Mr Burgess are in charge of government relations. Surely you would know the background of the people that you are either putting on contract or employing. So was he or was he not?

**Mr Quilty**—I think he was.

**Senator RONALDSON**—I think he was, too.

**Mr Quilty**—I did not employ him; he is a consultant.

**Senator CONROY**—I will save you a bit of time. I can confirm that he worked for Mr Crean.

**Senator RONALDSON**—Thank you. And he is liaising with Senator Conroy. He is a former Crean staff member liaising with Senator Conroy.

**Senator CONROY**—As opposed to a former Howard staff member liaising with Senator Coonan.

**Senator RONALDSON**—You are very game. So is that just his role, non-government—

**Mr Quilty**—That is right.

**Senator CONROY**—We can get him to visit you if you like.

**Senator RONALDSON**—It was a very pleasant half hour. What other roles has he undertaken?

**Mr Quilty**—With Telstra? I am not aware of other roles during the time I have been at Telstra.

**Senator RONALDSON**—He has not got a role in relation to lobbying against current ministers by any chance, has he?

**Mr Quilty**—His role is to put Telstra's case on issues to non-government parties. Obviously if Telstra's case on issues is contrary to the government's position or if we are lobbying the government on particular issues, to the extent that we see it sensible to do some of that lobbying also with non-government members, he may do so.

**Senator RONALDSON**—Just so I am sure, you are employing someone to lobby against current government ministers—is that the response you gave me?

**Mr Quilty**—No, that is not what I said. I said that his role is to prosecute Telstra's case on issues. In certain circumstances Telstra's position on those issues may not accord with the government's. To the extent that we see there may be benefit to Telstra in him lobbying the opposition, he may do so.

**Senator RONALDSON**—So if he was lobbying against current government ministers, what would your response be?

**Mr Quilty**—We do not lobby against government ministers.

**Senator RONALDSON**—I asked you a question. If he was lobbying against current government ministers, what would your response be? Would you counsel him otherwise?

**Mr Quilty**—Could I ask you to explain what you mean by 'lobbying against ministers', because that does not make much sense. We lobby on issues.

**CHAIR**—Current government ministers.

**Mr Quilty**—What does 'lobbying against ministers' mean?

**Senator RONALDSON**—You know exactly what 'lobbying against current government ministers' means, and you know exactly what Mr Fry is doing, so let us not play games. I want to go across now to the size of the government relations arm since Mr Trujillo came on board. How many people were employed in government relations before Mr Trujillo arrived?

**Mr Quilty**—In government relations it was about a handful before and about a handful now. As head of government relations I have—

**Senator RONALDSON**—It is not 1 April, is it? Come on, Mr Quilty. You know as well as I do that you have now got double—or is it treble?—the government relations arm.

**Mr Quilty**—I think actually—

**Senator CONROY**—I would say the costs probably have.

**Senator RONALDSON**—That is my next question.

**Mr Quilty**—If I could answer the question.

**Senator CONROY**—There are only so many coalition staff that they can hire in one month. Give them a break.

**Senator RONALDSON**—Was Mr Short there when Mr Trujillo came on?

**Mr Quilty**—Mr Short was there, but he reports to the CFO. He does not report through the government relations group.

**Senator RONALDSON**—You were not there then, were you?

**Mr Quilty**—No.

**Senator RONALDSON**—Was Sue Cato involved?

**Mr Quilty**—Sue Cato is not employed in government relations. She is employed as a consultant to the chairman of Telstra, I think, so her remit goes far wider than government relations.

**Senator RONALDSON**—Does it include some government relations?

**Mr Quilty**—I would think it includes some. I am aware of her liaising with people—

**Senator RONALDSON**—We will give her a tick off. Mr Fry was not there, was he?

**Mr Quilty**—Mr Fry was there, I believe. His contract extends from before Mr Trujillo arrived.

**Senator RONALDSON**—Are you sure of that?

**Mr Quilty**—Certainly that is my understanding.

**Senator RONALDSON**—Mr Chalmers was there before, was he?

**Mr Quilty**—Yes.

**Senator RONALDSON**—Mr Bruem was there?

**Senator CONROY**—I think he has been described publicly as a stalwart.

**Mr Quilty**—Mr Bruem is not employed in government relations. He is employed in Telstra—

**Senator RONALDSON**—Mr Bruem is employed in antigovernment relations. You are probably absolutely right.

**Senator CONROY**—Anti-Rono relations. John Howard backstab.

**Senator RONALDSON**—What is the budget for the government relations arm, including Mr Burgess?

**Mr Quilty**—Telstra does not have a specific government relations budget. It has a budget for the public policy and communications group. That group, as well as government relations, includes the regulatory area, the news media area, the Telstra Foundation and various public affairs people. The budget is for one group and is decided centrally.

**Senator RONALDSON**—I am not going to ask you to break it down, but just quickly add up what the staff costs alone would be for people in that area, including Mr Burgess.

**Mr Quilty**—I am head of government relations. In my team I have Mr Chalmers, two admin people and a person in Melbourne who looks after constituent issues. To my knowledge that is the extent of the government relations people in Telstra.

**Senator RONALDSON**—And the contract people?

**Mr Quilty**—There is one contract with government relations that I am aware of. That is with Mr Fry.

**Senator RONALDSON**—And you are saying that Ms Cato is not doing any government relations spinning at all?

**Mr Quilty**—I do not think that is a fair representation of her work, no.

**Senator RONALDSON**—I asked you the question. Am I right or am I wrong?

**Mr Quilty**—No. I do not think she is doing spinning at all.

**Senator RONALDSON**—So, what is the budget? Ms McKenzie—

**Senator CONROY**—I did this two estimates ago.

**Senator RONALDSON**—No, hang on. I know you have been off to another meeting, but focus back on this one. What is the cost?

**Mr Quilty**—I can try and take that on notice. As I said, there is a budget for the whole group which is much wider than government relations. The budget for the government relations area specifically is allocated centrally by the group. I will have to take that on notice exactly what that is.

**Senator RONALDSON**—You see, during the Senate estimates around June 2005 Ms Mackenzie—she is another one who has sort of arrived here and then gone again—

**Senator CONROY**—Been promoted.

**Senator RONALDSON**—Is that right?

**Senator CONROY**—She got promoted after that performance, you know. You want to stuff it all up, Mr Quilty—they will promote you as well. It works well. I do not know why you are still here, Dr Warren, after your address—and Mr Mullane, really. You are candidates for CEO.

**Senator RONALDSON**—Maybe that is why the staff cat is queuing up to get a promotion as well. Ms McKenzie said that there was about \$12 million spent in the regulatory affairs area, that that was a disgrace, that it should not have been there—that was the implication—and that for that amount of money they could have upgraded around 160 exchanges with ADSL. How many exchanges do you think you could upgrade with this bloated government relations group?

**Mr Quilty**—There is no bloated government relations at all. Until I know exactly what the budget is, which, as I said—

**Senator RONALDSON**—You say you are in charge of government relations. You do not know what the budget is for the government relations area.

**Mr Quilty**—As I said, the budget is allocated centrally by the group. Responsibility for the budget is done centrally by a much wider group.

**Senator RONALDSON**—I am sure that Senator Adams, Senator Nash and I—indeed, the chairman, from a country point of view—would love to know how many exchanges could be upgraded to ADSL from that budget. If you can take that on notice I would be very grateful.

**Mr Quilty**—We are happy to do that.

**Dr Warren**—Just to clarify Ms McKenzie's remarks, as you know, that was related to the reporting burden, not to the budget for the regulatory group.

**Senator RONALDSON**—Sorry?

**Senator CONROY**—He was suggesting you misrepresented Ms McKenzie's remarks.

**Dr Warren**—Ms McKenzie's comments about the large amount of money were about the reporting burden imposed upon the company by regulation rather than the regulatory group being a disgrace that could be better used to build up exchanges. The facts of life are that it is the regulatory impost that requires such a large number—

**Senator RONALDSON**—I am sorry, but the implication was that if there was not the need for the regulatory group they could upgrade 160 exchanges. I am asking what the government relations part of the organisation could deliver in upgraded exchanges as well. Then people can make a value judgment about whether they want the bloated government relations bureaucracy or more exchanges. I rather hazard the guess they will probably want a few more exchanges, but let them make that decision when they see the figures.

**Mr Quilty**—For the record, I reject the claim about a bloated government relations bureaucracy.

**Senator RONALDSON**—I know. I could see from the look on Mr Chalmers's face that he rejects it as well. But let us get the figures and then we will—

**Senator CONROY**—Stop picking on a stalwart. Can I note my appreciation of the other senators' cooperation with the fact that I had to race off to another meeting and come back. I just wanted to return to some of the issues that we were discussing earlier to do with procurement and tendering.

**Mr Wheatley**—Can I just clarify another point that arose during the previous session?

**Senator CONROY**—Sure.

**Mr Wheatley**—You asked me the number of companies that we considered for the network transformation. It was five.

**Senator CONROY**—It was five? You said four or five.

**Mr Wheatley**—It was five, and there were three that we discussed the proposals with, and with two there were subsequently detailed discussions, just to put the record straight.

**Senator RONALDSON**—How many lodged a formal expression of interest?

**Mr Wheatley**—I would have to check. I think it was three, but I would have to take it on notice to confirm the actual number.

**Senator CONROY**—Okay. I might come back to that answer a little bit later on. Thank you for that. What was your position, Mr Wheatley, before you took up this current role?

**Mr Wheatley**—I was general manager of what was called platforms and channels, which was one of the technology-buying groups in the procurement group.

**Senator CONROY**—So you were within the procurement group?

**Mr Wheatley**—I have been in procurement for nine years.

**Senator CONROY**—Great. I have just two quick questions, which are totally separate. Mr Quilty, could you take on notice—I am sure you will not know—to give us a list of how many overseas trips have been undertaken by the senior executives since they took up their positions, and the dates of them? I think you used to have eight reports to Mr Trujillo. I am not sure how many you have currently, but all direct reports to Mr Trujillo.

**Mr Quilty**—Going back how long?

**Senator CONROY**—Just to when they started. Mr Winn, Mr Burgess and Mr Trujillo obviously could not be before 1 July, and I do not think Mr Stanhope has been globetrotting much. But if we could get the number of trips and the destinations.

**Mr Quilty**—Certainly.

**Senator CONROY**—Is Mr Winn in the country at the moment?

**Mr Quilty**—I am not aware.

**Senator CONROY**—You do not know if he is, or you think he is overseas?

**Mr Quilty**—I do not know where he is.

**Senator CONROY**—Does anyone else know? Hands up anyone who has seen Mr Winn. Nobody has seen Mr Winn?

**Senator RONALDSON**—They clearly have not got large ‘in’ and ‘out’ boxes.

**Senator CONROY**—So Mr Trujillo is overseas at the moment?

**Mr Quilty**—I believe he is, yes.

**Senator CONROY**—Dr Burgess?

**Mr Quilty**—I do not believe he is.

**Senator CONROY**—Someone suggested he was overseas at the moment. Is he back?

**Mr Quilty**—I do not believe he is overseas at this point, but I will take that on notice.

**Senator CONROY**—Okay. Mr Winn and the other direct report.

**Mr Quilty**—Yes.

**Senator RONALDSON**—You blokes are paying an extraordinary penalty when you think about it, aren’t you? They are all tripping overseas and you guys are here taking the heat. They should be here answering these questions in relation to procurement and everything else. They are gallivanting around the country and you are the ones who are here defending the organisation. What a disgrace.

**Senator CONROY**—Mr Wheatley, in answer to a question on notice over the issue of IP DSLAMs and the transformation, it was indicated:

Telstra undertook a competitive process with a number of leading companies in the field before selecting Alcatel as our supplier of IP-DSLAMs.

... ..

Details such as who participated in the IP-DSLAM tender are commercially sensitive.

I have not asked you to identify anyone.

We can confirm that more than four companies participated, with Alcatel the successful tenderer.

... ..

A number of companies were also considered for the supply of other network elements that will comprise the transformed network of which the FTTN rollout was to form a key part, including Cisco, who were selected to provide equipment for our IP core network.

I know we have been trying to identify exactly what is meant by ‘expressions of interest’—formal, open—but that seems to indicate a slightly different process to the one you outlined there, when you said there were five companies—three discussed proposals and two detailed. The answer given is:



We can confirm that more than four companies participated ... with ... the successful tenderer.

That suggests a formal tender. Could you clarify that?

**Mr Wheatley**—The five companies that we considered for the end-to-end network transformation, that is made up of a number of network elements as components within it. The IP DSLAM is one component. That was a formal tender process that we ran for that component of that network transformation.

**Senator CONROY**—What is the value of that? I just want to make sure we are going to be talking about the same thing. Alcatel have a \$3.4 billion FTTN roll-out. Is that that tender?

**Mr Wheatley**—It is part of the number that we released on 15 November.

**Senator CONROY**—So the IP DSLAM is part of the \$3.4 billion.

**Mr Wheatley**—Yes, it is.

**Senator CONROY**—Or is it the whole?

**Mr Wheatley**—No, it is part of it.

**Senator CONROY**—Was there a competitive tender for that part of the \$3.4 billion?

**Mr Wheatley**—Yes.

**Senator CONROY**—Could you outline what the process was for the IP DSLAM?

**Mr Wheatley**—The IP DSLAM was the competitive tender we are referring to. That was a formal tender that we went to a number of companies to respond to. So it was what you would consider as our normal, formal tender process. As I said, we select a range of vendors to go to. That is the process that we undertook with that.

**Senator CONROY**—So the normal, formal tender process?

**Mr Wheatley**—Yes.

**Senator CONROY**—What would be the approximate value within the \$3.4 billion?

**Mr Wheatley**—It depends on the regulatory question mark. It is only an estimated value. I would have to check it because it is the significant component.

**Senator CONROY**—I want to make sure I understand this process for your appropriate level of commercial analysis and your expression of interest. Does Telstra require its short-listed tenderers to provide detailed price offers for procurements? I think that goes to one of the questions Senator Ronaldson asked. Were they asked to notify a price?

**Mr Wheatley**—Pricing information, yes.

**Senator CONROY**—Were the five asked to put in a price, were three asked to put in a price or just the two?

**Mr Wheatley**—We considered five that may have had the capability, we entered into subsequent further discussions with three, and we entered into detailed discussions and started to talk about price with two.

**Senator CONROY**—You did not talk price until you got down to two?

**Mr Wheatley**—No.

**Senator RONALDSON**—Senator Conroy, did you ascertain before what the time frame for all this was?

**Senator CONROY**—I have not gone there yet.

**Senator RONALDSON**—I might have a bit of a discussion about that. When was the decision made to engage these five companies? It was made after Mr Trujillo arrived, was it not?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—He arrived 1 July?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—When did the instructions go out to start the initial part of the process?

**Mr Wheatley**—If you are after a specific date, I will have to take this on notice.

**Senator CONROY**—Because it happened before you started?

**Mr Wheatley**—Yes.

**Senator CONROY**—I think the words you used earlier were that you came in on the tail end of this process, at the end of September?

**Mr Wheatley**—Correct.

**Senator CONROY**—Who was in the position before?

**Mr Wheatley**—Stuart Lee.

**Senator CONROY**—What happened to him?

**Mr Wheatley**—Stuart Lee now heads up the program office.

**Senator RONALDSON**—Can anyone else at the table enlighten the committee as to when the process first started?

**Senator CONROY**—There is not a finance boffin sitting in there, Mr Nicholson? You just let them run loose?

**Mr Nicholson**—I do not know the answer to that question.

**Senator CONROY**—You are the head of the finance area?

**Mr Nicholson**—That is my responsibility.

**Senator RONALDSON**—Who can remember the first month of Mr Trujillo's time?

**Senator Coonan**—I can.

**Senator RONALDSON**—Was it a series of meetings? Was he talking about these things?

**Senator CONROY**—It was the road show, was it not? He was travelling around talking to everyone.

**Senator RONALDSON**—I do not think he was. Would it be fair to say that the instructions would not have gone out in relation to this matter before the start of August, a month after Mr Trujillo had arrived?

**Mr Quilty**—It obviously went out before you took on the job.

**Mr Wheatley**—Yes.

**Senator RONALDSON**—I would hope so because it was just about finalised by the time Mr Wheatley arrived, as he told us.

**Mr Quilty**—I think it went to an MOU on 15 November.

**Mr Wheatley**—There was an MOU on 15 November. Since that period of time we have been putting in place the formal contracts.

**Senator RONALDSON**—You told the committee before that the process was almost finalised when you started.

**Mr Wheatley**—In terms of the MOU and selecting Alcatel to take up the role of the network transformation, yes.

**Senator CONROY**—Due diligence.

**Senator RONALDSON**—So we are absolutely clear about this: your role, when you arrived, was only to implement the MOU with Alcatel which had already been agreed to.

**Mr Wheatley**—No. The terms and conditions of the MOU were not agreed.

**Senator CONROY**—But Alcatel had already been selected at that point?

**Mr Wheatley**—It was in the process of final considerations, yes.

**Senator RONALDSON**—What date did you arrive?

**Mr Wheatley**—I think it was mid-September, from memory.

**Senator RONALDSON**—Even at its most generous, we have got Mr Trujillo having a month to organise himself before he started making such monumental decisions as this.

**Senator CONROY**—Probably about eight weeks, maximum.

**Senator RONALDSON**—It is about six or seven weeks.

**Senator CONROY**—It could be six or seven.

**Senator RONALDSON**—So this process was, in the space of six weeks, finalised to the extent that the only role you had to play was to get the terms and conditions of the MOU.

**Mr Wheatley**—Yes, but, you would have to understand, that process led right up to 15 November.

**Senator CONROY**—You cannot squirm out of that, Mr Wheatley.

**Senator RONALDSON**—You were dealing with the chosen provider in the middle of September. You came in and they were already the chosen provider. Maybe it happened two weeks before you got there, Mr Wheatley. Therefore, we are back to a month. This whole process has taken a month.

**Dr Warren**—Senator—

**Senator RONALDSON**—Well, no, Dr Warren, I will continue. You can jump in later. I want to speak to Mr Wheatley about this. He is the one in charge of it. You can roll your eyes if you like, if that is the way you want to conduct yourself—

**Senator CONROY**—I would like to be able to behave like this, but the chair normally stops me.

**Senator RONALDSON**—I am asking Mr Wheatley something. He was the one who was responsible for it.

**Senator CONROY**—Have you got any extra information, Dr Warren, that you think might be useful at this point?

**Dr Warren**—I hope so, but clearly the senator has—

**CHAIR**—Senator Ronaldson is asking the questions. He is asking them of Mr Wheatley. We can come to Dr Warren after Mr Wheatley has answered the questions.

**Senator RONALDSON**—When you arrived on 15 September, how were you notified about Alcatel being the chosen provider?

**Mr Wheatley**—Can I just be very clear on this: it was not at the time that I immediately moved into the role that I engaged in discussions with the vendors around the network transformation. I moved into the role on 19 September. There was a lot of activity and consideration that was taking place—what I call the final stages—with regard to selecting the end-to-end network transformation vendor, and it was not until a period of time after that that we moved to finalise the MOU with Alcatel.

**Senator RONALDSON**—When you arrived on 19 September, were you advised that Alcatel was the preferred provider?

**Mr Wheatley**—Not at that stage, no.

**Senator RONALDSON**—Were you dealing with other providers?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—How many were left at that stage?

**Mr Wheatley**—From my recollection, there were two.

**Senator CONROY**—From the 19th, how many days was it until Alcatel was chosen?

**Mr Wheatley**—I would have to take that on notice. I cannot recall the exact dates.

**Mr Quilty**—From 15 November—

**Senator CONROY**—No. That is when the MOU was signed. Good try, Mr Quilty. No, it was not 15 November.

**Mr Wheatley**—I would have to check the exact dates, but it was close to that period of time because it was subject to final discussions between the two vendors.

**Senator RONALDSON**—Mr Quilty is leading this witness, Mr Chairman.

**Senator CONROY**—That is an understatement. Mr Wheatley is now changing his evidence as fast as he can.

**CHAIR**—We would prefer Mr Wheatley just to give his answers, thank you, Mr Quilty.

**Senator RONALDSON**—So what did you actually do? When you arrived on 19 September, what role did you actually have to play in relation to finalising the preferred provider?

**Mr Wheatley**—At that point in time, on 19 September, none. I was not involved in the direct discussions because I had only started in the role. I got involved as the discussions further progressed. I would have to go back and check my diary in terms of the dates that I actually got involved in discussions around the network transformation, because it was not my—

**Senator RONALDSON**—So you were not briefed about this on your arrival?

**Mr Wheatley**—Not immediately, no.

**Senator RONALDSON**—A \$3.4 billion contract and you were not briefed about it on your arrival?

**Mr Wheatley**—There were a significant number of other contracts in process at the time.

**Senator RONALDSON**—Bigger than this?

**Mr Wheatley**—No.

**Senator RONALDSON**—What stage were the other contracts at?

**Mr Wheatley**—Various stages.

**Senator RONALDSON**—So we have a contract that is just about to be finalised, you have smaller contracts which were at various stages, and you are telling the committee they, as opposed to this one, took up your time.

**Mr Wheatley**—No. At the time, one of the major contracts that was happening was the tender process for the IP DSLAMS which had commenced before that time, before I moved into this role.

**Senator CONROY**—What was the value of that?

**Mr Wheatley**—That is the significant portion of the \$3.4 billion. I would have to take it on notice to let you know what it is, but it is the majority of the spend.

**Senator RONALDSON**—You talked before about the ‘normal formal tendering process’.

**Senator CONROY**—Good words.

**Senator RONALDSON**—Yes. Mr Wheatley, that normal tendering process in the contracts that you have been involved with since you took over this role, is that the sort of normal tendering process or are there other normal tendering processes?

**Mr Wheatley**—No, we have what I term a normal formal tendering process, when we go to the market with a formal tender rather than direct source. That is the distinction I am making. We have been doing both.

**Senator CONROY**—With this one, were tender specifications asked for? At what point of this five to three to two did you actually get down to tender specifications? You said it was only down to two for dollars. Did the three get the specifications?

**Mr Wheatley**—That was before my time. I would have to take that on notice and come back to you with the actual timing that those discussions took place.

**Senator CONROY**—Would you expect it to have been at the three, before one was eliminated to get to the two?

**Mr Wheatley**—I would expect that there was consideration of the capability of the vendor to meet our requirements at that stage, before we got to the stage of price, but I was not directly involved.

**Senator CONROY**—I appreciate that, Mr Wheatley. You were actually working on another one at the time, so I am just trying to get a comparison. Telstra has gone to five; it has asked five—

**Mr Wheatley**—Just so that I am very clear on that: we considered five.

**Senator CONROY**—Sorry, you considered five. Three were—

**Mr Wheatley**—We discussed the proposals.

**Senator CONROY**—You discussed proposals, but not a formal tender document. No specifications were supplied saying, ‘Here, this is what we want you to tender on or come forward with more information on’?

**Mr Wheatley**—I would have to go back, because that was again early in the piece, before I—

**Senator CONROY**—I appreciate that. But would you expect, with your experience in Telstra procurement, that specifications would have been sought at that point from the three, as opposed to the next level, which got down to price. I am presuming price could only be calculated on specifications. Logic would imply you could not put in a price without the specs. Therefore, I am assuming that specs and price only happened when it got down to the final two. Is my logic—

**Mr Wheatley**—Your logic seems fair and reasonable to me. The first step is an assessment of the capability for the vendor to meet our requirements.

**Senator RONALDSON**—What were the actual timeframes that Telstra had sought in the expressions of interest in the contract that Alcatel won? What were the timeframes?

**Mr Wheatley**—They vary, because the significant component, as I said, was the response to a tender that we took to the market with a number of other companies, and the other one was the detailed discussion around the end—

**Senator RONALDSON**—The contract that Alcatel won, what were the EOI timeframes on that?

**Mr Wheatley**—Through to contract finalisation?

**Senator RONALDSON**—No, the expression of interest aspect of it. That initial process and then prior to the MOU.

**Mr Wheatley**—I will have to take on notice when the initial process started. That is what I said earlier. I was not in the role, so I do not know when it was actually formally kicked off.

**Senator RONALDSON**—When was the EOI process finalised after you arrived, or had it been finalised?

**Mr Wheatley**—No, it had not been finalised. That is what I said earlier.

**Senator CONROY**—They were just down to the last two when Mr Wheatley came on board.

**Senator RONALDSON**—So some of the expressions of interest had been dealt with?

**Mr Wheatley**—In regard to consideration of the capability of the vendors?

**Senator RONALDSON**—Yes.

**Mr Wheatley**—Yes.

**Senator CONROY**—You were down to two when you got the job, were you not?

**Mr Wheatley**—That was my understanding at the time, yes.

**Senator RONALDSON**—Had they all formally responded prior to that time? Had there been a formal expression of interest lodged by all five, or had you sorted some of them out before then?

**Mr Wheatley**—No, we considered five; we did not seek proposals from them all.

**Senator RONALDSON**—You did not seek proposals from them?

**Mr Wheatley**—No, that is what I said.

**Senator CONROY**—Five became three, and then three became two?

**Senator RONALDSON**—When did the third one drop out? Did you ask for an expression of interest from the third one?

**Mr Wheatley**—I was not involved in the process. I would have to take it on notice as to what was specifically sought from them.

**Senator RONALDSON**—You do not remember whether there had been an expression of interest lodged by the third party? Two had been taken out, you say that three were left and had been pruned down to two.

**Mr Wheatley**—The proposal was discussed with the three from the five.

**Senator RONALDSON**—Had there been a formal expression of interest lodged by all five or just three?

**Mr Wheatley**—No, three.

**Senator RONALDSON**—When did that close?

**Mr Wheatley**—I do not—

**Senator RONALDSON**—It closed before you arrived, did it not?

**Mr Wheatley**—Yes, it did.

**Senator RONALDSON**—Do you know how long before?

**Mr Wheatley**—No, I do not.

**Senator RONALDSON**—Can you hazard a guess?

**Mr Wheatley**—I have no idea. I would not want to mislead you in terms of the timeframe.

**Senator RONALDSON**—If we go back to Mr Trujillo, on his first month, the expressions of interest had opened and closed potentially within a period of five to six weeks—is that right? The lodgement of them? They had been sought and they had to be lodged within, at the maximum, five to six weeks. Does that sound right?

**Mr Wheatley**—I do not know.

**Senator CONROY**—Dr Warren, can you shed any light? Mr Wheatley was not there. Mr Nicholson, it is your finance area, you were paying.

**Mr Nicholson**—Sorry, I cannot help you.

**Senator RONALDSON**—None of you can answer that question?

**CHAIR**—If anyone can assist the senators, then please do so.

**Senator RONALDSON**—Mr Wheatley, you would understand that people would be incredulous in relation to your answers, don't you? In a contract that has been the subject of substantial media commentary, where there have been allegations, almost—not as far as, but almost—of impropriety, you do not know these basic questions in relation to this matter. Were you not prepped in relation to this? Did you not seek to ascertain that information? We have got a statement here so obviously everyone has been thinking about various bits and pieces in a procurement sense. On something as basic as that you are telling this committee that you do not know?

**Mr Wheatley**—I was not in the role at the time.

**Senator CONROY**—And the records have been eaten by his dog.

**Senator RONALDSON**—Clearly, someone has.

**Senator CONROY**—‘The dog ate my homework.’

**Senator RONALDSON**—So when you took over the role, were you briefed about the process?

**Mr Wheatley**—Yes, I was.

**Senator RONALDSON**—Was there a discussion of the expression of interest stage? How long it had been open for? Who had been asked to supply an expression of interest? What the terms and conditions were?

**Mr Wheatley**—Certainly the terms and conditions and our requirements were discussed with me, yes.

**Senator RONALDSON**—You were not briefed on the expressions of interest, when they were opened and when they were closed?

**Mr Wheatley**—In terms of the timeframe, no, I was not.

**Senator RONALDSON**—You did not think to ask that question?

**Mr Wheatley**—Not directly, no.

**Senator RONALDSON**—You did not think to ask that question after we had seen all this information in the financial papers?

**Mr Wheatley**—The questions that I was more interested in was the capability of the vendors to meet our requirements, and that due process had been followed.

**Senator RONALDSON**—So that is a lot more important than due diligence and good corporate governance, is it?

**Mr Wheatley**—That is part of the process.



**Senator CONROY**—I might just move into a slightly different area for a second. Telstra has been doing business with Alcatel for quite some time, has it not?

**Mr Wheatley**—Yes.

**Senator CONROY**—Mr Nicholson, you previously had responsibility for this.

**Mr Nicholson**—I have not had responsibility for it but, yes, we have had business with Alcatel for some years.

**Senator CONROY**—I asked Mr Nicholson, because it used to be in your section rather than—

**Mr Nicholson**—It was in my boss's section.

**Senator CONROY**—In your boss's section. Sorry, I was not trying to verbal you there and stick you in the middle of it, Mr Nicholson.

**Mr Nicholson**—That is fine.

**Senator CONROY**—Can you give me an example of the contracts that Alcatel has received from Telstra, either Mr Wheatley or Mr Nicholson? Dr Warren, I do not mind if you jump on in. Mr Wheatley, presumably you have dealt with them before.

**Mr Wheatley**—Yes, I have.

**Senator CONROY**—What are other examples of contracts that Alcatel has received from Telstra? No-one else wants to answer.

