



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON ENVIRONMENT,  
COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE  
ARTS

ESTIMATES

**(Supplementary Budget Estimates)**

MONDAY, 30 OCTOBER 2006

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE**

**STANDING COMMITTEE ON ENVIRONMENT, COMMUNICATIONS,  
INFORMATION TECHNOLOGY AND THE ARTS**

**Monday, 30 October 2006**

**Members:** Senator Eggleston (*Chair*), Senator Bartlett (*Deputy Chair*), Senators Lundy, Ian Macdonald, Parry, Ronaldson, Webber and Wortley

**Senators in attendance:** Senators Allison, Bob Brown, Conroy, Eggleston, Fierravanti-Wells, Lundy, Ian Macdonald, Parry, Ronaldson and Wortley

**Committee met at 9.07 am**

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

**In Attendance**

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

**Department of Communications, Information Technology and the Arts**

**Executive**

Ms Helen Williams AO, Secretary

Ms Fay Holthuyzen, Deputy Secretary, Infrastructure and Access

Dr Rod Badger, Deputy Secretary, Strategy and Content

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, HR and Communications

Mr Tim Cornforth, Manager, Regional Network Management Unit

**Finance and budgets**

Ms Jennifer Gale, Chief Financial Officer

**Infrastructure and security**

Mr Col Lyons, Chief General Manager, Infrastructure and Security Division

Mr Philip Mason, Acting General Manager, Networks Competition Branch

Mr Simon Bryant, General Manager, Broadband Infrastructure Branch

Mr Ashley Cross, General Manager, Security Branch

**Access and consumer**

Mr Keith Besgrove, Chief General Manager, Access and Consumer Division

Mr James McCormack, General Manager, Broadband Development Branch

Mr Brenton Thomas, General Manager, Networks Operations and Spectrum Branch

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Mr Rohan Buettel, General Manager, Consumer and Shareholder Branch  
Mr Richard Desmond, Manager, Postal and Shareholder Section  
Ms Caroline Greenway, International Branch

**Content and media**

Dr Simon Pelling, Acting Chief General Manager, Content and Media  
Dr Bernard Keane, Acting General Manager, Media Industries  
Mr Simon Cordina, General Manager, Digital Content  
Ms Trish Barnes, Acting General Manager, Digital Broadcasting

**Strategic, development and regional**

Dr Beverly Hart, Chief General Manager  
Mr Philip Allnutt, General Manager, Indigenous Communications  
Mr Lindsay Barton, General Manager, ICT Development  
Mr Tom Dale, General Manager, Strategy Branch  
Ms Liz Forman, General Manager, Regional Branch

**Australia Post**

Mr Michael McCloskey, Corporate Secretary  
Mr Rod McDonald, Group Manager, Human Resources  
Mr Don Newman, Manager, Network Infrastructure  
Mr Michael Tenace, Group Financial Controller  
Ms Elizabeth Button, Group Manager, Retail Channels and Infrastructure  
Mr Matt Pollard, Manager, External Relations  
Ms Catherine Walsh, Manager, Employee Relations

**Australian Communications and Media Authority**

Mr Chris Chapman, Chair  
Mr Chris Cheah, Full-time Member  
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 Reporting  
Mr Marcus Bezzi, General Manager, Legal Services  
Ms Dianne Carlos, General Manager, Corporate Services  
Mr Paul White, Executive Manager, Industry Performance

**Australian Broadcasting Corporation**

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

**Special Broadcasting Service Corporation**

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

**CHAIR (Senator Eggleston)**—I declare open this meeting of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts. These are supplementary estimates, and the agencies heard during these estimates are only those which have been nominated by various senators. The Senate has referred to the committee the particulars of proposed expenditure for 2006-07 for the portfolios of Communications, Information Technology and the Arts and Environment and Heritage together with certain other documents. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee has fixed Friday, 15 December 2006 as the date for the return of answers to question on notice.

Senators are reminded that written questions on notice to those agencies or divisions nominated to appear at this round of supplementary estimates should be provided by the close of business this Tuesday. These are supplementary budget estimates. Agencies heard during these estimates are only those that have been nominated by various senators. The committee's proceedings will begin with the examination of the Communications, Information Technology and the Arts portfolio, commencing with the Special Broadcasting Service. 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 all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee.

The Senate, by resolution in 1999, endorsed the following test of relevance of questions at estimates hearings—that is, any questions going to the operation or financial positions of the departments and agencies which are seeking funds in the estimates are relevant questions for the purposes 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 also resolved that an officer of the 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 are adopted.

If a witness objects to answering a question, the witness should state the grounds upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the grounds which are claimed. Any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for the claim.

I welcome Senator the Honourable Helen Coonan, Minister for Communications, Information Technology and the Arts, and portfolio officers. Minister, do you wish to make an opening statement?

**Senator Coonan**—I have no opening statement.

**CHAIR**—We will proceed down the agenda.

[9.11 am]

### Special Broadcasting Service Corporation

**Senator CONROY**—I would like to start with the decision of SBS to introduce what it calls a ‘new program-break structure’. On 1 June SBS announced that it would introduce a new policy that would see ads routinely placed within programs. When was this policy implemented?

**Mr Brown**—The policy is in the process of being implemented. Some programs adopted the new break structure early this month, but it will not be fully implemented until the beginning of next year.

**Senator CONROY**—What has been the audience reaction to date?

**Mr Brown**—We have had phone calls of complaint, as we expected. My recollection is that in the first two days they were running at about 400 complaints overnight. Complaints are currently running at about 20 or 30. That was expected; it would be unlikely that any audience would welcome any changes or the introduction of advertising of this type.

**Senator CONROY**—How many complaints has SBS received to date about the new advertising policy?

**Mr Brown**—I would have thought it is probably in the region of a thousand, because I cannot tell whether it is the same complainants are ringing up on consecutive nights.

**Senator CONROY**—You said that you have only partially introduced the structure at this stage. Would it be 10 per cent of programs that are affected, or 20 per cent or 50 per cent?

**Mr Brown**—It is probably less than 10 per cent.

**Senator CONROY**—So you have had a thousand complaints for less than 10 per cent of programs.

**Mr Brown**—The complaints come through on nights when there are no programs affected, so I do not think it is particularly related to the number of programs. I think what has happened is that a general awareness—

**Senator CONROY**—So there is a general outrage rather than specific?

**Mr Brown**—There is probably a sense of concern even in advance of the structure being introduced.

**Senator CONROY**—It was reported by Amanda Meade in the *Australian* on 19 October 2006:

We hear management has had to put an extra staff member on to handle the number of complaints, and the tally is so high staff have had to stop logging each call.

Did you have to put on an extra staff member?

**Mr Brown**—I do not believe so. We do not log—

**Senator CONROY**—I understand it is required under the act that you log every phone call.



**Mr Brown**—Yes, but we tend to group them anyhow—even phone calls of congratulation or a cluster of phone calls making the same point. For that matter, we group clusters of emails. I should have said that the previous numbers included emails. I am not aware of any change in that regard.

**Senator CONROY**—If there is any change to that—extra staff having been involved in receiving the phone calls—please let us know. Take that on notice.

**Mr Brown**—Certainly.

**Senator CONROY**—What research was done on the likely audience reaction to the new policy?

**Mr Brown**—In the course of formulating this new practice some audience research was carried out, but it would not have specifically addressed the question: ‘Do you or don’t you favour this?’ One does not need to carry out research to know that audiences do not favour advertising. I think it is as simple as that. What we were interested in testing, though, was whether it was acceptable if it was necessary for the wellbeing of SBS and the continuance of its programming policies, including the making of more Australian programs and protecting current levels of investment in programs. My recollection is that that came through, and I believe it came through even three or four years ago when this matter was previously considered—that, if it were a question of survival, if the alternative was the cancelling of programs, then this was acceptable.

**Senator CONROY**—Can you explain the process of public consultation that was undertaken in relation to the issues you have talked about around the introduction of in-house programming?

**Mr Brown**—The process of public consultation took place after the in-principle decision. The consultation related to the manner in which it would be implemented, which is an option that SBS has under its act. It is already carried out in program breaks in radio and has done so for the last 10 years. It has also selectively done this with a number of television programs, particularly in sports but also in things like the Eurovision Song Contest, so it is not a totally new policy. The consultation took the form of publishing draft guidelines to govern the placement of breaks and how one assesses a natural break. Comments were invited and considered before the guidelines were adopted at the beginning of October.

**Senator CONROY**—You indicated some degree of support from people who understood that if it were a choice between losing or not making as many Australian documentaries they could live with it. Did I unfairly characterise your earlier response?

**Mr Brown**—That is correct. That comes about partly through audience research and partly through engagement with organisations such as FECCA, which made public comments on their concerns about this step. However, in my dialogue with their executive—when I took them through the rationale—although their concerns still remain, there is a considerable degree of understanding that if SBS is to continue to carry on with and expand its role then this is understandable and acceptable.

**Senator CONROY**—It sounds like they were presented with a choice: ‘You can have advertising or bubonic plague, which would you prefer?’ Funnily enough, they chose advertising.

**Mr Brown**—The issue is not solely about revenue. We have tried to make that clear. Our audiences have already indicated by their behaviour that they do not accept the current model either, as I think we have demonstrated. When we carry these large breaks of seven or eight minutes between each program, audiences simply desert SBS. They vote with their feet in terms of the current structure.

Apart from the revenue issue, it led to two significant issues for us and for our audiences. Firstly, there was no sort of audience flow which every other network would expect. We were simply shutting off our audience and having to try to restart at the commencement of each program. Secondly, and very importantly, under the current structure we were unable to place our program promotions in accessible areas. That meant that we were failing to reach our audience with information about other programs, which is critical if we are to deliver the charter obligations of reaching out to all Australians. I can say anecdotally that I think everybody who works at SBS is constantly confronted with this: ‘I hear you had a wonderful doco on last night. I’d have watched it if only I’d known it was on.’ We really had to address that issue. So, alongside the commercial content that sits now within programs, there is and will be promotional content as well.

**Senator CONROY**—SBS has a community advisory committee, I understand. Was this committee consulted by SBS before the board’s decision to introduce in-house program ad breaks?

**Mr Brown**—No.

**Senator CONROY**—What has been their reaction?

**Mr Brown**—The committee is an advisory committee to the board, not to management. I think it fair to say that they would have wished there had been consultation. But in my discussions with them I have made the point that, in this situation, SBS was really making a decision on a business practice. Management takes to the board many recommendations regarding business practices—investments—and they do not routinely go through the community advisory committee. The community advisory committee generally addresses issues of concern to particular ethnic communities. It is selected on that basis to be representative of multicultural Australia. I do not think the placing of advertisements is a particularly multicultural issue. It lies at the heart of a business issue for SBS.

**Senator CONROY**—When you say you think they were unhappy, have they expressed themselves?

**Mr Brown**—I do not believe there is a formal resolution to that effect. It is customary for me to attend a community advisory committee meeting and to talk to them, and that certainly was the sense that I got from my discussions with some of them. I think it is fair to say as well that that was not a committee view; it was a view of some members of the committee. Again, I would have to say I had a similar reaction to the one I had when I had discussions with FECCA, that there is a measure of understanding of what this involves.

**Senator CONROY**—Did the community express a position; did it take a view?

**Mr Brown**—I do not believe it did.

**Senator CONROY**—There wasn’t a motion?

**Mr Brown**—On this, I do not believe there was.

**Senator CONROY**—Do you want to take that on notice?

**Mr Brown**—Yes.

**Senator CONROY**—You have been to all of the committee's meetings in recent months?

**Mr Brown**—No, I think I have missed one. They meet only quarterly. I certainly attended the last one, but I think I missed the one before.

**Senator CONROY**—Going to the issue of promos, you can put promos anywhere you want to. During half-time at soccer, you can promo your own shows. In fact, you do. They do not count as ads under the SBS Act, do they.

**Mr Brown**—No, they do not. Indeed, there was a discussion some three or four years ago about whether or not SBS should interrupt programs for promos only. That was not a matter governed by the act; promos could be placed anywhere in the schedule—interrupting programs, not even in natural breaks—so that is correct.

**Senator CONROY**—Section 45 of the SBS Act states that SBS is limited to five minutes of advertisements per hour at the beginning or end of programs or during natural program breaks. The term 'natural program break' is not defined by the act, but up until this year SBS has given it a limited meaning. Would you agree with that?

**Mr Brown**—With radio I think it had taken a different meaning from that in television, so there was not a consistency of approach. Certainly the application of that had been in favour of breaks between programs rather than within programs, with some exceptions.

**Senator CONROY**—Under the old SBS Codes of Practice, a rest period during a sporting event is given as an example of a natural program break; is that correct?

**Mr Brown**—That is my recollection.

**Senator CONROY**—So there had been a code of practice that discussed, and even defined, some of these areas.

**Mr Brown**—Yes. I think I am right in believing that it was in the interval between operas and things like that. Clearly they are the most self-evident natural break within programs. There are actually more natural breaks within events which are being televised rather than program breaks. There are breaks within programs. It is probably widely known that a lot of the material we source from overseas arrives with breaks already in it. The practice has been to edit those programs so that the breaks are removed.

**Senator CONROY**—I am looking at the old SBS Codes of Practice, under 'Advertising and sponsorship', which says:

Advertising announcements must not distract from the value of SBS Radio and Television programs as a medium of information, education and entertainment. Natural program breaks, as referred to in Section 45(2)(a) of the SBS Act, include:

- any pause during coverage of an event where audiences miss none of the proceedings that relate directly to the event (for example, rest periods in sports events); and
- the junctions of the program segments that are contained in SBS Radio programs.

I think that implies what you were discussing.

**Mr Brown**—Yes.

**Senator CONROY**—In terms of consistent policy on TV and radio the code is fairly straightforward. It says that for TV and radio a ‘natural break’ is, for example, half-time in a football match of any code.

**Mr Brown**—That was the previous policy and definition. We did have breaks in programs like the Eurovision Song Contest, which was shown as live and which had natural breaks.

**Senator CONROY**—Their natural breaks were included because you bought a program in which there were natural breaks, so you had no choice but to put something in there or have a blank screen.