**Mr Wheatley**—Alcatel provides XDM, ATM, DSLAM, CMUX. They provide our IM platform through a subsidiary of theirs called Genesys, our CTI Callex platform, as well as some of our PSDN switches.

**Senator CONROY**—What has Alcatel's performance on these contracts been like?

**Mr Wheatley**—Alcatel's performance has always met our requirements.

**Senator CONROY**—So Telstra is happy with them, then?

**Mr Wheatley**—Yes.

**Senator CONROY**—Has Telstra ever engaged in a contract dispute with Alcatel?

**Mr Wheatley**—From time to time we have our wrinkles, as we do with all vendors, but none of them have been what I would term fatal to the relationship.

**Senator CONROY**—Has Telstra's lawyers ever been in correspondence with Alcatel's lawyers regarding Alcatel's compliance with the Telstra contracts?

**Mr Wheatley**—I will have to take that question on notice.

**Senator CONROY**—Sure. On, for instance, the XDM contract?

**Mr Wheatley**—Again, I would have to take that on notice.

**Senator CONROY**—On the CMUX contract? Was Mr Winn, Mr Burns or you in your new position ever advised by any Telstra employees about historical problems that Telstra had experienced contracting with Alcatel in the past?

**Mr Wheatley**—Again, none fatal to the relationship. There was discussion—obviously robust discussion—which we encourage in regard to people’s opinions internally, and we encourage them to express those. But none, as I have said, that were fatal to the relationship.

**Senator CONROY**—Were Mr Winn or Mr Burns informed about problems that Telstra had recently had with Alcatel regarding the company?

**Mr Wheatley**—Sorry, I—

**Senator CONROY**—Overselling its capabilities and time frames; overcharging, for sometimes questionable software quality?

**Mr Wheatley**—I, again—

**Senator CONROY**—Was Mr Winn and Mr Burns made aware of those?

**Mr Wheatley**—I am not familiar with the details of that.

**Senator CONROY**—You are not aware of any of those things?

**Mr Wheatley**—No.

**Senator CONROY**—Were Mr Winn or Mr Burns informed about problems Telstra had experienced with Alcatel on previous contracts, such as the CMUX technology project and the XDM contract?

**Mr Wheatley**—I would have to take that on notice—

**Senator CONROY**—Have you ever seen anything on those?

**Mr Wheatley**—Those contracts were in place before I moved into this role.

**Senator CONROY**—Mr Nicholson, these are older contracts. Are you familiar with any of these disputes?

**Mr Nicholson**—No.

**Senator CONROY**—Is anybody at the table familiar with any of these discussions and disputes between Telstra and Alcatel? What is the name of the web site?

**Senator RONALDSON**—No, not yet.

**Senator CONROY**—It has got to be soon, do not worry.

**Senator RONALDSON**—I am sure it is only a matter of time.

**Senator CONROY**—Nobody at the table has any idea about Telstra’s previous relationships with Alcatel? I am hearing dead silence. Hansard can record there is dead silence from seven Telstra officials at the table and I have lost count of how many are sitting behind you.

**Senator RONALDSON**—Mr Quilty, I think it was a bad call to suggest that the committee was just going to be satisfied with a bland statement in relation to procurement policy, and while Senator Conroy is—

**Senator CONROY**—No, I am feeling on a little roll here. If you can indulge me, Senator Ronaldson, I would appreciate it. Was the Telstra board made aware of any of these past issues when it was considering the granting of the IP network transformation contract to Alcatel?

**Mr Quilty**—We will take that on notice.

**Senator CONROY**—No-one at the table knows anything about it. I am surprised, Mr Wheatley, that you are unaware of any of these. You were in the procurement section. You are unaware of any difficulties—

**Senator RONALDSON**—For nine years.

**Mr Wheatley**—We had some difficulties on the way through, as every relationship—

**Senator CONROY**—You described it as they met their needs—

**Mr Wheatley**—They have always met our—

**Senator CONROY**—and that you were happy, I think was the word you said?

**Mr Wheatley**—Yes.

**Senator CONROY**—But you were unaware if your lawyers had ever spoken to them. I am surprised. Do you think that information like this, about a past relationship between Telstra and a vendor, would be relevant to an evaluation of—I am just trying to find your exact words—‘appropriate level of commercial analysis’? Do you think any issues like this would fall into that category?

**Mr Wheatley**—I would expect if they were going to impact on the relationship they would have been brought to my attention, but I was not aware of any.

**Senator RONALDSON**—Do not worry about that, but what about the impact potentially on the company?

**Senator CONROY**—The quality of the relationship between the supplier and the company is a pretty important factor, would you not think?

**Mr Quilty**—I think what Mr Wheatley is indicating is that there have been wrinkles and there have been issues, but none of them has been such that they have been fatal to the relationship.

**Senator CONROY**—Perhaps I could read to you from a document, a Telstra document marked ‘Commercial-in-confidence’ entitled ‘Alcatel issues’. It is three-pager with an attachment. I will table it. It states:

Summary of Route Causes

In the last 10 years there have been a number of problems with Alcatel projects at Telstra ...

You have been with Telstra procurement for 10 years?

**Mr Wheatley**—Nine years.

**Senator CONROY**—Nine years. It continues:

The systematic reasons behind these problems are listed below—

and this is a Telstra document—

- Knowingly overselling capabilities and timeframes
- Short cuts taken to then deliver sub standard solutions

- Finding clauses in contracts and specifications to avoid obligations rather than delivering working solutions and / or what was sold in the first place.
- Alcatel overcharging Telstra whenever it had the opportunity
- Alcatel Australia inventing specials which then don't fit in with worldwide Alcatel strategy increasing the cost of the project and creating a risk Alcatel Australia would exit the project if Telstra did not continue to pay
- Poor software quality and testing—in particular poor exception handling consideration at the design stage; poor quality processes ie peer review, configuration management and testing
- Poor system integration capability and problems managing projects requiring interfacing to different components / vendors.

In some respects, issues such as Alcatel's overselling of their capability in the late 90s were prevalent throughout the whole industry but Alcatel was on the leading edge of this trend.

**Senator CONROY**—You have not been familiar in the last nine years, Mr Wheatley, with any of these claims made in your Telstra document?

**Mr Wheatley**—No.

**Senator CONROY**—You did not see this document?

**Mr Wheatley**—No, I did not see it.

**Senator CONROY**—Are you aware, Mr Winn, Mr Burns or anyone else—Mr Nicholson—whether any of this rings a bell? Does anybody at the table?

**Mr Nicholson**—No.

**Senator CONROY**—Dr Warren, you are very quiet all of a sudden. You normally like to jump in at any stage. You are the technology boffin.

**Dr Warren**—Yes.

**Senator CONROY**—Does any of this sound familiar to you?

**Dr Warren**—It does not.

**Senator CONROY**—This is a Telstra document.

**Dr Warren**—I am sure it is, but it does not sound familiar to me.

**Senator CONROY**—You have never heard of these criticisms?

**Dr Warren**—I have never heard of this criticism, but that should not surprise you. I am in regulatory. We do not source networks.

**Senator CONROY**—Do they have to be on the Telstra talk site before anyone will acknowledge them?

**Senator RONALDSON**—Mr Wheatley, you have not heard of it and have not seen it?

**Senator CONROY**—I would say it is an attachment to a different document—there is a front to it. There are some fairly detailed criticisms of individual projects. Did you handle the S12 in the mid-90s?

**Mr Wheatley**—No.

**Senator CONROY**—Mobiles in the mid-90s?

**Mr Wheatley**—No.

**Senator CONROY**—RIMs from '95 to '97?

**Mr Wheatley**—No.

**Senator CONROY**—The IN project?

**Mr Wheatley**—No.

**Senator CONROY**—CMUX?

**Mr Wheatley**—No.

**Senator CONROY**—CAN?

**Mr Wheatley**—No.

**Senator CONROY**—XDM?

**Mr Wheatley**—No.

**Senator CONROY**—Did anyone handle any of these? Mr Nicholson, come on!

**Mr Nicholson**—No.

**Senator CONROY**—Mr Quilty, I do actually absolve you. I find that amazing, but I will say that on the public record: I do absolve you on this point.

**Mr Quilty**—For all my sins?

**Senator CONROY**—Not all of your sins, just this one.

**Mr Quilty**—It is hard for us to comment on a document that we have not even seen.

**Senator CONROY**—As I said, I am happy to table it. If I could get some copies.

**CHAIR**—Is it the will of the committee that the document be tabled? Proceed.

**Senator RONALDSON**—Just in relation to these expressions of—

**Senator Coonan**—Can I just say something, in fairness, for the record. Senator Conroy might like to say what the whole document is at some point.

**Senator CONROY**—I have indicated and I am prepared to table the attachment.

**Senator Coonan**—Thank you.

**Senator RONALDSON**—Mr Wheatley, just in relation to the COR, what was the unseemly rush for? This had a five-year roll out; it required regulatory approval. Why was there this unseemly haste to get this thing stitched up and off, given the five years? If it was due to come in November and Mr Trujillo had made a decision he was going to do A, B or C, and had a start-up date—five-year roll out, subject to regulatory approval—what was the rush for, do you know?

**Mr Wheatley**—No.

**Senator RONALDSON**—Did anyone explain it to you? Did you think yourself that this process seemed a bit rushed?

**Mr Wheatley**—No.

**Senator RONALDSON**—You did not?

**Mr Wheatley**—No.

**Senator RONALDSON**—You did not at all?

**Mr Wheatley**—No. On the selection that we have made on the capability of the vendor, I was quite comfortable with it.

**Senator RONALDSON**—No, I am not asking you to look at the final outcome. When you arrived did you think this was an extraordinarily quick process—that you had arrived and were presented with a *fait accompli* and it had all been done in five or six weeks? Did you ever think that was a bit strange?

**Mr Wheatley**—No.

**Mr Nicholson**—This is part of an overall transformation of the company, as you would be aware. The need for the transformation was identified by the management team, and it is very important in any transformation to make haste. Of course, it needs to be done right. The scale of the transformation is very large and wide ranging through the company. In all the changes that I have experienced in Telstra, the best effected changes are the ones that are done probably in the least amount of time, because what tends to happen over prolonged periods of time is that you lose the impetus. Consequently, I can quite easily understand, with the critical nature of this contract and the other contracts as part of the overall transformation, the need for the speed.

**Senator RONALDSON**—Mr Nicholson, that comment might get you a pay rise, but with the greatest respect it does not actually advance the matters that we are discussing today. You are involved with financial matters?

**Mr Nicholson**—Yes.

**Senator RONALDSON**—I would have thought someone in your position to be actually supporting a process that took place over five or six weeks clearly without the opportunity for appropriate due diligence—I am a bit disappointed to hear you say that you—

**Mr Nicholson**—I do not know that we have said that it has not had appropriate due diligence. Telstra's position would be, and I think Mr Wheatley supported this, that it has had appropriate due diligence.

**Senator RONALDSON**—With all the controversy surrounding this—we have not even flown into Miami yet; we are still on Alcatel—and with everything that is going on around these matters, I am surprised to hear you make that comment.

**Senator CONROY**—Have you got copies now at the table? We should at least give the minister and Mr Quilty a copy, if not the rest of the table, and Mr Wheatley deserves one. As an example, I was talking about the XDM project started in 1999. Eventually Telstra stopped paying the software licence fees and a contract dispute resulted. It sounds like lawyers were involved in the XDM project.

**Mr Quilty**—It is very hard for us to comment in a way on this document, because we have no idea where it comes from, what the context is, who wrote it, what sort of status, if any, it has. Obviously, if we have knowledge we are willing to provide that knowledge.

**Senator CONROY**—I appreciate you cannot absolutely verify that it is a Telstra document. I put to you that I do genuinely believe it to be. The issues identified in the document are issues that I would have thought someone at the table, perhaps Mr Wheatley, would know of, though I do appreciate that, as you have indicated, you did not handle any of these contracts and you only recently inherited the job. I do appreciate your position, Mr Wheatley. But the issues are identified quite clearly. There have been major ongoing issues around Alcatel's performance in its dealings with Telstra identified here. You can say, 'I cannot tell you that is definitely a Telstra document.' I'll accept that you cannot confirm that. But the issues raised here are spelt out fairly clearly.

**Mr Quilty**—We are happy to take on notice the veracity of the issues. I think we have made clear that there have been issues in our ongoing multifaceted relationship with Alcatel, as there often are with major vendors. We also made clear that we have been able to work through those issues and they have not been fatal obviously to the relationship. As to being more specific about the issues, obviously to start with we have the question of commerciality, in that we are talking here about a commercial relationship between us and Alcatel and anything that we say can impact on that. Obviously, at the top of that document it states 'Commercial-in-confidence', probably for that reason. But we take on notice in terms of these particular projects anything we can provide further on the problems.

**Senator CONROY**—I appreciate that, Mr Quilty. As an example, mobiles mid-90s on the first page:

Alcatel were chosen as a second switch supplier for mobiles. No progress on the delivery of promised features led Telstra to junk the Alcatel mobile switch as did many other carriers.

That is just a factual issue. Is that correct or not, Mr Mullane?

**Mr Quilty**—Yes, as I said, we are happy to talk about it to the extent we have the knowledge and—

**Senator CONROY**—I thought no-one indicated they could answer any questions about these things.

**Mr Mullane**—Let me just say further that I had no personal involvement in any of the contractual arrangements with Alcatel.

**Senator CONROY**—I am hoping somebody in the building did.

**Mr Mullane**—I am very happy to say, as a close observer of what was happening in the supply and construction arrangements in the company in those days, that Alcatel were a very, very major supplier for a long number of years and continue to be.

**Senator CONROY**—We are not questioning that they are a major supplier. That is not the point.

**Mr Mullane**—Hang on. If you want me to comment, I will comment.

**Senator RONALDSON**—Can you actually comment? Did you have anything to do with these contracts?

**Mr Mullane**—I had to deal a lot with the outcomes of the equipment that was being produced under the contracts. So I was understanding of the processes that were in place between Telstra and Alcatel.

**Senator CONROY**—You stepped up to the plate, so I want to ask you some specific questions.

**Mr Mullane**—I would like to make a couple of comments first, though.

**CHAIR**—Let Mr Mullane finish.

**Mr Mullane**—The nature of that period of time goes back to Telecom Australia emerging through the transformation into Telstra. But this transformation that the company is now undertaking is a much, much different approach to the sourcing of a brand-new set of major capabilities for the whole of telecommunications in this country and, as such, the CEO and the board have committed to undertake this transformation work in an absolutely different frame of mind, different cultural approach, different speed to market, different outcomes, committed outcomes, and they have the commitments of these major vendors at the global level, at the chairman of the board level down. In that sense it is very different. The sort of history—glancing down that summary—looks to me like the sort of thing that somebody would write if they were asked to write a document criticising the arrangements. You can always write things like that. But by and large I think the history between Telstra and Alcatel has been one of major delivery and major network evolutions.

**Senator CONROY**—Thanks. You stepped up to the plate. Just looking at the simplest one that I can identify, Alcatel mobiles, mid-90s:

Alcatel were chosen as a second switch supplier for mobiles. No progress on the delivery of promised features led to Telstra to junk the Alcatel mobile switch as did many other carriers.

Does that sound familiar?

**Mr Mullane**—I am not familiar. Mr Jennings might know something about it.

**Senator CONROY**—Mr Jennings has been mute. He has found his tongue.

**Mr Jennings**—I understand we did once have Alcatel equipment and that we no longer have it, but I was not aware of any of the circumstances surrounding its removal.

**Senator CONROY**—So it does sound as if it is factually accurate that they were supplying and then they—

**Mr Jennings**—Yes, and I can confirm the details of that.

**Senator CONROY**—Is anyone familiar with the CMUX debacle?

**Mr Mullane**—We have CMUX in our network. My comment about CMUX is that it was late in its delivery initially and it was late with some of the later features. We have deployed that technology fairly substantially. But, in terms of the initial delivery, for me as a working part of the company that was dependent upon that equipment, it was disappointing at the time. I would say, though, on the issue of CMUX, it was a particular development made for the Australian market and so it was a sort of customised development. These do have some bigger risks of delay than taking a global product. That turned out to be the case.



**Senator CONROY**—I appreciate you would not have had a chance to read the whole commentary on CMUX, but what you have just outlined does give a very generous interpretation of the more detailed summary here. If I were to go into some of the detail, would you be able to comment?

**Mr Mullane**—I will just take whatever you wish on a case-by-case basis.

**Senator CONROY**—It indicates that the solution sold to Telstra was for integrated voice and ADSL.

**Mr Mullane**—And ISDN.

**Senator CONROY**—And:

Alcatel locally decided to create an Australian special—  
as you said, a unique solution—

by integrating two pieces of equipment. After winning the contract short cuts were taken by deciding to keep the voice and data parts of the CMUX managed separately. A new element manager was to be developed to hide the separate parts from Telstra operators. The development of the element manager started but was harder than thought leading to the temporary solution of two element managers for the one piece of equipment, which Alcatel eventually admitted they would never rectify. The contract and specs were written as if there was only one element manager, and therefore there was nothing legally to force them to integrate the systems, despite it being clear that this was not what we had bought and had only agreed to two element managers as a temporary measure.

The cost of Alcatel not meeting their commitments is that Telstra is still paying licence fees, hardware and support costs to Alcatel and our own operation costs for two element managers.

I could go on at length. Does that ring any bells with you?

**Mr Mullane**—I could not comment on that particularly. Obviously, we could take it on notice and provide some commentary back.

**Senator CONROY**—Mr Quilty has taken the general thing on notice.

**Mr Mullane**—Yes, but I think—

**Senator CONROY**—I am only putting specific issues to you because you stepped up to the plate.

**Mr Mullane**—Again, one of the reasons I wanted to step up to the plate was that the approach now being undertaken with Alcatel in particular is that we are not having any of this sort of local product. It is a global product, the ISAM, that is being sourced with Alcatel commitment from the highest level in their global corporation to deliver what Telstra requires at world's best price in world's leading time frames, as soon as we get past the regulatory issues. That is what is going to happen.

**Senator RONALDSON**—You might be about four seats down, I reckon, next—

**Senator CONROY**—Mr Mullane, your seat is in danger.

**Senator RONALDSON**—I am very disappointed in this, Mr Mullane.

**Senator CONROY**—I did make the point, though, that I thought you were in the running for the CEO's position already on your answers over many years. You have enhanced that.

**Mr Quilty**—Can I add that, in reading this document, as Mr Mullane said, it seems that a lot of the difficulties, if you go through the individual examples, related to integration of Telstra's current capabilities and networks. To a large extent, this is the overall problem that Telstra has now identified and is looking to move beyond. The statement we made makes very clear that we are now looking to provide fully integrated systems that provide end-to-end solutions rather than looking to continually add onto our network. The previous issues that seem to be outlined here relate to the previous regime, where it was all about integrating with the current network, adding something new onto the current network, doing something special, which was the Australian solution, in terms of the network. We are moving beyond that and having fully integrated, end-to-end solutions provided by global suppliers.

**Senator CONROY**—You are earning your money, Mr Quilty. Dr Warren, have you had a chance to have a look at this yet?

**Dr Warren**—Yes.

**Senator CONROY**—You are my 'go to' man to help explain technological issues to me. Are you familiar with CMUX? I think you gave me briefings on various parts of it.

**Dr Warren**—No, I think you are mistaken. Unfortunately, I cannot add much to this. But let me reinforce what Mr Quilty said. This is a statement—and it is a shame Senator Ronaldson has left—of the situation that Mr Trujillo found when he arrived. That is why, on 11 August, he made that document, which basically said this company is in significant trouble and needs to transform very majorly. That is why we ran a process very hard and very tough. That is why we did not go out to tender like we were tendering out for the staff cleaning. That is why we went into a detailed process, to try and get partners who will help us transform the business, and that is what we have done. Rather than having this sort of petty nitpicking on it, I think—

**Senator CONROY**—Nitpicking?

**Dr Warren**—people probably should be impressed that this major asset is going to be—

**Senator CONROY**—That was a bridge too far for your credibility, Dr Warren.

**Dr Warren**—I know that is stock-in-trade in this place, but that is the process we have to go through. We have to go through an expedited process to quickly turn around the company. That is what the new management has found. That is what they are trying to do. We can continue down this process, but I think this document is a great statement of the problems we had in the past. We are moving—

**Senator CONROY**—No-one is arguing, and I have been barracking longest and loudest for a fibre to the node network.

**Dr Warren**—We had 'poor system integration capability and problems managing projects'.

**Senator CONROY**—I appreciate you have a chance to absorb this now and you have the smokescreen and the spin going, but I am actually a fan of the FTTN. We are on the record as supporting it.

**Dr Warren**—It takes time, it takes effort and we have to really work at it to do it, and that is all we are doing.

**Senator CONROY**—But the issue that we are discussing here today is the previous relationship. The actual issue is the speed at which this process took place, whether it met procurement guidelines, whether or not there was sufficient time, and I think you said that on 11 August Mr Trujillo identified—

**Dr Warren**—By 11 August he came out with a significant document—

**Senator CONROY**—Yes, that is what I am saying.

**Dr Warren**—stating that there were large numbers of problems. When they arrived that first month—you asked us about it—they spent week after week, 24 hours, working through—

**Senator CONROY**—This just brings it back to the time line that Senator Ronaldson was trying to establish, and I know that we—

**Dr Warren**—It would have been nice to put our feet up and sit back and have a long, may I say, Public Service-like output—

**Senator CONROY**—I think you are guaranteeing you are going to miss your plane, Dr Warren, at the moment.

**Dr Warren**—Right.

**Senator RONALDSON**—Dr Warren, that is all very well. I and I think anyone around this table—

**Senator CONROY**—Book the hotel, guys.

**Senator RONALDSON**—would accept the fact that you need to do some things. But you just cannot blithely put this to one side and say, ‘It does not matter what the processes are, it can all be protected by the need to make some changes.’

**Dr Warren**—I hope we are not saying that. Please do not quote—

**Senator RONALDSON**—We accept that there did need to be some changes.

**Dr Warren**—us as saying that.

**Senator RONALDSON**—I accepted Mr Mullane’s comment. But with the greatest respect, Mr Mullane, that does not excuse due process not being followed correctly. What is concerning this committee is that due process has not been followed. Why this unseemly haste to get the EOI process dealt with? There are question marks over this. With the greatest respect, I think you have done a fantastic job today. You have come here, quite frankly, trying to resolve other people’s problems and I think you have done a very good job, but the bottom line with this is that you cannot excuse the process that has taken place by just putting it under the guise of, ‘Well, we needed to make some changes; everything that happens as a result of that is okay.’ That is the bottom line with it. You are defending the inexcusable. That Mr Wheatley does not know anything effectively about this massive contract indicates to me that it was not done by him, it was not done by his division, but done by someone else. I know you are not going to tell me who it was, but two and two still equals four, Mr Wheatley. You are obviously an intelligent, articulate man and I do not believe that you came into this job and did not know the answers to those questions. We are probably done with Alcatel.

**Senator CONROY**—I am happy to move on from Alcatel. When you have established in your minds this is one of your documents, I would like to know who originated it and who received a copy of it. I want to know if Mr Winn, Mr Burns, Mr Trujillo, Mr Gration or any member of the board saw the document at any stage.

**Mr Quilty**—I am happy to do that. Can I also very quickly respond to Senator Ronaldson. We have made clear we have undertaken an expedited process. The statement we tabled at the beginning of this questioning makes that very clear. To my knowledge, in the answers which have been provided, I can see no evidence that due process has not been followed. I cannot see any evidence, other than people making assertions, that we have not involved ourselves in due diligence. Yes, it was an expedited process but, yes, it also was fully in line with our procurement policies and our vendor selection policies at the time. Yes, the board was fully aware of what the company was doing. So, unless there is clear evidence that due diligence was not undertaken in this regard, I think it is unfair on Mr Wheatley and the rest of the company to leave that sort of accusation open.

**Senator RONALDSON**—Do you think, Mr Wheatley not having any knowledge at all about the EOI process, not knowing the time frames, not knowing when they opened, not knowing when they closed, that is appropriate for someone in his position?

**Mr Quilty**—It was clear that Mr Wheatley—

**Senator RONALDSON**—That is probably unfair to ask. I will just make that statement because, Mr Quilty, I do not think you can possibly agree that it is appropriate for Mr Wheatley, with his responsibilities, not to have that level of knowledge. It beggars belief that anyone in his position would not have that level of knowledge and that he would not have been briefed the very moment he walked into that place, within 10 minutes of opening his door, on this huge contract, which is part of—as Mr Nicholson, Mr Mullane and others said—this grand new plan. He was not briefed on the grand new plan? I do not think so, no.

**Senator CONROY**—If I could just ask the minister—

**CHAIR**—Wait a minute, though. Perhaps Mr Wheatley would like to respond.

**Mr Wheatley**—Yes, please. I think it is incorrect, if you understand that I was not briefed on the process when I came in. Obviously, you have to understand a significant portion of the transformation activity with Alcatel is the IP DSLAMS, which I was heavily involved in right throughout the process. The other component—

**Senator CONROY**—And you picked Alcatel?

**Mr Wheatley**—Yes.

**Senator CONROY**—Despite never seeing any of this, which I find amazing.

**Mr Wheatley**—No, it is not just me on my own that makes that decision. It is a team, which consists of the engineering people as well as the businesspeople, that makes sure that it will meet their requirements. So it is a cross-company team that actually undertakes that evaluation.

**Senator CONROY**—Who picked Alcatel out of the final two for the overall transformation?

**Mr Wheatley**—That was again a number of people—

**Senator CONROY**—Name names. We want names. You will not get away with it. Who made the decision?

**Mr Wheatley**—I would expect that the COO was heavily involved in it. I do not know the time of arrival of Dan Burns and others, but certainly the internal network engineering people were involved in it.

**Senator CONROY**—Mr Winn definitely. Mr Burns possibly.

**Mr Wheatley**—Yes.

**Senator CONROY**—Mr Lamming at any stage?

**Mr Wheatley**—No. This is network.

**Senator CONROY**—We are getting to Mr Lamming, don't worry.

**Mr Wheatley**—This is network.

**Senator RONALDSON**—On that basis, Mr Trujillo.

**Mr Wheatley**—The process we arrived at on 15 November was to enter into an MOU. Since that time, there has been a significant amount of work putting together the formal commercial contracts with Alcatel, which have taken a significant period. I think that is a relevant point, whereas we have gone through extensive commercial and technical negotiations with Alcatel to make sure end to end that this meets our requirements and stacks up commercially.

**Senator CONROY**—Minister, the Prime Minister gave an undertaking on national radio that he would seek further information about the changes to Telstra's tendering process. As a shareholder minister for Telstra, did the Prime Minister write to you seeking your assistance on this matter?

**Senator Coonan**—Yes, he did.

**Senator CONROY**—Was Senator Minchin, the other shareholding minister, also included in the Prime Minister's correspondence?

**Senator Coonan**—Yes, he was.

**Senator CONROY**—What has Senator Minchin done in response to the Prime Minister's correspondence or did you forward it on to Senator Minchin? What was the sequence of events?

**Senator Coonan**—No. Jointly, as joint shareholder ministers, we wrote to the board, directed to the chairman. I understand a response has been received. I have not had a chance to read it. I think it was received some time here over the weekend. I was not here on the weekend. I expect that I will be able to read it and form a view about it. I may need to seek advice about it, but it is in hand.

**Senator CONROY**—So the Prime Minister wrote to both you and Senator Minchin?

**Senator Coonan**—Yes, he did.

**Senator CONROY**—Did you write to Senator Minchin?

**Senator Coonan**—I think my office was responsible for preparation of a joint letter. That was prepared in consultation with Senator Minchin's office.

**Senator CONROY**—That went off to the board and they sent a response that got back over the weekend?

**Senator Coonan**—I think that is right. I think it has been received in the office, but I have not actually read it.

**Senator CONROY**—I appreciate that. Thank you very much, Minister. Shall we move on from Alcatel?

**Senator RONALDSON**—I have one question of Mr Wheatley. You indicated before that the CEO was actively involved in the decision making in relation to Alcatel. It is my understanding that Mr Trujillo was a member of the chairman's advisory council in 2000 of Alcatel. Do you know whether that is correct?

**Mr Wheatley**—I understood he was, yes.

**Senator RONALDSON**—Did he indicate to anyone within the management team or elsewhere that this was the situation and that he had potentially a conflict of interest? Was that matter raised with you at all or made clear to you?

**Mr Quilty**—I am not aware of that communication internally within Telstra. I can take that on notice. However, I think Mr Trujillo left that advisory board in 2003. The Alcatel contract with Telstra started only from around July 2005.

**Senator RONALDSON**—Can you take my question on notice?

**Mr Quilty**—Yes.

**Senator RONALDSON**—Dr Warren has just written a note for me.

**Dr Warren**—I have just been informed that—it was absolutely no secret—Mr Trujillo's involvement on the Alcatel advisory board was on his CV, which was on the web site.

**Senator CONROY**—No-one is suggesting it was a secret.

**Dr Warren**—No, I am just making the point. You asked whether anyone knew that at the time. I think that was your question. The point is that it was clearly—

**Senator RONALDSON**—My question was: was there any endeavour by Mr Trujillo to extricate himself from that final decision making because of a potential conflict of interest? I take it the answer is no, that he was, to take up Mr Wheatley's point, actively involved in the final decision-making.