**Mr Brown**—You can edit them out.

**Senator CONROY**—But, as you said, you show it live.

**Mr Brown**—It was shown as ‘live’.

**Senator CONROY**—Under the old policy, which programs carried ads within them?

**Mr Brown**—On television: the Eurovision Song Contest, sports events and the Ashes. Even under the old code the gap between overs during the Ashes series was deemed to be a natural break, but there was some debate about whether what was taking place on the field between overs was a continuous part of the action.

**Senator CONROY**—I thought you supplemented—and I am not sure whether you kept taking the feed from overseas—the Ashes series with expert commentary, with various examples in which two or three quick deliveries were shown. I thought that was very valuable and really showed the thinking behind some of the strategies. Certainly it was not in every ad break but you did that during a fair few of the over breaks.

**Mr Brown**—I think it is true that our coverage of the Ashes carried less commercial content than would have been the case if it had been televised on Channel 7 or 9 or 10. In part that was due to the fact that we have a five-minute cap, so that was a natural sort of capping. You are correct: Channel 4 provided in some of the between over breaks an analysis that we chose to tape.

**Senator CONROY**—So we have Eurovision, sporting contests, and the Ashes in particular; are there any other programs?

**Mr Brown**—There probably are, but I cannot recall any of them. There would not be many.

**Senator CONROY**—So, under the new advertising guidelines, SBS has decided to give the term ‘natural program break’ a wider meaning. Did the board seek legal advice on whether its new policy was consistent with the act?

**Mr Brown**—SBS obtained legal advice at the senior counsel level.

**Senator CONROY**—Was that external to the organisation?

**Mr Brown**—Yes, it was external.

**Senator CONROY**—How much did that cost?

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

**Senator CONROY**—You probably could have saved a couple of ad breaks, knowing the prices in Sydney of SCs.

**Mr Brown**—I think the net benefit to the budget will be evident.

**Senator CONROY**—So you will let us know how much that cost?

**Mr Brown**—Yes.

**Senator CONROY**—Can you table that advice?

**Mr Brown**—No, I cannot table that advice; my understanding is that it would jeopardise legal privilege.

**Senator CONROY**—You can waive it yourself. You are the owner of it.

**Mr Brown**—There are commercial issues as well. So it is commercial-in-confidence, and there are legal privilege issues.

**Senator CONROY**—You are not a commercial broadcaster. I know the minister whispered that answer to you, but you are not actually a commercial broadcaster.

**Senator Coonan**—Senator Conroy, SBS is not a commercial broadcaster, but it does have commercially sensitive information.

**Senator CONROY**—What is commercially sensitive about—

**Senator Coonan**—Well, it has competitors.

**Senator CONROY**—I am asking Mr Brown. What is commercially sensitive about a definition or a legal advice on an act of parliament? It does not sound like there are any commercial interests involved.

**Mr Brown**—There could be. That is because of the issue of our competitors and their attitudes towards our decision.

**Senator CONROY**—You did not take any legal advice about how much money you would make, did you, or what you could charge?

**Mr Brown**—No. I am constrained in what I can say about the legal advice because of the—

**Senator CONROY**—You are not constrained at all. You paid for it.

**Mr Brown**—In order to protect legal privilege—

**Senator CONROY**—There is no legal privilege to protect if you choose to waive it.

**Mr Brown**—But I do not choose to waive it. There are commercial considerations, and they relate to the same thing. It is because of the possible views of our competitors, who have already expressed publicly that they do not approve of what we are doing.

**Senator CONROY**—Have any of them suggested that they would take a legal case against you? I have not heard that, and I have heard plenty of the screeches.

**Mr Brown**—Because they have not said that I do not believe it removes the possibility.

**Senator CONROY**—You are just being shy, Mr Brown. You have an excellent SC opinion. You should be proud to table it and say, 'Look, we have no problems with this.'

**Mr Brown**—I stand by my answer, Senator, that I believe there are issues of legal privilege and commerciality involved.

**Senator CONROY**—Is there any difference on where ads can be placed under the new SBS guidelines, compared to where they are placed on commercial television?

**Mr Brown**—I guess there are two issues. Firstly, breaks on SBS will be shorter and less frequent than is the case on commercial television. That relates to the five-minute caps. So from a viewer perspective, and viewers are already seeing that, the breaks are very short and they are not particularly frequent.

**Senator CONROY**—When you say ‘less frequent’, how can one period per hour be less frequent if you are doing—

**Mr Brown**—No, not less frequent than the previous SBS model; less frequent than the Seven, Nine and Ten models, which is the comparison I thought you were seeking. With regard to the identification of a natural break, I really do not know what Seven, Nine and Ten do there. I think in some cases, their definition of a natural break would accord with ours. In others it might not.

**Senator CONROY**—We will never know. You will not tell us what your definition is. You will not show us your legal advice.

**Mr Brown**—I think our approach and our instruction to staff responsible for this are contained in the new guidelines, which we have made public for people to comment on, and I think they do because every type of program represents potentially a different style of natural break. Clearly, the radio model of between segments is an easy identification. Sport you have already mentioned. With drama it is where there is a significant time lapse change, or a significant change in locality. These are potentially natural breaks. People responsible for identifying those natural breaks are being trained to make those assessments. As I have said previously, there are a number of programs which arrive at SBS with breaks already positioned in them that have been identified by the producer as natural breaks.

**Senator CONROY**—Minister, has the government taken any legal advice about whether the SBS is complying—

**Senator Coonan**—Not that I have instigated. I do not know whether the department has.

**Ms Williams**—No, we have not.

**Senator CONROY**—You had noted that the SBS has started ads during programs and changed its definition?

**Senator Coonan**—The starting point for this is that, as you know, the Labor government in 1991 said that there can be advertising. I am informed by Mr Brown that there is no increase in the amount of advertising and that it is to be introduced in natural breaks. Until there is some issue that arises out of what I have been told is to happen, I cannot on the face of it see that there is a legal breach.

**Senator CONROY**—What programs will now have ads that previously did not?

**Mr Brown**—I do not think there is any specific prohibition on any programs. There may, though, be occasions where a program does not present itself with a natural break and a case-by-case decision is made not to place commercials in it.

**Senator CONROY**—Can we expect ad breaks in news bulletins?

**Mr Brown**—Yes. I think news programs are probably one of the groups that are easiest to identify natural breaks in because they are segmented. It is not unusual to see, as with our news but even with the ABC news, a pause or break to either reflect on the headlines or talk about upcoming material. Even the BBC would do that in the middle of its programs. So there are breaks already existing. In the case of our *Dateline* program, between items we already carry a sort of break with a graphic and a musical sting to indicate a change of subject. I think that qualifies as a natural break.

**Senator CONROY**—Do you seriously believe that the SBS's interpretation is consistent with the intent of parliament?

**Mr Brown**—I can really only go on what the act says and what I believe from my understanding of the circumstances to lie behind the original decision. My assumption—and I have never been challenged on this—is that SBS is a hybrid funded broadcaster. It is substantially reliant on government funding, but from 1991 it was entitled to raise its own revenue to supplement that government funding. It would seem to me to be wrong of SBS to turn its face against commercial opportunity that produces revenue that allows it to deliver its charter more effectively.

**Senator CONROY**—I am looking at the act, and it says:

The SBS may only broadcast advertisements or sponsorship announcements:

(a) that run during periods before programs commence, after programs end or during natural program breaks; and

(b) that run in total for not more than 5 minutes in any hour of broadcasting.

They seem to be limitations. They are saying that there are only certain places you can run ads—that seems to be what this section does. But, under your new definition, there are no limits. Every single place can potentially have advertising. It just seems to me that with the way the act was written—and I have spoken to some of the people who were involved in drafting it—it was not open slather. Clearly, it does not say: 'Just have ads wherever you want;' it says: 'You can have ads in only a couple of places,' and yet, as you have testified, there is now open slather in every single program. That just seems to me to be inconsistent with the intent of the limits that the legislation attempted to set. You have now defined those limits as being unlimited.

**Mr Brown**—I do not believe I have said that.

**Senator CONROY**—What, you can put them in every single—

**Mr Brown**—Firstly, the five-minute break does remain. Secondly and more importantly, the placement of those breaks is dependent on a natural break being identified. I think the act also requires the board to draw up guidelines in terms of placement of ads, and it has now done that. The identification of natural breaks does mean from time to time that there may be programs that do not have breaks and there may be programs that have a different break

structure than the basic working model that we have identified for staff. When I said that there was no general prohibition on a particular genre of programs, I was not indicating that it was open slather on the placement of breaks; I was indicating that the starting point is that any program should be considered as being capable of having natural breaks and the processes that take place internally in accordance with the new guidelines will determine if those breaks exist and where they exist.

**Senator CONROY**—Is there a natural program break in *Inspector Rex*? Can we look forward to ads in *Inspector Rex*?

**Mr Brown**—We have not put *Inspector Rex* on the list of programs to be dealt with.

*A moth having flown into one of the spotlights and smoke coming out of the light—*

**Senator CONROY**—We are on fire.

**Senator Coonan**—That is a natural break!

**Senator CONROY**—This is definitely a natural program break. If SBS are covering this, they can put an ad in right now. We were just wondering whether we could look forward to *Inspector Rex* having ads.

**Mr Brown**—*Inspector Rex* is a drama. There is a guideline established for natural breaks in drama programs and, if those guidelines identify breaks inside *Inspector Rex*, then, yes, *Inspector Rex* will have breaks.

**Senator CONROY**—When he stops for a drink or has some food? I am just wondering what your definition of a natural break is. The burning bogongs are back. Is that you on fire over there, Senator Fierravanti-Wells? Are you burning something? We may need a natural program break here. The devil has arrived: I can smell the incense burning.

**CHAIR**—Senator Conroy, at the meeting on Wednesday the committee decided they would rotate questioners after around 15 or 20 minutes. You have been going for half an hour. I wonder if we might move on to another questioner.

**Senator CONROY**—When you say ‘the committee’ decided, you mean the Liberal majority decided.

**CHAIR**—No, it was done by consensus.

**Senator CONROY**—I am told it was not consensus at all. I just wish you would stop misrepresenting the committee’s deliberations.

**CHAIR**—I do not think I am doing that. Senator Ian Macdonald has just raised the fact that this was decided. I am calling your attention to the fact that you have been on the floor for about half an hour.

**Senator CONROY**—I was unaware that this was the new practice of the committee. I guess it is a natural program break under the definition of the legislation.

**CHAIR**—It could be, Senator Conroy. You are on the money there.

**Senator FIERRAVANTI-WELLS**—It is a natural break, Senator Conroy.

**CHAIR**—Perhaps you might finish this segment, Senator Conroy, and we will go to someone else.



**Senator CONROY**—Can I indicate that I think this is an abuse of the Senate estimates process, but you have the numbers and you will do what you like.

**CHAIR**—We do take note of your comments, Senator Conroy, and we thank you for concluding at that point.

**Senator IAN MACDONALD**—I was going to move a motion, but the committee as a whole decided it was not necessary to move a motion and that, in courtesy to each other, we would naturally move on at about 15 minutes so every senator had a chance to operate. Senator Lundy spoke on it and she said, ‘As long as that does not mean you will lock us out.’ As I said to her, there are many government senators who also have questions of agencies who want to get some answers. This is not the sole preserve of the Labor Party.

**Senator CONROY**—Senator Lundy indicated to me that it was not a consensus. I can only go on that basis.

**Senator IAN MACDONALD**—It was a consensus. Senator Lundy was involved.

**CHAIR**—Senator Wortley did not make a comment at the time.

**Senator WORTLEY**—It was not actually a resolution; it was an informal discussion.

**CHAIR**—That was what Senator Macdonald is saying.

**Senator WORTLEY**—It did not come to a conclusion. It was that everyone gets the opportunity to ask questions if they have questions. You are right: 15 minutes was suggested, but I cannot recall 15 minutes being the agreed time. It would depend on who the witnesses were and the allocated time.

**CHAIR**—I agree with you, Senator Wortley.

**Senator IAN MACDONALD**—It is a matter of common courtesy, with respect.

**CHAIR**—Senator Wortley is correct: it was not agreed that it would be 15 minutes.

**Senator CONROY**—This is the only committee that has imposed this. It is not a matter of common courtesy. Courtesy applies on every other committee I have ever been on. Just because you have spent most of the last 10 years sitting over there, Senator McDonald, it is not discourteous to allow the opposition to finish its line of questioning.

**Senator IAN MACDONALD**—Before I was sitting over there, I was chairman of the finance and administration committee. We religiously applied a 15-minute segment for everybody so that everyone had an opportunity, fairly, to question. It is simply a matter of common courtesy.

**CHAIR**—Let’s go through the chair.

**Senator CONROY**—Nobody claimed that it was by consensus.

**Senator WORTLEY**—It was not a formal vote.

**CHAIR**—There was a discussion and there appeared to be a consensus. As Senator Wortley said, it was agreed that we would rotate the questioning. I have called your attention to the fact that you have been going for half an hour. Maybe, if you want to finish this particular line of questioning, we can move onto someone else and come back to you.

**Senator CONROY**—I was intending to finish my questions to SBS but you and others are indicating that you want to take the call from me. I am in your hands, Chair.

**CHAIR**—I will take the call from you, and I will pass to Senator Ronaldson.

**Senator CONROY**—I am not offering the call; I am just indicating that you have said you are going to take it.

**CHAIR**—It will come back to you.

**Senator RONALDSON**—Mr Brown, could you introduce your team. I am not too sure who is who.

**Mr Brown**—Paul Broderick is the Director, Technology and Distribution. I think he has appeared previously. Jon Torpy is the Chief Financial Officer, who has appeared before. Bruce Meagher is our Director, Strategy and Communications—a new appointment, so this will be his first time with SBS. David Ingram is Acting Director, Radio. The new appointment to Radio does not take her position at SBS for another two weeks.