**Mr Wheatley**—Can I clarify that. The approval process is, after the decision is made, that it goes through for the CEO to sign off, as he has the full delegated authority to the board, after the evaluation is undertaken. A number of people have input into that evaluation and decision before it gets that far up the tree.

**Senator CONROY**—So the board did not require any conflict of interest issue to be addressed? Mr Trujillo did not say, 'Look, given my strong involvement with Alcatel, I am stepping aside from the final decision; the board should make it.' You are saying the board just said, 'No, you are the CEO; we have hired you, you do it'?

**Mr Quilty**—I will check whether there was any communication. I cannot see how there is a conflict of interest in relation to an advisory position he held two years previous which he had obviously declared publicly.

**Senator CONROY**—Just because he declared a potential conflict—

**Mr Quilty**—It was two years before he came to Telstra.

**Senator CONROY**—I am saying that just because it is public knowledge that there is a potential conflict does not mean you get rid of the conflict of interest.

**Mr Quilty**—I will check.

**Mr Nicholson**—He is approving a recommendation that has been made independently within the business.

**Senator RONALDSON**—Mr Nicholson, thank you for that intervention. That is not what Mr Wheatley said. How was Alcatel chosen? He made it quite clear that it was an internal decision that involved, amongst others, the CEO—not the tick-off at the board table, sitting around at a board meeting, but before then is what he said. Thank you very much, but it is not what Mr Wheatley said.

**Mr Nicholson**—I will let Mr Wheatley clarify his comments.

**Mr Wheatley**—I am sorry, that is not what I understood I had said. I thought I was saying the same thing as Geoff about the process. It is an internal evaluation group that undertakes it, with the CEO having the final endorsement of the decision.

**Senator RONALDSON**—You were asked by Senator Conroy who made the decision, and you indicated that there were a number of people internally who were participating in that decision, including the CEO and you.

**Mr Wheatley**—Yes, who signed it formally.

**Senator RONALDSON**—Other people within the organisation do not participate in the board level decision, do they?

**Mr Quilty**—I think the answer to this, whilst it could have been put more eloquently, is that the chief operation officer, Mr Winn, made the recommendation—

**Senator CONROY**—Possibly with Mr Burns.

**Mr Quilty**—Possibly with Mr Burns, obviously upon advice—

**Senator CONROY**—I am sure Mr Burns was involved, but Mr Wheatley could not confirm that.

**Mr Quilty**—Made the recommendation to the CEO. The CEO has the delegation from the board to make the decision.

**Senator RONALDSON**—Were they involved in the process when you arrived there? Mr Winn was the COO, you said.

**Mr Wheatley**—Yes, he was.

**Senator RONALDSON**—When did you first meet with him in relation to this contract?

**Mr Wheatley**—It would have been very soon after I moved into the role, because there was a raft of things happening in procurement.

**Senator RONALDSON**—You do not remember when that was?

**Mr Wheatley**—It would have been some time after 19 September.

**Senator RONALDSON**—How often did you meet with him in relation to this particular potential contract after that?

**Mr Wheatley**—Normally I speak with Greg two or three times a week directly on a raft of procurement issues, and this would have been one on the way through.

**Senator CONROY**—Is anyone aware whether or not the audit committee of the Telstra board has examined this issue?

**Mr Quilty**—No, it has not.

**Senator CONROY**—Has the audit committee noted the *Financial Review* article? Has it sought any information on the Alcatel contract?

**Mr Quilty**—As the opening statement indicated, the board considers that the management has fully complied with the procurement policies. The chairman of the board has also written back to the ministers making clear their position in relation to the management's adherence to those policies.

**Senator CONROY**—Let us be clear. For a \$10 million advertising contract the chairman and CEO of Telstra were investigated by the audit committee.

**Mr Quilty**—That is right.

**Senator CONROY**—There were concerns about a \$10 million appointment. This is a \$3.4 billion one that has made national news and the audit committee has said nothing?

**Mr Quilty**—The audit committee has not investigated it.

**CHAIR**—A few times you have referred to your procurement policies and these decisions being consistent with them. Are you prepared to table those policies?

**Mr Quilty**—I can take that on notice, Mr Chairman, but the advice that has been given to me is that we are not, given that they are internal commercial documents, as you may understand. Obviously a company of our size—

**Senator CONROY**—I am not sure how a procurement policy, if it does not commit to any spending, can be commercial-in-confidence. I have seen that claim.

**Mr Quilty**—Yes. It says the company—

**Senator CONROY**—I would have thought a procurement policy would be something on your web site, frankly—'Here is how you tender for something at Telstra.' I am shocked to hear it is a commercial-in-confidence document.

**CHAIR**—I think the committee would be very interested to see them, Mr Quilty, if you would be so kind as to oblige us with a copy of them.

**Mr Quilty**—I will take that on notice, but the advice I have at the moment is that for commercial reasons we cannot provide that document.



**CHAIR**—We have rules about commercial-in-confidence, which we may choose to apply to this request.

**Mr Quilty**—That is right. I will take it on notice.

**CHAIR**—So consider it carefully.

**Senator RONALDSON**—Mr Wheatley, have you dealt with Brightstar—

**Mr Wheatley**—I have indeed.

**Senator RONALDSON**—in the nine years that you have been in procurement?

**Mr Wheatley**—Yes, I have.

**Senator RONALDSON**—In what capacity?

**Mr Wheatley**—In my current role.

**Senator RONALDSON**—Prior to that?

**Mr Wheatley**—I did not have any direct dealings with them. My people did, in dealing with them on some handset issues.

**Senator RONALDSON**—In your nine years in procurement, had you signed any contracts or been a party to any contracts?

**Mr Wheatley**—With Brightstar?

**Senator RONALDSON**—Yes.

**Mr Wheatley**—No.

**Senator RONALDSON**—The organisation had not dealt with Brightstar until October last year; is that right?

**Mr Wheatley**—No.

**Senator RONALDSON**—At a contractual level?

**Mr Wheatley**—At a formal contractual level, yes. But we had had discussions with them dating back to December 2004.

**Senator RONALDSON**—You had not had a contract with them at all until then?

**Mr Wheatley**—No.

**Senator RONALDSON**—Who was involved in those discussions?

**Mr Wheatley**—Back in 2004?

**Senator RONALDSON**—No, when you arrived.

**Mr Wheatley**—When I arrived?

**Senator RONALDSON**—Yes.

**Mr Wheatley**—Me, as well as the local representatives of Brightstar, a couple of my people and some people from the product groups.

**Senator RONALDSON**—Had there been any EOIs requested in relation to the sort of contract that you were looking at with Brightstar?

**Mr Wheatley**—No.

**Senator RONALDSON**—What was it worth?

**Mr Wheatley**—What?

**Senator RONALDSON**—The contract.

**Mr Wheatley**—The contract is a commercial arrangement we have for the procurement of handsets.

**Senator CONROY**—Could I just ask one overall question. I am sorry to interrupt, Senator Ronaldson. How long has Mr Trujillo known Marcelo Claire—and apologies for my pronunciation. I am sure you must know whom I am referring to.

**Mr Wheatley**—I do. I would have to take that on notice. I do not know.

**Senator RONALDSON**—Did they participate in a joint investment, do you know, in a Chinese internet company, Silk Road Telecommunications?

**Mr Wheatley**—I am aware that they have.

**Senator RONALDSON**—When you arrived on that fateful day, 19 September, you were presented with a *fait accompli* in relation to Brightstar?

**Mr Wheatley**—No, I was not.

**Senator RONALDSON**—When you arrived what was the state of the negotiations?

**Mr Wheatley**—At that stage we had had no direct contact from Brightstar. It was subsequent to my coming into this role. Brightstar approached us with a proposal that was around joint procurement of handsets, or procurement of handsets on our behalf, and put a proposal to us in that regard.

**Senator RONALDSON**—Did you make inquiries as to whether others might have been in a position to deliver as Brightstar had proposed?

**Mr Wheatley**—We had an understanding of the capability of the local vendors, yes. One of them was one of the current vendors. We had information from the other markets we participate in, such as Hong Kong and New Zealand, as well as a clear understanding of our own internal capability.

**Senator RONALDSON**—You did not think it was appropriate to go out into the marketplace beyond Brightstar to get expressions of interest in relation to this contract?

**Mr Wheatley**—What we undertook was a detailed evaluation of the Brightstar proposal.

**Senator RONALDSON**—Did you undertake a detailed examination of anyone else in the marketplace?

**Mr Wheatley**—Yes, we did.

**Senator RONALDSON**—You did?

**Mr Wheatley**—Internally. We did not seek a formal proposal from anybody else in regard to it, though.

**Senator RONALDSON**—Just be very careful, please, Mr Wheatley. When did that process start—this internal evaluation?

**Mr Wheatley**—We are constantly undertaking evaluation of the vendors in the marketplace and their capability to meet our requirements. We had identified that we had a need from a procurement point of view around our handsets prior to that. There had been a significant period before that that we had a need to look at alternative ways of procuring handsets. We were conscious that we had a business issue that we needed to address, so we had a look at our current incumbent vendors, whether they had the ability to meet the requirements.

**Senator RONALDSON**—When was the deal with Brightstar finalised—not necessarily the contract signed? When was it advised that it was successful?

**Mr Wheatley**—I would have to take it on notice.

**Senator RONALDSON**—It was in October, was it not?

**Mr Wheatley**—I think it is October, yes.

**Senator RONALDSON**—Were you personally involved in these internal inquiries in relation to potential customers other than Brightstar?

**Mr Wheatley**—Yes, my people were.

**Senator RONALDSON**—But were you?

**Mr Wheatley**—Yes. The outcome of those evaluations was presented to me along with some other stakeholders internally in the company, such as the product group.

**Senator RONALDSON**—Were there any international companies on that list?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—How many?

**Mr Wheatley**—As an alternative, from recollection, I think it was one—one or two. I would have to check.

**Senator RONALDSON**—What was the contract worth?

**Mr Wheatley**—The contract is a gain share arrangement. If Brightstar does not actually deliver us an outcome, the contract is worth zero in effect. If it delivers us an outcome, it has a share in that.

**Senator RONALDSON**—What is that share potentially going to be?

**Mr Wheatley**—I would say that is commercial-in-confidence. It goes to the heart of the commercial construct of the contract with it.

**CHAIR**—Just on the question of commercial confidentiality, for the information of the witnesses I would like to read out a resolution of the Senate. In 2003, the Senate passed the following resolution, particularly relating to claims that information should not be disclosed because of commercial confidentiality. That resolution reads:

The Senate and Senate committees shall not entertain any claim to withhold information from the Senate or a committee on the grounds that it is commercial-in-confidence, unless the claim is made by a minister and is accompanied by a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information.

That is a resolution of the Senate and the Commonwealth of Australia Parliament. Just bear that in mind, if you would; I would be very grateful.

**Mr Quilty**—In terms of that resolution, we are obviously respectful of the Senate. The best option is for us to take those sorts of questions on notice and see what we can do.

**CHAIR**—I think that is true.

**Mr Quilty**—I think the committee also needs to understand that we are operating in a highly competitive and commercial vendor environment, as well as in terms of our direct competitors, and there are major issues because of that environment.

**Senator RONALDSON**—Mr Chairman, I am comfortable—

**CHAIR**—I am sure there are, Mr Quilty, but the Senate does have rules about commercial-in-confidence information, and those rules apply. The Senate will make its own decisions, but of course information provided in confidence can be kept in confidence. But that is a matter for the Senate and the Senate committees. I just want you to be aware of the fact that there are rules of the Senate about such claims.

**Mr Quilty**—Yes. That is why I think, if we take it on notice and see what we can do to help, that is probably the best way forward.

**Senator RONALDSON**—Mr Chairman, in the first instance, I am happy with that course.

**Mr Quilty**—Thank you.

**Senator RONALDSON**—Mr Wheatley, between whom were these discussions with Brightstar that had taken place since December 2004?

**Mr Wheatley**—They were between the then group managing director of Telstra consumer, David Moffatt, one person from Brightstar, a couple of people from Mitsui, who are co-owners of the company, as well as an internal individual called Bernard Katz and Michael Lewis. They were the other two involved in it.

**Senator RONALDSON**—We have got some pretty detailed notes then. When did those discussions take place?

**Mr Wheatley**—My understanding is that it was back in December 2004.

**Senator RONALDSON**—What was discussed?

**Mr Wheatley**—My understanding is that Brightstar presented an end-to-end proposal not only for procurement but for end-to-end supply chain management and other activities associated with handsets.

**Senator RONALDSON**—Yes. Did it put a formal proposal at that stage, following that meeting?

**Mr Wheatley**—I would have to take it on notice. I have not seen a formal proposal—I was not part of it—but I would imagine they would have put a formal proposal. I would have to take it on notice and find it.

**Senator RONALDSON**—So there was no formal proposal that you are aware of?

**Mr Wheatley**—I do not know. I would imagine there would be. I would expect that, if they had come in and pitched, they would have given us something.

**Mr Quilty**—The advice I have here is that there was a proposal.

**Senator RONALDSON**—Mr Wheatley is saying that he has not seen a proposal.

**Mr Wheatley**—Sorry, I was not in that part of the business. I was aware that Brightstar had presented, but I did not seek out that proposal that it presented.

**Senator RONALDSON**—When did you first get a formal proposal from it?

**Mr Wheatley**—The formal proposal would have been soon after I entered into this role, when it approached us again with regard to an end-to-end supply chain solution, including procurement of handsets.

**Senator RONALDSON**—So it approached you after you had started?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—They were ticked off in October. So between 19 September and the middle of October they have approached you and you have indicated to them that you are prepared to head into a contract with them.

**Mr Wheatley**—There was an intensive amount of work in engaging an independent consultancy company to verify the opportunity that was there for us.

**Senator RONALDSON**—But, Mr Wheatley, you said before that you had made inquiries of others, and the first time you were approached by Brightstar was after you started. Did you conduct the inquiries in relation to another potential international player, Brightstar, and make the decision by the middle of October? That is what you are telling the committee.

**Mr Wheatley**—Sorry, the point that I am making is that I did not receive a formal proposal from Brightstar until I had moved into the role.

**Senator RONALDSON**—They approached you after you had started?

**Mr Wheatley**—Yes, they did. But we had already undertaken an evaluation of the local market and knew the capability of our incumbent vendors and their ability to meet our requirements around price and exclusivity. So we already knew that, prior to that time.

**Senator RONALDSON**—Then Brightstar mysteriously appeared, after you had conducted this inquiry in relation to local suppliers, and put a proposal to you? Mysteriously, within about two or three weeks, it got it? Why did you not go out to the wider marketplace? It is a multinational company, is it not?

**Mr Wheatley**—Yes, it is.

**Senator RONALDSON**—Why did you not go into the wider marketplace?

**Mr Wheatley**—Because we did not see that there was anybody else in the marketplace that would meet our requirements.

**Senator RONALDSON**—How would you know that?

**Mr Wheatley**—Because we had undertaken an evaluation of the marketplace.

**Senator RONALDSON**—The international marketplace?

**Mr Wheatley**—In terms of handset suppliers supplying the service that Brightstar was offering, yes.

**Senator RONALDSON**—Why would you not have looked into Brightstar?

**Mr Wheatley**—Into Brightstar?

**Senator RONALDSON**—Yes?

**Mr Wheatley**—That is who we contracted with.

**Senator RONALDSON**—No. They approached you with a proposal after you started.

**Mr Wheatley**—Yes, they did.

**Senator RONALDSON**—Why would you not have made some inquiries of them afterwards?

**Mr Wheatley**—Sorry, I do not understand the question.

**Senator RONALDSON**—Your first engagement with Brightstar was after you started.

**Mr Wheatley**—No, sorry, it was not. It was after I started they approached us to present a proposal around what they could do for Telstra.

**Senator RONALDSON**—When were they asked for that proposal?

**Mr Wheatley**—They approached us.

**Senator RONALDSON**—After you started?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—You conducted an inquiry in relation to potential suppliers, of which Brightstar was not one—

**Mr Wheatley**—Brightstar was known to us.

**Senator RONALDSON**—No. Did you conduct an inquiry, as you did in relation to these other companies, in relation to Brightstar as well?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—And then they mysteriously appeared on your doorstep with a proposal. You had not initiated that. How did Brightstar find out that it was appropriate to give you a call?

**Mr Wheatley**—Because we had had ongoing discussions since—

**Senator RONALDSON**—No, you had not.

**Mr Wheatley**—December 2004.

**Senator RONALDSON**—That is my very point. They came to you with a proposal, unprompted, after you had done an inquiry in relation to them, apparently, and others, and they mysteriously appeared with a proposal. Why would they do that? Can I give you one answer? Someone rang them up and said, ‘You’d better put a proposal in.’ That is one option, is it not?

**Mr Wheatley**—It could be, but I—

**Senator RONALDSON**—Did you do that?

**Mr Wheatley**—No, I did not.

**Senator RONALDSON**—Did someone on your behalf do that?

**Mr Wheatley**—Not that I am aware of.

**Senator RONALDSON**—Did someone suggest to you that you might approach Brightstar?

**Mr Wheatley**—Not at all.

**Senator RONALDSON**—Who was on the team that assessed the potential—not even expressions of interest—group that was looked at?

**Mr Wheatley**—People from the products area who hold the budget for the handsets, as well as the people out of what I call the technical group who understand the capability—

**Senator RONALDSON**—But not from your group?

**Mr Wheatley**—Yes, my people participated in that evaluation.

**Senator RONALDSON**—How extensive were those inquiries?

**Mr Wheatley**—Fairly extensive.

**Senator RONALDSON**—You say there was one international?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—Mr Chairman, in terms of the resolution that you read before, I do not think this is commercial-in-confidence, and I think this committee should see that paperwork.

**Mr Wheatley**—If that is the case, I will take it on notice and we will do what we can to supply the information. We are more than happy to.

**CHAIR**—If you would, we would be grateful, Mr Wheatley.

**Proceedings suspended from 5.59 pm to 7.05 pm**

**Senator CONROY**—Senator Ronaldson, had you finished your line of inquiry?

**CHAIR**—Senator Ronaldson, did you have some more questions?

**Senator CONROY**—Or is there any extra information you have obtained over the dinner break you might want to add to our deliberations?

**Senator RONALDSON**—Just recapping, Mr Wheatley, there were no formal proposals apart from the Brightstar proposal? Your group had cast their eye over potential candidates and had come to the decision that Brightstar was the most appropriate. After you started, they put in a proposal unprompted by yourselves. That was your evidence before dinner.

**Mr Wheatley**—Yes. Do you want me to clarify the chronology of events? It would be worth while doing that quickly. Brightstar originally approached Telstra in December 2004 with a full end-to-end supply chain proposal. That was presented to David Moffatt and others, as I said earlier. Over the next several months, there was a number of net meetings and discussions that subsequently took place with Brightstar.

**Senator RONALDSON**—Sorry, what was that again?

**Mr Wheatley**—There was a number of discussions that took place with Brightstar over a period of time, because they are distributors for other mobile phone operators that we purchase from. There were some discussions around various aspects of that on the way through and obviously some discussions around their original proposal to close it out that we were not progressing at that point in time. What then was happening over a period of three or four months is that we were undertaking the purchasing of our handsets. We had some independent analysis that there was a business issue that we needed to address in that regard, and that is about the time that Brightstar then came back and put a formal proposal to us around the handset sourcing—

**Senator RONALDSON**—Where did you get this information from?

**Mr Wheatley**—Where did I get it from? The information in regard to the original proposals, that obviously came—

**Senator RONALDSON**—Clearly, you have spoken to someone over the last hour. Who did you speak to to ascertain these events? Because you had no recollection of it before.

**Mr Wheatley**—I am sorry, but that is the point I was trying to make. I was obviously making the involvement clear. I got directly involved with Brightstar at the time I moved into the role. That is what I said earlier. I did actually say that they had originally put a proposal to David Moffatt back in December 2004. They were known to us.

**Senator RONALDSON**—A formal proposal?

**Mr Wheatley**—They presented to David Moffatt.

**Senator RONALDSON**—I know they presented to David Moffatt. Did they present a formal proposal to Mr Moffatt?

**Mr Wheatley**—I understand there was a formal proposal presented, yes.

**Senator RONALDSON**—Yes?

**Senator CONROY**—That did not go anywhere, though, did it?

**Mr Wheatley**—Not at that point in time, no.

**Senator CONROY**—That was the first contact?

**Mr Wheatley**—Yes. That is my understanding, yes.

**Senator CONROY**—So walked in off the street, knocked on the door, said, ‘Here, look, here’s a good idea.’

**Mr Wheatley**—That is not unusual for vendors.

**Senator CONROY**—And Telstra looked at it and said, ‘No, thanks’?

**Mr Wheatley**—Obviously, there was a fairly extensive evaluation. At that point in time it was not attractive to us.

**Senator RONALDSON**—There was an article in the *Financial Review* that said—

**Senator CONROY**—What changed?

**Senator RONALDSON**—a ruler was briefly run over Brightstar, but that was about as far as it went. Do you say that is wrong?



**Mr Wheatley**—The proposal was evaluated. Obviously, if they presented a proposal, we have undertaken an evaluation about whether that was something the company was willing to pursue at the time. It was decided it was not.

**Senator RONALDSON**—So there was a proposal?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—You looked at it and you decided not to proceed with it?

**Mr Wheatley**—In December 2004, yes.

**Senator RONALDSON**—Shortly prior to your arriving, an internal team had been looking over this issue and had looked at various people, including Brightstar?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—Then, after you arrived, Brightstar came in with another proposal?

**Mr Wheatley**—There was another proposal, yes.

**Senator RONALDSON**—This was a proposal that was signed off very quickly. What other proposals did you have in front of you?

**Mr Wheatley**—From Brightstar or generally?

**Senator RONALDSON**—Anyone else?

**Mr Wheatley**—We did not have any formal proposals from anyone else.

**Senator RONALDSON**—No?

**Mr Wheatley**—No.

**Senator RONALDSON**—There was no potential for Brightstar's competitors to go through a process whereby you could look at their proposal as opposed to the Brightstar proposal?

**Mr Wheatley**—We understood the capability of the other vendors in the market.

**Senator RONALDSON**—Companies like Brightpoint, for example?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—You looked at it?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—It was one of the ones you looked at?

**Mr Wheatley**—Obviously, we have an ongoing relationship with Brightpoint, yes. We were aware of their capabilities.

**Senator RONALDSON**—They were the international organisation, were they?

**Mr Wheatley**—They were one of the other international organisations—

**Senator RONALDSON**—No. You said there was one international before.

**Mr Wheatley**—Yes, it is.

**Senator RONALDSON**—So it was only them?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—Was it one of a number of internationals or was it one?

**Mr Wheatley**—No, sorry, it was one, which was Brightpoint. That was the one international company that we looked at.

**Senator RONALDSON**—Have you read this *Australian Financial Review* article, Mr Wheatley?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—Have you read the comments from Warwick Ponder? I will just read it:

Ponder said Brightstar was the “only company” able to deliver supply chain services to Telstra exclusively in the Australian market.

He agrees with what you said?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—It then goes on to say:

Asked what response Trujillo had to competitors claiming they did not get a fair go, Ponder said other vendors did submit proposals.

Who is telling the truth, Mr Wheatley?

**Mr Quilty**—Senator—

**Senator RONALDSON**—No, I want a response—

**Mr Quilty**—No, please. There are two phases of this contract.

**Senator RONALDSON**—No.

**Mr Quilty**—This is the second phase of the contract, where proposals were submitted. The one that Mr Wheatley is talking about is the first phase. We do not want to mix up the two phases of the contract.

**Senator RONALDSON**—Can I assure you that this was not in response to that second one—

**Mr Quilty**—It was, because you—

**Senator RONALDSON**—the tack-on, it was the other one.

**Mr Quilty**—The quote referred to logistics management, which was the second phase of the contract.

**Mr Wheatley**—Yes, it is.

**Mr Quilty**—The first phase of the contract was not about logistics management.

**Mr Wheatley**—No.

**Senator RONALDSON**—Were other competitors invited the second time around to submit proposals?

**Mr Quilty**—That is right.

**Senator RONALDSON**—That was a proposal for?

**Mr Quilty**—Supply chain management and logistics.

**Senator CONROY**—That was only \$600 million as opposed to the \$2.2 billion they had already got?

**CHAIR**—I notice, Mr Wheatley, you mentioned Brightpoint. I thought you did, anyway, rather than Brightstar.

**Mr Wheatley**—They are two different companies.

**CHAIR**—That is a different matter, the Brightpoint matter. Were you referring to that, rather than the Brightstar matter?

**Mr Wheatley**—No. I was asked what was the other international company.

**Senator CONROY**—They are the same matter.

**Mr Wheatley**—Yes.

**Senator RONALDSON**—Why would you go for the proposal for the second contract, but not for the first contract?

**Mr Wheatley**—The second contract was a far broader business requirement, because it included logistics, product management, reverse logistics, product life cycle management; so it was a broader activity that we were seeking than the first one. The first one was purely about procurement—purchasing of handsets. That is what we refer to as phase 1.

**Senator RONALDSON**—So Brightstar had got their foot in the door, on their own, without any—

**Senator CONROY**—I think you are being generous. They got the leg and half their torso in.

**Senator RONALDSON**—I note the point you made before from my brief reading of this, Mr Quilty. They went—

**CHAIR**—You think it is the same, the first one, do you—one competitor?

**Senator CONROY**—Do you want me to jump in there for a tick?

**Senator RONALDSON**—Yes, please.

**Senator CONROY**—Apologies if you have covered a little of this with Senator Ronaldson already, but I just wanted to understand that previously you dealt directly with manufacturers?

**Mr Wheatley**—Yes.

**Senator CONROY**—Like Nokia and Ericsson and whoever else made mobile phones?

**Mr Wheatley**—Yes.

**Senator CONROY**—So your existing position was you dealt direct with the manufacturer, no middleman?

**Mr Wheatley**—Yes.

**Senator CONROY**—When Brightstar first knocked on the door, that was in, I think you said, 2004?

**Mr Wheatley**—Yes.

**Senator CONROY**—So they walked in and put a proposal, ‘Look, we’ll take over, we’ll manage this, we’ll be the middleman for you’?

**Mr Wheatley**—It included what I call procurement, or the purchasing of handsets, as well as the whole logistics.

**Senator CONROY**—So they made a grab for the lot?

**Mr Wheatley**—The lot, yes.

**Senator CONROY**—That was not, ‘Thanks for coming’? They were clearly told, ‘Don’t ring us, we’ll call you’? That may be an unkind way to describe it, but they did not get the job.

**Mr Wheatley**—Correct.

**Senator CONROY**—What month in 2004 was that?

**Mr Wheatley**—December.

**Senator CONROY**—December 2004. That was the last that was heard from them until you began with the October 2005 decision?

**Mr Wheatley**—No. Just so that I am very clear in relation to the previous question the senator asked me, there were some subsequent discussions and what we call net meetings and discussions to finalise and make sure the proposal was tested completely. I was not involved in those, so if you want to know the detail on the dates—

**Senator CONROY**—Sorry?

**Mr Wheatley**—That is after December, so it is early into 2005. That was closed out.

**Senator CONROY**—Can you help me here. You have told them, ‘No, thanks, thanks for calling; we’ll get back to you.’ Then Telstra for a month or two into early 2005 continued to look at their proposal.

**Mr Wheatley**—My understanding is that the original presentation took place, there were some subsequent discussions, either net meetings for further discussions, with Brightstar to make sure that the proposal was fully understood and tested, and then the decision was that we are not going to progress forward with it.

**Senator CONROY**—That was early January-February 2005?

**Mr Wheatley**—Some time in that time frame, yes.

**Senator RONALDSON**—But you did not say—

**Senator CONROY**—Sorry, Senator Ronaldson, could I just keep going. So when Mr Moffatt says there had been an extensive evaluation process and that Telstra had started negotiations with Brightstar in December 2004, that does not coincide with the first month or two of 2005 that you actually said, ‘No, thanks.’

**Mr Wheatley**—It was December 2004 that David is referring to. It is the same discussions.

**Senator CONROY**—No, he is indicating in this quote—it is not a quote, to be fair—that Telstra had started negotiations with Brightstar in December 2004 and there was an extensive evaluation process.

**Mr Wheatley**—Yes.

**Senator CONROY**—But that was on the proposal you rejected?

**Mr Wheatley**—That is the proposal that Telstra rejected, yes.

**Senator CONROY**—Then in January, maybe February, 2005, that was it, there were no more ongoing discussions with them?

**Mr Wheatley**—Not about that proposal, no; not to my knowledge. I was not directly involved in it.

**Senator RONALDSON**—Why would Brightstar suddenly appear with another proposal about the same time as you had apparently finished an internal process again looking at this matter?

**Mr Wheatley**—It is not unusual for vendors, as management changes, to come back and see if they can put a proposal on the table.

**Senator RONALDSON**—But how would they know what you wanted?

**Mr Wheatley**—At the time they did not.

**Senator RONALDSON**—But they came up with a proposal which you ticked off pretty well within two or three weeks.

**Mr Wheatley**—They came up with their full end-to-end supply chain proposal again, which we did not entertain. The only component of it we entertained, which we call phase 1, was the handset procurement component.

**Senator CONROY**—Yes, but you have ended up with a full end to end.

**Mr Wheatley**—That was phase 2, which went—

**Senator CONROY**—So you have ended exactly where Brightstar started?

**Mr Wheatley**—Initially, yes.

**Senator CONROY**—The question I am trying to get my head around is that in January 2005 you finished the discussions with them and then in October 2005 they have a contract.

**Mr Wheatley**—Yes.

**Senator CONROY**—Apologies if Senator Ronaldson has already covered this. When did they approach you again?

**Mr Wheatley**—It was September, from my memory.

**Senator RONALDSON**—No, they did not approach; they actually came with a proposal.

**Senator CONROY**—A full-on proposal?

**Mr Wheatley**—They contacted us, as any normal vendor does, and wanted to come in and present to us their capability and what opportunities they could bring to the table for us.

**Senator CONROY**—What new capabilities did they have in that eight months?

**Mr Wheatley**—They brought significant additional local capability. They had grown their business internationally.

**Senator CONROY**—What local capability do they have? I do not know anyone who had ever heard of them until you gave them a job.

**Mr Wheatley**—They had established a warehouse. They had built some facilities. They had built relationships with some of the handset manufacturers as distributors in Australia.

**Senator CONROY**—What sorts of savings do you get by imposing a middleman in between you and your manufacturer? I am intrigued by this concept that adding a third person's profit margin into a relationship leads to lower costs. Were you so inept at your previous negotiations with your manufacturers that there was this big fat margin that they could carve out for themselves and save you both money?

**Mr Wheatley**—No, I did not say we were inept at all. Our volumes in relation to the demand in the market were relatively small, so one of the things we were seeking to do was to engage with someone internationally that had far larger volumes that we could leverage off.

**Senator CONROY**—Explain to me how it worked previously then. You spoke to Ericsson locally or Ericsson internationally?

**Mr Wheatley**—Both. All of the handset manufacturers have local representatives to talk to.

**Senator CONROY**—I would have thought so.

**Mr Wheatley**—Obviously, they have international people whom we engage with from time to time, particularly around product road map development, the capability they are going to be bringing to their devices. There was a whole raft of things that we were regularly talking about.

**Senator CONROY**—What has Brightstar got in terms of discussions with Ericsson locally and internationally that you were not able to get yourself?

**Mr Wheatley**—It is a leverage off the volumes and the capability, because they purchase far more handset volume than we do.

**Senator CONROY**—When they turned up in September 2005, they put a proposal to you, phase 1. At that stage, you did not go out to open tender? I will go back to what we were calling them earlier. You did not go through any of those steps that we previously discussed?

**Mr Wheatley**—No. We evaluated the merits of the proposal, and we were only interested at that point of time in one component, and that was the handset procurement, the purchasing of handsets.

**Senator CONROY**—But you did not at any stage go out to the markets; you did not go through the normal formal tender process?

**Mr Wheatley**—No, we did not go to tender for that component.

**Senator CONROY**—You did not go out for anything, from the sound of it. You just took the first offer that was given. You did not give anyone else an opportunity. There was no 'Here is a couple of other expressions of interest, give us a proposal' to anybody else?

**Mr Wheatley**—We do understand the capability of our vendors, and we regularly assess their capability to be able to meet our needs.

**Senator CONROY**—Yes, but you rejected those.

**Mr Wheatley**—The assessment at the time was that there was no-one else that could meet those requirements other than the proposal that Brightstar had put on the table to us.

**Senator CONROY**—So both Roadhound and Brightpoint are duds for what you need?

**Mr Wheatley**—We are well aware of the capability of other vendors.

**Senator CONROY**—You were well aware of Brightstar's capabilities, because you had rejected them eight months before.

**Mr Wheatley**—Yes.

**Senator CONROY**—But you did not give either of these two a chance to show you any new capabilities?

**Mr Wheatley**—We were in constant discussion with those vendors over time. There was ample opportunity and we have had visibility of what their capability is.

**Senator CONROY**—So a \$2 billion contract went in in days—or was it two weeks?

**Senator RONALDSON**—It was a matter of two or three weeks maximum.

**Senator CONROY**—Who worked on that one, Mr Wheatley?

**Mr Wheatley**—It was me and my people in procurement, as well as the people in products, as well as finance people, and we had some independent advice to test the merits of the claims of the savings that we believed could be achieved.

**Senator CONROY**—It was not Accenture at this point, was it? It was not Mr Lamming or Accenture?

**Mr Wheatley**—No.

**Senator CONROY**—They were not involved in this one?

**Mr Wheatley**—No.

**Senator CONROY**—We will get to Mr Lamming. I do not want you to think I have forgotten him. So within two to three weeks with no formal tendering at all, no opportunity for an expression of interest, a \$2.2 billion contract had been let to a company you had rejected eight months before?

**Mr Wheatley**—I do not recognise the figure of \$2.2 billion.

**Senator CONROY**—Sorry, it was worth two million handsets.

**Mr Wheatley**—Two million handsets, yes.

**Senator CONROY**—That is a lot of handsets.

**Mr Wheatley**—Comparatively speaking, on a worldwide basis, no, it is not.

**Senator CONROY**—I mean for Australian markets.

**Mr Wheatley**—Yes.

**Senator CONROY**—So for two million handsets in two to three weeks without even asking anyone else if they wanted to put forward a specification?

**Mr Wheatley**—We undertook extensive due diligence and, as I said, had independent advice on the proposal that Brightstar had put to us.

**Senator CONROY**—I am just going back. I appreciate you might have done due diligence on the only proposal you had in front of you, but I am just coming back to your own words from earlier in the day when we talked about normal formal tender processes, appropriate level of commercial analysis and expressions of interest. None of those was followed in this particular case?

**Mr Wheatley**—No, and the reason, as I said, is that we understood the capability of the other providers in the market and we did not believe that they had the capability to meet our requirements, so we—

**Senator CONROY**—But eight months before you had understood those same capabilities for Brightstar and you had rejected them?

**Mr Wheatley**—The end-to-end supply chain proposal—

**Senator CONROY**—They came to you with the same proposal when they walked in the door the second time. It is just you took a bit out of it.

**Mr Wheatley**—The capability that they had developed over that period of time had increased.

**Senator RONALDSON**—Had you formed the decision that you would give them the second part of the contract when you gave them the first part?

**Mr Wheatley**—Not at all, and that was made clear to them at that instance, and also to our incumbent vendor.

**Senator RONALDSON**—If you had awarded the contract to someone else, could you have had Brightstar delivering the handsets and someone else doing the supply chain aspects of it?

**Mr Wheatley**—We could have, yes. That could have been an outcome.

**Senator RONALDSON**—Would it have been a cost-effective outcome?

**Mr Wheatley**—No.

**Senator RONALDSON**—It would not have been?

**Mr Wheatley**—No. That is not what our analysis proved when we looked at the synergies across-the-board, with those two.

**Senator RONALDSON**—So, the answer to my question was that you did not go into that first contract with Brightstar without thinking that they were going to get the second contract?

**Mr Wheatley**—At the time we had not considered what we may do with phase two, because the pressing business need was around the procurement of handsets.

**Senator RONALDSON**—What was in the first proposal in 2004?



**Mr Wheatley**—That was both procurement and end-to-end supply chain logistics, and so was the second proposal they gave to us in around September last year. It was the full proposal.

**Senator RONALDSON**—It was after 19 September, was it not? It was after you arrived?

**Mr Wheatley**—It was around that time, yes.

**Senator RONALDSON**—No, you told us that it was after you had arrived.

**Mr Wheatley**—That is when I got involved in it.

**Senator CONROY**—That is almost narrowing it down to about two weeks.

**Senator RONALDSON**—No, that was not when you got involved. You told this committee that they came to you with a proposal after you had started.

**Mr Wheatley**—Yes.

**Senator CONROY**—Although you say you are well aware of the capabilities of the other companies in the marketplace, you never actually gave them an opportunity to even submit—

**Mr Wheatley**—No.

**Senator CONROY**—a similar proposal? You could have said: ‘Here is the price we have been offered. Can you match it?’, and had a bit of competition?

**Mr Wheatley**—It was not just about price. One of the other key things was exclusivity with us for that service.

**Senator RONALDSON**—So you pulled the handsets out of this late September proposal?

**Mr Wheatley**—Yes, handset procurement.

**Senator RONALDSON**—You pulled that out of their proposal—

**Mr Wheatley**—Yes.

**Senator RONALDSON**—and ran with that?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—But you had not, at that stage, decided whether you were going to proceed with phase two or not?

**Mr Wheatley**—No.

**Senator RONALDSON**—And presumably you had not decided what your final requirements were going to be—

**Mr Wheatley**—Not at all.

**Senator RONALDSON**—in relation to that?

**Mr Wheatley**—No.

**Senator RONALDSON**—Why would you then not go into the marketplace, knowing full well that it was going to be bad business to have someone supplying the handsets and someone doing the logistics part of it, and not go out to formal tender on that basis?

**Mr Wheatley**—We did seek a proposal for phase two from three other vendors other than Brightstar.

**Senator RONALDSON**—No, but you have to go back, Mr Wheatley. You are either missing the point or I am not expressing it properly; it may well be the latter. You had not decided what you were going to do in relation to phase two, the supply chain side of it?

**Mr Wheatley**—Correct.

**Senator RONALDSON**—You had not made that decision?

**Mr Wheatley**—No.

**Senator RONALDSON**—You had not formalised it and you had not gone into the marketplace with it?

**Mr Wheatley**—No.

**Senator RONALDSON**—But you got a proposal from Brightstar—

**Mr Wheatley**—Yes.

**Senator RONALDSON**—in late September, not having looked at the capabilities of other potential suppliers in relation to the supply part of it—

**Mr Wheatley**—Sorry, for the logistics side of it.

**Senator RONALDSON**—When you were doing your internal aspects—

**Mr Wheatley**—Yes.

**Senator RONALDSON**—you would not have been looking at what their capabilities were in a supplier sense, because you did not know what you wanted, so presumably you only looked in the context of handsets?

**Mr Wheatley**—Yes, handset procurement.

**Senator RONALDSON**—So you then went in and gave a contract to someone, knowing full well that to have them supplying the handsets and someone else doing the supply chain logistics was not making good business sense.

**Mr Wheatley**—At that point in time we did not know that, which is why we went out and tested the market and sought proposals from other companies as to whether it would make sense for phase two.

**Senator RONALDSON**—No, it would not have made sense at the end of it, because someone else had the contract. I am not surprised you came to that point of view at the end of the process. But at the start of the process what was your view?

**Mr Wheatley**—Our view was that we had not clearly defined what our business requirements were. We had not clearly understood things like assessment criteria and capability that we were going to seek, because we had contracts in place with existing providers already in place to run that part of our logistics part of our business. We worked through a process of understanding what our internal requirements were, and then we went to three other providers, one being the internal incumbent, and two others, and then sought a proposal from them in regard to the supply chain side of it; because we already had the one from Brightstar.

**Senator CONROY**—I am interested in your definition of the benefits of having exclusivity, because that actually works two ways. Before the arrival of the current Telstra management, Telstra's procurement policy provided for dual sourcing for large contracts; is that correct?

**Mr Wheatley**—In some instances we dual sourced, but we also single sourced.

**Senator CONROY**—What was the rationale for the dual sourcing policy?

**Mr Wheatley**—Dual sourcing is where no one vendor, we believe, can meet all our requirements and we will put more than one vendor in place, and it is not uncommon in service-type contracts. In fact, we dual source things like intercapital transmission, there being a couple of vendors, and some others—ATNs and DSLAMs—where there a couple of providers. So it comes down to the capability they have to meet our requirements. If there can be one vendor that will meet our requirements, that is our preferred outcome.

**Senator CONROY**—No, but your previous policy was dual sourcing?

**Mr Wheatley**—No, that was not our previous policy.

**Senator CONROY**—For large contracts?

**Mr Wheatley**—No.

**Senator CONROY**—Not for every large contract, but for some?

**Mr Wheatley**—For some.

**Senator CONROY**—You are saying that it has always been the preference for singles but occasionally you just had to go with two?

**Mr Wheatley**—Yes.

**Senator CONROY**—Really? Has Telstra's dual sourcing policy changed since the arrival of the new management team?

**Mr Wheatley**—We have not always had a dual sourcing policy. We have always been able to single source or direct source.

**Senator CONROY**—Has Telstra pursued dual sourcing arrangements less frequently since the arrival of the new management team? It certainly sounds like it.

**Mr Wheatley**—For the technology, yes; for simplification purposes, yes.

**Senator CONROY**—What was the rationale for this change—just simplification?

**Mr Wheatley**—It is simplification, price and then having a vendor that will stand up and own the outcome on an end-to-end basis, and they take on the risk of delivery of the capability.

**Senator CONROY**—You mentioned that exclusivity is a benefit. Why is it a benefit?

**Mr Wheatley**—Because what we did not want happening is if we got a favourable outcome on our cost—if I can put it that way—that they would take that to some of our competitors, and therefore undermine our position.

**Senator CONROY**—Brightpoint make the statement—and I appreciate that, as someone who has not received a contract from Telstra, they are obviously going to have an axe to

grind—that ‘unlike previous tenders that Telstra ran’, which implies that there were tenders previously when you looked at this particular area?

**Mr Wheatley**—Many years ago, when we first outsourced activity, there was a tender run, yes.

**Senator CONROY**—It says that ‘unlike previous tenders’. You have changed how you were dealing with this particular item from previously? The last time you did this there was a tender?

**Mr Wheatley**—Yes.

**Senator CONROY**—And this time there was not?

**Mr Wheatley**—We sought formal proposals. It was a slightly different process.

**Senator CONROY**—I appreciate that. We went through that to make sure we understood the differences. It states:

There was no formal tender process that we were part of, and we were asked for no pricing information. Is that correct?

**Mr Wheatley**—Yes. They were asked for a proposal, yes.

**Senator CONROY**—So, after you looked at that proposal, you then dismissed them on the basis that they could not provide the scope?

**Mr Wheatley**—They could provide some but not all that we were looking to—

**Senator CONROY**—They could provide, what, two million or not two million?

**Mr Wheatley**—No. Because it was a logistics solution, which was running what we call our—

**Senator CONROY**—This is just the handsets? This is phase one?

**Mr Wheatley**—It is wireless devices. It is running a warehouse, as well as the distribution of the handsets to our dealers, receiving the orders, reverse logistics where they come back to us, getting involved in things like—

**Senator CONROY**—That sounds like phase two. What is the difference with phase two?

**Mr Wheatley**—Sorry, I thought we were talking about phase two.

**Senator CONROY**—No, I am talking about phase one.

**Mr Wheatley**—Phase one?

**Senator CONROY**—Phase one is just handsets.

**Mr Wheatley**—Buying handsets?

**Senator CONROY**—Yes. So, when you dismissed Brightpoint, you dismissed them on the basis that they could not supply two million?

**Mr Wheatley**—No, they had the capability to supply, but one of the key issues was exclusivity.

**Senator CONROY**—Why was that? Please explain, why was that a key issue?

**Mr Wheatley**—Because they would not give us a satisfactory outcome on exclusivity, and give us a level of comfort that that would not automatically flow across to some of our competitors.

**Senator CONROY**—What do you mean by ‘exclusivity’?

**Mr Wheatley**—So that when they were purchasing handsets on our behalf and, as one would expect, aggregating volumes to get a better outcome, that they did not take that process straight to our competitors. So it was exclusive to us.

**Senator RONALDSON**—You say that in September of last year you were not aware of the potential synergies between a mobile phone supplier and a mobile phone distribution chain provider?

**Mr Wheatley**—No, I am not saying we were not aware of the potential synergies. They had to be tested to make sure that there were the synergies there, because at the time when we entered into the phase one Brightstar contract, it was only for one component. As I have said, it is the handset procurement. We had not tested the capability of other vendors that could work in with that arrangement in moving forward.

**Senator RONALDSON**—So you are now saying that you were aware of the potential synergies?

**Mr Wheatley**—We were not able to quantify them. We had not undertaken the analysis at that point in time.

**Senator RONALDSON**—But it beggars belief that you would not think there were some synergies between the mobile phone supplier and the mobile phone distribution chain supplier.

**Mr Wheatley**—But at the time we did not have that synergy because we undertook the mobile phone procurement internally. It was an in-house activity. So we did not have those synergies there. We had a different provider that was in place to provide the logistic solution to us.

**Senator RONALDSON**—But, Mr Wheatley, blind Freddy surely would think to himself that there might be some synergies with this?

**Mr Wheatley**—There might be, but it did not necessarily mean one would lead to the other.

**Senator RONALDSON**—So you thought there might be some synergies, you are acknowledging that, are you?

**Mr Wheatley**—Yes.

**Senator RONALDSON**—Right. You thought there might be some synergies, and you knew that it was not feasible to have one doing one bit and one doing the other, you said that before, that it would not work?

**Mr Wheatley**—No, I said we had not undertaken the analysis around the synergies, of one doing one and one doing the other, because that was the scenario that we were in.

**Senator RONALDSON**—No. You said that it was clear at that stage that it would be very difficult for one to do one part and one to do the other.

**Mr Wheatley**—No, I am sorry, Senator.

**Senator RONALDSON**—That is what you said.

**Mr Wheatley**—I did not think that is what I said.

**Senator RONALDSON**—And I put it to you if you were aware of the potential synergies, and you knew of the potential issues further down, with one doing one and one doing the other, why did you not go into the marketplace at that stage and test potential scenarios from the supply chain side of it?

**Mr Wheatley**—But we did. We did. That is the very thing that we did.

**Senator RONALDSON**—You did not. You gave a contract to Brightpoint, knowing full well that for them to have that contract and for someone else to have another contract, the supply chain part of it, was going to cause enormous problems. So you didn't.

**Mr Wheatley**—I am sorry, Senator. We had not undertaken that analysis because we had a split activity before; we had shifted it to capture the benefits with Brightstar phase 1, and then we went to the market for the remainder of it.

**Senator CONROY**—How long after the first contract was given away was the second one tendered out?

**Mr Wheatley**—We sought—

**Senator CONROY**—When did you seek to establish synergies?

**Mr Wheatley**—I would have to take that on notice, to go back and look at the actual dates that we sought proposals.

**Senator CONROY**—Was it weeks? Was it months?

**Mr Wheatley**—From my recollection, it was probably a month or so. I would—

**Senator CONROY**—So a month after you gave—

**Mr Wheatley**—have to take that on notice.

**Senator CONROY**—No, a month after you gave the first contract out—

**Mr Quilty**—He is going to take it on notice, Senator.

**Senator CONROY**—No; just hear the rest of my question. I just want to make sure I have it right in my own head. A month after you gave out the first contract with no tender, and you broke that contract out on the basis that you were not sure if there were or were not synergies, you decided there were synergies and you tendered for a contract?

**Mr Wheatley**—No. We wanted to test whether there was the opportunity of gaining a better outcome by looking at who else there was in the market. So, we went to our incumbent and we went to two others, as well as we had the proposal from Brightstar to evaluate. So there were four companies in the mix.

**Senator CONROY**—Nobody else was able to deliver the supply chain services to Telstra exclusively in the Australian market? This is the services now, not the handsets. I understand the economies of scale argument on handsets. I am intrigued by this exclusivity. What, is there some contamination if someone else has mobile phones with someone else in the warehouse?

**Mr Wheatley**—No, there is not.

**Senator CONROY**—Are there economies of scale there?

**Mr Wheatley**—Yes, there could be.

**Senator CONROY**—It has to be pretty minute. I can almost accept your argument. All of a sudden, I have swallowed the first one, but I can almost accept the exclusivity argument on economies of scale, others being allowed to leverage off it. But I cannot really see one here.

**Mr Wheatley**—But there are aspects—

**Senator CONROY**—Because this is what Mr Ponder said.

**Mr Wheatley**—Yes.

**Senator CONROY**—We should not have let him out, guys.

**Mr Wheatley**—Sorry, there are aspects of phase 2 such as it is more than just a supply chain solution, because they are doing some product lifecycle management and other value-added activities that none of the others had the capability to deliver to us.

**Senator CONROY**—So, we are back to this definition. What process was phase 2?

**Mr Wheatley**—We sought proposals on phase 2.

**Senator CONROY**—How many—

**Mr Wheatley**—Three other companies.

**Senator CONROY**—You approached them or you put out a statement?

**Mr Wheatley**—We approached them.

**Senator CONROY**—You approached three?

**Mr Wheatley**—Yes.

**Senator CONROY**—How many made it to the next—what did we call that previously? So, you discussed proposals with three?

**Mr Wheatley**—We asked them to submit formal proposals, and all of them did.

**Senator CONROY**—Who made it to the detailed discussions next?

**Mr Wheatley**—When we evaluated their proposals, none of them had the capability of meeting our requirements, so we—

**Senator CONROY**—None, or one?

**Mr Wheatley**—Out of the four.

**Senator CONROY**—Sorry, three others. Sorry.

**Mr Wheatley**—Out of the other three that we went to, we assessed none had the capability—

**Senator CONROY**—So at this stage, you had not asked for any prices—

**Mr Wheatley**—No.

**Senator CONROY**—or given them any specifications?

**Mr Wheatley**—No. Obviously we had given them specifications about what our requirements were, so that they would be able to put an adequate proposal to us for us to be able to access their capability.

**Senator CONROY**—But there were no prices sought?

**Mr Wheatley**—No.

**Senator CONROY**—You basically eliminated the three others, so you only had one company you were negotiating price with?

**Mr Wheatley**—Yes.

**Senator CONROY**—Sounds like the way to maximise your profitability!

**Senator RONALDSON**—Prior to the matter going out to tender, the expressions of interest, what discussions did you have with Brightstar prior to then?

**Mr Wheatley**—This is phase 2?

**Senator RONALDSON**—Yes.

**Mr Wheatley**—The only discussion we had with Brightstar was we told them that we would be testing the market in regard to phase 2. We advised them that it was not an automatic assumption that they had got the handset procurement, that that would lead to phase 2.

**Senator RONALDSON**—The add-ons that you were talking about before, were they in the initial proposal or were they in the second—

**Mr Wheatley**—In the second proposal.

**Senator RONALDSON**—Perhaps I should say, are we talking the third proposal or the—

**Mr Wheatley**—No, there were—

**Senator RONALDSON**—The 204, the 205; presumably they came back in relation to the supply chain. They came back with a separate proposal, or did you just use their September 2005 proposal?

**Mr Wheatley**—We based the evaluation on that, as well as seeking additional information as we did. And we do that with vendors from time to time, to seek clarification, which is what we had done.

**Senator RONALDSON**—So prior to you making up your minds what you were going to do and what your requirements were, you had before you a proposal that you then took up, so I take it from that that your requirements were lifted from the Brightstar proposal?

**Mr Wheatley**—No, they were not.

**Senator RONALDSON**—But they must have been.

**Mr Wheatley**—No, they were not. Because at that stage, Brightstar did not have full visibility to what our requirements were and would not have been able to scope it out to the nth degree, in terms of volumes that are flowing through the RFL and a lot of other stuff.

**Senator RONALDSON**—But they did not put another proposal in after 2005, so presumably that met your requirements?



**Mr Wheatley**—We did seek additional information on the way through, clarification on it.

**Senator RONALDSON**—Like what?

**Mr Wheatley**—Well, just that it can be around their capability of what resource they have here in Australia, what is their end-to-end expertise in terms of product lifecycle management.

**Senator RONALDSON**—The resource in Australia? Would that not be absolutely pivotal to their capability of conducting this—

**Mr Wheatley**—Yes, it is.

**Senator RONALDSON**—So you still had not had clarification of that in September 2005?

**Mr Wheatley**—No.

**Senator RONALDSON**—But you actually just went through with their proposal from 2005 without requiring another formal proposal?

**Mr Wheatley**—No—

**Senator RONALDSON**—You see, what you have left yourself open to, Mr Wheatley, is the allegation that you have just lifted their proposal, which meant that no-one else could possibly get a leg in with this. That is where you have left yourself exposed.

**Mr Wheatley**—I understand you—

**Senator RONALDSON**—And I do not necessarily expect a response, but my view is that you have left yourself severely exposed. You had not made a decision about your requirements in September last year; they put a proposal in; you did not require a further proposal from them because that proposal met the basis of your requirements, which in September 2005 you had not even ascertained?

**Mr Wheatley**—Can I just clarify a couple of points, if I may? After undertaking extensive evaluation of the alternative three proposals and deciding they did not meet our requirements, we did then re-enter into discussions with Brightstar to fully test out and flesh out all the commercial aspects of the proposal to make sure that it delivered significant better outcomes than what we were currently enjoying. So that was an extensive piece of work after we had made the call that no one else had the capability of doing what we were doing. We then undertook that piece of work, which concluded in March this year.

**Senator RONALDSON**—So what did you put in the tender documents for the other potential competitors?

**Mr Wheatley**—It was testing what their capability was in terms of their ability to meet our requirements, what their current capability was in terms of infrastructure; there is a whole raft of stuff.

**Senator RONALDSON**—What, testing them against the proposal from Brightstar dated September?

**Mr Wheatley**—No, it was not. It was testing them against our requirements, Telstra's requirements

**Senator RONALDSON**—But your requirements were the Brightstar requirements, because you did not ask for a further proposal from Brightstar.

**Mr Wheatley**—I am sorry, they were not, because they were tailored to Telstra's requirements; it was what we were seeking to meet. It is a commerciality issue with—

**Senator RONALDSON**—The Brightstar proposal was so close that you did not ask them to submit another proposal?

**Mr Wheatley**—We did not need to in terms of their internal capability. Obviously we went to others to test their capability as well, as I have said.

**Senator CONROY**—I am happy to move on, whenever you want to run up the white flag, Senator Ronaldson. You look like you are flagging.

**Senator RONALDSON**—We are going around in circles here, so I think you may as well kick off with that, Senator Conroy.

**Senator CONROY**—Could you describe to me the procurement processes that Telstra followed for the selection of Accenture for the BSS billing transformation contract—bearing in mind I understand some of the differences we have talked about? Were you involved, first, Mr Wheatley?

**Mr Wheatley**—Yes, I was.

**Senator CONROY**—Who else was involved?

**Mr Wheatley**—There were a number of people involved. The IT group—

**Senator CONROY**—So that would be Mr Lamming?

**Mr Wheatley**—Prior to Mr Lamming arriving, it was the internal IT group.

**Senator CONROY**—So the internal—

**Mr Wheatley**—The internal IT group, yes.

**Senator CONROY**—But Mr Lamming then came to be involved?

**Mr Wheatley**—Subsequent to that, yes, but the project was kicked off internally by billing, or I think it is called—

**Senator CONROY**—When did this project start—when you took up your new job or were you handling it in your old job?

**Mr Wheatley**—I would have to take it on notice. It was prior to me coming into this job, and I was not handling it in my old job, no. This is the billing customer care stuff that was commenced earlier last year.

**Senator CONROY**—Who else was involved? You have mentioned the internal IT?

**Mr Wheatley**—Yes.

**Senator CONROY**—Then Mr Lamming comes in, takes over, I presume.

**Mr Wheatley**—Yes.

**Senator CONROY**—What exactly was his role?

**Mr Wheatley**—Sorry, can I just clarify it. The initial evaluation was undertaken by our billing people, in conjunction with the IT group, to assess the capability of their billing and business support systems.

**Senator CONROY**—The initial evaluation?

**Mr Wheatley**—Yes. Then when we were looking at the company-wide transformation and the impact on IT systems there was a further evaluation of our requirements.

**Senator CONROY**—How far had the initial evaluation gone down the track in proceeding with the tender process?

**Mr Wheatley**—It had not got to the point of making the selection.

**Senator CONROY**—Had not got to a point of making a selection?

**Mr Wheatley**—Yes.

**Senator CONROY**—How far had it got?

**Mr Wheatley**—I would have to take that on notice, because I do not know—

**Senator CONROY**—Had it reached a stage where expressions of interest had been called? Had the normal, formal process begun?

**Mr Wheatley**—I would have to take it on notice because it was well before my time.

**Senator CONROY**—But, if you know that it had not reached the selection process, you must know that it was some point down the track?

**Mr Wheatley**—I understood it had got to assessing our requirements and therefore moving to a selection process.

**Senator CONROY**—So companies had been contacted?

**Mr Wheatley**—Obviously spoken with, yes, for their views. A number of companies had been spoken with.

**Senator CONROY**—You were part-way through a tendering process?

**Mr Wheatley**—Yes.

**Senator CONROY**—Then that was halted following Mr Lamming taking on an advisory role?

**Mr Wheatley**—There was a more fundamental review of our whole IT infrastructure—and not only the number of our IT systems but also our IT structure—as a result of the company transformation activity.

**Senator CONROY**—Did the internal group not understand what they were doing when they first evaluated this and decided to go down and call tenders and—

**Mr Wheatley**—Yes.

**Senator CONROY**—Your internal group did not have a clue?

**Mr Wheatley**—Yes, they did. But, in looking at the transformation activity, it was broader than just the billing system.

**Senator CONROY**—This is all described as the billing system transformation—

**Mr Wheatley**—No, BSS is Business Support Systems, so it includes more than just our billing system.

**Senator CONROY**—How much more?

**Mr Wheatley**—It is a lot of our other activities that we use to support the day-to-day business. I would have to take it on notice to define the scope. It is a fairly significant transformation activity across a number of IT systems.