**Senator RONALDSON**—So this would be called the A team, would it? This is your A team, do you think?

**Mr Brown**—I am sure they would like to be called that.

**Senator RONALDSON**—These are your senior people, are they not?

**Senator CONROY**—It is not Telstra!

**Mr Brown**—This is part of the senior executive.

**Senator RONALDSON**—You would be acutely aware of what underpins SBS: a multicultural, multilingual viewpoint for all Australians.

**Mr Brown**—I am aware of its history and its charter.

**Senator RONALDSON**—Would you accept that the front bench is a bit waspy?

**Mr Brown**—I am not aware of that being a prerequisite.

**Senator RONALDSON**—Do any of your A team speak another language? Clearly not.

**Mr Brown**—It is not something I have asked them.

**Senator CONROY**—Just a question of relevance: I am just looking at how this is relevant to additional Senate estimates.

**CHAIR**—I suppose Senator Ronaldson is developing a point, so we will let him finish doing that.

**Senator RONALDSON**—He is!

**Senator IAN MACDONALD**—It is as relevant as a break is in an SBS program, for heaven's sake.

**Senator RONALDSON**—It is hard to disagree with that. Quang Luu was your former director of News, was he not?

**Mr Brown**—No, Quang Luu is the director of Radio.

**Senator RONALDSON**—Where is Mr Luu?

**Mr Brown**—Mr Luu has stepped down from SBS. His replacement is Paula Masselos. As I said earlier, she is to take up her position in two weeks time. You will see her at future hearings.

**Senator RONALDSON**—Did he step down on a voluntary basis, or was he removed from his position?

**Mr Brown**—He stepped down in accordance with what we outlined at the time of his decision to step down. He certainly was not removed.

**Senator RONALDSON**—He was not removed?

**Mr Brown**—No.

**Senator RONALDSON**—How much time did he have left on his contract? Or, I should ask, was he on a contract?

**Mr Brown**—His contract had not expired; there were some months left on it. It is not unusual at a time when an organisation is undergoing change, as we were, for there to be a discussion about the timing of someone's departure.

**Senator RONALDSON**—How long had he been there for?

**Mr Brown**—For 17 years, so it was not unexpected that it would come to an end. That is a pretty significant period—it is probably longer than any senior executive in virtually any broadcasting organisation would stay in a single position.

**Senator RONALDSON**—What reasons did he give for seeking to discontinue his position?

**Mr Brown**—The decision emerged after a discussion between us about the continued change required of radio in accordance with the changes required of the overall organisation.

**Senator RONALDSON**—I take it from that that you had one course of action and he had another. Is that correct?

**Mr Brown**—No, this was not a disputatious issue.

**Senator RONALDSON**—I take it from what you are saying that he disagreed with your direction in relation to radio.

**Mr Brown**—No, that is not correct.

**Senator RONALDSON**—What was the discussion about on the direction of radio then?

**Mr Brown**—The discussion was about the fact that SBS was under new leadership—that is, my leadership—and about to embark on a review of all of its activities, certainly not radio in isolation. Given that this was almost certain to produce a changed agenda—it invariably does, particularly after such a long period—the issue was discussed openly with him about whether this was a suitable time for him to step down rather than wait out the final few months of his contract.

**Senator RONALDSON**—Was he paid out the balance of his contract?

**Mr Brown**—A confidential commercial settlement was reached with him.

**Senator RONALDSON**—Why would you be paying him out if he resigned?

**Mr Brown**—It was an agreed departure on mutual terms.

**Senator RONALDSON**—So it was not solely his decision?

**Mr Brown**—Ultimately it was.

**Senator RONALDSON**—Because a scenario had been put to him where it was impossible for him to continue? Is that what occurred?

**Mr Brown**—No, that is not the case at all.

**Senator RONALDSON**—It just seems very strange, Mr Brown, that you would be paying out someone who had decided there was no longer a place for them in the organisation.

**Mr Brown**—I did not say we paid him out; I said we reached a commercial settlement.

**Senator RONALDSON**—Was he paid anything further than for his last day of work?

**Mr Brown**—Yes.

**Senator RONALDSON**—So he was paid out, wasn't he?

**Mr Brown**—I think the implication—

**Senator RONALDSON**—Was he or wasn't he? Was he paid out or was he just paid up until the date that he, according to you, allegedly resigned?

**Mr Brown**—The implication of 'paid out' implies that the full term of his contract was paid, with all of the allowances and considerations that go with it. I am saying that is not the case. There was a mutually agreed commercial arrangement.

**Senator RONALDSON**—Can I go to the code of practice and the news and current affairs section. In part, it says:

SBS believes in the right of the audience to make up its own mind after an objective presentation of the issues.

To this end, all reasonable effort must be made to ensure that the factual content of news and current affairs programs is accurate, having regard to the circumstances, and facts known, at the time of preparing and broadcasting the programs.

SBS will take reasonable steps to ensure timely correction ...

... not misrepresenting them or unduly favouring one over another.

Reasonable effort should be made to ensure news and current affairs programs are balanced and impartial ...

Is that the new code of practice?

**Mr Brown**—Yes.

**Senator RONALDSON**—In your view, is SBS—your reporters and others—always balanced and impartial when presenting news and current affairs items?

**Mr Brown**—I think there are occasions when any media organisation would not meet the obligations under its code or guidelines or whatever, but my view is that by and large, yes, that is the case—that our journalists and producers do deliver against this code.

**Senator RONALDSON**—Could you give me some examples of where they have not been balanced and impartial?

**Mr Brown**—I am not so sure it is quite a case of impartiality, but in recent weeks the audience affairs manager, operating under the new complaints procedure, has upheld two complaints and partially upheld three complaints. They relate to two specific stories. The number of complaints probably suggests otherwise, but there were two issues. In those two cases there was a failure against the code.

**Senator RONALDSON**—What were they?

**Mr Brown**—One was a *Dateline* program where there was a complaint that insufficient weight or information had been given on an Israeli position on a particular debate. That was upheld. The other related to a *World News Australia* story from the BBC which was included in a program. It attracted four complaints, one of them specifically about the item. The other three were more general complaints that the bulletin lacked balance. It was a decision of the audience affairs manager and the complaints committee on that one that the complaint against the actual item was upheld. The complaints against the actual program were partially upheld, confined only to the shortcomings of that particular report.

**Senator RONALDSON**—I take it from that that you believe equal weight should be given to different views in programming. You just said that insufficient weight was given to the Israeli point of view in relation to this *Dateline*, and that was upheld—is that right? That is what you just said.

**Mr Brown**—Yes. I do not believe it was a case of equal weight; I just believe it was a shortcoming and that not sufficient weight had been accorded to a comment.

**Senator RONALDSON**—With an item like that, do you believe that there should be some balance—even if it is not equal weight—in the reporting of those sorts of items?

**Mr Brown**—Yes. It is a requirement of SBS that we have balance.

**Senator RONALDSON**—Can I take you to the code of practice again. Do documentaries fall within the remit of the code of practice relating to news and current affairs?

**Mr Brown**—No, they do not.

**Senator RONALDSON**—What part of the code does govern and guide SBS in relation to the content of documentaries?

**Mr Brown**—General programming—segment 1.

**Senator RONALDSON**—That is 1.2, is it—‘Diversity of views and perspectives’?

**Mr Brown**—Yes.

**Senator RONALDSON**—That is the same section where it states that some subject matter broadcast by SBS may be considered controversial. Section 70A of the act states:

... SBS may determine to what extent and in what manner political matter or controversial matter will be broadcast by the SBS.

Is that right?

**Mr Brown**—That is correct, yes.

**Senator RONALDSON**—Is it not reasonable for the public to have the same expectations from documentaries as they would in relation to news and current affairs?

**Mr Brown**—No, I do not think it would be reasonable. I think this matter has been addressed before. Documentaries cover an enormous range of content, and the obligation that we accept is that there be a wide-ranging number of perspectives delivered across the range of programs. It is almost impossible to conceive of a situation where one documentary balances another documentary or indeed that, within a program, there is equal weight given. For example, in recent times SBS has run a documentary on the Buchenwald Ball, a documentary about Australian survivors of Buchenwald attending an annual ball to celebrate their survival. I am not sure where one would begin to discuss a balancing issue in that regard. Also, we recently carried a documentary on anti-Semitism. It is hard to imagine a call for us to carry a balancing documentary representing an opposite point of view or even to say that within that program equal weight must be given to those people who do not believe that anti-Semitism is inappropriate.

**Senator RONALDSON**—So you do not believe that there are any circumstances where there should be a requirement for impartiality, for example?

**Mr Brown**—The test of impartiality relates more to news and current affairs. I have addressed this before, but I think the protection against any predominant view being expressed through our selection of documentaries is to make sure that there is the widest possible range of perspectives. I know the contentious area here is the Middle East. Almost invariably these discussions come down to the selection of documentaries in this area, and I would say that our documentary selection represents a wide range of perspectives. I draw your attention to an article in the *Australian Jewish News* recently which applauded SBS for its range of documentaries and said that, although it had previously had concerns, those concerns have now largely been addressed.

**Senator RONALDSON**—Mr Brown, if only it were only the Middle East causing problems. Under what circumstances would documentaries qualify as news and current affairs?

**Mr Brown**—I would like to quote that article, if I may.

**Senator RONALDSON**—Perhaps you can table it.

**Mr Brown**—Yes. The article says:

... there has been definite improvement over recent months in SBS documentary programming, symbolised by a recent two-week period when SBS showed three major documentaries touching on the Middle East, all of them informative, un-ideological and well worth seeing.

The author goes on to list the documentaries, and says further:

... but the real positive change toward actually approaching the stated goal of “balance over time” in documentary programming must be acknowledged.

**Senator RONALDSON**—That was for documentaries.

**Mr Brown**—Yes.

**Senator RONALDSON**—Not news and current affairs.

**Mr Brown**—No. But we were talking about the test of impartiality.

**Senator RONALDSON**—The allegation had been that your documentaries were not balanced and were biased.

**Mr Brown**—That allegation is often made.

**Senator RONALDSON**—Why are you taking great comfort that someone is saying that it is pleasing to see that there has been some improvement?

**Mr Brown**—I am not taking great comfort. I pointed out to you that there is a range of views about how well we deliver against this.

**Senator RONALDSON**—But you said before that it does not matter, and that as far as you are concerned documentaries can be biased and impartial and that that does not breach any guidelines. So why would you now be celebrating the fact that someone has said that your documentaries are showing less bias and less impartiality?

**Mr Brown**—What I said was: the protection against a predominant or biased view emerging in the selection of documentaries is to make sure that the widest possible range of perspectives and views is expressed. That is the requirement in the code, and that is what I believe we are delivering against. I offered the quote from the article only to make the point that an area which has previously been strongly critical of our selection of documentaries in the Middle East is acknowledging that we do deliver a range of different perspectives. I am not trying to suggest that that author has any great approval of our news and current affairs, quite the contrary.

**Senator RONALDSON**—I think the point has been made. In what circumstances would documentaries qualify as news and current affairs?

**Mr Brown**—The definition of ‘documentary’ is not a particularly definite one. I think some people would regard a *Dateline* program that devotes itself to a single subject as probably being a documentary. But under our codes we would regard that as being current affairs.

**Senator RONALDSON**—I cannot imagine the circumstances where a *Dateline* program would be viewed as a documentary, but it is an interesting concept.

**Mr Brown**—It is not unusual approach. It is a pretty standard approach to the continuum that exists in factual coverage.

**Senator RONALDSON**—You agree that *Dateline* is news and current affairs.

**Mr Brown**—For the purpose of the codes, yes. But my point is that a full-length *Dateline* program could equally go into the international market and be sold as a documentary, in the same way as we might buy a documentary.

**Senator RONALDSON**—Would not a documentary on David Hicks qualify as current affairs?

**Mr Brown**—If it were made by *Dateline* in a current affairs context, I suppose it would. But if it is a documentary made by a documentary maker and presented in a documentary timeslot, where the audience is aware that they are watching one of a series of documentaries across the year, no it would not fall under news and current affairs.

**Senator RONALDSON**—Would not a documentary on Palestine qualify as current affairs, or a documentary on Israel or Lebanon?

**Mr Brown**—No, no more than a documentary on anti-Semitism or the one we ran last week on progressive Islam initiatives in Morocco.

**Senator RONALDSON**—Aren't they current affairs? Wouldn't anything regarding Palestine, Hicks, Israel or Lebanon be viewed as news and current affairs?

**Mr Brown**—No, I do not believe so.

**Senator RONALDSON**—You do not?

**Mr Brown**—No, I do not.

**Senator RONALDSON**—Where would the documentaries where you say there is no requirement for a lack of bias or for impartiality fit under the code? Would they fit under the section where it talks about the right of the audience to make up its own mind?

**Mr Brown**—That is under 1.2.

**Senator RONALDSON**—Yes. What do the rest of those words say? Don't they say 'after an objective presentation of the issues'?

**Mr Brown**—Can you point me to the paragraph that you are looking at?

**Senator RONALDSON**—It says in the code:

... the right of the audience to make up its own mind after an objective presentation of the issues.

That applies to the news and current affairs section. Does that apply to documentaries or just to news and current affairs?

**Mr Brown**—Section 2 applies to news and current affairs.

**Senator RONALDSON**—So that I am clear on this, are programs such as *Dateline* viewed as being subject to the code of practice for news and current affairs?

**Mr Brown**—That is correct.

**Senator RONALDSON**—The new code of practice says that only significant errors of fact need to be corrected. What is the definition of a 'significant error of fact'?

**Mr Brown**—I think that is a case-by-case judgement. But if it is a case that we have someone's age wrong or there is a spelling error or something like that, that is not deemed to be a significant error of fact. If, however, it is a factual error that distorts the understanding of the viewer then it is a significant error of fact.

**Senator RONALDSON**—Who would make that decision?

**Mr Brown**—A lot decisions about minor errors are made at the level of the individual programs. If it were an error of fact identified through the complaints process and resulted in an uphold as being an inaccuracy then it would be for the director of news and current affairs to identify what action he proposed to take and for me, as editor-in-chief, to approve that.

**Senator RONALDSON**—Might it be considered, for instance, a significant error of fact to describe a person who is understood to have been actively involved and even fought with



terrorist organisations—organisations which are widely acknowledged to be terrorist organisations—as a freedom fighter? Would you view that as a significant error of fact?

**Mr Brown**—He was described as?

**Senator RONALDSON**—A freedom fighter. David Hicks is understood to have been actively involved and even fought with terrorist organisations—organisations widely accepted as being terrorist. Is it an error of fact to call him a ‘freedom fighter’?

**Mr Brown**—Which program was that?

**Senator RONALDSON**—I am asking you a question. On your criteria, what would be the decision?

**Mr Brown**—I would not expect a news and current affairs journalist to label him in that way, but I would like to see the exact context.

**Senator RONALDSON**—Finally, the introduction states:

Some subject matter broadcast by SBS may be considered controversial. Section 70A of the SBS Act states “...SBS may determine to what extent and in what manner political matter or controversial matter will be broadcast by the SBS.”

Is there a committee that makes that decision? And what are the processes to determine the extent and manner of political or controversial matter?

**Mr Brown**—That is a delegated responsibility. It may on occasions be referred up the chain.

**Senator RONALDSON**—Who is it delegated to?

**Mr Brown**—It very much depends on the particular area of consideration. If it is radio, it will be the director of radio. If it is television, it will be the director of content. Sometimes it is me, as editor in chief.

**Senator RONALDSON**—At first instance, the decision is made by the head of news or the head of radio or someone beneath them?

**Mr Brown**—This does not really relate to news and current affairs so much as identification.

**Senator RONALDSON**—I accept that.

**Mr Brown**—An example you would be familiar with was the committee hearing before last, where you questioned me about *The power of nightmares* and *The new al-Qaeda* series. You asked me how that had come to be shown and why it was shown in this way. In the end that decision was referred to me. I made the call on its broadcast and the manner in which it was broadcast.

**Senator RONALDSON**—Just so I am absolutely clear: there is a further delegation from the director of news and radio making judgements about the manner in which political matter or controversial matter will be broadcast?

**Mr Brown**—Political matter relates more, I would have thought, to news and current affairs. There is not a great deal of political matter dealt with in programs outside of news and current affairs. Controversial matter may well be—

**Senator RONALDSON**—What about documentaries? Surely political matter and controversial matters are in documentaries.

**Mr Brown**—That is the example I have given you. So an initial decision about a series of programs like the *The power of nightmares* and *The new al-Qaeda* was made in principle at a level of program acquisition, referred to the then network programmer, referred to me as head of television and, at the time, acting managing director as well. So it is a decision process that takes place at many levels. But, ultimately, under a referral-up process, and depending on the sensitivity or how controversial it is, it will end up in my hands. Another example is the *South Park* 'Bloody Mary' episode, which is something SBS acquired that has considerable sensitivity around it, particularly in the current climate of religious sensitivity. The matter was referred to me and I have deferred broadcast of it. That is a good example.

**Senator RONALDSON**—But you were forewarned about the sensitivity, weren't you? You did not acquire this program and say, 'This is a nice, cute little program,' and then decide to have a look at it. It came to SBS as a controversial program, so there is no doubt that you would then have a look at it.

**Mr Brown**—It came to SBS as a pre-contracted delivery of a series of programs.

**Senator RONALDSON**—Which you knew was controversial.

**Mr Brown**—Once it was referred to me, I did.

**Senator RONALDSON**—You did not know *South Park* was controversial before that?

**Mr Brown**—I am talking about a particular episode of *South Park*.

**Senator RONALDSON**—I take it there is no process in place to refer these matters unless someone makes a judgement that it might be more political or more controversial than something else. Is that right? What are the criteria?

**Mr Brown**—That is the only way any referral-up process can ever work, whether it is news and current affairs or programming. It is reliant upon people at all levels recognising when a matter is controversial or sensitive and referring it appropriately.

**Senator ALLISON**—I would like to follow up on Senator Ronaldson's questions. He gave you good warning that this was what he was going to ask you about today. I wonder whether you have done some sort of summary of the coverage of the Middle East over the last several months since the attack on Lebanon. Did you do that?

**Mr Brown**—We have not done that.

**Senator ALLISON**—I apologise for not being a constant watcher of SBS. I usually do not watch any television. Can you advise whether programs—documentaries or otherwise—have been run in recent times about the problems of starvation for many Palestinians in the Gaza Strip?

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

**Senator ALLISON**—Could you also look at the current works that are underway, as I understand it, in west Gaza, the effective open-air prisons—as I think Professor Reinhart describes them—that are currently villages, which are having walls built around them. Have you broadcast any material on that issue?

**Mr Brown**—We have had coverage from Gaza in *Dateline* in recent months, and we currently have a team in Gaza for *Dateline*. I cannot say whether or not that specific issue is being addressed.

**Senator ALLISON**—Can I ask about another one. As I understand it, Israel has frozen the \$55 million a month which comes through which it collects on behalf of the Palestinians. It has not handed that over. Has that been the subject of other news or documentaries?

**Mr Brown**—I do not believe it has been the subject of documentaries, but that sort of information has been the subject of news and current affairs coverage.

**Senator ALLISON**—Thanks. I have not noticed a great deal—

*Senator Ronaldson interjecting—*

**Senator ALLISON**—I did not interrupt you, Senator Ronaldson; I hope you will give me the same—

**Senator RONALDSON**—But that particular matter has been raised—

**Mr Brown**—I said ‘that sort of information’.

**Senator ALLISON**—Chair.

**CHAIR**—I think Senator Allison has the call, Senator Ronaldson.

**Senator ALLISON**—Thank you. Could you also provide, on notice as well, what reporting there has been of the post ceasefire in Lebanon with regard to the cluster bombs and the call for Lebanon to ask Israel to provide maps of where those cluster bombs were dropped, because I understand that there are more than 1,000 locations that are not known. Has that been the subject of reporting on SBS?

**Mr Brown**—I would have to take that on notice. I am aware of that particular story, but I cannot recall exactly what our coverage has been.

**Senator ALLISON**—Just one other point: housing in Lebanon. As I understand it, not much has been done by way of reconstruction yet. Bridges, ports and so forth have had priority. Has there been any coverage of the need for temporary housing, for housing which, particularly in southern Lebanon, will stop people freezing when the snows come shortly? Has that been an issue that has been covered by SBS?

**Mr Brown**—I believe that that sort of material has generally been covered by SBS news and current affairs, but, again, let me take that on notice to give you specifics.

**Senator ALLISON**—Yes. Thank you very much.

**Senator CONROY**—We were talking about the ad breaks and where the ad breaks could be. In my enforced ad break, I was just looking at your guidelines. Your guidelines identify every single program, I think, that you have produced, as possibly having natural breaks. Maybe it is easier to ask: is there any program that SBS shows that does not have the potential for a natural break?

**Mr Brown**—I think the starting point is that all programs potentially may have natural breaks but that a case-by-case assessment may identify programs which do not.

**Senator CONROY**—So that brings me back to my original discussion with you about the act, which does not say: ‘The SBS can put ads wherever it wants.’ We agree on the five minutes; there is no argument. Five minutes is five minutes, and no amount of QCs’ or SCs’ advice is going to get you around that. But section 45(2)(a)—‘that run during periods before programs commence, after programs end or during natural program breaks’—is an attempt to define a limitation, I would have thought. As an intent of legislation, to me that reads as a limitation; whereas what you have put forward in your guidelines is that there is nowhere that there is not potential, albeit on a case-by-case basis, for a natural ad break—which is basically unlimited.

**Mr Brown**—I do not accept that. I think it is fair to say it imposes a limitation. That limitation is to identify what is a natural program break within any program. But I would have to pose the question back: what does it mean? If it is meant to prevent any interruption to programs, what is a natural break? Clearly parliament had something in mind and then charged the board with interpreting what that actually is, and that is what we have done. It has to mean something.

**Senator CONROY**—Again, I will read you the act. It says, ‘The SBS may only broadcast...’ So it is setting a limitation. You have now indicated there is no longer any limitation. Every program is fair game.

**Mr Brown**—I do not think you heard my reply. I said I accept that the wording of the act implies a limitation. But that limitation is to the placement of advertisements into natural breaks. In other words, it requires SBS to specifically identify points in programs which may be considered natural breaks. It does not permit SBS to willy-nilly insert breaks anywhere. But, at the same time, surely the inclusion of those words did anticipate that there would be natural breaks in programs.

**Senator CONROY**—The word ‘program’ is even underlined in my copy, although maybe it is not in yours: ‘during natural program breaks’. It seems to me your new guidelines attempt to introduce the concept of natural program breaks into every single program you produce. In other words, there is no limitation on any program where you can concoct any reason whatsoever to define it as a natural program break. For instance, clearly from our earlier discussion you are attempting to define that when in the news you move from local news to international news that is a natural program break. I put it to you that that is not break at all. It may be the way that the commercial television stations have chosen a point to introduce a break for advertising purposes, but it is not a natural break. It is not a natural break when you go from international to sport or from international to business to sport. They are not natural program breaks at all. They are quite artificially contrived breaks for the purpose of inserting ads. From my perspective, on my reading, which is obviously different from that of your QC—I am not an SC or QC and you have one who you do not want to show us—clearly you think that the interpretation of this is such that you can artificially create program breaks.

**Mr Brown**—I do not believe that we can artificially create program breaks. I make two points. The first is that there is not anything in the act that suggests that any particular genre or type of program cannot be considered as capable of having a natural program break. On that point, if it was the view of the government of the day that certain programs must never have a natural program break in them, that might have been expressed. But it is silent on that,

so I do not see anything that is at all controversial in saying that, in terms of program genres, the starting point is that they are capable of having natural breaks in them. The second issue, then, is how one identifies that natural break. These are guidelines designed to assist staff in identifying those natural breaks. I have already said that it is quite conceivable that some programs may have no breaks or that the break structure is different from the standard we have expressed because to do otherwise would not have been using natural breaks.

**Senator CONROY**—I am intrigued by the idea of natural breaks in comedy. Is that when the joke is not funny or he changes the topic? What is a natural break in comedy?

**Mr Brown**—The guidelines are:

A break may be taken when:

- (i) there is an obvious and dramatically significant lapse of time in the action, or
- (ii) there is a change of scene, with a significant break in the continuity of action.

That actually deals more with dramatic comedy or situation comedy. In terms of skit comedies, they actually appear as a series of segments and so—

**Senator CONROY**—Every single gag is a natural break on that definition.

**Mr Brown**—I do not believe that would be quite correct.

**Senator CONROY**—What is the difference between a natural break in skit comedy between each skit and when you have chosen to define it or you will be choosing to define it?

**Mr Brown**—Under the guidelines we have drawn up and from the discussions surrounding them, I would say that a break occurred in a sketch comedy program where one segment was completed and prior to another segment commencing, not a joke within a segment.

**Senator CONROY**—I accept that. I am not sure the SBS has any particular programs like this at the moment. For instance, I happened to be seeking to doze off through *The Wedge* last night. Each gag that they do is a separate skit. Sometimes they will last for a minute and sometimes they will last for two minutes. I am not sure that the SBS has a corresponding style program at the moment but, for the purpose of this debate—

**Mr Brown**—The *Weekly Daily Show*, possibly, on a Thursday night at 10 o'clock.

**Senator CONROY**—I accept that. Each gag is each skit. There are quite a lot of skits in these sorts of shows; that is all they are. They are nothing but a collection of skits. By definition, under your 'natural break', you could then have an ad after each skit—and I will talk about 'skits' rather than 'gags', which makes it simpler—and there could be 20 skits in a 30-minute program.

**Mr Brown**—There are two points there. Firstly, there are only five minutes of advertising permitted. Secondly, part of our guideline 2.2, 'Placement of breaks', gives a guideline on how frequent breaks can be. If your point is that there are more natural breaks within a program than SBS may choose to exploit, I would accept that.

**Senator CONROY**—No, my point is that you have artificially created a definition of 'natural break' for the purposes of wanting to introduce ads during programs.

**Mr Brown**—Senator, we are not alone in this.

**Senator CONROY**—Table your legal advice. Prove that you have legal advice that says you have not created artificial breaks.

**Mr Brown**—What I would point to is that the definition of ‘natural breaks’ is a matter addressed by other broadcasters around the world. Although we must make up our own mind, the fact is that the British regulatory body, Ofcom, has invested a lot of work in this and published its set of guidelines about what are natural breaks for broadcasters in the UK. ITV, Channel 5 and Channel 4 in the UK all follow a set of guidelines on how to position natural breaks. That is the case for us as well. Elsewhere, in other broadcasters I have worked for, the term ‘natural break’ is a common expression within broadcasting. I am sure that is how it got in the act; otherwise it would be a strange thing to be invented solely for this purpose. We have sought, in common with Ofcom, to set firm guidelines around it rather than leave it as a simple discretion for individual staff.

**Senator CONROY**—I think we are about to have a natural break, so I will hold my next question.

**CHAIR**—We will break for morning tea.

#### **Proceedings suspended from 10.28 am to 10.48 am**

**Senator CONROY**—I was wondering why, after all these years since advertising was introduced, SBS decided to make this policy change now?

**Mr Brown**—My understanding of the history is that it probably has been a matter that has been under consideration for maybe the last four or five years. So it was not an entirely novel thought. SBS has become dependent on the commercial revenue in order to supply Australian programs. I think the convention has been that all of the funds raised by commercial activities have gone into generating additional Australian content.

**Senator CONROY**—I am just wondering why you have made this grab for revenue now?

**Mr Brown**—It was not just revenue; the whole market is changing. The issue of the big breaks between programs in our view is becoming increasingly serious. You can see almost the reverse strategy on every other network, except the ABC, where there are no breaks between programs—the closing credits run seamlessly into the next opening titles. The failure of our promos to effectively reach audiences was becoming an increasing concern. The prognosis for our revenue under the existing model was poor. We envisaged a decline in revenue, because advertisers were simply not willing to pay an appropriate figure for breaks between programs. All these things came to a head, really, and the decision was made to cut a new strategy.

**Senator CONROY**—On budget night you said:

SBS is disappointed that its total funding, excluding digital transmission funds, in this coming financial year will be \$3m less than in 2005-06

I’m concerned that there is a widening gap between the services we should provide our audiences and the funds available for us to do that.