**Senator CONROY**—All right. We have established your cut-off with Mr Lamming. Who made the decision to terminate the process and start another evaluation?

**Mr Wheatley**—Again, it was part of the company-wide transformation activity, where we—

**Senator CONROY**—So Mr Trujillo phoned you and told you to stop?

**Mr Wheatley**—No, he did not. I was not in the role at the time. This is mid last year.

**Senator RONALDSON**—Mr Nicholson, any help there?

**Mr Nicholson**—Just—

**Senator CONROY**—You did not have anyone involved in this process?

**Mr Nicholson**—In enforcing the point of the OSS and BSS transformation, it is a very wide-ranging review of IT.

**Senator CONROY**—Somebody, as yet unnamed, pulled the process, to start again? You were in the middle of a process.

**Mr Wheatley**—In terms of the evaluation, yes.

**Senator CONROY**—Will you come back to me with the name of that person?

**Mr Wheatley**—Absolutely.

**Senator CONROY**—Whether it was Mr Winn, Mr Burns, Mr Lamming?

**Mr Wheatley**—I would expect there would have been a number of people involved in driving that view, and I would be happy to come back to you and share with you who they were.

**Senator CONROY**—We are now onto the actual evaluation process for the new project. What process were you going through—formal, advertising, expressions of interest? What was the process for this one?

**Mr Wheatley**—We actually went out and sought formal proposals.

**Senator CONROY**—Is that a normal tender process?

**Mr Wheatley**—In essence, yes. Yes, it was.

**Senator CONROY**—There were specifications put out?

**Mr Wheatley**—Yes.

**Senator CONROY**—Documentation was put out first?

**Mr Wheatley**—Yes.

**Senator CONROY**—You approached a short list?

**Mr Wheatley**—Yes, there was a short list as a result of that.

**Senator CONROY**—How many did you go out to?

**Mr Wheatley**—I would have to take that on notice. Again, before my time, but I know it was a number of suppliers.

**Senator CONROY**—A short list was evolved from that process?

**Mr Wheatley**—Yes.

**Senator CONROY**—How many were on the short list?

**Mr Wheatley**—Again, I do not know.

**Senator CONROY**—Was anyone engaged to assist in this process?

**Mr Wheatley**—Yes.

**Senator CONROY**—Who was that?

**Mr Wheatley**—Tom Lamming assisted in it, as an adviser to Greg.

**Senator CONROY**—This was now in the actual selection process?

**Mr Wheatley**—This was undertaking the evaluating of the bids, if I can put it that way.

**Senator CONROY**—The bids?

**Mr Wheatley**—Yes.

**Senator CONROY**—So Mr Lamming was involved in evaluating the bids?

**Mr Wheatley**—The capability of those vendors, yes.

**Senator CONROY**—That is good.

**Mr Wheatley**—He was advising Mr Winn.

**Senator CONROY**—Advising Mr Winn?

**Mr Wheatley**—Yes.

**Mr Quilty**—Which, technically, you could say is a step aside from the evaluation committee.

**Mr Wheatley**—Yes. Tom was not involved in any of the formal evaluation and selection of either the software or the—

**Senator CONROY**—The word you used there was ‘formal’, so I will come back to you on what you mean by that. You have a short list; you were not sure how many. Did you say you would take that on notice?

**Mr Wheatley**—Yes.

**Senator CONROY**—A short list—not more than four or five? Guessing?

**Mr Wheatley**—I do not know.

**Senator CONROY**—I appreciate that. Where do Accenture fit into this? Where did they start being involved in the advising process? How did they slot in?

**Mr Wheatley**—Accenture were asked to give their view of the status of our IT systems and the IT department, so they were asked to give—

**Senator CONROY**—So Mr Lamming, notwithstanding he has been hired to advise in IT, then hired somebody else to help him do it?

**Mr Wheatley**—No.

**Senator CONROY**—Who hired Accenture?

**Mr Wheatley**—We did.

**Senator CONROY**—Yes, I know, but did Mr Lamming suggest—

**Mr Wheatley**—Telstra.

**Senator CONROY**—he needed Accenture's assistance?

**Mr Wheatley**—No. We had been talking with Accenture all the way through, right from when we had first started to get a view of the capability of our systems.

**Senator CONROY**—You had been billing Accenture for advice for a while?

**Mr Wheatley**—I would again have to take that on notice. I am not sure that we were actually paying them to undertake that work. Sorry, I do not know. I will need to come back to you.

**Senator CONROY**—They were just giving free advice? No. You can come back to me with when you first billed them.

**Mr Wheatley**—Yes.

**Senator CONROY**—The short list is created. What happened next?

**Mr Wheatley**—The bids were evaluated.

**Senator CONROY**—Who was involved in the evaluation process? Were you involved?

**Mr Wheatley**—Yes, procurement were involved. Internal IT people were involved, as well as the various areas of the business like billing and the other groups who own those—

**Senator CONROY**—You said you were involved, and then I missed the second—

**Mr Wheatley**—The lines of business, such as—

**Senator CONROY**—Lines of business?

**Mr Wheatley**—The IT group were heavily involved.

**Senator CONROY**—Yes. I thought there was one—I just did not quite hear a comment—

**Mr Wheatley**—I think the name is billing care or customer care group. They were the ones that were—

**Senator CONROY**—Mr Lamming was still playing a role at this stage?

**Mr Wheatley**—He was advising Greg, yes.

**Senator CONROY**—I am just trying to understand. You are in charge.

**Mr Wheatley**—Yes.

**Senator CONROY**—You are running it and Mr Winn is looking over your shoulder and Mr Lamming is advising. So Mr Lamming must have been talking to you fairly regularly.

**Mr Wheatley**—Yes. I had discussions on the way through with Tom, as the team did, to get his input around some of the understanding of the capability of the software packages we were looking at.

**Senator CONROY**—Accenture were advising along the way as well?

**Mr Wheatley**—Accenture were involved in the—

**Senator CONROY**—In the evaluation process?

**Mr Wheatley**—Yes. They were involved in—

**Mr Quilty**—They were not involved in the evaluation process, no.

**Mr Wheatley**—No, they were not.

**Senator CONROY**—That is what I am asking. I am just trying to get the facts.

**Mr Quilty**—The answer is no.

**Senator CONROY**—So what were they advising on? You said they were advising up to the short list point.

**Mr Quilty**—Their advice was in relation to Telstra's overall IT transformation. Once we were into a tender process, the evaluation was conducted internally by the people that Mr Wheatley has referred to. Accenture was not involved in the evaluation process.

**Senator CONROY**—It is claimed in the article:

Accenture was chosen to run a selection process among major vendors for the new \$500 million billing system.

So that is just incorrect?

**Mr Quilty**—My advice is that that is incorrect.

**Senator CONROY**—It goes on:

The process included a submission from Accenture itself ...

**Mr Quilty**—The situation was that Accenture—

**Senator CONROY**—So they are writing documents for free now?

**Mr Quilty**—No. Accenture was advising Telstra on its overall IT transformation.

**Senator CONROY**—So when the—

**Mr Quilty**—Separately, Accenture was one of the companies that were involved in this request for formal proposals, if you wish. Obviously, we can talk about the Chinese walls that were put in place to ensure that there was—

**Senator CONROY**—I love Chinese walls. So they drew up the master plan and then introduced the Chinese wall on themselves?

**Mr Quilty**—They were involved in the overall advice on Telstra's IT transformation.

**Senator CONROY**—Yes, the master plan.

**Mr Quilty**—Yes.

**Senator CONROY**—So, when the specifications were sent out, did it include this Accenture document? From the sound of it, it did.

**Mr Wheatley**—I am not aware of what was in an Accenture document at that time as such.

**Senator CONROY**—The article goes on:

The process included a submission from Accenture itself ...

It says that Accenture was chosen to run a selection process, and you are saying, 'No, that is not right.' I am accepting that. It says 'among major vendors'. It also says 'The process included a submission from Accenture itself'. I am just trying to understand whether, in the specifications that were sent out, there was an Accenture document which outlined your new grand vision.

**Mr Wheatley**—Accenture had advised us around our billing system and our IT department in terms of the structure.

**Senator CONROY**—Yes.

**Mr Wheatley**—So the process, as Mr Quilty has outlined, once we had developed what we saw as our requirements, was we then sought bids, or tenders as you—

**Senator CONROY**—But you put out specifications. I am assuming, as is described in the article, the submission from Accenture was part of the overview in the specifications.

**Mr Wheatley**—I am not—

**Senator CONROY**—You were running it.

**Mr Wheatley**—We had developed the specifications for what we required, and partly that was gathered through a whole raft of internal work, some advice from Accenture and some advice from other organisations as well. That is how we then developed our requirements. We then sought the bids, or tenders if you like, on those requirements. Accenture were asked to respond to it.

**Senator CONROY**—So they ran the ruler over the specifications before you sent them out?

**Mr Wheatley**—No, they did not.

**Senator CONROY**—You said they were asked to respond to it.

**Mr Wheatley**—They were asked to respond—

**Mr Quilty**—To the tender.

**Mr Wheatley**—To the document when we sent it out.

**Mr Quilty**—As a bidder.

**Mr Wheatley**—As a bidder.

**Senator CONROY**—That is even worse than it reads in the newspaper. So you asked them to design the system and then you asked them to tender for the system?

**Mr Wheatley**—No. At the time they had not designed the system. We had a number of requirements we had identified and then we had asked them, along with other organisations, to bid against those requirements.

**Senator CONROY**—And even though you ran it you cannot remember how many were on the short list?

**Mr Wheatley**—I think it was two, from memory, on the short list. I assume that what you are talking about is the two that we undertook full-blown evaluations on.



**Senator CONROY**—What did you do with the other ones—half-blow them?

**Mr Wheatley**—No, but obviously if we do not think that they can meet our requirements we do not progress the discussions any further.

**Senator CONROY**—‘Full-blown’. So two went through a full-blown process down from the short list—and you will come back to me on the short list?

**Mr Wheatley**—I do not know the initial number that we considered, no.

**Senator RONALDSON**—When did this take place?

**Mr Wheatley**—I would have to come back to you with the timing, because it was mid to late last year. I am not exactly sure of the timing.

**Senator CONROY**—How long did the process take?

**Mr Wheatley**—To undertake the evaluations? It took a significant period of time. From memory, I think it was around three months or so.

**Senator CONROY**—This is to do the two?

**Mr Wheatley**—Yes.

**Senator CONROY**—So you are down to two full-blown, one of which obviously was Accenture.

**Mr Wheatley**—Yes.

**Senator CONROY**—And they were the leader of this bid?

**Mr Wheatley**—Sorry, they were not involved in any of the evaluation processes.

**Senator CONROY**—No. They were the leader of one of these two bids.

**Mr Wheatley**—Yes, they were.

**Senator CONROY**—Mr Winn and Mr Lamming were keeping an eye on this, still, selection process?

**Mr Wheatley**—We had to report regularly on progress, yes.

**Senator CONROY**—Mr Ponder has claimed that Mr Lamming did not play any role in Accenture winning the billing projects. You just indicated you were regularly reporting.

**Mr Wheatley**—No. What I was saying is that, in making the decision around whom we were going to go with, Mr Lamming did not play any role in that selection.

**Senator CONROY**—You were just keeping him advised of what was happening?

**Mr Wheatley**—No. We sought input—advice and guidance on the way through—in terms of capability of the software we were selecting. As a consultant that is what he was engaged to provide. He was providing advice—

**Senator CONROY**—So he must have been giving you advice on the tenders then.

**Mr Wheatley**—Advice on questions that we asked him, yes.

**Senator CONROY**—You said on the software. If Accenture or whoever the other one was put up a proposal on software, you went to Mr Lamming and asked him what he reckoned.

**Mr Wheatley**—As part of the consideration, yes.

**Senator CONROY**—Did he give you advice on which was the best?

**Mr Wheatley**—No. The selection was undertaken by—

**Senator CONROY**—No, when you went to him with, ‘Here’s two pieces of software: which do you reckon is the best?’

**Mr Wheatley**—He gave advice on capability.

**Senator CONROY**—Yes.

**Mr Wheatley**—And then we made our own call on who we decided was the best.

**Senator CONROY**—Given this was a software project, it would be fair to say that his advice would be fairly influential as to which was the best.

**Mr Wheatley**—It was not in those terms. It was on the capability of that software and what the views were in terms of its product development road map.

**Senator CONROY**—They sound like the critical elements to this particular proposal.

**Mr Wheatley**—Yes.

**Senator CONROY**—I am not trying to be cute.

**Mr Wheatley**—No, they are.

**Senator CONROY**—This is a software tender.

**Mr Wheatley**—Yes.

**Senator RONALDSON**—Did he ever say to you, ‘Look, I’ve got potentially a bit of a conflict of interest; there’s only so much that I can talk about and I want to talk about these matters only’? Was there any discussion along those lines?

**Mr Wheatley**—No.

**Senator CONROY**—You did not raise it with him?

**Mr Wheatley**—Did not see that it was a conflict.

**Senator CONROY**—You did not see it was a conflict? Even Mr Quilty suggested there was a Chinese wall perhaps necessary.

**Mr Quilty**—Not in relation to Mr Lamming, I did not. I said, in relation to the advice that was provided by Accenture on the transformation of Telstra’s IT systems and Accenture’s—

**Senator CONROY**—And the bidding for—

**Mr Quilty**—Yes. I am not sure. Could somebody point out to me what they see as a conflict in terms of Mr Lamming?

**Senator CONROY**—It is the only way he is earning his money. Would that be fair?

**Senator RONALDSON**—You asked the question. We have had, I would have thought, example after example since three o’clock this afternoon of potential conflict. Whether you think it is or not, I suspect that anyone listening to today’s proceedings would be utterly amazed that there is not the potential for a conflict of interest with these negotiations that have been going on—matters not put out to tender, some people not invited and internal decision

making to get some of these contracts awarded. I am not surprised there was a four or five-page article in the *Financial Review*. I am not going to ask you for your comments, but I have found this the most extraordinary five hours, quite frankly, that I have had for a long, long time. You sit there with straight faces indicating there is no potential for conflict—could not possibly happen, no-one spoke to anyone else—

**Senator CONROY**—Mr Quilty has failed to mention that Mr Lamming used to work for Accenture so far, but we will keep moving.

**Mr Quilty**—Is that the extent of the conflict—the fact that a number of years earlier he worked for Accenture? Other than that, I am not aware of any conflict in relation to Mr Lamming. If somebody thinks there is, please let me know. But I am not aware there is one.

**Senator CONROY**—What you look for in these things, Mr Quilty, because you are not working for the Prime Minister any more looking for plausible deniability, is that you have this concept of potential for conflict which is a slightly lower threshold than plausible deniability. So potential conflicts, yes; I have to say to you I see a few. If you do not, I guess we agree to differ, but I personally and Senator Ronaldson seems to—

**Senator RONALDSON**—The expression we have been using all day is ‘potential’.

**Mr Quilty**—If you are wanting to put specific allegations or accusations of conflict of interest to me, I am happy for you to do so and happy to respond.

**Senator CONROY**—Even you suggested that you felt there should be a Chinese wall between Accenture because they advised on a sort of master plan and then they ended up bidding for the very process that they advised on. Even you interjected to mention the words ‘Chinese wall’.

**Mr Quilty**—Well, as you know, a Chinese wall is a means by which companies ensure that there can be no conflict.

**Senator CONROY**—You are going to get a bonus for saying that with a straight face, but I actually wanted to move on to a different issue. I will come back to that, please.

**Mr Quilty**—I just find it hard that people make these sorts of allegations but there is nothing specific. If you have a specific allegation put it to us.

**Senator CONROY**—We have not made an allegation.

**Dr Warren**—We were just told and we have heard potential conflicts of interest all afternoon. So that sounds like an allegation to me. I am sure that is not how we all—

**Senator CONROY**—I did not realise you were so sensitive, Dr Warren.

**Senator RONALDSON**—I can assure I am not here to justify my language to you. I have got far better things to do than that.

**Dr Warren**—Have you? I am pleased.

**CHAIR**—We are happy to move on.

**Senator CONROY**—I wanted to move on to another extraordinary aspect to this particular saga. Is it true that one firm had to fly its team to Denver to meet Mr Lamming? How does that accord with the process you are describing here, Mr Wheatley? Was talking to you not

enough? Why did they have to fly to Denver to meet, as it turned out in a hotel; but initially Mr Lamming invited them to his home? Why were they going to Denver at all? You were running the process.

**Mr Wheatley**—It is not unusual for senior executives of our vendors to travel overseas where the more—

**Senator CONROY**—You were in charge of the project, not Mr Lamming.

**Mr Wheatley**—No.

**Senator CONROY**—So why on earth was anyone flying to Denver invited to Mr Lamming's home?

**Mr Wheatley**—I was not part of that. I would have to take that on notice.

**Senator CONROY**—You were running the tender, were you not?

**Mr Wheatley**—Yes.

**Senator CONROY**—Did you ask them to go?

**Mr Wheatley**—No.

**Senator CONROY**—Who asked them to go to Denver to discuss the tender?

**Mr Wheatley**—You would have to ask them. I certainly was not aware of us requesting any organisation of flights at this stage.

**Senator RONALDSON**—They went without authority?

**Senator CONROY**—No. They went without Mr Wheatley suggesting it. I am staggered. How on earth, given that you are the person that was running the contract, and you say Mr Lamming had no influence on the final recommendation, was a team flying to potentially meet at his home, but ultimately a hotel? What was going on?

**Mr Wheatley**—That would be—

**Senator CONROY**—What sort of shonky process is this?

**Mr Wheatley**—That is not unusual for senior executives of the companies to fly to the US to meet with their people because—

**Senator CONROY**—I would not mind if they flew to your home. I probably would, to be honest, but if they flew to your home or even Mr Winn's bungalow here in Australia, but to fly to Denver to see Mr Lamming who, you tell us repeatedly, had no influence over the selection process.

**Mr Wheatley**—Tom Lamming provided advice to Greg on the IT matters on the way through so I would expect, to do that, he has got to understand the capability of the vendors. I do not find that unusual.

**Senator CONROY**—It was not possible for him to pop in to Australia on one of the three or four occasions that you have met him? He could not make himself available over here; an entire team had to fly to Denver, a lovely town.

**Mr Wheatley**—I am not familiar with it. I have to take that on notice and find out the details.

**Senator CONROY**—What sort of tender are you running? Seriously, you are running this tender and you have no idea what is going on in the middle of it. Did you know they were going to Denver?

**Mr Quilty**—Senator—

**Senator CONROY**—No, I am sorry. I have asked Mr Wheatley a direct, simple question. Did you know this team was asked to go to Denver?

**Mr Wheatley**—I knew that a number of the vendors were regularly travelling around the world. That is not uncommon if they do that.

**Senator CONROY**—That is not what I asked. I asked whether you knew they were going to Denver to see Mr Lamming.

**Mr Wheatley**—Specifically at the time, I would have to say ‘no’.

**Senator CONROY**—You found out afterwards, or did you find out when you read it in the *Financial Review*?

**Mr Wheatley**—No. I was aware that Tom had had a number of discussions with the vendors.

**Senator CONROY**—So the Accenture bid; did they have to fly to Denver as well to see Mr Lamming?

**Mr Wheatley**—Not that I am aware of. I did not have the—

**Senator CONROY**—So the non-Accenture team flew to Denver.

**Mr Wheatley**—I do not know the vendor you are referring to, I am sorry.

**Senator CONROY**—It would have to be one of the two. There are only two that you were actually engaged in serious conversation with. The winner was Accenture, so it would have to be the other one, and you have not named them and I am not asking you to name them.

**Mr Wheatley**—The reason I say that, we are also evaluating some software packages that those people led with who are from multinational companies. So there were a number of discussions happening with vendors within the BSS space at that point in time. It was not just with Accenture and the other bidder, it was also the software provider.

**Mr Quilty**—In terms of this particular statement in the article, there may be some benefit in us taking that on notice. In terms of the advice I have received, I do not have a confirmation or a denial either way.

**Senator CONROY**—Mr Wheatley has just confirmed that he believes that they did go to see Mr Lamming.

**Mr Quilty**—The statement in the article referred to a meeting specifically on this issue in a hotel with Mr Lamming. I think Mr Wheatley is indicating yes, he is aware there were examples of vendors travelling internationally, but in terms of whether that is specifically what happened—

**Senator CONROY**—I appreciate you want to muddy the waters.

**Mr Quilty**—No, I am not.

**Senator CONROY**—You can take it on notice and you can come back with another answer tomorrow or the next day, whatever you would like, but Mr Wheatley is aware that companies travelled to see Mr Lamming.

**Mr Quilty**—Generally, yes. In terms of that specific statement—

**Senator CONROY**—I am talking about on this tender. I am asking specifically about this tender and he said yes, he is aware that one of the tenderers went and spoke to Mr Lamming in Denver.

**Senator RONALDSON**—That is exactly what he said.

**Senator CONROY**—That is not verballing Mr Wheatley. You are trying to muddy the waters and I appreciate that is what you are there for, but we are not going to let you off the hook that easily. I am just staggered that you are the man in charge of the process and companies are having to travel to Denver to be assessed.

**Mr Wheatley**—It is not unusual. As Mr Quilty said, they travel for all sorts of reasons.

**Senator CONROY**—I might be not unusual if they are tendering to a company that is based overseas, but where are you based? Sydney or Melbourne?

**Mr Wheatley**—Melbourne.

**Senator CONROY**—Wonderful city They did not need to travel far. You are in Melbourne. It is not close to Denver. I have been to Denver. It is quite a trip to get to Denver from Melbourne, I assure you. I have done it.

**Mr Wheatley**—I have been to Denver, yes.

**Senator CONROY**—Have you met Mr Lamming at his home?

**Mr Wheatley**—No, not in Denver. I was on holidays at the time.

**Senator CONROY**—Excellent. So you know how far it is to Denver.

**Mr Wheatley**—Yes.

**Senator CONROY**—It is not just a quick, ‘Let’s fly up to Sydney and chew the fat.’ It is a pretty major expedition to Denver.

**Mr Quilty**—I think there is an assumption here that in terms of the bidders they are solely the Australian-based offshoots of these companies, which are international companies, and I am not sure whether that assumption is—

**Senator CONROY**—It states that its Australian team was forced to travel to Denver.

**Mr Quilty**—That is why I am saying I think we need to take this on notice because, as Mr Wheatley is indicating, it is not unusual, and that is particularly the case given that bidders may not be necessarily Australian based. They may be international companies who could be based in the United States, for example.

**Senator RONALDSON**—Mr Wheatley agreed with the proposition.

**Senator CONROY**—That has got nothing to do with it, Mr Quilty. That is just a complete red herring. I appreciate it, and Mr Wheatley is not denying it, that the Australian team had to fly to Denver, not the American offshoot of whichever multinational company was heading up

the other one. The Australian team was forced to go and see Mr Lamming and he tried to get them to come to his house.

**Mr Quilty**—Sorry, Senator. Which may mean that we have a company which has both an Australian team and an international team and it is decided that the Australian team will fly to where the international team is.

**Senator CONROY**—I think the word ‘forced’ is used.

**Mr Quilty**—Again, we should take that on notice.

**Senator CONROY**—I am sure you want to take it on notice, but I think clearly Mr Lamming was not available to the Australian team anywhere else.

**Mr Quilty**—‘Forced’ may be what the journalist has written, I am not sure.

**Senator CONROY**—It is Ms Williams. I am sure she has represented the views of the Australian team of this firm.

**Mr Quilty**—That is another reason why I should take it on notice. The use of the word ‘forced’.

**Senator CONROY**—There is nothing you are going to take on notice. You are not going to be able to go to the Australian team and ask them whether they were forced to.

**Mr Quilty**—I certainly will be able to go to the Telstra side and—

**Senator CONROY**—Mr Lamming?

**Mr Quilty**—find out from them whether they considered they were forced.

**Senator CONROY**—It might be daylight in Denver. Can you get him on the net? Let us bring him on in. Show us your Telstra skills. Get Mr Lamming on the line and we can chat to him. It is daylight probably in the US at the moment.

**Mr Quilty**—I think we are taking it on notice.

**Senator CONROY**—I am sure you are. This process which Mr Wheatley is notionally in charge of seems to be a complete farce where people are forced to go to Denver to people’s homes to actually try and progress the tender process when Mr Wheatley is the head of the tendering project here in Australia and does not even know that they had to go until after they have been.

**Mr Quilty**—I do not think even the article says they were forced to go to his home.

**Senator CONROY**—No, it says initially he at first proposed the meeting at his home office, but eventually agreed to meet at a hotel. That is what he states.

**Mr Quilty**—That is right.

**Senator CONROY**—You probably have not had a chance to read it again. I am sure you have a couple of times.

**Mr Quilty**—I have. That is why I corrected you.

**Senator CONROY**—I do not think that anything I said was incorrect.

**Mr Quilty**—You said they were forced to meet in his home but, given that they met in his hotel, it is hard to say that they were forced to meet in his home.

**Senator CONROY**—I think you slightly devilled me there, but it is a minor point, and if I incorrectly expressed myself, I think everyone understands the point that I am making.

**Senator RONALDSON**—Mr Wheatley, are you in fact running this process, or are you given your marching orders and running instructions from elsewhere?

**Mr Wheatley**—I am running the process.

**Senator RONALDSON**—Are you?

**Mr Wheatley**—Yes.

**Senator CONROY**—It does not sound like it.

**Senator RONALDSON**—With the greatest respect, you seem to have very, very vague knowledge of this area that you are meant to be looking after. You have exhibited that today, and I put to you that someone else is running this program and you are being told what to do.

**Mr Wheatley**—Senator, with due respect, we have always had free and unfettered reign to negotiate the contracts without undue influence.

**Senator RONALDSON**—I suspect you are a decent man, Mr Wheatley, and we will leave it at that.

**Senator CONROY**—Was the Telstra board advised the evaluation process for the transformation contracts involved the need for a Chinese wall, because Accenture had advised on the sort of master plan, and then were part of the bidding process, and ultimately the successful bidder?

**Mr Quilty**—I will have to take that on notice. I presume you are talking about before the bid.

**Senator CONROY**—Mr Wheatley should know, if he was running the tender process. What was the Chinese wall that was put in place to ensure that there was no perception that Accenture, despite the fact that they had advised on the sort of construct of the tender process, were ultimately approached to be part of the bidding, one of the bidding teams? What was the Chinese wall put in place?

**Mr Wheatley**—It excluded any of the advisory team members from working on any of the bid team work.

**Senator CONROY**—Excluded them in what way?

**Mr Wheatley**—They were excluded from working on any of the bid team work completely.

**Senator CONROY**—Okay. So, anyone who had been giving you advice about that structure. How many people would that have been?

**Mr Wheatley**—I would have to take that on notice. There were several people involved in it.

**Senator CONROY**—Yes. And they were not allowed to be part of the bid process?

**Mr Wheatley**—Correct.



**Senator CONROY**—So, you relied on a Chinese wall being put in place by Accenture themselves? You just said ‘they are not allowed to be’. Did you sort of lock them up in a room somewhere for over three months?

**Mr Wheatley**—We had a formal agreement with them that they would have that process in place.

**Mr Quilty**—I think we informed the other bidder about it, as well, did we not?

**Mr Wheatley**—Yes, we did.

**Senator CONROY**—I would hope so. I mean that is part of the reason why this item was in the newspaper; they obviously were aware of it.

**Mr Quilty**—No, the fact that we had the Chinese wall arrangement was something we made sure we informed the other bidder about.

**Senator CONROY**—But ultimately, you relied on Accenture keeping in place the Chinese wall?

**Mr Wheatley**—We formalised that agreement with them, and I have seen no evidence where they have breached that agreement.

**Senator CONROY**—Well, you did not see any evidence that one of the Australian teams went to Denver until after it happened, Mr Wheatley. That does not speak volumes for your vision. It does not instil me with any great confidence that you did not see any evidence. You did not see any evidence of a team going to Denver.

**Mr Wheatley**—Because I do not consider that unusual that vendors do travel overseas.

**Senator CONROY**—No, I said you did not know it happened until after.

**Mr Wheatley**—A lot of our evaluation teams travel overseas as well.

**Senator CONROY**—I know. When you are tendering for something, or investigating and analysing, I expect you to go and look at the source.

**Mr Wheatley**—Yes.

**Senator CONROY**—That is my problem. I think you were the source and they should have been coming to the source i.e. you, not Mr Lamming in Denver. That is actually the problem.

**Mr Wheatley**—In the evaluation process, it was run by me and my people.

**Senator CONROY**—You were not based in Denver at the time though, were you?

**Mr Wheatley**—No.

**Senator CONROY**—So, you have indicated that you were aware after the team went to Denver. At what stage of the process was that?

**Mr Wheatley**—I cannot recollect the exact time, but I was aware that vendors were regularly travelling internationally.

**Senator CONROY**—Now, please, stop muddying the water about being aware about many vendors wandering the globe. I am sure they do. I am asking about one team. You know exactly who I am talking about, so please stop muddying the waters.

**Mr Quilty**—I am not sure we have the date for that.

**Senator CONROY**—No, as I said, Mr Wheatley knows. He found out after the event. I am just trying to establish when it was, that is all.

**Mr Wheatley**—I will have to take that on notice.

**Mr Quilty**—I do not think we have the dates.

**Senator CONROY**—So, was the board made aware of the Chinese walls, and the agreements, and the potential for conflicts of interest if Accenture got the contract, after advising them?