So when you say, ‘things came to a head,’ one of the major factors was that you were unsuccessful in obtaining an increase in government funding.

**Mr Brown**—I do not think there was a direct link to the budget night decision. The disappointment I expressed on behalf of SBS was genuine—that, in particular, we had not secured the continuance of the sports funding. Detailed work on program breaks had been taking place for the previous year, I think, so it was not any single event. I am concerned and I remain concerned about how SBS bridges the gap between what I believe it should be putting to air and what it can put to air. To that end, it seemed to me and the board that the appropriate step was to make our commercial licence, if you like, through the 1991 legislation work more effectively.

**Senator CONROY**—Was the decision to introduce ads made in consultation with the government?

**Mr Brown**—No.

**Senator CONROY**—Have you received any guarantee from the government that its funding will not be reduced, given that SBS has identified another lucrative source of income?

**Mr Brown**—No, we have not received any such assurance—nor, to be fair, have we specifically sought one beyond the general hope and expectation that SBS audiences would not be punished—

**Senator CONROY**—Twice.

**Mr Brown**—because of this initiative. All of the additional \$10 million, which is our forecast—I believe it to be a conservative one, but that is where we have pegged it—goes into local production. Some of it is into news and current affairs but the rest is all to the external production sector. If that were to be cancelled out by a reduction in funds then the additional activity and the additional range of programs that result from that initiative would have to be cancelled.

**Senator CONROY**—You have said that you think \$10 million is conservative. Is there a basis for the \$10 million at the moment or is it just a rough guess?

**Mr Brown**—No, it has been modelled. Basically it comes back to an equation which is around the rate card and the level of discounting that SBS has been forced to do against that rate card. We might say that a slot is available at \$100, for instance, but in order to get advertisers into those slots between programs we have had to discount at excessive rates. Our view is that, when the new regime takes effect, SBS will be in a position to resist that level of discounting and to demand a more representative fee from advertisers. That is primarily what is driving the \$10 million.

**Senator CONROY**—Does it make an assumption that SBS will retain its current audience?

**Mr Brown**—Yes, it makes an assumption that the audience is pretty much flat line. There are potential variables on that. Our hope is that we will be able to grow our audience because, really, that is what it is all about—making more Australian programs, securing more sports events, having a more vigorous and broader ranging news and current affairs service and having promos that connect with the audience. It is really about attempting to deliver more effectively against the charter's requirement that we reach out to all Australians.

**Senator CONROY**—If audiences dropped, would you have to reconsider your position?

**Mr Brown**—I think any review of this decision would take place after some period had elapsed. I will not attempt to deny that audiences will not welcome this. As a viewer, I would not, so I can understand that.

**Senator CONROY**—Have there been any calls or emails supporting this decision?

**Mr Brown**—There have been some that say: ‘What’s all the fuss about? We think it is no problem at all.’

**Senator CONROY**—But no-one has sent a letter or phoned to say thank you?

**Mr Brown**—No. Actually—

**Senator CONROY**—Other than Mr Meagher!

**Mr Brown**—There have been a few people who have commented on the fact that they can now get away from a particularly challenging document at half-time. That is about the limit of it.

**Senator CONROY**—There have been media reports that you have gagged SBS staff from speaking out on this issue. Is that correct?

**Mr Brown**—No, that is not correct. I have issued no instructions on that matter. Mind you, I would not need to because SBS staff are not permitted to talk on SBS matters under the codes.

**Senator CONROY**—So was Mary Kostakidis reprimanded for her fairly prominent article?

**Mr Brown**—Mary and I have had a discussion about that.

**Senator CONROY**—So it has been pointed out to her that she was in breach of SBS rules?

**Mr Brown**—In our discussions Mary indicated that she had no intention of making any similar comments, that she had made her one point and that was it. There was no need to reprimand or gag or take any of those actions.

**Senator CONROY**—So there have been no consequences whatsoever for Ms Kostakidis?

**Mr Brown**—No, beyond the fact that we have had a discussion and she knows my view and I know hers.

**Senator CONROY**—She made comments in that article warning that ‘there’s no doubt there’ll be commercial imperatives to make advertising slots increasingly lucrative’ and that ‘commercial imperatives drive’ broadcasting ‘homogenisation’. Do you accept that argument?

**Mr Brown**—No. That argument tends to suggest that the pursuit of ratings is only driven by commercial interests; whereas, in reality, public broadcasters pursue ratings as well but usually for issues of relevance. When our charter says ‘reach all Australians and reflect Australia’s multicultural society’, there is an implicit requirement on us to seek the biggest possible audience for our content. In a way, we are simply trying to get real commercial value for that audience. While any audience growth will produce additional revenue, that is not the motivation for audience growth; the motivation is to deliver the charter.



**Senator WORTLEY**—There has been some concern raised about the proposed placement of the news bulletin in the 6.30 to 7.30 time slot, basically being that the news bulletins of the two public broadcasters will overlap. Do you see any problems with that?

**Mr Brown**—It might have been nice if that were not the consequence, but I do not think it is a particularly troublesome one. At the end of the day, we are two public broadcasters offering viewers a choice of whether they want internationally focused news which has the capacity to deliver greater breadth and depth than the ABC can in its half-hour bulletin. The alternative was to move it to six o'clock to avoid that clash, but my belief is that that would have been very disruptive to SBS audiences, who almost universally compliment us on the fact that our news starts at 6.30. It is seen to be a very positive attribute by our audience, and I was not willing to change that.

**Senator WORTLEY**—What are the consequences that you can see for either of the broadcasters in relation to your news being in that time slot?

**Mr Brown**—I am not sure there are any real consequences. Viewers have choice—I think Australian viewers are blessed with having two public broadcasters and those who like public broadcasting are making a regular choice between watching a documentary on the ABC or a documentary on SBS. So I do not think the idea of choice poses particular challenges for either organisation. I am sure there will be occasions where some people will behave differently on a given night—they might go across to the ABC because there is a story that they are aware of that they want to see covered by the ABC, or they may choose to remain with us because they are interested in the material in the second half-hour of our program.

**Senator WORTLEY**—There have been claims that the more revenue generated by advertising the less you can expect from the government. How do you respond to this? Has that been a concern?

**Mr Brown**—I think I have characterised it as being a risk. Clearly, it will be unsatisfactory from SBS's point of view and its audience's point of view if the commercial revenue were offset by a reduction in government funding. That has not been the pattern. SBS has garnered about \$30 million a year of commercial revenue; there has not been a consequential confiscation of government funds. I think the point I made earlier is relevant as well: this money is tied to a particular activity for the benefit of Australian audiences. To confiscate it would be simply to require us to slash the service that we provide.

**Senator WORTLEY**—Former Prime Minister Fraser has been quoted as saying:

The fact is this Government simply doesn't put enough of the national wealth into our public institutions such as SBS or, for that matter, the ABC.

Would you like to comment on that in relation to this advertising?

**Mr Brown**—As the recipient of government funding, it would be unlikely that I would ever take a position that I have enough. I think that is evidenced by the fact that we lodge a triennial funding bid which invariably seeks additional funds for additional services. I think the issue, though, is that, unlike the ABC, SBS was granted a de facto licence to supplement government funding through its own activities. I think SBS is doing the right thing by maximising its commercial revenue. We will continue to press government for additional

funds for additional services, and if we can secure both I think the audience will be much the better for it.

**Senator WORTLEY**—But, if you had secured adequate government funding, then perhaps you would not be embarking on the path that you are moving along with regard to the advertising.

**Mr Brown**—It is very difficult for me to answer because the issue goes back to 1991, when the funding model was changed. I was not here then, so I do not know what the prevailing view was or whether there was a sense that no government would be able to afford to fully fund both public broadcasters. I simply do not know.

**Senator WORTLEY**—You were quoted on *Lateline* as saying:

If we didn't do something, we'd simply be going backwards. We'd be in a situation where we'd be cancelling shows, restricting our investment in news and current affairs, and I'm not prepared to see that happen and neither is the board.

That was following the budget.

**Mr Brown**—It may have been following the budget, but it was more particularly following the announcement of our decision to change our commercial model. By that, I mean that the prognosis for the current model was so poor that there would be a declining revenue, almost inevitably. What I particularly want to avoid is that vicious cycle of losing revenue, cutting programs and losing audience—which in turn loses you revenue. Once we got on that spiral, I saw a very poor prognosis for SBS. Some of the money that we are securing through this added initiative is only allowing us to keep up to speed on our investment in local content, because costs are going up.

**Senator WORTLEY**—Would you agree with comments by the head of the Federation of Ethnic Communities Council of Australia, Voula Messimeri, who said:

We do regret that SBS feels that the only way that they can produce material that enhances their ability to meet their charter is through continued and increased revenue raising through commercial enterprises ...

**Mr Brown**—I think that is beyond my responsibility to comment on. I simply go back to the fact that as managing director I have an act and a charter. The act provides for the means of part-funding the delivery of that charter. I do not believe that it is appropriate for the management or board of SBS to turn its face against making the best use of that licence, because all of it translates. SBS could have another \$100 million and there would still be issues about not affording this or that. The cost of international programs and sports rights are going up. My belief is that SBS should be doing considerably more in the local production sector as well.

**Senator FIERRAVANTI-WELLS**—Mr Brown, noting some of your answers that you gave earlier, can I ask you about a joint SBS TV and Film Finance Corporation film called *The President Versus David Hicks*. I will quote from the promotional material for this film:

... what motivated this young Australian cowboy to become a freedom fighter for Islam.

I think I heard you saying earlier that you would not expect Mr Hicks to be described as a freedom fighter, but here he is being described as a freedom fighter by your organisation. He

is known to have fought with terrorist organisation Lashkar-e-Taiba, the Taliban and al-Qaeda but this material casts him as a freedom fighter. As I understand it, you were the head of SBS TV at the time of the film, which was two years ago. Did you sign off on this promotional material characterising David Hicks as a freedom fighter? How does that stand with the evidence you have given this morning, which is clearly contradictory?

**Mr Brown**—Perhaps I can go back to your first question, which relates to the previous answer I gave Senator Ronaldson. I believe I was quite specific in saying that I would not expect journalists or producers of news and current affairs to use that term. I do not believe there is any inconsistency or contradiction in terms of that answer and my current position. With regard to the issue about whether I saw or approved that promo, I did not. I do not usually approve promos.

**Senator FIERRAVANTI-WELLS**—As I understand your answer, this morning you told us that you do not think he should be described as a ‘freedom fighter’.

**Mr Brown**—I did not say that, Senator. My answer, when Senator Ronaldson said—

**Senator FIERRAVANTI-WELLS**—Mr Brown, I distinctly heard you. I would appreciate it if you could go back and have a look at the—

**Senator ALLISON**—Chair, the witness is unable to answer questions under these circumstances.

**CHAIR**—Yes. Senator, you must let the witness answer and you must let them finish answering before you make a comment.

**Senator FIERRAVANTI-WELLS**—Sure.

**Mr Brown**—In answer to the first question, I want to correct you on how you represented my answer, because my recollection is that I specifically said that I would not expect reporters or producers in news and current affairs to use that label. What you have raised is not a news and current affairs matter. So my answer to that first question posed by Senator Ronaldson does not apply to the circumstances.

**Senator FIERRAVANTI-WELLS**—Oh, I see! So you are just saying that, if it is under news and current affairs, you cannot use it, but if you use it in other contexts it is permissible. That is basically what you are saying. That is a question of double standards, Mr Brown.

**Mr Brown**—That is not what I am saying. I am simply putting the record straight in terms of your representation of my answer. You represented me as saying that I would not accept that label being used in any circumstances. I said my answer specifically related to news and current affairs. What you are trying to do is point out that I hold a contradictory or double standard position. I do not accept that. I am quite happy to deal with the substance of the matter you are putting in front of me, but not in relation to a previous answer which I do not think applies particularly to the circumstance you are describing.

**Senator FIERRAVANTI-WELLS**—Perhaps I could ask you in the context of the description of Hicks as a ‘freedom fighter’, given that the families of Australian victims of terrorism might be highly offended that nearly \$150,000 of Australian taxpayers’ money went into this project which cast him as a freedom fighter.

**Mr Brown**—I am not sure that the program did cast him as a freedom fighter. I am sure you have seen the program, but my recollection of the program is that it was wide ranging and that it was done particularly through a father's point of view. I think everyone understood that and that it was a particularly agonising issue. What you are quoting to me is not the script of the program. I think I am right in saying that what you are quoting to me is a promo or a publicity sheet.

**Senator FIERRAVANTI-WELLS**—I am quoting the promo. I will give you copies of all the material that I refer to this morning, Mr Brown. I have it in writing here in front of me, so I will give it to you and you can have a look at it for yourself. If you wish to add anything further, please feel free to do so. The material that I have in front of me clearly states that this young Australian cowboy is 'to become a freedom fighter for Islam'.

I want to ask you now about a reference to Hicks during an SBS radio report by Karen Ashford, a South Australian correspondent. Karen Ashford reports that 'David' has had contact with both his American military lawyer and his father, Terry. I am going to allege here that this use of cosy first-name terms—SBS is very good at cosy first-name arrangements—this use of his first name demonstrates that you are siding with him.

**Mr Brown**—I think that is a long bow to draw, Senator. I do not particularly favour first-name usage in that sort of circumstance, and I am not sure that it automatically means that SBS is on the side of David Hicks.

**Senator FIERRAVANTI-WELLS**—Perhaps if we can now turn to what the other public broadcaster says. There is a document in their news and current affairs style guide which has a reference to the use of first names. I know you are going to say, 'That is their document, not ours,' but I want to quote the section that says: 'Avoid referring to people by their first names because it creates the impression that we sympathise with the person.' For all its faults, the ABC at least has this in its style guide; what about SBS?