**Mr Quilty**—What I do know is that the board was certainly informed about the contract. In terms of whether it was informed about the arrangement that was put in place, and when, that is a matter I will have take on notice. I do not have advice on that.

**Senator CONROY**—How much is this contract worth—\$600 million? Is that the correct figure?

**Mr Wheatley**—No.

**Mr Quilty**—How much was this one? About 500, was it?

**Mr Wheatley**—No, the BSS component is between \$200 million to \$300 million.

**Senator CONROY**—\$200 million to \$300 million, okay. Does Telstra's code of conduct apply to contractors like Accenture and Mr Lamming?

**Mr Quilty**—I would have to take that on notice.

**Senator CONROY**—Well, Telstra's code of conduct requires Telstra employees to avoid actual and apparent conflicts of interest. Telstra's code of conduct defines a conflict of interest as 'a situation where your loyalties are divided when your personal interests or activities influence, or could appear to influence, your ability to act in the best interest of Telstra'. I am just wondering if that applied to Mr Lamming or Accenture?

**Mr Quilty**—Clearly we made sure we put the Chinese walls in place to make sure that there was no potential conflict of interest.

**Senator CONROY**—So, you do not believe at any stage that Accenture winning this contract raises suggestions of a potential conflict of interest, or an actual?

**Mr Quilty**—What I believe is that we put in place arrangements to ensure that you could not have such a situation arising.

**Senator RONALDSON**—Why would you do that?

**Mr Quilty**—Well, obviously to ensure that there could be no—

**Senator RONALDSON**—This is about potential conflicts of interest.

**Mr Quilty**—Obviously in this situation you had a company that had provided overall advice sometime before and then had been asked to be involved in a bid for a contract. Obviously there can be potential for conflict of interest, and what you do to make sure that that potential is not there is to put in an arrangement that prevents that potential from existing, and that is what we did.

**Senator RONALDSON**—So there have been—

**Mr Quilty**—If we had not put in the Chinese—

**Senator RONALDSON**—There has been the potential for conflict of interest?

**Mr Quilty**—There was a potential if we did not put in those arrangements, and that is why we put them in.

**Senator CONROY**—It would have been actual if you had not.

**Senator RONALDSON**—That is right. Well, at least we have agreed on that, Mr Quilty. There have been examples of potential conflicts of interest.

**Mr Quilty**—Well, if we had not put the arrangements in, but we did put the arrangements in.

**Senator RONALDSON**—I think Senator Conroy hit the nail on the head.

**Mr Quilty**—I beg to differ.

**Senator CONROY**—I would hope so for your sake. I think that is probably all I have got. There are a few other items that came up in the article, but I think, Senator Ronaldson, we have been going for a fair few hours and we might give that a rest.

**CHAIR**—Where do we want to go with other questions for Telstra. Senator Adams has some.

**Senator ADAMS**—I would just like to come back to a rural issue. It is a little bit tame after what we have been discussing, but regarding the HiBIS satellite, can you confirm that Telstra withdrew its HiBIS satellite product last year?

**Senator CONROY**—I have got one more set of questions after.

**Senator ADAMS**—Yes. Can you confirm that Telstra withdrew its HiBIS satellite product last year?

**Mr Pinel**—Yes, we did.

**Senator ADAMS**—Sorry?

**Mr Pinel**—Yes, we did.

**Senator ADAMS**—You did? Right.

**Mr Pinel**—For a period of time.

**Senator ADAMS**—Okay. And why did you do that?

**Mr Pinel**—There were a couple of reasons. It was predominantly because we were running out of capacity on the transponder. We were faced with having to purchase additional space and the economics did not work for us to do so.

**Senator ADAMS**—Are you considering re-registering it?

**Mr Pinel**—It has been re-registered and we are now in the process—it is now open again. We have managed to negotiate and re-lease some satellite capacity, and we are back in the market now.

**Senator ADAMS**—And how successful is this, considering you have got other providers in the market?

**Mr Pinel**—How successful is our satellite product?

**Senator ADAMS**—Yes.

**Mr Pinel**—I cannot quote you specific numbers, but there is a part of the market that it suits very well and we continue to sell it.

**Senator ADAMS**—And how much funding have you got there in your budget for that?

**Mr Pinel**—I do not have that figure with me. I will take that on notice and get it to you.

**Senator ADAMS**—All right.

**Mr Pinel**—That is for provision of satellite service in HiBIS area going forward?

**Senator ADAMS**—It is because in the area I come from the HiBIS product is very popular, because it is the only way that we can get any decent broadband service.

**Mr Pinel**—Yes.

**Senator ADAMS**—I was just worried because I have had a number of constituents come to me saying, ‘Is Telstra deserting the bush and putting its money into the city?’ That is really the way they are looking at it.

**Mr Pinel**—No. That is certainly not the case. We have a long and ongoing commitment to regional Australia, and we are not intending to change that.

**Senator ADAMS**—Are you advertising the fact that you are providing the service again, because the constituents from where I come from think that you are not?

**Mr Pinel**—I believe it has been in the public space, but I would have to go back and check to what extent it has been publicised. My understanding is that we are back in the market now.

**Senator ADAMS**—Can you take that on notice and get back to me with it?

**Mr Pinel**—Absolutely, yes.

**Senator CONROY**—Has Telstra ever bought words that are trademarks of competitors or sponsored links through Google’s add word service?

**Mr Quilty**—I do not think so, no.

**Senator CONROY**—Are you sure? I think you might want to get some advice on that very quickly.

**Mr Mullane**—There was a situation, that I am aware of, where an advertisement—when a search for AAPT was carried out on Google, an advertisement for Telstra Pre-Paid Plus products appeared in the sponsored links area.

**Senator CONROY**—Right.

**Mr Mullane**—It turns out that these links were paid for under Google’s ad word system, and these have been purchased by Telstra’s media buying agency company called Optimedia. Telstra was unaware that the term AAPT was actually among the thousands of terms that they had purchased for this ad words campaign. Once we were made aware of that we have taken some action to establish an exclusion list with Optimedia of words that we cannot target, and

the Telstra marketing team does ensure now that all search words are checked before a campaign goes live.

**Senator CONROY**—The purchasing of competitors' trademarks is contrary to Google's add words policy, is it not?

**Mr Mullane**—You would have to ask Google. I am not aware of it, but I think the key point here is that Optimedia did the purchasing, and—

**Senator CONROY**—Have you apologised to AAPT—sent them a letter, compensation or anything?

**Mr Mullane**—I do not have any advice as to any follow-on action that may or may not have happened.

**Senator CONROY**—Are there any other trademarks that Telstra has bought through on-line search advertising, that you are aware of?

**Mr Mullane**—We do not buy trademarks through on-line search advertising. As I said, it was an inadvertent occurrence and we have a process to prevent it happening again.

**Senator CONROY**—Has Telstra ever threatened to initiate legal action against any of its competitors for the purchasing of Telstra trademarks in on-line search engines in this way?

**Mr Mullane**—I am not aware, but I would have to take that on notice if you really want to know the answer.

**Senator CONROY**—I just suspect that Telstra probably has threatened legal action if it does not stop, but if you can take that on notice, that would be good?

**Mr Mullane**—I will take that on notice.

**CHAIR**—That is it? I think that means that we have concluded with Telstra.

**Senator LUNDY**—Can I just let you know, Chair, I will place my questions on notice?

**CHAIR**—You have questions for Telstra? Okay, we thank Telstra for—

**Senator CONROY**—I am sorry. My apologies. I do have one more. It is very quick. No, two more. Sorry, I got your hopes up there. My apologies. Telstra recently forced staff in Queensland to work on Labour Day, is this correct?

**Mr Quilty**—I think you realise that Telstra has to have certain parts of its operation 24-7, 365 days a year. As part of the employment agreements we have—

**Senator CONROY**—It is a public holiday in Queensland, though, is it not?

**Mr Quilty**—Yes. So, for example, if you ring 000 on a public holiday, you still expect to be able to talk to someone.

**Senator CONROY**—No, I understand that.

**Mr Quilty**—And, as part of the employment agreements, it is made clear—

**Senator CONROY**—Those Indians do need the day off, you are right.

**Mr Quilty**—that people may have to work on public holidays. They get paid penalty rates if they do have to work.

**Senator CONROY**—My question was: were they forced?

**Mr Quilty**—Well, they certainly are—

**Senator CONROY**—I am not arguing your necessity for the 24-7 business, I am asking were your staff forced?

**Mr Quilty**—They certainly are rostered on; they are given plenty of notice beforehand and obviously if there are any extenuating circumstances they are considered.

**Senator CONROY**—My question is were they forced?

**Mr Quilty**—They are rostered on, yes.

**Senator CONROY**—So they were forced?

**Mr Quilty**—Well, I do not think that would be the term I would use, and for example—

**Senator LUNDY**—That is the reality.

**Mr Quilty**—If there are extenuating circumstances, they would be looked at on a case-by-base basis.

**Senator CONROY**—So, they are forced to work on a public holiday?

**Senator LUNDY**—They are required to.

**Mr Quilty**—They are rostered on, and it is part of their employment agreement, so I would not say that they are forced to, because if it is in their employment agreement, they have obviously agreed to it.

**Senator CONROY**—Has Telstra ever required staff to work on Labour Day in the past?

**Mr Quilty**—I presume that staff have worked on Labour Day for many years.

**Senator CONROY**—I said, ‘required staff’.

**Mr Quilty**—I am not aware—

**Senator CONROY**—Plenty of people volunteer to work on public holidays, so I want to make sure that there is a clear distinction between: yes, you run a 24-7 business with staff who voluntarily put in. This year you forced them—

**Mr Quilty**—I am not—

**Senator CONROY**—I am asking in the past have you required them, or forced them?

**Mr Quilty**—I am not aware that there has been any change in policy in terms of employment agreements involving people working on public holidays between previous years and this year, no.

**Senator CONROY**—Can you take that on notice?

**Mr Quilty**—I am happy to take it on notice.

**Senator CONROY**—It has been put to me that there has been a change in that previously it was not the case of people being forced and this year they were.

**Mr Quilty**—I am happy to see if there has been a change.

**Senator CONROY**—If there has, if you could come back to me on why they were required to work Labour Day this year, as opposed to previously, and can Telstra staff expect to be required to work on other public holidays in future—Christmas Day, Easter, those sorts of days?

**Mr Quilty**—I would presume similar arrangements would exist, but I will take that on notice.

**Senator CONROY**—I am not sure anyone can be forced to work on Christmas Day.

**Mr Sheargold**—We have been to work on Christmas Day to manage customers.

**Senator CONROY**—I am sure plenty of people volunteer for it.

**Mr Sheargold**—Some people do, yes, but we are people when you operate 365 days a year, the service is—

**Senator CONROY**—So, do you know about the Queensland Labour Day?

**Mr Sheargold**—I am not aware of the Queensland Labour Day, but I will certainly agree with the comments that Mr Quilty has made.

**Senator CONROY**—Sorry, you are which section?

**Mr Sheargold**—Service—to our customers.

**Senator CONROY**—So, you would handle the—

**Mr Sheargold**—Certainly. I am glad they worked for our customers.

**Senator CONROY**—Were you forced to work that day?

**Mr Sheargold**—I am always available, anyway.

**Senator CONROY**—You are always available, but you were not forced to work that day?

**Mr Sheargold**—24-7, 365.

**Senator CONROY**—Look I am sure you are. I am sure you actually are, but the issue is whether you were forced to work that day? It is no good pointing at the clock, Dr Warren.

**Dr Warren**—No, I was suggesting that he was forced to be here too.

**Senator CONROY**—You will enjoy the nice warm night here in Canberra.

**Dr Warren**—Indeed I will.

**Senator CONROY**—I have a number of questions about premium SMS services. Who wants to handle them?

**Mr Quilty**—Dennis.

**Senator CONROY**—Mr Mullane. Sorry, I gave you false hope there. I understand that Telstra announced earlier this year that it would act as an advocate for customers that said they were receiving unwanted text messages from operators of premium SMS services, is that correct?

**Mr Mullane**—If I recall, we have undertaken to take up the issue of these customers who have complained to us about receiving excessive SMS calls to contact the appropriate provider and ask them to cease.

**Senator CONROY**—I have got a press release here from a Jenny Young, described as Telstra's head of consumer marketing.

**Mr Quilty**—I am told that Telstra's telephone consultants will contact service providers on behalf of customers to advise that services in dispute—that is SMS spam—should be immediately stopped and help arrange refunds on services customers have not intentionally requested.

**Senator CONROY**—That is right. Why did Telstra feel the need to take on this role?

**Mr Quilty**—I think there was a significant number of calls from our customers who had inadvertently locked themselves into these text message services and obviously were incurring a significant cost as a result.

**Senator CONROY**—I think Miss Young indicated that complaints had tripled over the past 12 months?

**Mr Quilty**—That is probably right.

**Senator CONROY**—You may need to take this on notice, but how many complaints did Telstra receive regarding unwanted premium SMS services last year?

**Mr Quilty**—My advice is that Telstra receives hundreds of calls each month.

**Senator CONROY**—Each month? What regulatory obligations currently apply to premium SMS providers?

**Mr Quilty**—I think we are looking to introduce an industry wide approach in terms of premium text messaging, so I think we are considering a self-regulatory approach, but we are, if you like, being proactive about that.

**Senator CONROY**—Who has responsibility for enforcing these obligations? Is that AMTA themselves?

**Mr Quilty**—Well, I think ultimate enforcement, if it ever got to that, would be with ACMA.

**Senator CONROY**—Since Telstra has taken on responsibility for advocating its customers' interests with rogue premium SMS providers, does it indicate that the current regulatory regime governing premium SMS is not actually effective, seeing you have actually had to take it up? Do you think it is working?

**Mr Quilty**—I think that what is clear is that in terms of customers there are a significant number of them who are inadvertently getting costs as a result of inadvertently taking up premium services and we have to find ways to reduce that number. I think that at least initially the right thing to do is to work through AMTA and ACIF.

**Senator CONROY**—Notwithstanding a long and difficult day Telstra deserves congratulations for taking this step. I just think it points to a hole where you are being forced to step into something that is actually not your core business and not even your peripheral business, and you are just doing the consumers a favour.

**Mr Quilty**—Yes. I think obviously it is an issue in terms of the regulatory regime but I would not like to say that we think a solution involves further regulation. We think it is the sort of issue that the industry should be able to hopefully solve, possibly with AMTA—



**Senator CONROY**—Are you guys knocking a few heads together at the moment? I mean obviously this is costing your business money where people are working on stuff that is basically nothing to do with Telstra.

**Mr Quilty**—The advice I have was that we are working with AMTA so if we are working with AMTA, yes, that would involve knocking some heads together.

**Senator CONROY**—Good luck.

**Mr Quilty**—Thank you.

**Senator CONROY**—Genuinely I am finished. Thank you very much.

**CHAIR**—Before you go I would like to just thank the witnesses for Telstra for appearing, but on behalf of the committee I wish to put it on the public record that the committee is very displeased about the failure of Mr Burgess to appear before the committee today and we would ask Mr Quilty to convey that to Mr Burgess.

**Mr Quilty**—I will do that, Chairman.

[8.38 pm]

#### **Department of Communications, Information Technology and the Arts**

**CHAIR**—We welcome DCITA to the table and I will ask Senator Lundy to begin the questions. This is output 3.1

**Senator LUNDY**—Thank you. At the last estimates I asked some questions about the future options for a disability equipment provision and I understood that Allen Consulting were doing some work for the department regarding the feasibility of the options for any-to-any communication for people who are deaf or hearing or speech impaired. I wanted to get an update on the status of these consultancy reports as a starting point.

**Mr Bryant**—You are correct, there are two consultancies being undertaken at the moment. One is a review of the provision of disability equipment generally, including Telstra's disability program, but not confined to that. The second is some further work on the concept of an any-to-any connectivity server which would allow provision of information via different kinds of digital equipment across networks. Both those consultancies are nearing completion. I think we have interim reports for both those consultancies and they will be completed this financial year.

**Senator LUNDY**—Let us just deal with the first one, the Allen Consulting review for the provisions of the disability equipment. Is it the intention for that report to provide for recommendations? What is the government's brief to the consultant? What are you looking for them to actually deliver to you?

**Mr Bryant**—I might need to take the full details of that question on notice, because there was quite a detailed brief and terms of reference for the review. I think it would be useful for me to get back to you with the full details plus the intended outcomes. But I think, broadly speaking, it was intended to really do an assessment not just from the point of view of supply but there has been a strong focus on users—

**Senator LUNDY**—Yes.

**Mr Bryant**—and on a lot of reference groups around the country to look at the perception of users, how they are using equipment, the role of new digital equipment, email obviously, SMS, and how that fits with the current supply of disability equipment. So in general terms it is meant to be a fairly detailed scoping of all of that supply of equipment and how people with disabilities are using that equipment out there in the community. But in terms of your specific question I think it would be useful for me to take that on notice and get back to you with a more detailed response.

**Senator LUNDY**—Yes. If you have not already, could you provide the committee with the terms of reference for that particular review?

**Mr Bryant**—Can do, yes.

**Senator LUNDY**—That would be helpful. I am sure it is probably available on the website somewhere. The second one, the any-to-any digital equipment, can you outline the brief for that consultancy?

**Mr Bryant**—Again I might take on notice the full terms of reference. But if I might summarise, I think this consultancy came out of a desire to take a bit further a proposal that came out of an ACIF working group to look at the concept of a disability server placed somewhere on the network to enable provision of information from people with disabilities to other kinds of digital equipment. I guess what we wanted to do was to extend that further into further tests of feasibility looking at international experience but also looking at it to see whether, as technology develops, and as these new digital services develop, there are further options that might prove more cost effective.

**Senator LUNDY**—I think my recollection from one of the Senate inquiries was that a lot of the equipment being used by people with disabilities was very old and very outdated and indeed, as you have said, some of the new digital services actually precluded the use of that equipment or the access of that service by people with certain disabilities.

**Mr Bryant**—I think in terms of the discussions with users it is really clear that people with disabilities are moving to SMS and other services, and that is a big issue for the national relay service as well because we are finding that the volume of traffic on the national relay service is dropping off as people move to digital technologies. That is great because it is better communication for them, but it does present challenges as well in terms of maintaining existing services.

**Senator LUNDY**—Just on that point, one of the complaints, not necessarily just from people with disabilities but also, for example, from older people who have a problem seeing, is about the small numbers and the small buttons on digital handsets, on telephone handsets; is that part of the brief of either of these two consultants reports?

**Mr Bryant**—I think of the former, yes. As you probably know, Telstra does make disability equipment with large buttons and part of our assessment is really to try and find out how widely people are using those kinds of facilities.

**Senator LUNDY**—What about mobile phone handsets with bigger buttons and bigger numbers?

**Mr Bryant**—I do not know. I need to take that on notice to get that kind of detail.

**Senator LUNDY**—If you would not mind. I am just interested. Can you tell me what the budget allocation is against these two consultants' reports and what budget allocation is currently in place for the implementation of any outcomes that the government may decide to implement. I know I am almost in the realms of hypothetical but, if there is a budget allocation to progress the outcomes of these consultancies, I would like to know.

**Mr Bryant**—\$250,000 I think for the two consultancies this financial year. At this stage there is no specific budget allocation to take these forward. It really depends on what comes out of them to some extent.

**Senator LUNDY**—In this budget just gone there was no money earmarked for the implementation of any recommendations.

**Mr Bryant**—No. We do not have any recommendations as yet, so we need to take that forward.

**Senator LUNDY**—Minister, perhaps I am in the area of speculation about what comes next, but there are two consultants' reports relating to disability equipment and any-to-any digital services, and I would like to know, once those reports are received, what the government's timetable is for consideration of any recommendations and any budget allocation against the next stage of implementation.

**Senator Coonan**—My understanding is I do not yet have any advice because it is not yet completed, but obviously the government will have to come to a view when we get some advice on it.

**Senator LUNDY**—Do you envisage that, if there are some recommendations to implement a modified or new program, you would need to wait until next year's budget to get funding for that or would you be able to access funding within the department's existing annual allocation to progress the issue?

**Senator Coonan**—I will just check, but my understanding would be that it would require a fresh funding round to relate to it. The existing allocations in the department would not cover that.

**Senator LUNDY**—Ms Williams is nodding her head.

**Ms Williams**—Yes. Thank you. I understand it.

**Senator LUNDY**—Would it be possible, if the government were so inclined, that that could be done in additional supplementary estimates or would people with disabilities have to wait until next year's budget before they saw this issue progressed?

**Senator Coonan**—I think you would have to look at the timing of the advice and then look at what might be done about it. I would not want to pre-empt how we would respond to it. Clearly the government has got a commitment to ensure that these services are available.

**Senator LUNDY**—Are you expecting these reports to come up with specific recommendations for you to assess and point the way forward?

**Senator Coonan**—I am not sure whether there will be any recommendations, but obviously I will get advice from the department.

**Senator LUNDY**—Is it your intention to make these reports public?

**Senator Coonan**—I would have to see them first. I am not in a position to say one way or the other, but in principle I usually am disposed to making these kinds of reports public.

**Senator LUNDY**—Thank you for that. Chair, that is all I have on that particular issue.

**Senator WORTLEY**—The Telecommunications Low Impactability Determination 1997 permits the installation of mobile towers on existing infrastructure. Is that correct?

**Mr Thomas**—Yes, there is provision through the low-impact facilities arrangements to install radio communications facilities.

**Senator WORTLEY**—Is it the case under the Telecommunications Act 1997 that carriers are not required to seek local council approval to construct mobile transmission equipment as long as it falls within the government's definition of 'minor' as defined by its low-impact determination?

**Mr Thomas**—Yes, that is correct. For low-impact facilities there is an exemption from state and territory government planning arrangements. When it is not a low-impact facility—for example, a tower above five metres in height—there is a requirement to seek approval from state and territory planning arrangements.

**Senator WORTLEY**—Is it also correct then that, in light of the recent High Court decision in *Hutchison v Mitcham City Council*, existing infrastructure is able to be demolished and then built significantly larger in certain circumstances?

**Mr Thomas**—The decision on 6 April by the High Court—you are possibly referring to the Mitcham site—

**Senator WORTLEY**—Yes.

**Mr Thomas**—was to actually reaffirm the existing arrangements under the telecommunications framework. The effect of it in the case of Mitcham was that the stobie pole that was in place was identified as not being a telecommunications tower in terms of the Telecommunications Act 1997. As a result of that decision, the stobie pole remains the responsibility of ETSA and would be subject to state government arrangements for the provision of stobie poles. In that respect, the pole itself does not fall under Commonwealth legislation; it remains the responsibility of state government. Replacement of the pole is a matter for ETSA and the state government planning arrangements.

**Senator WORTLEY**—Would the department characterise this installation as having significant visual impact?

**Mr Thomas**—I am aware of the picture. Certainly the intention of low-impact facilities is to encourage the use of facilities that are not considered to be adverse visually in terms of development. At least in part with that particular facility that you are talking about, visually an aspect of it is the stobie pole itself which is certainly not considered an aesthetic sort of facility.

**Senator WORTLEY**—Is it not the case, though, that the power company replaced the poles at the request of Hutchison so that they could then place their huge mobile phone antenna on top of it and that the replacement structure was enormous compared with the original stobie pole?

**Mr Thomas**—That may in fact be the case, but that would have been a decision for the Electricity Trust of South Australia to undertake rather than anything that was driven through the Telecommunications Act.

**Senator WORTLEY**—Is the result of the *Hutchison v Mitcham City Council* case consistent with the intent of the telecommunications determination of 1997?

**Mr Thomas**—Certainly the High Court decision was consistent with the intent of the legislation. The provisions within the telecommunications framework allow for the addition of a radio communications facility on structures, and that would include structures such as that stobie pole. The decision to actually put the stobie pole there and replace it is an issue for the Electricity Trust of South Australia and I imagine that the Electricity Trust of South Australia would be responsible and driven by the South Australian government's requirements for the provision of electricity poles.

**Senator WORTLEY**—Is this in fact a loophole in the act?

**Mr Thomas**—No, I do not think it is. In this case it is a question of the ability of a utility such as the Electricity Trust of South Australia to replace a pole in accordance with their planning arrangements. All that has happened here is that a telecommunications carrier has used the arrangements of a low-impact facility to place a radio antenna on top of a structure that was put in place through the arrangements of the Electricity Trust of South Australia.

**Senator WORTLEY**—One could hardly call it a low-impact facility.

**Mr Thomas**—Certainly the radiocommunications antenna would have to fall within the dimensions that are outlined in the low-impact facility's determination. The objective of these is to have relatively small antennas. I agree with you that the structure that it is sitting on is significant, but that is not something that is subject to Commonwealth legislation.

**Senator WORTLEY**—Given that this has been allowed to go ahead, is the department considering legislative or regulatory reforms in response to this decision?

**Mr Thomas**—Senator, you would be aware that the minister has met with the local member on this issue. I think it has been reported in the press in a number of cases. We are looking to work with the South Australian authorities to examine what aspects could be put in place to make this a better outcome for people. We appreciate that there is a problem here, and certainly because of the powers that exist in the provision of the Electricity Trust's pole we need to work with the relevant utility in this case as well and we propose to do that. Any broader decision on a review of these things would be a matter for the minister, but in this case it is clear that some involvement from the South Australian authorities will be necessary, because they, in fact, have control of the stobie pole.

**Senator WORTLEY**—What would be the impact of these reforms? Would they be retrospective? What would be the position of the towers already installed in the Mitcham Council area?

**Mr Thomas**—We are considering the issue, as I mentioned. We would need to provide advice to the minister about what different options there might be that we could undertake. As I say, we are investigating the issues, and we are looking to cooperate with the local authorities in this area.

**Senator WORTLEY**—Why did the government not intervene earlier to prevent this kind of practice taking place?

**Mr Thomas**—As I mentioned, this is a decision, in terms of the pole, that is taken by the South Australian government. It is a matter for their consideration. I think the High Court decision simply reaffirms that, that it is a matter for the South Australian government and they would need to consider their particular planning arrangements in terms of the pole itself.

**Senator WORTLEY**—The Local Government Association said that it is gearing up for more 3G towers. Is the department aware of plans for towers such as these in the Mitcham City Council area being erected in other places in the future?

**Mr Thomas**—I am not aware of future installations of this type. We have been talking to Hutchison about this facility and are starting to develop some possible proposals that might be able to assist the people that are affected by this, but I am not aware of any additional sites going up in the near future.

**Senator WORTLEY**—Can the people in this particular council area expect that this issue will actually be addressed, or will they have to accept that that tower is to remain as it currently stands?

**Mr Thomas**—As I said, we will be looking at options from the Commonwealth's perspective as to what we might be able to suggest. We will be engaging with the South Australian authorities to see if they can consider some of their powers, which are very important in terms of the stobie pole itself, to see if they can possibly become part of the way to determining perhaps a better outcome in terms of their planning arrangements. We will be looking at options, as I say, but part of the issue, though, will be with the South Australian government and with ETSA.

**Senator LUNDY**—One of the regular complaints I get about the various roll-outs of broadband is about the way in which the HiBIS scheme is operating and how people register their interest for the HiBIS scheme. Can the department provide me with an update as to the operation of the department's demand register for the HiBIS scheme?

**Ms Forman**—There are currently about 9,000 people on the department's register. I do not know what details you want to know about how it operates.

**Senator LUNDY**—One of the ongoing problems is that people in RIM affected areas will register and there is no solution to their problem unless Telstra chooses to install a MiniMux or a CMUX unit in the RIM. How do you advise people on your register of the various attributes of the network and keep them apprised of what likely action Telstra is to take?

**Ms Forman**—The first thing would be that the register is open to all the providers, so it is not just for Telstra.

**Senator LUNDY**—Are you telling me that Telstra are now opening up their units and allowing competitors to install MiniMuxes in them?

**Ms Forman**—My understanding is the HiBIS demand register—

**Senator LUNDY**—Yes, that is open to competitors. In RIM affected areas, Telstra owns that infrastructure. It is not an exchange. It is basically a grey box with a limited amount of space. It is very difficult for non-Telstra competitors to get access to them. Even though the

HiBIS department's broadband register is open to all carriers to apply for funding to deliver that service, for people in RIM affected areas, other carriers cannot provide a broadband service through the RIM. How do you tell people who register on the broadband register those facts so that they are not misled into thinking that out there someone is looking to compete to provide them with a broadband service?

**Ms Forman**—I will take that on notice so that I can give you a more detailed response.

**Mr Bryant**—The point about competing Broadband Connect providers having access to that demand register is in circumstances where they are providing alternative ways of providing broadband, primarily wireless. There are now 40-odd competing wireless providers under the Broadband Connect scheme. The purpose of that demand register is to get customers in touch with them, and that is probably just as valuable as getting them in touch with Telstra because quite often those smaller providers are not as well known.

**Senator LUNDY**—If you could take the question on notice because we know there are over 800,000 people who are connected via RIMs in this country, but Telstra provides a limited number of ADSL services via those RIMs in some cases, not all cases. Because these RIMs are in outer suburban areas and there is some ADSL access, I am not completely convinced that they are eligible for HiBIS anyway.