**Mr Brown**—That is the ABC's view. I probably agree with it; I do not have a problem with that. But my answer stands: I do not believe it is particularly appropriate to use Christian names in that circumstance and in many others. There are occasions where the use of Christian names is not problematic—for example, for sportspeople and the like and in non-controversial areas. In controversial areas I believe it is probably not appropriate, but that does not necessarily—

**Senator FIERRAVANTI-WELLS**—Would you consider including that?

**Mr Brown**—It is mainly about perspective and perception. I think that is why you find it in the ABC guidelines. It wishes to avoid the perception that there is a cosy relationship with or a feeling of support for the person being interviewed. It does not follow that the entire organisation is on the side of somebody who is referred to by their Christian name.

**Senator FIERRAVANTI-WELLS**—Clearly the ABC, as a public broadcaster, has seen fit to include that. My question to you is: given this sort of sensitivity, would you give some consideration to including something similar in your codes of practice that you appear to follow?

**Mr Brown**—It seems more like a style issue to me. I do not believe it is appropriate for that to be a code of practice issue. We have more in our codes than the ABC do. The ABC tend to use guidelines; we tend to use codes.

**Senator FIERRAVANTI-WELLS**—Do you have a style manual?

**Mr Brown**—No, we do not.

**Senator FIERRAVANTI-WELLS**—You do not.

**Mr Brown**—We have guidelines.

**Senator FIERRAVANTI-WELLS**—Wouldn't it be a good idea if you did?

**Mr Brown**—No. We have editorial guidelines.

**Senator FIERRAVANTI-WELLS**—Would you consider including it in your editorial guidelines?

**Mr Brown**—I will consider it.

**Senator FIERRAVANTI-WELLS**—Good. Thank you. I want to note that you have admitted an error. We received some answers to questions on notice. One of them was an answer to question 250 from the last estimates in which you concede—

**Mr Brown**—What was the number again?

**Senator FIERRAVANTI-WELLS**—It is 250. You concede that you were wrong to report that Hicks had recently become a British citizen. These are just three examples; there are more. The concern that I have is that you are allowing yourself in these three examples—and there are many others—

**Mr Brown**—What were the other examples?

**Senator FIERRAVANTI-WELLS**—to be seen as siding with David Hicks, who is an accused terrorist and who has fought with terrorist organisations involved in the deaths of Australians.

**Senator ALLISON**—Chair, can I interrupt here? David Hicks has not been charged with being a terrorist. He has not been before even the kangaroo court that the United States has set up. It is inappropriate—

**Senator FIERRAVANTI-WELLS**—Senator Allison, I did not interrupt—

**CHAIR**—We will have a little order. Please go through the chair, Senator. I think you should stick to simple factual questions and perhaps not make comment. Please proceed.

**Senator ALLISON**—Chair, on that point of order, if SBS is being accused of taking sides, I would argue that the senator is also taking sides in assuming guilt where no charge has been laid and when no finding has been brought against David Hicks. I would suggest this line of questioning is not particularly useful.

**Senator FIERRAVANTI-WELLS**—The point—

**CHAIR**—Thank you, Senator.

**Senator FIERRAVANTI-WELLS**—I will not pursue it. Senator Allison, if you had been listening to the questioning, you would know that it was about his British citizenship.

**Senator ALLISON**—I have indeed.

**Senator FIERRAVANTI-WELLS**—I now move on—

**Mr Brown**—Senator, you asked me a question, and I could not quite understand it. You mentioned three mistakes. You referred me to question 250.

**Senator FIERRAVANTI-WELLS**—No, I just referred to these examples in which I think you are siding with David Hicks.

**Mr Brown**—What were the other two?

**Senator FIERRAVANTI-WELLS**—I had previously referred to them in the questions that you—

**Mr Brown**—Okay. There is the one in the questions on notice. The question on notice error, which we have acknowledged, was a reference to David Hicks as a British citizen when, as you pointed out, that was not a complete process. He had won a legal battle on the road to becoming a British citizen but had not achieved that status. Frankly, I cannot accept that making an error of that type, regrettable as it is, reflects that SBS has a position in support of David Hicks.

**Senator FIERRAVANTI-WELLS**—I will provide you with further material, and I would like you to carefully consider it in light of everything that you have said this morning about Mr Hicks. The basic assertion that I am making is that SBS is siding with Mr Hicks. I have given you some examples. I would like you to carefully look at the material that I will provide to you and look at it in that light. That is the gist of my questioning. I will move on.

*Senator Allison interjecting—*

**Senator FIERRAVANTI-WELLS**—Thank you, Senator Allison. Mr Brown, I would like to take you to 3 August 2006—and I think part of the problem at SBS is that you have a rather equivocal view of terrorism—when you state:

Israel and the US laid the blame squarely at the feet of the so-called terrorist organisation.

You are referring to Hezbollah as a ‘so-called terrorist organisation’. Given what we know and what we have heard for years and years, how can SBS still refer to Hezbollah as a ‘so-called terrorist organisation’?

**Mr Brown**—Was that on a *World News Australia* program?

**Senator FIERRAVANTI-WELLS**—It was SBS radio, on *World View*. I will provide it for you. Here we are. What is Hezbollah? It is a ‘so-called terrorist organisation’.

**Mr Brown**—Our policy on the use of the words ‘terrorist’ or ‘terrorism’ is that it is not for SBS to assign that label but to permit any quoting of that.

**Senator FIERRAVANTI-WELLS**—There was no quote. This is on SBS radio, on *World View*—no quote, no nothing.

**Mr Brown**—I will look into that.

**Senator FIERRAVANTI-WELLS**—Could you please look into that. It is really just typical of the sort of stuff that you are promulgating.

**Senator ALLISON**—Chair, could I also make a comment about this?

**CHAIR**—If you have a point of order, you can make a point of order.

**Senator ALLISON**—Hezbollah is not regarded as a terrorist organisation in many countries. So it would seem to me to be quite appropriate for a rider such as this to be applied.

**Senator FIERRAVANTI-WELLS**—Mr Chair, if I have to sit here and listen to Senator Allison lecturing me—

**CHAIR**—I said Senator Allison could make a point of order.

**Senator FIERRAVANTI-WELLS**—I did not interrupt her.

**CHAIR**—Senator Fierravanti-Wells, I said she could make a point of order and I presume she must be going to do so.

**Senator ALLISON**—I have done that.

**Senator RONALDSON**—It was not a point of order.

**CHAIR**—It was a comment more than a point of order.

**Mr Brown**—I was trying to address the general matter. I will look into the use of that particular term. But I was really addressing the issue of SBS policy on the use of the words ‘terrorist’ and ‘terrorism’. That is, in common with many other broadcasters, who wrestle with that issue—we have had communication with a number of other broadcasters on this matter—we do not use the label. That is not to say that SBS is saying that organisations are not terrorist. That is a matter for the viewer to form a view on. But to use the label and to start making judgements individually places SBS in an invidious position. It is a fact that people throw the labels ‘terrorist’ and ‘terrorism’ around in order to score political points. That is understood. SBS should not be in a position of determining whether an act of any organisation is deemed by SBS to be a terrorist act. You will be aware, even in the latest conflict with Lebanon and Israel, that the Syrian government described Israeli actions as being acts of terrorism. SBS does not label those acts in that manner. But it will report the Syrian President as making that allegation, as it would report Israeli quotes about the activities of Hamas and Hezbollah.

**Senator FIERRAVANTI-WELLS**—I think Senator Ronaldson has more detailed questions on that later. Can I generally say, Mr Brown, that I had a look at your responses to questions put on notice and I have to say that the answers were sadly lacking. I certainly provided very detailed and considerable material, and I have to say that some of your answers were lacking.

**Mr Brown**—If you would like to point them out, I am quite happy to address those.

**Senator FIERRAVANTI-WELLS**—I will be making comments in relation to those. I just make the general comment at this point in time. I am taking you to some questions but I will be providing you with some other material, and the ones that I am particularly—

**Mr Brown**—But if there is something deficient in the way we have answered your questions on notice that is of concern and if you can identify them, I am quite happy to address them now.

**Senator FIERRAVANTI-WELLS**—I certainly will. I just make the general comment. I want to take you to your written answer in relation to question No. 254 from the last

estimates. You were asked why, in a wire copy published on your website, an Israeli spokesman's word 'terrorist' had been deliberately changed to 'militant'. You replied, 'SBS accurately reported the original source material' from the website. How can you have done that when the word of the Israeli spokesman was 'terrorist' and you deliberately changed that to 'militant'?

**Mr Brown**—I do not believe that it was our position that we had changed the words. My understanding of this issue from the preparation of this response was that that word was used by the agency which supplied the material to us. If there was another word used, we were not aware of it.

**Senator RONALDSON**—That means that, if you get it from an agency and it is totally incorrect, that just lets SBS off the hook, does it?

**Mr Brown**—No, if—

**Senator RONALDSON**—That is what you are saying.

**Mr Brown**—I am not saying that at all. It has not been demonstrated that it was used. You have claimed that. The agency reports in a different way. We have simply reflected that.

**Senator RONALDSON**—You used the expression—

**Mr Brown**—Let me—

**Senator FIERRAVANTI-WELLS**—No, when I—

**Mr Brown**—Let me answer this, please.

**CHAIR**—Let Mr Brown finish.

**Mr Brown**—I do not have anything to hide here. If SBS makes mistakes, it will acknowledge them.

**Senator FIERRAVANTI-WELLS**—It makes a lot of mistakes.

**Mr Brown**—What I would say in relation to this and other matters that SBS has to address is that we have set up a robust complaints system. We did that in the face of criticism some two or three years ago, some of it from this committee, which we accepted. I personally accepted that our former complaints system was not robust enough. We had positioned people who were responsible for making decisions about programs as the people responsible for defending against a complaint against those programs. That was inappropriate. We therefore introduced an audience affairs manager, somebody who is separate from the program-making and decision-making processes. If complaints are lodged with that person, if they demonstrate that there is an inaccuracy and a breach of the codes consequently, then appropriate action will be taken. I have made the point before that many of these points that are raised late through this process do not go through the formal process where they are tested by the audience affairs manager in an objective manner.

**Senator FIERRAVANTI-WELLS**—If I have not gone through your complaints section, I have had other things on my mind. Rest assured that I will probably be using your complaints section a lot more regularly. Having said that, on the last occasion I actually provided you with the material that led to my question in relation to question No. 254. I provided you with information. It was there. I will provide it to you again. Could you please have another look at



it in black and white and then come back and answer the question again, if you would not mind. That is the point of my complaint. I actually provided the material to you.

**Mr Brown**—Certainly.

**Senator FIERRAVANTI-WELLS**—I want to take you to a story that was published on 14 June about Abu Bakar Bashir, the spiritual head of the terrorist organisation Jemaah Islamiah, who as we all know are responsible for the deaths of almost 100 Australians in the two Bali bombings. You refer to him as the alleged spiritual head of the Jemaah Islamiah militant group.

**Mr Brown**—Sorry, what program was this?

**Senator FIERRAVANTI-WELLS**—This is on 14 June. You refer to him on SBS world news—again, I will provide this to you—

**Mr Brown**—So this is television: *World News Australia*.

**Senator FIERRAVANTI-WELLS**—You refer to him as part of a militant group, yet here is the same report on Sky News online referring to ‘the terrorist group Jemaah Islamiah’. Did your reporters change ‘terrorist’ to ‘militant’ or do you regard Jemaah Islamiah as a militant group rather than a terrorist group?

**Mr Brown**—What you have quoted is two different news organisations using different language. I do not necessarily think it follows that somebody has changed anything here at all. I can tell you what I would suspect has occurred because this is not a quote. If this was a quote and it was changed from ‘terrorist’ to ‘militant’, I would accept that is inappropriate. If, however, this is an SBS journalist avoiding using labels from SBS then that is in keeping with our position.

**Senator FIERRAVANTI-WELLS**—I will provide you with that and perhaps you might have a look at that as well. Staying with what I have to say is your rather selective use of loaded language, can I ask you about your answer to question No. 256 from the last estimates. You were asked why you adopted the language of one side of the conflict in the Middle East—namely, describing Hamas’s campaign of terror against Israel as ‘armed resistance’. Your justification was:

... the language used may coincide with that commonly used by the individuals or organisations concerned.

But that it is only when it comes to Hamas and not Israel. What is your comment in relation to that?

**Mr Brown**—What was the issue with Israel?

**Senator FIERRAVANTI-WELLS**—It is No. 256.

**Mr Brown**—I have the answer and I have read it, but you said we had a different standard for Israel.

**Senator FIERRAVANTI-WELLS**—You refer to Hamas’s campaign of terror against Israel as ‘armed resistance’. Isn’t that the language that they are using and you are siding with them? You are using their language.

**Mr Brown**—My understanding of this answer is that, while those words are used by that organisation and similar organisations, it is not an inappropriate use of words on its own anyhow. Your point was that we did not do that for Israel. I am not sure that is the case; I would have thought that there would be occasions when describing Israeli activities that we may coincidentally use their words as well.

**Senator FIERRAVANTI-WELLS**—Please feel free to provide them to me because I could not really find any. If you can I would be most grateful. We will return to the Middle East shortly, but first I want to ask you about the relationship between SBS radio and one Salef Saqqaf, described as a ‘45-year-old Jordanian born freelance journalist’. I have a document here which describes his employment with al-Jazeera based out of Sydney. I will provide this to you, if you could have a good read of it; it is certainly very enlightening. As you may know, al-Jazeera has been described as ‘the mouthpiece of the Muslim Brotherhood’, which is a kind of godfather organisation for other terrorist groups like al-Qaeda. I will quote from an article by Tunisian intellectual Dr Khaled Shawkat, from the Netherlands based Center for Promoting Democracy in the Arab World:

Al-Jazeera’s current media direction is no longer to aspire to compete with the BBC or CNN in professionalism, independence, and courage; rather, it has become [a channel] affiliated with a political, religious, and ideological organization that strives to spread its views amongst the Arab public ...

I want to also quote another report about al-Jazeera and its expansion into places like Australia:

Al-Jazeera is favoured by Bin Laden and Al Qaida for issuing terrorist threats against the United States Australia and other western countries ...

Al-Jazeera ‘reporters’ throughout the world and the Middle East are well placed to ask ‘trick’ questions at public and media conferences. Some of these ‘questions’, may be in the form of requirements for bin Laden and Al Qaida and used for intelligence counter intelligence or targetting purposes as Al-Jazeera has a valuable quality in information collection: access. For example, a senior manager and two other Al-Jazeera staff were recently exposed as agents of the Iraqi intelligence service.

That was under Saddam Hussein. The report went on:

In the context of Al-Jazeera’s relationship with Bin Laden and Al Qaida, the al-Jazeera upgrade in Australia is more than symbolic; it is a subtle extension of extremist and prospectively, terrorist interest in Australia.

Al Jazeera’s form of Taqiyya television has three operational purposes: Pre-terrorist attitude formation or conditioning amongst Australia target audiences; strategic disinformation aimed at Western governments, the US and Israel in particular and rationalisation (‘explaining’ or ‘contextualising’) terrorist acts ...

**Mr Brown**—Could you tell me who that quote was from?

**Senator FIERRAVANTI-WELLS**—That was from another report about al-Jazeera and its expansion. I will provide this to you. I will now ask you the question—

**Mr Brown**—It is hard for me to respond to that. I would like to respond because—

**Senator FIERRAVANTI-WELLS**—I have not asked you the question yet; I am just putting that by way of background. The same document states that since 2003 Mr Saqqaf has been the Australian head of al-Jazeera based in Sydney. I note from the same document that

he also engages in occasional work for SBS radio. I would like you to look at this and get back to us about just what sort of involvement this fellow has with broadcasting on SBS. I am very concerned about this quote which has been attributed to him:

I don't think the Australia media is covering all aspects of this conflict in Iraq. ... That has been the same with the Palestinian issue.

... ..

'It's easy to say. "Oh look; Iraq (has) lots of mass destruction weapons." For Arab countries, mass destruction (is) something they're proud of. And when Iraq started (becoming) a country which had mass destruction weapons, around 15 or 20 years ago, they think: "yes, it's our right". It's a (source of pride), because they want to compete with Israel'

I ask that you do some research and tell me what sort of relationship this gentleman has with SBS and if it is true that he does occasional work with SBS radio. What sort of occasional work does he do with SBS radio or, if he no longer does it, what did he do in the past?

**Mr Brown**—Can I go back to the quotes that you made. You are building a case, really, of condemning this person because of their involvement with al-Jazeera and you have described al-Jazeera through a series of quotes. Clearly the validity of that position is tested by its authorship.

**Senator FIERRAVANTI-WELLS**—I am just raising these issues; I am not expecting you to give me an answer today.

**Mr Brown**—Yes, but I would like to try and at least address some of these points today. I agree that al-Jazeera is a highly controversial area, but I have read lots of articles which would take a different perspective—that within the Arab community al-Jazeera is seen as a moderating voice. From time to time I see al-Jazeera content online and I have to say that I have seen the most powerful representation of a challenge to fundamentalist Islam and the role of women on al-Jazeera. They are not an organisation that avoids interviewing critics. I have seen some most powerful interviews along those lines. You put up al-Jazeera and you portray them using a series of quotes from an unidentified person. I do not think that is particularly fair. You then use that to link it back to somebody who may have done some work for SBS to portray them in such a bad light. Surely there has to be some rigour to the source of this information that you are putting in front of us.

**Senator FIERRAVANTI-WELLS**—Well, Mr Brown, I am not expecting you to give me an answer today. I am simply referring to it. I will provide it to you. I would like you to investigate it and then you can come back to me. That is what I am asking. I am not expecting you to give any considered response on this issue; I am simply laying the facts out and then you can investigate them. All I want to know is: what is this person's connection with SBS? It is a pretty simple question.

**CHAIR**—Could you take that on notice, Mr Brown?

**Senator ALLISON**—I have a point of order, Chair. The senator is referring to a document none of us has—and the SBS does not have. It might be useful if that is circulated now so we can all be in the picture.

**CHAIR**—That is a fair point.

**Senator FIERRAVANTI-WELLS**—Sure, I am happy to circulate it. The question I want answered is: can you find out whether this fellow does have links to the Muslim Brotherhood and whether he has been promoting those sorts of views in the time he has been working on SBS? Also, if he has done work on SBS, has that been monitored? Are you aware of what this fellow is saying? If he has done work on SBS, what language has it been broadcast in? The reason I am raising this is that we know of earlier examples at SBS of a fellow who was head of the Tamil program and who was apparently working at the same time as the international head of fundraising for the Tamil Tigers—a terrorist organisation. There was also this guy evidently using the Croatian language program to raise money to buy weapons for the Croatian army during the Balkan wars. That is why I am asking this question, Mr Brown. I appreciate that this may have been before your time, but SBS does have a history with these sorts of people. That is why I am asking the question.

**Senator ALLISON**—I have a point of order, Chair. Senator Fierravanti-Wells is making unsupported assertions—

**Senator FIERRAVANTI-WELLS**—Senator Allison, if you—

**CHAIR**—Senator Fierravanti-Wells, Senator Allison is asking a question.

**Senator ALLISON**—I not asking question; I am raising a point of order about the assertions that are being made, which seems to me are unfounded and unreasonable and should not be part of an estimates process.

**CHAIR**—Presumably they will be taken on notice by SBS and answered.

**Senator FIERRAVANTI-WELLS**—Senator Allison, if you care to go back through estimates transcripts going back a number of years you will see the detailed questioning and the material that was provided in relation to this allegation. You will also see the subsequent action that was taken by SBS in relation to both the issues relating to the Tamil program and the Croatian issue. Perhaps in future, if you do wish to make those assertions, go back and have a look at the transcript in the first place.

**CHAIR**—That is an answer. Let us confine it to that.

**Mr Brown**—I am concerned about the fairness to individuals who may or may not work for SBS. I think if there is going to be an allegation placed against somebody who is an employee of SBS, it needs to be substantiated. I remind you, Senator Fierravanti-Wells, that you put a question to us on notice where you accused one of our journalists of being a propagandist. I do not think there was any evidence for that. You thought that he was a pro-Hamas propagandist. We replied to you and said that, actually, he is a Jewish journalist with family in Israel and is deeply offended by this. I do not know what recourse we have to put the record straight unless in this forum, where you put points to me about our journalists and give me a chance to respond to it.

**Senator FIERRAVANTI-WELLS**—I do. You are fully entitled to.

**CHAIR**—Senator Fierravanti-Wells, that is a legitimate issue. You must be able to substantiate allegations.

**Senator FIERRAVANTI-WELLS**—Yes, I have provided documents and Mr Brown responded to the questions that I have raised. End of story.

**Senator ALLISON**—Where is the document, Chair?

**CHAIR**—We have concluded this segment.

**Senator RONALDSON**—Chair, I have a point of order. Senator Fierravanti-Wells is quite entitled to put scenarios to this witness, substantiated by matters that she is going to circulate, whether Senator Allison likes it or not.

**CHAIR**—The point that is being made is that allegations should be substantiated. I think that is a fair point in relation to the reputations of the people involved.

**Senator ALLISON**—On that point, Senator Fierravanti-Wells said that she had a document and was happy to circulate it.

**Senator FIERRAVANTI-WELLS**—I am happy to circulate it.

**Senator ALLISON**—I am just asking whether that can take place now.

**CHAIR**—We have already asked her to circulate it.

**Senator RONALDSON**—And she said she will.

**Senator FIERRAVANTI-WELLS**—There it is.

**Senator CONROY**—I understand that SBS has good news for cricket fans?

**Mr Brown**—That is correct.

**Senator CONROY**—Tell us all about it.

**Mr Brown**—It is nice to have some good news. We were delighted to announce overnight that we have secured the rights to the Ashes for free-to-air audiences for 2009. That will allow us to repeat the success of last year. We have also secured the rights to the one-dayers surrounding that event. So we have ensured that that particular event remains on free-to-air television.

**Senator CONROY**—Fantastic. Congratulations. Before I move on to a couple of other areas in sport, I did notice that there was some publicity—and I note you have already mentioned *South Park* once today—and that there is some controversy around a forthcoming *South Park* episode to do with a betrayal of Steve Irwin?

**Mr Brown**—Yes, I do not know much about that one. The *South Park* I was referring to was one of a previous series called ‘Bloody Mary’. I only know what I have read in the newspaper briefly about it. It is not something that is subject to an offer from SBS at this stage.

**Senator CONROY**—Sorry, ‘it is not something that’?

**Mr Brown**—It is not something that is subject to any sort of contract with SBS at this stage. The series that is going into America is still a year or so away from even being shown to us for consideration. So I could not indicate our view on that.

**Senator CONROY**—Is good taste an SBS criteria—or bad taste is not?

**Mr Brown**—It is a very vexed question in terms of comedy, because satirical comedy is almost inevitably in bad taste—bad taste used for effect. That is not to say that we are not sensitive to points where we believe a line may be overstepped.

**Senator CONROY**—Going back to sports funding, it is noted that on budget night you said you would have \$3 million less. That was the loss of the sports funding money that you previously had?

**Mr Brown**—We had received a special payment of funds to support our sports policy for one year and we had made a submission under our triennial funding to have it continued for the next triennium. We were unsuccessful in that.

**Senator CONROY**—You were seeking \$15 million over the next three years?

**Mr Brown**—That sounds correct.

**Senator CONROY**—Will you have to cut any current SBS sports as a result of this—the Tour de France, one of Senator Coonan’s favourites?

**Mr Brown**—The Tour de France is contracted for some period ahead, so it is unlikely to be affected. Look, we have to make tough decisions about what we can and cannot do all the time. Sometimes those decisions are taken out of our hands anyhow, because we do not continue to own a property that we previously did.

**Senator CONROY**—The other matter that I want to raise with you is the fact that SBS lost the rights to broadcast Soccerroos internationals for the next seven years. This was a disappointment to millions of soccer fans around the country. What sort of coverage has SBS given to Soccerroos matches since you have had the rights?

**Mr Brown**—We have had the rights to Soccerroos matches for the last two years, and we have covered all games live and in full.

**Senator CONROY**—Soccerroos matches such as World Cup qualifiers are not on the antisiphoning list, are they?

**Mr Brown**—No, they are not.

**Senator CONROY**—Do you think that it would have made a difference to the outcome if they were on the list?

**Senator Coonan**—You are asking him to speculate about something. How can he do that?

**Senator CONROY**—You do not have to be bullied by the minister, Mr Brown. You are entitled to answer your questions.

**Mr Brown**—When any sports event is on the list, it has to be offered to free-to-air broadcasters rather than simply to a pay broadcaster. In this case we were in negotiations with the FFA for the rights to these events, but it is clear from the publication of the amount that pay TV paid that we were a very long way away from securing those rights. That does not include the A-League. The A-League was already contracted to pay TV anyhow.

**Senator CONROY**—Do you think it is an anomaly that Soccerroos matches are not on the list, given that rugby league and rugby union test matches are on the list?

**Mr Brown**—I think SBS is on the record as stating that it has lobbied for the inclusion of Soccerroos matches on the antisiphoning list.

**Senator CONROY**—How many people watched the Australia-Uruguay qualifier in Sydney?

**Mr Brown**—I cannot recall.

**Senator CONROY**—I understand that it was in the millions.

**Mr Brown**—It might have been. It was certainly SBS's highest rating program ever.

**Senator CONROY**—Did you say that you have been involved in lobbying to have the Socceroos's World Cup qualifiers put on the list?

**Mr Brown**—We have made representations to the government from time to time, probably even predating me, that in our view they should be on the list.

**Senator CONROY**—What response was received? Obviously an unsuccessful response.

**Mr Brown**—We have been unsuccessful in achieving that.

**Senator CONROY**—Minister, in 2001 the Australian Broadcasting Authority told the government:

... soccer is a sport with a growing following in Australian audiences generally and matched Rugby Union in the level of interest in television viewing ...

The ABA also said:

... consideration should be given to listing international soccer matches involving the senior Australian representative team, in a similar way that international 'test' matches are covered for rugby union.

Can you explain why the government decided not to list Socceroos World Cup qualifying matches?

**Senator Coonan**—I think it was before I was in cabinet. The list is now settled until 2009.

**Senator CONROY**—So Australian soccer fans will now have to pay \$600 a year to watch the Socceroos's campaign to qualify for the next World Cup. Are you happy with that outcome?

**Senator Coonan**—I am responsible for the administration of the antisiphoning list. The list is settled. There are always representations from many bodies to add things to the antisiphoning list. I am currently having a look at the list, and I am not going to make any further comment.

**Senator CONROY**—I am not asking where you are going with the list. The fact is that the rights for them have been purchased for the next seven years, which means any Australian soccer fan who wants to watch the Socceroos qualify for the next World Cup will have to pay \$600 a year for the Foxtel subscription. I am asking: are you happy with that?

**Senator Coonan**—Whether I am happy is not really a matter for supplementary estimates. I would say that I think that there is a place for sport being shown on free-to-air TV. We are very committed to that. As to what goes on and off the list, that is a matter that has to be reviewed as the list gets either bought up or not bought up, and we will review it again in 2009 to see whether the rationale for it continues and what it should look like. But, as far as the current arrangement goes, free-to-air TV could have bought it. There was no prohibition on free-to-air TV bidding for the rights. I think we have to ensure, insofar as we can, that free-to-air TV have an opportunity to bid where they see it appropriate.

**Senator CONROY**—Minister, just to confirm the discussion that Mr Brown and I were having, are you aware that, according to Roy Morgan Research, almost 8.5 million Australians—that is, 51 per cent of the population aged 14 and above—watched the second leg of Australia’s World Cup qualifier against Uruguay last November?

**Senator Coonan**—I think you are counting yourself a few times, Senator Conroy.

**Senator CONROY**—I was watching it live.

**Senator Coonan**—I think it is extremely popular, but it is not on the list and of course the rights have now been purchased.

**Senator CONROY**—But doesn’t that demonstrate that these matches are of national significance and importance, which is the basis for the list?

**Senator Coonan**—That is not the only basis for the list, of course. The rights have now been bought and, as I have explained to you, the list is settled until 2009, broadly speaking. That is when we will have a look at the ongoing rationale. I think there will be one. I really do like to see Australians able to see sport free-to-air, but you cannot put everything on the free-to-air list. There are obviously a lot of issues, as you would be well aware, in how the sports rights work.