**Mr Bryant**—They are. They always have been eligible for HiBIS. The issue is that there is the government's demand register and there is Telstra's demand register. In the circumstance of which you are talking where the solution is a Telstra fix, there has to be a process of working through Telstra's aggregation of demand to bring about a business case to upgrade that RIM with Broadband Connect incentive payments.

**Senator LUNDY**—What is the department doing about making sure that the information about the extent of the use of RIMs and the extent of the provision of the limited ADSL services via a RIM is made available to all of the wireless providers that are competing in that area? I would expect that they could not make a judgment about whether it was a viable business proposition for them to roll-out in that area without that information.

**Mr Bryant**—The most obvious one is the demand register, on which there are 9,000-odd people. That has always been, under our concept for HiBIS Broadband Connect demand register, a primary means for competing providers to get access to customers who are not being properly serviced through existing infrastructure. Beyond that we have processes in place where people who are interested in getting a service can make an approach. We try to publicise, including through our mapping facility, the broad service areas in as much detail as we can of where Broadband Connect providers are competing. That is available to all consumers.

**Senator LUNDY**—Are you able to track the results of HiBIS and particularly what RIM affected areas have now been supported by a wireless service to override that broadband blockage?

**Mr Bryant**—Yes, we can do that.

**Senator LUNDY**—Could you provide me with the details of all the HiBIS funding that has assisted people in RIM affected areas?

**Mr Bryant**—Including through upgrades of the RIMs themselves?

**Senator LUNDY**—Yes, but provided the upgrade of the RIM is genuinely providing a competitive result for customers, as opposed to Telstra choosing to upgrade the RIM and not providing competitor access to it.

**Mr Bryant**—The information we will provide will talk about where there are other providers in those areas plus areas that have been upgraded as a result.

**Senator LUNDY**—From your answer I am guessing that Telstra has been successful in getting HiBIS money to upgrade their RIMs. Can you tell me if Telstra would have received HiBIS money to upgrade a RIM but it was upgraded in such a way that it still does not allow competitor access to the network? Well, you can tell me that now.

**Mr Bryant**—If they have upgraded a RIM to provide ADSL services, they will be providing wholesale ADSL services over that RIM. The next question is, would they provide access to the RIM itself in terms of ULL competitors; I think that is a different story.

**Senator LUNDY**—So, are you using taxpayers' money to upgrade a RIM which allows Telstra to hang onto that infrastructure and the provision of that ADSL service without any other competitor being able to resell on top of that?

**Mr Bryant**—No, I just said the opposite.

**Senator LUNDY**—How would competitors resell through a RIM?

**Mr Bryant**—Exactly the same way as they resell any other ADSL service.

**Senator LUNDY**—But they would not be able to install their DSLAMs in the RIM.

**Mr Bryant**—No, that is the point I made. They can resell the ADSL service; that is a different thing to installing a DSLAM in a RIM which is to provide a ULL service. That is a different story.

**Senator LUNDY**—Could you tell me how many times Telstra have resold an ADSL service via a RIM? I ask that specifically because the number of DSLAMs are so limited in these RIMs that my experience has been it is next to impossible for a customer to be able to request an ADSL service via a competitor, and for that competitor to have Telstra successfully either (a) install a new DSLAM into the RIM, or (b) make an existing DSLAM port available to that competitor. They invariably have to go to Telstra if they want the DSL service through the RIM. It is a very specific question. I do not know whether your records have enough data in them to tell me, but it is a very important question.

**Mr Bryant**—There are two elements. The first is if they upgrade a RIM, do they provide wholesale ADSL services over that RIM? The answer is yes they do. The second part of your question was—

**Senator LUNDY**—That is the reselling.

**Mr Bryant**—Yes, that is right. Do they provide ULL access via a DSLAM at the RIM? That is a completely different story.

**Senator LUNDY**—The answer to that I presume is no?

**Mr Bryant**—I would have to take that on notice. Part of it is technical.



**Senator LUNDY**—It may vary too.

**Mr Bryant**—I think it might.

**Senator LUNDY**—I recall from questions to Telstra that some RIMs cannot carry any ADSL ports because there is no physical space; for others it is possible. So like exchanges, Telstra have been known to use the excuse that there is no physical room in exchanges to keep other competitors' equipment out. In fact, they have even been known to use padlocks on the gate.

**Mr Bryant**—Let me take second part of that question on notice.

**Senator LUNDY**—I guess as a general principle of HiBIS, will you allow taxpayers' money to be spent on network upgrades or equipment upgrades that further secure the network for Telstra's use only, or do you make it a condition that the physical infrastructure that is invested in needs to be essentially at least accessible through the ULL or some sort of access regime?

**Mr Bryant**—In terms of the wholesale conditions that apply to all HiBIS providers, that has not been the case necessarily. We know, for example, that ADSL, which has been the predominant way Telstra has used the program, is provided on a wholesale basis and the ACCC obviously has had an ongoing and abiding interest in that continuing to happen. That has given the government a great deal of comfort in terms of ADSL services. I guess in terms of going forward, I think the minister has made some comments about possibilities for the future that might look at a stronger approach to wholesale access.

**Senator LUNDY**—As a general principle in the application of the HiBIS funding, can you tell me whether or not the government allows the artificial caps on the bandwidth to remain in accordance with the existing product, or whether by virtue of the injection of taxpayers' money that those caps on the bandwidth of products—and again it is the ADSL products, notoriously capped originally I think it was at 256 kilobits or 512 kilobits/one megabyte—have been lifted? Obviously more is available on it in certain circumstances; do you allow the carrier to determine that?

**Mr Bryant**—No, let me explain. There are two elements to that. The first is what is the minimum bandwidth that we will allow a registered service provider and a registered service to provide, and that has been 256. The reason for that is we chose the most popular product in the marketplace and benchmarked off that. Having said that, we also introduced the concept of value add services where an incentive payment is also payable for services that go beyond that. You might be aware that, under the metro broadband scheme, we are now saying that they have to provide not just 256 but 512, because 512 is now becoming the benchmark product.

The other element to your question I think is what do we mean by 256 kilobits per second and 512 kilobits per second because, as we know, it has been on a best endeavours basis. I think under HiBIS and now Broadband Connect, for the first time—

**Senator LUNDY**—And asynchronous in terms of the upload and download.

**Mr Bryant**—Yes. We have actually put a performance measure on what that actually is, so we require an average throughput to be achieved, and that to be tested on a very regular basis,

once a month, through an independent testing facility, and registered providers have to provide that level of service.

**Senator LUNDY**—That is good. How would customers request a test if they think they are getting ripped off?

**Mr Bryant**—All providers have to provide a self-test on their website, and as well as that, of course, providers are automatically tested through our independent testing facility. If customers are dissatisfied with the results of that, we also have a complaints mechanism where customers can ring our 1800 number if they believe that the testing is not accurate.

**Senator LUNDY**—There are 400,000 to 500,000 Australian telecommunications users that are on different types of pair gains systems, not RIMs. A high proportion of them obviously are in rural areas with very old exchanges. I am placing questions on notice to Telstra about their rural exchange upgrade; what monitoring does the department do for the 3,500 odd exchanges that still rely on pretty old technology?

**Mr Bryant**—I think it is probably a question better directed to ACMA, because in terms of the follow up to the RTI report, there has been a process by Telstra, particularly in terms of the quality of certainly dial up services over pair gains but also in terms of voice services and issues around blockages on voice services around pair gains systems as well. There is a whole reporting regime to ACMA that happens as a result of that.

**Senator RONALDSON**—You will not have long to wait to ask ACMA a question.

**Senator LUNDY**—There are also obviously small pair gains in metropolitan areas, and Telstra has a process called transposition of which I am sure you are aware. Again the issue relates to people who are requesting a service through a competitor; the request has to go to Telstra for a transposition. I still get people contacting me from around Australia because the advice they get from the competitor is, 'We can't do it; Telstra have told us not to do it' or the customer themselves contacts Telstra and is told that if they subscribe through BigPond, then they will get their transposition. What can the department do about that, and what level of monitoring do you have on Telstra's response to transposition requests from either competitors or customers?

**Mr Bryant**—We do get complaints along the lines that you have talked about, in terms of representations to the minister and so forth. We approach Telstra; they claim that their processes are entirely open and transparent. That is an issue for the operational separation regime, and I think that kind of issue is being picked up by the operational separation regime. I think Telstra also makes the point that some competing providers elect not to use transposition solutions, and they say—

**Senator LUNDY**—Because it is too difficult to deal with Telstra?

**Mr Bryant**—I will not make any comment on that.

**Senator LUNDY**—No, well, I can tell you, that is why.

**Mr Bryant**—Yes, but I do not think there has been any substantiation of any problem that we have seen.

**Senator LUNDY**—Can you tell me how many complaints you would have received that are transposition related?

**Mr Bryant**—We would have to take that on notice, but a number.

**Senator LUNDY**—Thank you.

**Senator CONROY**—My questions still relate to overview, to be honest.

**Senator WORTLEY**—Minister, do you believe there is a need for regulatory reform regarding the mobile towers that we were talking about in the Mitcham Council area earlier?

**Senator RONALDSON**—Surely, Mr Chairman, that is a policy question, is it not?

**Senator Coonan**—Thank you, Senator Ronaldson; I can actually deal with it. I do think that there needs to be perhaps a slightly more robust process around how this works, because it is quite a complex issue, involving as it does, some state and territory powers. As a result of the Mitcham decision, I have some consultations going on with the mobile carriers looking at the code and trying to ensure that things such as the visual impact on neighbourhoods are minimised. There has been some very useful work, I think even by Telstra who have managed to conceal towers in chimneys and various other things, that were quite effective. So, rather than think about regulatory reform, I will continue this process of consultation and then I will consider the advice that the department gives me in relation to that process.

**Senator WORTLEY**—Would you take on board the advice, and would you apply it as being retrospective with regard to the towers that already exist, if that were the case?

**Senator Coonan**—I doubt very much whether you would be in a position where you could retrospectively affect people's rights that are well defined and have recently been the subject of the decision in the High Court. I do think we need to make sure that the processes around this are robust, and we are working quite closely with affected residents in that particular area of Mitcham as well as more broadly.

**Senator CONROY**—I have one more question about the current negotiations between Telstra and the ACCC regarding the roll-out of fibre to the node network. Is the minister receiving briefings on the progress of these negotiations from the ACCC?

**Senator Coonan**—Is that to me, Senator Conroy?

**Senator CONROY**—I am happy if you want to take it.

**Senator Coonan**—I am not entirely sure whether the department would know all of the—

**Senator CONROY**—I hope they know what you are up to, Minister.

**Senator Coonan**—pieces of information that I receive from the ACCC. Sometimes there is direct contact between the ACCC and me, but the department would not necessarily be aware of private communication being made. But we are generally informed without really knowing every iteration of the negotiations.

**Senator CONROY**—I note your comments recently in a number of forums, including the recent World Congress on Information Technology in Austin, Texas, to the effect that Telstra is rolling out a fibre to the node network. In your speech, you stated:

Australia's largest carrier—Telstra—also has plans to install a fibre-to-the-node network across Australia's major metropolitan cities.

Given that Telstra's stated position to the Australian Stock Exchange is that it will not be proceeding with the roll-out of such a network without regulatory reforms, does that mean that Telstra has backed off on its position?

**Senator Coonan**—It would seem that Telstra have taken a decision—and I think this is something Mr Quilty said earlier on—that they should perhaps explore the existing regulatory regime before pronouncing it incapable of working. I think back in November there was that view of not having tested the regime, and they made that announcement to the Stock Exchange. My impression is that they are now having constructive negotiations with the ACCC, and it appears that Telstra may well have the view that it is now a workable regime capable of giving them regulatory certainty.

**Senator CONROY**—Have they capitulated so much that their roll-out of the FTTN is inevitable?

**Senator Coonan**—I said last November, I think, that I thought Telstra would roll out anyway. But that was my view; it was not based on anything other than the economic imperatives of needing to upgrade the network. Whereas now I think there are some prospects that they will have the regulatory certainty they have said is a condition of the roll-out.

**Senator CONROY**—You noted in a recent doorstop, 'I expect the negotiations will be over in the next few weeks.' Was the minister indicating that this issue would be fully resolved within a few weeks?

**Senator Coonan**—No, what I was meaning to indicate, if I recall correctly, was that the negotiations were proceeding well, and would reach a point where it would be clear as to whether or not this kind of certainty that they had sought was achievable. That will not eliminate or in any way shorten the process of public consultation which, of course, must happen once an agreement in principle is reached.

**Senator CONROY**—So once an in principle agreement has been reached between the ACCC and Telstra would Telstra have to submit an official application for anticipatory exemption outlining the deal in detail?

**Senator Coonan**—Yes.

**Senator CONROY**—That is the actual process?

**Senator Coonan**—Yes.

**Senator CONROY**—Would the ACCC then have to issue a discussion paper on Telstra's submission?

**Senator Coonan**—Yes.

**Senator CONROY**—Would this discussion paper then have to be made available for public comment before the ACCC could officially accept it?

**Senator Coonan**—Absolutely.

**Senator CONROY**—In fact, I understand the ACCC has informed the ASX of this.

**Senator Coonan**—I think that is correct. It would accord with what I think has to happen in these matters.

**Senator CONROY**—How long does the minister anticipate such a progress would take?

**Senator Coonan**—I really do not know. It is a matter of some weeks from the time that the decision is reached in principle. As you have correctly identified, there are some processes to be engaged.

**Senator CONROY**—I wonder if you can help me with this, Minister. The ACCC has to issue a discussion paper.

**Senator Coonan**—Yes.

**Senator CONROY**—Before they can tick off on this.

**Senator Coonan**—That is right.

**Senator CONROY**—How can they reach an in principle agreement? I am intrigued by this concept of in principle agreement when there is a legislative process that is formally required.

**Senator Coonan**—Let me see if I can help you. The principal parties, namely the ACCC and Telstra, need to at least agree on the product, what they are offering and what kind of access undertaking they provide. That is the kind of agreement that has to be reached between the ACCC and Telstra. But that does not mean to say that it is not still subject to a public process and comment.

**Senator CONROY**—Where is the process that you have just outlined in the Trade Practices Act?

**Senator Coonan**—It is what the ACCC does.

**Senator CONROY**—Is it not in the act?

**Senator Coonan**—I do not think it is in the act.

**Mr Bryant**—I think the purpose is to try and narrow down the points of difference so that you can go to a public process with some degree of focus on the real issues and how to go forward. The ACCC's view is that, if Telstra comes up with a special access undertaking entirely in the dark as to their views, the chances of it being successful are that much less.

**Senator CONROY**—Is all of that process that was just described included in your definition of 'a few weeks', Minister?

**Senator Coonan**—Not the entire process. The few weeks was to get to the stage where there is an agreement about a process to go forward.

**Senator CONROY**—Such an official acceptance, after all the other processes described, by the ACCC would be subject to a de novo appeal to the Australian Competition Tribunal, would it not?

**Senator Coonan**—I think that is correct, but how the access undertaking is structured would no doubt constrain the way in which an appeal might be successful. Clearly part of the process that the ACCC and Telstra are undergoing is to give that kind of certainty as to how the access undertaking would be structured.

**Senator CONROY**—Sure, but under the TPA—

**Senator Coonan**—Yes, you are quite right.

**Senator CONROY**—The ACT could take up to six months to hear such an appeal.

**Senator Coonan**—They could, and probably even longer. I do not know.

**Senator CONROY**—You are probably right.

**Senator Coonan**—The point about this is that it does not proscribe the appeal process but these discussions can limit the way in which any appeal could succeed.

**Senator CONROY**—Yes, based on past experience. For example, I think it took up to six months minimum to deal with the Foxtel exemption.

**Senator Coonan**—I am not quite sure. I do not remember all the process. That was a very specific case. It turned on specific facts, and I think even Telstra concede that it is probably unlikely that the kind of principle enunciated in Foxtel is a looming problem in this process.

**Senator CONROY**—An ACT decision could be further appealed to the courts, could it not—the Federal Court, ultimately the High Court?

**Senator Coonan**—You know what is in the act.

**Senator CONROY**—That is correct.

**Mr Lyons**—Decisions of the ACCC would be appealable to the courts under the AD(JR) Act, as would—in theory at least—decisions of the ACT.

**Senator CONROY**—In your experience, how long could we expect an appeal like that to take?

**Mr Lyons**—I would not want to comment on the likely time frame of an appeal.

**Senator CONROY**—It is years, really, is it not?

**Mr Lyons**—It is speculation whether there would be an appeal.

**Senator CONROY**—Are you aware of any appeals that have gone as far as the High Court that have taken less than a year?

**Mr Lyons**—No.

**Senator Coonan**—Certainly it is not as long as under the general regime in the Trade Practices Act.

**Senator CONROY**—No, I will not argue that one with you either, Senator Coonan. Can we really expect a resolution of the discussions between Telstra and the ACCC for months, at best, rather than weeks?

**Senator Coonan**—No, on the distinction that I drew, what I have said is that within weeks we can know whether or not the undertaking can be reached. But we are not suggesting the appeal process is proscribed by this process.

**Senator CONROY**—Telstra has previously stated that it did not believe that the existing anticipatory exemption regime could deliver regulatory certainty for a new network investment without regulatory reform to prevent a reoccurrence of the Foxtel digitalisation scenario. You have previously ruled out such changes. Is that still your position?

**Senator Coonan**—I am not anticipating any major changes to the regulatory regime and the principles that relate to the regulatory regime. If there were to be some minor technical

amendment, it might be something that we would consider. Until there is some demonstrable problem with the regime that does not deliver regulatory certainty, we are not anticipating changing it.

**Proceedings suspended from 9.31 pm to 9.45 pm**

**Senator CONROY**—I have some questions about the recently announced partnership between Austar and Unwired to deliver WiMax broadband service in rural and regional Australia. The minister has warmly welcomed this plan and it appears likely to receive government funding under the Broadband Connect program. Austar have suggested that its proposal would cover 76 per cent of the 1.6 million Broadband Connect eligible Australians. How many Australians would not be able to access WiMax broadband services under this proposal?

**Ms Holthuyzen**—I do not think there is any commitment of expenditure of any money to any particular consortium under Broadband Connect.

**Senator CONROY**—I am just wanting to deal with their claim about how much they are going to cover.

**Mr Bryant**—We have had discussions with that group. They have come to us and we have talked about what they have in mind. Broadly speaking they have a range of options. They have put to us that they could extend their network further or not as far depending on the amount of government funds that are available and depending on the business case as it develops. I have not seen any firm figures.

**Senator CONROY**—From their literature, it appears it would cover 76 per cent of the 1.6 million, which leaves about 400,000 that would not get cover. How many Australians in rural and regional Australia are currently unable to access ADSL broadband?

**Mr Bryant**—Following the HiBIS Broadband Connect program, it is just under one million at the moment. That is one million services in operation; that is not population.

**Senator CONROY**—What average speed are they talking about in this proposal for a broadband service?

**Mr Bryant**—I could not give you the details on that. They are talking broadly up to the level of about two megabytes per second. As the Telstra representatives indicated, a lot of that depends on the architecture of the network and the number of customers.

**Senator CONROY**—Minster, in your recent Australian Telecommunications User Group speech you indicated that applications for Broadband Connect funding would evaluate the scalability of proposals to next generation broadband speeds. Given the Austar alliance's proposal to construct a network providing two megabytes broadband, how does this proposal stack up in the scalability stakes?

**Senator Coonan**—We have not seen it yet. I have not yet published the guidelines for the expressions of interest. Clearly we have to wait and evaluate what formal proposals we get.

**Senator CONROY**—Has the department investigated the future development prospects of WiMax technologies?

**Mr Bryant**—Our research unit keeps a pretty close eye on those issues.

**Senator CONROY**—Would the two megabytes per second broadband service provided by WiMax make broadband based triple play services available?

**Mr Bryant**—I do not want to be specific about any of those conjectures because that was a very broad number that was given to us and we have not seen any detailed proposal. I do not believe there is one, as the process has not begun.

**Senator CONROY**—I am only asking you to comment on the publicly available documentation.

**Mr Bryant**—In terms of triple play with the pay TV component, no, it would not.

**Senator CONROY**—So Australians serviced by this Austar proposal that is publicly out there—that they have put out there, not that you have—would not be able to access broadband based triple play?

**Mr Bryant**—Yes.

**Senator CONROY**—Austar has probably recognised that the roll-out of WiMax would be more expensive than ADSL based broadband—is that correct?

**Mr Bryant**—I am not aware of that.

**Senator CONROY**—Austar have estimated a capital cost of installing WiMax base stations at \$400,000 each, four to eight times the cost of installing ADSL in the exchange, which is around \$100,000 per socket. Does that seem reasonable?

**Mr Bryant**—I cannot comment. We would reserve any comments we have until we saw proposals.

**Senator CONROY**—That is not factual?

**Mr Bryant**—There are a lot of variables.

**Senator CONROY**—Minister, we were talking about your views on the need for changes to the anticipatory exemption regime. I put to you that you had previously ruled out changes and you came back and said, ‘No major changes but possibly some minor ones.’

**Senator Coonan**—If there is some technical small impediment, that might be something that we would consider. I do not want it to be thought that I am suggesting that we would be changing anything in principle or in any major way.

**Senator CONROY**—What would be a—

**Senator Coonan**—I do not know, that is what the process is—

**Senator CONROY**—I do not know any, that is why I am asking.

**Senator Coonan**—I do not know. The process is now engaged in identifying whether or not there are any serious impediments. The government regards the regulatory regime as settled and as sufficiently robust to be able to respond to Telstra’s need for certainty prior to making this investment.

**Senator CONROY**—You have been fairly critical in the past of legislating to facilitate a regulatory exemption for a Telstra FTTN network, have you not?

**Senator Coonan**—Clearly.



**Senator CONROY**—So we should not expect any legislation facilitating a regulatory exemption for a Telstra FTTN network?

**Senator Coonan**—It depends what you mean by ‘exemption’.

**Senator CONROY**—In the past you have said:

If bottlenecks are likely on a new fibre to the node network then any regulatory exemption would ultimately result in a reduction in competition and, potentially, a slow re-monopolisation of fixed line services in Australia.

**Senator Coonan**—Are you referring to Telstra’s proposal for what they were calling a safe harbour?

**Senator CONROY**—Yes.

**Senator Coonan**—I do not agree that Telstra needs a safe harbour to be able to get regulatory certainty; I think you can do it with the existing regime.

**Senator CONROY**—Didn’t the Minister for Finance and Administration, Nick Minchin, in a statement about the government’s plans to privatise Telstra say:

We have the question of the appropriate regulatory environment for Telstra’s plans for a fibre to the node network which are on going and would influence the question of whether we can proceed to a sale this year.

How could the government have decided last week to proceed with the sale of Telstra later this year when, in all likelihood, the issue of an FTTN roll-out will not have been finally resolved?

**Senator Coonan**—I do not know what Senator Minchin had in mind. My interpretation is that when he was talking about a sale he might have been talking about a retail sale. These discussions are going on a very tight time frame. The government is not interested in being pushed towards some artificial deadline at the expense of getting the regulatory matters sorted out, particularly when it affects consumers in the longer term.

**Senator CONROY**—Is the resolution of the future of Telstra’s fibre to the node plans a precondition for the sale of Telstra?

**Senator Coonan**—It depends what you mean by ‘sale’. It would not be a precondition if it were to be transferred to the Future Fund, for example.

**Senator CONROY**—When you said ‘retail’—

**Senator Coonan**—A public offer. We are guessing here. I do not know what you are meaning or what Senator Minchin was referring to there and in what context.

**Senator CONROY**—We have three things that we might then identify: a retail sale, an institutional sale and a shift into the Future Fund. Is it a precondition for all three of those or just one or two of those?

**Senator Coonan**—The government has made no decision as to how they would structure it or specifically as to the timing.

**Senator CONROY**—I am trying to understand whether or not the resolution of the future of Telstra’s fibre to the node plans is an absolute precondition for the sale of Telstra.

**Senator Coonan**—It depends on what you mean by ‘sale’.

**Senator CONROY**—I am asking you what you mean by ‘sale’.

**Senator Coonan**—I have not said it. I am in charge of regulation, not the sale.

**Senator CONROY**—Can a retail sale of Telstra proceed without a resolution of the future of Telstra’s fibre to the node plans?

**Senator Coonan**—It may do. I am not saying one way or the other. My end of this bargain is to get the regulatory matters resolved. They are progressing and they are on course. It is a very tight time frame and the government will obviously come to a decision as to how to structure the sell-down of our remaining shares as we look at these matters. I am not talking about preconditions. It may be that Telstra have said there is a precondition.

**Senator CONROY**—No, this is Senator Minchin. He says:

We have the question of the appropriate regulatory environment for Telstra’s plans for a fibre to the node network which are on going and would influence the question of whether we can proceed to a sale this year.

I am trying to clarify that. Is the resolution of those regulatory issues a precondition for the sale?

**Senator Coonan**—It would influence it; I do not know whether it is a precondition. Clearly Telstra wants to get some certainty around this. That is a reasonable requirement and that is what we are doing.

**Senator CONROY**—Given that Telstra’s planned fibre to the node roll-out will go to only four million homes and businesses in five major capital cities, is there any concern that the acceptance of Telstra’s proposal could result in the creation of a digital divide between the capital cities and the rest of Australia?

**Senator Coonan**—No, we are looking to address that with targeted funding. It is very important that the market does what it possibly can in populous areas where competition thrives, and then you look at where otherwise you might need to ensure that there is appropriate investment and services.

**Senator CONROY**—But Telstra’s fibre to the node network will deliver speeds of 12 megabytes per second across the capital cities. Austar’s proposal to roll out a WiMax network under Broadband Connect will deliver broadband of only two megabytes.

**Senator Coonan**—I do not know whether that is right or not. We have not even settled the terms of the expressions of interest yet as to what will be appropriate ways to look at where there are underserved areas.

**Senator CONROY**—I am only going off WiMax and Austar’s own statements.

**Senator Coonan**—None of us is committed to it. We need to see what it looks like. There needs to be proper and rigorous evaluation of proposals according to expressions of interest and subsequently a tender. It is speculative.

**Senator CONROY**—Would you not consider a scenario in which rural and regional Australia was only able to obtain broadband speeds one-sixth as fast as the capital cities? That would be a digital divide, would it not?

**Senator Coonan**—There is one already, is there not?

**Senator CONROY**—But you would be entrenching a different one.

**Senator Coonan**—We would address it as appropriately as we can and as quickly as you can.

**Senator CONROY**—Do you believe there should be equivalence of service?

**Senator Coonan**—There should be equity. It is not always possible to have absolute equivalence. Certainly there needs to be equity and there needs to be ongoing—

**Senator CONROY**—But the Telstra proposal is only going to—

**Senator Coonan**—There needs to be ongoing attention to delivering equity. That is why we have a National Communications Fund with \$1.1 billion: to make sure that we do not have significant equity issues arising in relation to the delivery of telecommunication services.

**Senator CONROY**—But Telstra's planned roll-out, the one that you are negotiating between Telstra, the ACCC and yourselves, is only going to four million homes and businesses.

**Senator Coonan**—At the moment. That may be pushed out further. With targeted investment you can leverage commercial roll-out and provide weighting if people wish to receive government money or taxpayer funded investment. There are ways in which the government will address these matters when we have more information and clarity around what Telstra actually will do and what other investment is needed in Australia.

**Senator CONROY**—I would like to get the minister's view on the recently announced proposal by eight of the largest telecommunications companies in Australia for the creation of an industry joint venture to construct a national fibre to the node network. As we discussed earlier, you have been spruiking Telstra's FTTN plans in a number of speeches.

**Senator Coonan**—I do not think I have been spruiking it. I have referred to the fact that Telstra have said that they will—

**Senator CONROY**—You gave a speech overseas.

**Senator Coonan**—I do not think I favour Telstra; I refer to all carriers when they have proposals and I commend competition in this area. I think it is a very good thing if people look at what consortia may work for them, what other joint ventures may work for them. I am not running their businesses; I am trying to ensure that we have an appropriate framework for investment for appropriate roll-outs.

**Senator CONROY**—You have the Telstra proposal which you have spoken about in a number of speeches. I have not seen you make reference to what I refer to affectionately as the gang of eight's joint venture proposal. I have not seen you talking about that much.

**Senator Coonan**—I may have. I really do not know. Certainly in a press release I have welcomed it.

**Senator CONROY**—Does the minister agree that infrastructure sharing in the 3G mobile sector has been a positive development in the telecommunications sector?

**Senator Coonan**—This sort of discussion as to what I think is not something that I am going to engage in any further. It is not government policy to be talking about every single possible iteration of the way in which telecommunications operates.

**Senator CONROY**—This is just asking for your comments on an existing piece of infrastructure.

**Senator Coonan**—I am not going to comment. How does this relate to expenditure and estimates?

**Senator CONROY**—We actually ask the questions.

**Senator Coonan**—I am getting sick of this. It is quite appropriate that you continue to ask questions that relate to expenditure and to the estimates.

**CHAIR**—The minister is right. These are estimates: they are related to the budget and to annual reports.

**Senator CONROY**—I asked what her opinion was on an existing infrastructure.

**Senator RONALDSON**—The minister has made it quite clear that it is—

**Senator CONROY**—She is refusing to answer questions. She has made it quite clear.

**Senator RONALDSON**—She is not refusing to answer—

**Senator CONROY**—She is treating the Senate estimates process with contempt. You are a minister and you are too afraid to answer questions at the table.

**Senator Coonan**—I have been sitting here and answering questions for about an hour.

**Senator CONROY**—For about twenty minutes; that is actually your job.

**Senator Coonan**—I have been answering questions as it is appropriate for me to answer them when they relate to matters in the portfolio to do with the possible expenditure. It does not mean that I have to answer every question that you would like to ask about every bit of infrastructure in telecommunications. That is not relevant to the budget or to the report or to estimates.

**Senator CONROY**—What is the government's opinion of the 3G shared infrastructure?

**Senator RONALDSON**—You were getting way off the track before.

**Senator CONROY**—I am not off the track at all. Is the department planning any industry initiatives or forums to facilitate shared infrastructure proposals? When is the department expecting to be able to fulfil a commitment made by the minister on 4 May 2006 that there will be discussions with other interested parties following the current Telstra and ACCC dialogue on an FTNN network? This is a quote from the *Australian* on 4 May:

... and I emphasise that there will be discussion with other interested parties

**Senator Coonan**—I am not aware of that comment.

**Mr Lyons**—That may have been a reference to a discussion by the ACCC with interested parties.

**Senator CONROY**—I do not believe I am verballing the minister. It is about expenditure and about your activities.

**CHAIR**—Let us stick to policy issues instead of personal comment.

**Senator CONROY**—I am trying to stick to policy issues. The minister is refusing to answer policy questions.

**Senator Coonan**—I have not refused to answer an appropriate question in my portfolio—not once. You are wanting to have some discourse about my views about investment in 3G. How is that conceivably relevant?

**Senator CONROY**—To your portfolio?

**Senator Coonan**—No, relevant to estimates, expenditure and operational matters.

**Senator CONROY**—Because you regulate the 3G spectrum.

**Senator Coonan**—But you asked what my views are. What are you talking about?

**Senator CONROY**—Do you agree that infrastructure sharing in the 3G mobile sector has been a positive development in the telecommunications sector?

**Senator Coonan**—What I think about that is totally irrelevant.

**Senator CONROY**—Does the government agree the infrastructure sharing in the 3G mobile sector has been a positive development in the telecommunications sector?

**Senator Coonan**—The government is not going to express a view about that.

**Senator CONROY**—Why not?

**Senator Coonan**—Because I do not have to. It has absolutely nothing to do with budgets or with estimates.

**Senator CONROY**—Managing the spectrum is your job.

**Senator Coonan**—That is not a relevant matter to the budget or to the budget estimates.

**Senator CONROY**—You are that afraid to answer a simple question.

**CHAIR**—We have 48 minutes to go. Let us make it productive.

**Senator CONROY**—I happen to think that asking questions about telecommunications infrastructure in this country is a productive use of my time.

**CHAIR**—Just ask questions that relate to the budget or to annual reports; they are the two subjects.

**Senator CONROY**—These are matters that all come up in annual reports. The minister and her department administer spectrum. 3G is a spectrum issue.

**CHAIR**—It is really not a financial issue. Ask financially based questions.

**Senator CONROY**—No. I do not have to ask financially based questions. You can take it up with the Clerk of the Senate if you think I have to ask the questions you tell me to ask.

**Senator Coonan**—It does not relate to any item of proposed expenditure.

**Senator CONROY**—Annual reports cover more than just expenditure.

**Senator Coonan**—Where in the annual report does it entitle you to ask what the government thinks, whether it is good or bad? You said, ‘Do you think 3G infrastructure sharing is good?’

**Senator CONROY**—Most people think it is a good thing. The industry thinks it is a good thing.

**Senator Coonan**—You take me to the report. Why ask about it? The point about it is that this just shows that these estimates go off on a tangent.

**Senator CONROY**—Are you that afraid to answer questions?

**Senator Coonan**—You are a one-trick pony. You just do not have any response when somebody challenges you about the total abuse of estimates when you go off on a tangent and do not deal with what estimates is all about.

**CHAIR**—Get on with some relevant questions.

**Senator Coonan**—If you wanted to ask about the ACCC and about negotiations, that would all be perfectly appropriate. But if you want an opinion about every other bit of infrastructure, that is not appropriate.

**Senator CONROY**—This is the departmental part of the estimates. What is the financial implication of the ACCC?

**Senator Coonan**—You were asking about the sale of Telstra, about the regulatory impact and about the progress of negotiations. I have answered.

**Senator CONROY**—You said I should only ask questions about financial.

**Senator Coonan**—You should stick to the budget and the estimates.

**Senator CONROY**—Where is the regulatory framework in the budget?

**Senator Coonan**—That is expenditure.

**Senator CONROY**—Where is the reference to it?

**Senator Coonan**—The ACCC's operations are funded through the budget.

**CHAIR**—This is a complete waste of time. Cool it, calm down and get back to asking questions on the subject of these estimates, which is basically financial.

**Senator CONROY**—It is not basically financial at all. Do not mislead the parliament. Stop being such a biased chair.

**CHAIR**—The purpose of these estimates is to examine the—

**Senator CONROY**—The annual reports.

**CHAIR**—We have wasted seven minutes which you could have spent in asking productive questions. At the end, at 11 o'clock, you will have a lot of questions to put on notice which you could have actually asked.

**Senator CONROY**—You should not cover up for a minister who is too scared to answer questions.

**CHAIR**—I would ask you to just get on with the business of these estimates.

**Senator RONALDSON**—Have you run out of questions?

**Senator CONROY**—I have thousands of questions, but it is apparent that they have to be approved by the chair, you and the minister. Otherwise she is going to refuse to answer them. She is going to sit at the table and refuse to answer questions about her portfolio.

**CHAIR**—I am sure the minister will accommodate.

**Senator CONROY**—I asked a question to the department about a quote of the minister's in the newspaper.

**CHAIR**—We will have a 10-minute break.

#### **Proceedings suspended from 10.15 pm to 10.25 pm**

**Senator CONROY**—I was just asking the department when it was expecting to be able to fulfil the commitment made by the minister on 4 May 2006 that there will be discussions with other interested parties following the current Telstra ACCC dialogue on a FTTN network. The quote I was reading from was in the *Australian* on 4 May 2006. It says

... and I emphasise that there will be discussion with other interested parties.

**Mr Lyons**—We have taken that to mean discussion by the ACCC with the interested parties.

**Senator CONROY**—I took it to mean the department would talk to other interested parties.

**Mr Lyons**—We would not be talking to interested parties about Telstra's proposals that they are putting to the ACCC, and the ACCC are consulting with other parties as part of a natural justice process.

**Senator CONROY**—They are not going to get much justice, but I accept your point. Has the minister considered the introduction of legislation to facilitate the creation of such an industry joint venture?

**Ms Williams**—We do not understand the question.

**Senator CONROY**—Has the minister considered the introduction of legislation to facilitate the creation of such an industry joint venture as is being talked about by the gang of eight, as I call them.

**Ms Williams**—No, we do not.

**Ms Holthuyzen**—No.

**Senator CONROY**—Minister, is it something to consider?

**Senator Coonan**—No, I do not think so—certainly not now.

**Senator CONROY**—Certainly not now, did you say?

**Senator Coonan**—'Not yet,' I should say.

**Senator CONROY**—Given that the minister seems so keen on consortiums in rural and regional Australia to increase the scale of network investments, why would you not support a joint venture to roll out the fibre to the node?

**Ms Williams**—The whole issue of where this is going is still open to question. The EOI process, as you know, is being considered. It is very hard to jump in and look at the kinds of questions you are asking at this point.

**Senator CONROY**—I am just going off the minister's previous comments on consortiums—I will read them:

A consortium approach that builds scale and combines the strengths of different industry partners is attractive. Already we have seen some partnering on the roll out of next generation infrastructure.

Most notably this has occurred in the roll-out of the 3G networks and the partnerships on infrastructure between Optus and Vodafone; and Telstra and Hutchison.

Elsewhere, Soul Converged Communications has partnered with Country Energy to lay fibre as part of its whole-of-government broadband contract in NSW.

The attractiveness of this approach is that it delivers both competition from a retail perspective and scale and sustainability on the infrastructure side.

Given the support that has been expressed there, why does there appear to be no support for a joint venture approach to the roll-out of fibre to the node?

**Ms Holthuyzen**—At the end of the day these are commercial matters. The consortium you referred to are the consortium that have come together under their own commercial means.

**Senator CONROY**—In the minister's speech to the ATUG regional conference she stated that the public consultation process for Broadband Connect:

... has reinforced my own view that in relation to the \$878 million Broadband Connect program, continuing to rely solely on a per-service incentive payment approach will not likely be the most effective way to achieve our long term access objectives.

**Senator Coonan**—Per subsidy, it was.

**Senator CONROY**—I congratulate the minister for adopting Labor's policy to adopt a national plan for broadband—

**Senator Coonan**—You must be kidding.

**Senator CONROY**—to internationally benchmark Australia's broadband performance and to conduct an audit of Australia's broadband infrastructure, all of which you announced last week. When did the minister form the view that the HiBIS model was failing to deliver new infrastructure for rural and regional Australia?

**Senator Coonan**—I have not formed the view that HiBIS was failing. It may well have reached the limit of its capacity to do what it has done extremely well, and there is an opportunity to look at new ways of spending this money that will deliver an outcome that will scale up to next generation. HiBIS has been extremely successful. I announced the continuation of HiBIS for the next year. I also said, if I recall correctly, in that speech that there may be some need to continue the program right over the life of the funding cycle, otherwise it may not be possible to deliver some of the outcomes that we are seeking with the expenditure of this money, such as where you still need satellite.

**Senator CONROY**—Thanks for that. In the past the minister has said that guidelines for Broadband Connect would be out before 1 July 2006. However in the minister's speech to



ATUG she indicated that a tender process for Broadband Connect would be issued in the second half of the year. Why is the government simply rolling over the incentive based HiBIS style scheme to the next financial year when the government has previously stated that it would dramatically change the guidelines of Broadband Connect before July of this year?

**Senator Coonan**—I have just answered that.

**Senator CONROY**—The Broadband Connect package was announced in August of last year and has it taken almost 18 months to determine how the funding for the program should be spent.

**Senator Coonan**—I do not think that is quite correct. We are about to have expressions of interest, and then there needs to be a tender. In the meantime the HiBIS program is running.

**Senator CONROY**—The speech mentions developing this broadband blueprint through the Online Council and seeking financial support from state and territory governments to extend the benefits of this investment across regional Australia. Did you contact your state government counterparts about this new approach before the speech?

**Senator Coonan**—The speech said it seeks to leverage so that there is not unnecessary duplication. The approach was discussed in concept at the last Online Council and it will be continued at this Online—

**Senator CONROY**—Did you discuss plans for a broadband blueprint at the Online Council in August of last year?

**Senator Coonan**—I do not know what it was called, but the concept is exactly the same. What we have discussed is making sure there is an overarching approach to this. The states have said they want a share of this money and they want to be consulted in relation to some of their own initiatives. There are opportunities to leverage what they are doing and ways that it can be spent very effectively. It has all been discussed.

**Senator CONROY**—Was it agreed at that meeting to which you are referring that the states would not have to contribute financially to the Broadband Connect program?

**Senator Coonan**—No, it was said as part of the last Online Council that it was not the case that it involved financial contributions. Clearly, if you are going to leverage money that the states are already spending, that is something that can be connected to how you get the biggest bang for everyone's buck out of Broadband Connect and what the states are doing.

**Senator CONROY**—I just want to clarify to make sure I understand: you are not asking for any new money from the states?

**Senator Coonan**—I am not going to be pre-empting how this all rolls out, because we have not yet got the full design of Broadband Connect. I do not want to pre-empt how it will go. I have said that it does not necessarily mean that the states will not get any money unless they also put money in. There are some opportunities to leverage from what the states are already planning to do.

**Senator CONROY**—Did you actually contact your state government counterparts about this new approach before your speech?

**Senator Coonan**—It is not a new approach.

**Senator CONROY**—Telecommunications is a federal responsibility under the Constitution—is that that right?

**Senator Coonan**—Senator Conroy, really.

**Senator CONROY**—Do you not know?

**Senator Coonan**—Do you not know?

**Senator CONROY**—I am just checking with you.

**Senator Coonan**—Dear, oh dear.

**Senator CONROY**—I assume you do not know.

**Senator Coonan**—I assume you do not know.

**Senator CONROY**—It is, just in case it is a bit late for you.

**Senator Coonan**—Why ask a silly question like that?

**Senator CONROY**—I am trying to work out why you are trying to now force the responsibility for telecommunications funding on to the states.

**Senator Coonan**—I am not.

**Senator CONROY**—If, as you have said in the past, the fibre to the node network is a natural monopoly, why do you want to subsidise competitive infrastructure?

**Senator Coonan**—What are you talking about?

**Senator CONROY**—In your previous comments on competitive infrastructure you have said that it stimulates:

... the development of a competitive wholesale access network in regional Australia that will provide a broad basis for ongoing infrastructure-based competition in regional Australia.

You added that a consortium approach—

**Senator Coonan**—I cannot understand you. Can you go a bit slower?

**Senator CONROY**—I appreciate that it is late and we have all had a long day. In your previous comments on competitive infrastructure you said that it stimulates:

... the development of a competitive wholesale access network in regional Australia that will provide a broad basis for ongoing infrastructure-based competition in regional Australia.

You added:

A consortium approach that builds scale and combines the strengths of different industry partners is attractive.

Broadband Connect, according to some industry players and even Telstra, seems to be subsidising competitive infrastructure. Is it your intention for Broadband Connect to subsidise competitive infrastructure?

**Senator Coonan**—No, commercial infrastructure can be leveraged into underserved areas. The government's intention is to apply subsidies to underserved areas where otherwise you would not get these services but there can be some leveraging from it.

**Senator CONROY**—But you said the objective of Broadband Connect is to ‘stimulate the development of a competitive wholesale access network in regional Australia’. Now you are suggesting that they can use a subsidy to leverage into other areas, so there will be cross-subsidies.

**Senator Coonan**—No, it is not a cross-subsidy.

**Senator CONROY**—I am just trying to understand what you are actually saying, so please help me.

**Senator Coonan**—It is a very good thing that there is a competitive wholesale network, but I really want to wait until we have got expressions of interest which can clearly delineate the government’s objectives in relation to the Broadband Connect money. Out of the expressions of interest, some commercial operations will obviously do what the market will do. Then you want to encourage them to roll out into areas where it is underserved. The expressions of interest will clearly set out the government’s objectives, but very clearly the government’s objectives are not to subsidise where there is competition that will deliver the necessary services.

**Senator CONROY**—If it is a natural monopoly, why would you want to subsidise the competitive network?

**Senator Coonan**—If what is a natural monopoly?

**Senator CONROY**—The area you are talking about, some of these regional areas. I am trying to understand what you are trying to do. Given there is nothing written—

**Senator Coonan**—You need to wait for the expressions of interest, which will clearly set out these objectives, and then you will not be confused.

**Senator CONROY**—I would not be confused if it were not taking 18 months. Can I just clarify one thing that I am trying to understand: did you say you were going to seek expressions of interest before you put out the guidelines, or was it the other way around?

**Senator Coonan**—Expressions of interest and then obviously from that process there will be the guidelines.

**Senator CONROY**—How would the roll-out of a large-scale competitive infrastructure across Australia impact on Telstra’s universal service obligations?

**Senator Coonan**—The universal service obligation relates to a very limited range of services.

**Senator CONROY**—You do not think it would have any impact?

**Senator Coonan**—The universal service obligation is assessed in proportion to the market, so it could be adjusted. The universal service obligation relates to some very clearly defined services.

**Senator CONROY**—If consumers have access to multiple networks, it seems odd to single out Telstra as the only carrier required to provide a standard telephone service to all Australians.

**Senator Coonan**—Firstly, it is a matter of who can provide that service. Secondly, Telstra is paid to provide the service in proportion to carrier’s share of the market. The current

subsidy is in the order of \$70 million per year. I think it goes for another couple of years. As technology changes you might well look at a very different model for the USO. During the currency of this particular USO it is unlikely that there would be a disagreement; it goes for three years and there are two to go. I doubt whether anything would have impacted on it in that time frame, and by that stage there is a review to look at all of these sorts of issues as to how that service can be fairly provided.

**Senator CONROY**—How would the large-scale roll-out of competitive infrastructure affect the rationale for Telstra's access obligations? The rationale for imposing access obligations on infrastructure is to facilitate competition where infrastructure is to facilitate competition where infrastructure is uneconomic to duplicate—is that not the case?

**Senator Coonan**—Are you talking about fibre to the node?

**Senator CONROY**—I am talking about—

**Senator Coonan**—Because there is a suggestion that as Telstra rolls out fibre it is going to pull up the copper and there needs to be access to the bit stream for competitors or there would not be any competition.

**Senator CONROY**—That is fine, thanks, Minister. I have a number of questions about the CDMA switch-off working group formed by the government. How many times has this working group met to date?

**Mr Thomas**—The working group has met twice, on 17 February and 17 March. There is a further meeting planned for early in June, the date of which we are now finalising.

**Senator CONROY**—What issues have been raised in these working group meetings?

**Mr Thomas**—We have been looking at a range of issues consistent with the minister's press release of 13 February which talked about the working group considering how Telstra will replicate the quality and coverage of its CDMA network with 3G, details of the planned trials of the 3G network and the continuing role ACMA will play in evaluating the performance of the 3G network, including monitoring of quality and coverage. The sorts of issues that we have been looking at are the implementation timetable, the process that Telstra is going through from this point in time through to the shut-off date in January 2008. We have been looking at the issue of the coverage between the existing CDMA network and the proposed 3G network and some technical issues to do with the operation of the new system. We have also been looking at some of the legal issues associated both with the existing licence agreement and with the current CDMA contracts that exist for government funded towers.

**Senator CONROY**—Has the working group provided any advice to the government yet?

**Mr Thomas**—The department has been keeping the minister informed about the previous meetings. We have been working together to produce some reports since the 17 March meeting. We are hoping to provide advice to the minister very shortly on the coverage issue in particular and how ACMA will be dealing with that issue.

**Senator CONROY**—Telstra is rolling out the network now, I understand.

**Mr Thomas**—That is right.

**Senator CONROY**—If the working group does not move quickly Telstra will already be well into its migration and it will be too late to ensure that consumer issues are addressed. Are you concerned about that?

**Mr Thomas**—No, I do not think so. The network is being rolled out at present. The plan is that through Telstra it will be in place late 2006 or early 2007. We will be monitoring the process well into 2007 to see that the coverage areas are in fact meeting the public claims of Telstra that there will be equivalent coverage. At that time, if issues arise, we will be notifying Telstra in that process. There may be the issue, for example, of network infill of different sites to improve coverage. These sorts of issues can be examined through comparison of the existing CDMA network and the new 3G network, which will be operating side by side at that time.

**Senator CONROY**—Will the report or the advice of the working group be made public?

**Mr Thomas**—That will be a matter for the minister. We will be providing the minister with advice on this issue and that will be a matter for her to decide.

**Senator CONROY**—Minister, will the advice be made public?

**Senator Coonan**—I have not even seen it yet, so I do not know.

**Senator CONROY**—I thought it was more of a principle question.

**Senator Coonan**—It is not. The objective here is to ensure that consumer interests are looked after and that there is appropriate coverage—that is my main concern. Whether or not a report is going to help anyone I do not know, but I will consider it when I get it.

**Senator RONALDSON**—Mr Thomas, is Telstra unequivocally rolling out?

**Mr Thomas**—Yes. That was certainly consistent with their public statements by Mr Trujillo in the past. They have made some very strong statements.

**Senator RONALDSON**—The pressure is very much on them, having made that very public commitment.

**Mr Thomas**—Yes.

**Senator RONALDSON**—Is yours a monitoring role?

**Mr Thomas**—Yes. You would appreciate that this is a commercial undertaking for Telstra, which we welcome. It is their system to roll out, but through the working group we are looking at a close monitoring role to ensure that their public statements are in fact assessed through the process.

**Senator RONALDSON**—Ultimately, presumably, it will rise or fall on them maintaining their commitment.

**Mr Thomas**—That is correct.

**Senator CONROY**—What role will the ACCC play in the 3G transition process?

**Mr Thomas**—That would be a matter for the ACCC to determine.

**Senator CONROY**—Are they part of the working group?

**Mr Thomas**—No, they are not part of the working group. The working group is just DCITA, ACMA and Telstra.

**Senator CONROY**—The government's process for the phase-out of the AMPS process involved industry representatives from a number of mobile carriers—is this correct?

**Ms Holthuyzen**—I do not know. We would have to take that on notice.

**Senator CONROY**—Okay.

**Mr Thomas**—I understood it did.

**Senator CONROY**—Does the CDMA switch-off working group include similar industry representatives?

**Mr Thomas**—No.

**Senator CONROY**—Consumer representatives?

**Mr Thomas**—No.

**Senator CONROY**—Who is actually sitting around the table?

**Mr Thomas**—DCITA, ACMA and Telstra are sitting around the table in the working group.

**Senator CONROY**—Has the working group examined the range of handsets and other devices that will be available to consumers?

**Mr Thomas**—The issue of handsets is being considered. In earlier meetings we have talked about the issue of handsets. As I mentioned, we are looking at some technical issues, and I anticipate this will come up at a later date.

**Senator CONROY**—Has the working group examined whether there are external aerials available for the 3G network?

**Mr Thomas**—Again, this will be part of the comparison that we look at further down the track.

**Senator CONROY**—Will the government be embarking on an awareness campaign informing users of their rights and how to raise coverage complaints or other issues?

**Mr Thomas**—There has been no decision taken on that.

**Senator CONROY**—For the analogue mobile network closure are there any plans by the government to have an extensive awareness campaign and also to regularly survey consumers?

**Mr Thomas**—There are no plans for that at this stage.

**Senator CONROY**—How will customer complaints about the coverage of the new 3G network be resolved? What mechanisms are going to be put in place?

**Mr Thomas**—We have talked about the issue of consumer involvement. Telstra, in particular, as has been mentioned earlier today, are very cognisant of the fact that this is their customer base, and they are very keen to make sure that customers are dealt with very well and maintained in an appropriate way. They are considering interaction with customers towards the end of the phase, the transition from the CDMA network to the 3G network. It is

something that will definitely come up in the working group, which I anticipate will be mostly next year, once the network is put in place.

**Senator CONROY**—Who will be responding to issues that are not adequately resolved by Telstra?

**Mr Thomas**—We would have to identify the particular issues. If there were an issue of coverage, we would be looking at identifying these failures in the coverage compared to Telstra's public commitments. In the first instance we would be making them aware of that through the operation of the working group and through advice that we would be providing to government. If there were other issues, perhaps to do with consumer complaints, we would have to assess that at the time. I think there is a significant difference between this system coming into operation through a commercial decision of Telstra and the previous AMPS closure, which was a government decision. There is a slight difference in the approach as to how consumers will be responded to in this process.

**Senator CONROY**—Will the government be surveying users before and after the roll-out of the 3G GSM 850 network to determine the current level of coverage to ensure this coverage is replicated?

**Mr Thomas**—This is a very important issue to us. The benchmark of the existing CDMA coverage is obviously a critical issue. One of the pieces of advice we are looking to provide the minister with in consultation with ACMA very soon is an assessment of the current CDMA coverage. As you would be aware, the information on CDMA coverage comes from Telstra itself; we recognise that there is an issue here. We have been talking to ACMA about conducting statistically valid audits of elements of the CDMA coverage to ensure that the information we are receiving from Telstra on this issue is valid and accurate. So we are looking at putting in place a program through that in consultation with ACMA. You would appreciate that we could not do an audit of the entire network; it would be enormously costly. We are looking at, if you like, a survey.

**Senator CONROY**—Regarding establishment of the actual real CDMA coverage, the department has a map information spatial database that stores coverage information from the mobile operators. Would this be a good tool to build on to determine existing CDMA coverage?

**Mr Thomas**—Certainly we will be using all of the department's resources. As you are aware, the department has some excellent mapping services and that will feed into our processes as well. In addition to that, as I mentioned, we will be using ACMA services through their engineers, and conducting audits of Telstra's claimed coverage as well. There are a number of different avenues that we will be going down to ensure that we do get an accurate benchmark to start with in terms of the point at which we make the comparison with the new network.

**Senator CONROY**—Could a consumer survey asking where consumers receive coverage now be used to update this database to assist Telstra in identifying the real extent of coverage they need to provide?

**Mr Thomas**—I would wonder about the ability to be confident about the points of coverage if it was offered to people to phone in, for example. There might be fortuitous

coverage on a particular day; there might be issues to do with handsets or with car kits. It would be difficult to verify the accuracy if, for example, we were just to ask all consumers whether they had coverage at a particular point.

**Senator CONROY**—Wouldn't such an approach of talking to people beforehand be far better than handling complaints after the event?

**Mr Thomas**—I think it would be better to conduct a survey in a technically consistent way to ensure that the coverage maps we have can be relied upon as being driven by a set of standards that we could therefore be confident on in terms of the mapping, rather than relying on a number of variable factors from individual consumers in different places, which could result in considerable variation in the maps. I will take that view on board. I can put it up as an idea to the working group at our June meeting.

**Senator CONROY**—Thanks.

**Senator RONALDSON**—I assume the dynamics of this are totally different to the analogue debacle in relation to timing, alternative technology et cetera.

**Mr Thomas**—The 3G network certainly will be able to have the same coverage range as CDMA. Hopefully the transition would be much smoother than what occurred in the AMPS closure. As we have to go through this process, that is yet to be confirmed, though.

**Senator CONROY**—How will the government measure the performance of the new network?

**Mr Thomas**—It is taking the same sort of approach we are with the benchmarking of the CDMA network. We will be involving ACMA with the process of auditing the coverage areas, and we will be assessing the material that will be coming in from Telstra as they run their trials. Effectively, during their trials they are going to be running both networks concurrently, so you will be able to see the areas that they go out and identify as potential gaps. That is what we are hoping to do.

**Senator RONALDSON**—Earlier in the year at estimates Senator Conroy, I think, asked a question about there not seeming to be any commercially available handsets. But, from recollection, so many hours ago we were told by Telstra that there are now compatible commercially available handsets. Is my recollection of the evidence right?

**Mr Thomas**—Yes.

**Senator RONALDSON**—Does that accord with your understanding?

**Mr Thomas**—We have not investigated the issue of handsets yet. Our approach to this is to consider that this is an issue that we will be looking at later in the operation of the scheme. As Telstra mentioned today, on a month by month basis there are changes in the handset market. We think to take an assessment at this point may not be fair on Telstra in terms of their operations. Certainly Telstra made the point, and have been making it at the working group, that the availability of handsets is increasing at a rapid rate. They have also indicated that prices are coming down.

**Senator RONALDSON**—Is that part of this working group discussion?



**Mr Thomas**—It will be part of the technical assessment we are going to have to do in this. We are looking at potential impact on all users, which would include the availability and use of handsets.

**Senator CONROY**—Do I understand that it was a condition of government funding of mobile towers that Telstra offer other mobile companies roaming onto these sites? Given the technology will now change and that roaming will be of interest to other companies, will the government insist on Telstra making this offer again?

**Mr Thomas**—That is an issue that would have to be addressed later on. At the moment we are focused on the technical aspects of the network. Issues to do with roaming and other issues will have to be assessed, probably through the ACCC processes, later on.

**Senator CONROY**—But this was a government condition previously.

**Mr Thomas**—My understanding of the CDMA contracts—and I might need some colleagues who are more closely involved in this than I to tell me about this—is that the contractual relationship referred to an encouragement to offer roaming developments and roaming availability to other networks. I might defer to my colleague, Dr Hart.

**Dr Hart**—As Brenton says, the requirement was that the carrier should make an offer of roaming. That was the condition of the successive CDMA contracts.

**Senator CONROY**—My question was: will the government insist on Telstra having to make a similar offer?

**Mr Lyons**—That is an issue we will consider looking at at the changeover to the CDMA funding agreements to reflect the 3G technology.

**Dr Hart**—It is usually an issue which is determined as part of contractual negotiations.

**Senator CONROY**—I am just looking for an indication of whether the government intends to do what it did last time, that is all. Minister?

**Senator Coonan**—I will obviously take some advice about it, but I would think, in principle, we would be interested in providing roaming.

**Senator CONROY**—Given the significant ongoing community concern on this issue, will the minister support a public inquiry into the transition from CDMA to 3G so some of these issues can be fleshed out or put to bed?

**Senator Coonan**—Certainly not now. I want to get some advice as to some of the technical and other issues that the working group are working through, and I will take a decision then as to what, if anything, else is necessary.

**Senator CONROY**—You do not think it would be helpful for some of these issues to be discussed and debated in a public forum?

**Senator Coonan**—I do not think it is helpful for everybody to be walking all over each other until we have at least sorted out some of the very complex technical requirements, particularly issues to do with handsets. There is clearly going to be a quite legitimate consumer interest in this, and how it is handled is something to which I will direct my attention when the working group has progressed a little further. Telstra is working

cooperatively now with the working group. I have every confidence that I will get some advice that will enable me to make a considered decision about it.

**CHAIR**—We have reached our closing time. If you have further questions, perhaps they could be put on notice. I thank the witnesses, the officers and the senators.

**Committee adjourned at 11.02 pm**