**Senator CONROY**—But last year you told this committee that national significance and importance was your criterion for deciding whether events should be listed.

**Senator Coonan**—Yes, that is certainly true for the ones that are listed. They would be listed if they did not have that criterion and others.

**Senator CONROY**—Your predecessor, Senator Alston, put the final qualifying matches for the World Cup on the antisiphoning list in 2001. Why didn’t you continue his policy?

**Senator Coonan**—I was not responsible for the compilation of the current list, Senator Conroy.

**Senator CONROY**—But 8.5 million Australians are going to miss out now, on your watch.

**Senator Coonan**—They will not miss out, Senator Conroy, in that there are those who actually do enjoy sport on pay and the 2010 World Cup is on the list.

**Senator CONROY**—Only after we campaigned to get it put back on after you dropped it.

**Senator Coonan**—That is what you say, Senator Conroy.

**Senator CONROY**—It is a fact.

**Senator Coonan**—We only put things on the list that we think are appropriate. You would end up with all sport on the list if everyone who made a representation about it was able to persuade the government. Clearly, we have to strike a sensible balance. I think this is a very sterile argument, if I may say so, simply because the rights have been acquired by pay, the free-to-air were able to bid if they wished and the list is settled until 2009, when it will be reviewed.

**Senator CONROY**—Can I put it to you, Minister, that there are many Australian football fans who do not think it is a sterile argument.



**Senator Coonan**—It is a sterile argument if the rights are sold, Senator Conroy. I do not know how more gently I can point that out to you.

**Senator CONROY**—They have only been sold because you let them be sold by not insisting they be on the list.

**Senator Coonan**—That is an absurd thing to say, and you know it.

**Senator BOB BROWN**—SBS has done a fantastic job in expanding the range of options for Australian viewers with its rollout to people who have not had SBS in the past. This topic may have been covered earlier this morning, and I am sorry if I was not here for it. What percentage of Australians still cannot receive SBS, and what is being done to fix that up?

**Mr Brown**—Television?

**Senator BOB BROWN**—Both television and radio, but television first.

**Mr Brown**—There is another rollout of transmission to population centres of between 3,000 and 5,000 currently under consideration. When that is achieved, that is really as far as SBS intends to go in terms of analog reach.

**Mr Broderick**—We currently have scheduled for 2006 about 57 new sites for analog and digital television, including self-help, around Australia. We are in the process of negotiating a further 70 sites for digital television throughout Australia, which should take our digitisation of the analog network to conclusion. I think it would be in excess of 98 per cent, but I would have to take it on notice.

**CHAIR**—Are there other questions for SBS?

**Senator FIERRAVANTI-WELLS**—Yes, I have more questions. Recently I was made aware that one of your journalists, Max Civili, from the *Italian* program, was a guest speaker at a fundraiser for the New South Wales Greens. The involvement of an SBS journalist in a Greens party fundraiser does not exactly surprise me, but could you tell me whether you have a procedure in place for journalists who do wish to speak at political fundraisers; whether permission is required and, if so, from whom, how often this sort of thing happens; and what was the nature of Max Civili's address. I understand that the function was on 7 October. If you are not able to answer here, please take that on notice and get back to me.

**Mr Brown**—I can answer. In that particular instance the journalist did not seek permission, under the mistaken belief that that was not required as he was appearing in a personal capacity. He was unaware that his involvement would be promoted as that of an SBS journalist; in fact, he was not perceived as being there in a personal capacity. It is our view that that did create a conflict-of-interest situation. That has been taken up with the journalist concerned, and he has been counselled appropriately. In terms of a general application, that would be the way we would view any involvement of any of our editorial staff in the political process.

**Senator FIERRAVANTI-WELLS**—Could you provide us with a list of people who have spoken at fundraisers in, say, the last three years and let us know whether this is quite a frequent occurrence of SBS staff?

**Mr Brown**—I can, and I hope it will be a very short list.

**Senator FIERRAVANTI-WELLS**—I am sure it will be. At the last estimates you conceded that there had been a failure to adequately manage an online forum about Vietnamese nurses, which resulted in the site being hacked with multiple pornographic references of Asian school girls and so forth. I have to say they were quite disgusting, and I am not going to repeat them—I think I provided them to you on the last occasion. You have informed us that, as a result of this episode, you have taken steps to make sure that your management of this kind of forum is more professional. Do you want to comment on that and the steps you may have taken in relation to that?

**Mr Brown**—I am not in a position to specifically address that.

**Senator FIERRAVANTI-WELLS**—Perhaps you might take that on notice, thank you. Perhaps the people responsible for this sort of pornographic hacking may have been at least partly inspired by some of the late night content that SBS sends to air. SBS's description of *The Film Biker*, on 15 October, said:

Gregory then meets the beautiful Anna ... and falls in love with her. When he discovers that she works as a prostitute, he decides to save her. However, his job is threatened as multiplexes drive film bikers and projectionists out of work and the couple are forced into a seedy amateur porn movie in order to make money.

All from your documentary series.

**Mr Brown**—What was the name of that film?

**Senator FIERRAVANTI-WELLS**—It is called *The Film Biker*, and it was advertised on SBS in *TV What's On*. It was promoted on 15 October. There is another one from your documentary series, *When sex goes wrong*, with such insightful gems, for example, in episode 6:

... individuals recount their most disgusting experiences during sex.

Can you explain to me how this and similar programs conform to SBS's charter? Why should I and millions of other taxpayers subsidise porn on SBS?

**Mr Brown**—I do not accept your assertion that it is porn, because SBS operates under the classification guidelines that other broadcasters do. We do not broadcast porn.

**Senator FIERRAVANTI-WELLS**—Might I withdraw 'porn' and say 'highly unsuitable material'?

**Mr Brown**—Certainly. Whether it is suitable or not is very much a subjective judgement. The first one you mentioned, *The Film Biker*, I cannot say I am familiar with it, but we carry a wide range of films from around the world. It is accepted that the breadth of material that SBS covers and brings to air is sometimes challenging for some audiences. You asked me how it conforms to the charter. I cannot say the matter of sexually explicit content is reflected in any part of the charter. The charter really deals more with the obligations of SBS, under its primary objective, to inform, educate and entertain all Australians. There are supplementary requirements, one of which is that we show programs in the language of preference, and *The Film Biker*—I am not sure what nationality it is, but there is a possibility it is a foreign language movie, in which case it conforms to that.

**Senator FIERRAVANTI-WELLS**—It was from the Philippines.

**Mr Brown**—There you go. The test is not really how an individual program fails the charter. It is more a question of how the totality of the services that are available across all of SBS make sure that the charter is given effect.

**Senator FIERRAVANTI-WELLS**—But surely the content of what goes to SBS must, in some way, conform to the charter. I really find that those sorts of films—I would like you, if you would, to go back and comment on this as to how this forms part of the charter. That is your starting point. I really do not see how what you are showing—these are just two examples; I am sure there are others—conform to the charter. That is my point, but you can prove to me otherwise.

**Mr Brown**—I understand the point you are making. You are really addressing a classification issue. Are you addressing a classification issue?

**Senator FIERRAVANTI-WELLS**—No, I am not.

**Mr Brown**—You do not think these things should be shown?

**Senator FIERRAVANTI-WELLS**—I am just asking how they fit into SBS's charter, and where it fits into SBS's charter.

**Mr Brown**—Can I be clear on this: this is not a view that this material should not be shown; it is a view that it should not be shown on SBS.

**Senator FIERRAVANTI-WELLS**—From a personal perspective, I have my own personal view on that. My question to you is: how does it fit in, how does showing this sort of material on SBS conform to its charter? That is my question. In the same vein, I want to take you now to your answer to question 265. That was the question I asked about *Stripperella* and another program. I have to tell you that your argument that the SBS charter these days includes supporting the production of a striptease comic voiced by Pamela Anderson is really questionable. Again, where does SBS get this from the original charter? Why should taxpayers be funding what is really, quite frankly, totally inappropriate material?

**Mr Brown**—Let us put this into context. *Stripperella* is an American adult animation series. I think we put 10 episodes to air, so we are talking about five hours of content. It follows a tradition on SBS to promote adult animation to a degree that no other broadcaster does. Whether it is Japanese animation like *Ghost in the Shell* and *Chompoo* or *South Park* or *bro'Town*, the New Zealand one which is currently on air, the fact is that this is a commitment by SBS that has been going on for some years and is not contrary to the charter. What is more, that commitment to embrace adult animation led SBS to invest in *Harvie Krumpet*—the only network to win an Oscar for its production. This is all part of the same mix.

**Senator FIERRAVANTI-WELLS**—Yes, but *Harvie Krumpet* is not quite in the same vein as *Stripperella*.

**Mr Brown**—That is a subjective view. I do not allow myself to run through programs and make a selective view on the ones I like and the ones I do not like. I maintain a stream of content, some of which, personally, I may not bother to watch. I do not think you can challenge our commitment to the charter by isolating five hours of adult animation out of a tradition on SBS that has been running for many years, that SBS has produced thousands of

hours of and that has culminated in SBS being the only television network in Australia to win an Oscar.

**Senator FIERRAVANTI-WELLS**—The point I am getting at is that *Harvie Krumpet* is not in that same vein. Why should taxpayers' money be used, in effect, to fund what is just smut? I mean, really! Where does it fit into the charter that this sort of stuff should go to air? I mean, really! How is it informative to the benefit of all Australians?

**Mr Brown**—It is not informative; it is entertaining.

**Senator FIERRAVANTI-WELLS**—For the benefit of all Australians?

**Mr Brown**—That is also in the charter.

**Senator FIERRAVANTI-WELLS**—It also qualifies for the benefit of all Australians. I would like a comprehensive answer. I would like you to go back and look at some of this stuff and identify how it conforms to the charter and why lots of taxpayers' money should be used to subsidise this sort of stuff on television.

**Mr Brown**—I am not sure that I see—

**Senator FIERRAVANTI-WELLS**—We will agree to disagree on that.

**Mr Brown**—Are you lumping *Stripperella* in with the others? Is it the continuation of the same line that this is distasteful content?

**Senator FIERRAVANTI-WELLS**—I am. I will move on from smut and pornography to the issue of far-left-wing bias. In a report on Mexican elections on your *Dateline* program, a left-wing candidate is referred to as a 'leftist' but the conservative candidate is referred to as 'right wing' twice. My question to you is about the differing styles. This is a *Dateline* transcript of 'The Great Mexican Standoff' on 30 August 2006. Can you have a look at that? I think there is basically a bias one way. Could you have a look at that and answer that on notice?

**Mr Brown**—I am not sure of the point. Are you saying that calling someone 'right wing' is more pejorative than calling them a 'leftist'?

**Senator FIERRAVANTI-WELLS**—No. I want you to read the article. I believe it is very skewed left-wing bias. It is not balanced reporting. I want you to have a look at it, and I want you to comment on it.

**Mr Brown**—Can I be clear that you consider 'right wing' to be a pejorative label?

**Senator FIERRAVANTI-WELLS**—No, I am just saying that you are emphasising one more than the other and you are not being balanced in your reporting. But please have a look at it and then get back to me. From the questions to you at the last estimates, we canvassed *Dateline* and its very biased anti-American and anti-Israeli stance. The pro-Arab sentiments of George Negus, I think, are quite well known both from his work on the program and from his book about Islam. I do not believe it is the role of the Australian government to fund this kind of counterculture, which is a far-left view of world affairs, especially in the Middle East, and which is promoting anti-American views amongst Australian communities.

**Senator ALLISON**—Chair, I raise a point of order. The senator keeps on making assertions which are not well founded. Can I ask you to direct her to ask questions rather than make long speeches with very dangerous assertions about individuals and about the SBS?

**CHAIR**—Can you document any allegations for you to have made that point?

**Senator FIERRAVANTI-WELLS**—Yes. I want to quote from the *Dateline* program on 28 June this year which included an item which I would describe as a left-wing, pro-civil liberties brigade attack on the government's much needed counterterrorism laws. Patrick Emerton, from Monash University Law School, stated:

... the Liberal Party of Australia fostered the doing of a terrorist act, namely the invasion of Iraq, but we know that no member of the Liberal Party of Australia is going to be prosecuted for being a member of a terrorist organisation.

I will provide this to you, because I think you need to have a look at it. It is an entry in the guest book.

**Mr Brown**—Is it the guest book or the program we are talking about?

**Senator FIERRAVANTI-WELLS**—It is a series. It is basically a *Dateline* program that went to air on 28 June. It was a *Dateline* transcript called 'The National Interest?'

**Mr Brown**—Do you accept, though, that there is quite a difference between material that may appear on the guest book, which is really just Australians representing their views freely as a consequence of viewing the program, and, considering this question was prefaced by talk about George Negus, what George Negus has introduced inside the program?

**Senator FIERRAVANTI-WELLS**—The point I am making to you is that I have quoted from this program, and on this program Patrick Emerton was interviewed and made this assertion. Again, I will provide it to you. I am using it as an example of what is happening on *Dateline* and what I perceive is bias.

**Mr Brown**—But that example is not bias, is it. If you are talking about an interview subject, bias can only be demonstrated if it is the case that *Dateline* consistently goes to people of one point of view who represent them and there is no balancing point of view ever put on the program. To pull out a single quote, not made by George Negus, as I understand it, but by a guest on the program, cannot be a demonstration of bias.

**Senator FIERRAVANTI-WELLS**—The point I am making is that I am going to provide you with a transcript from *Dateline* where a person called Patrick Emerton was interviewed and was put up to be an expert. He makes this quote and basically there is reference to a pro-civil liberties brigade. The point I am making is that at no time during that transmission was it mentioned that Patrick Emerton has also written other material and that he was part of a gathering of a far-left-wing organisation called Now We The People. The point I am making to you is that you have used this person on your program and there does not appear to be a counterbalance but you have not disclosed what this person's other interest is. I would like you to look at it.

**Mr Brown**—I will take that on notice.

**Senator FIERRAVANTI-WELLS**—I now take you to question No. 243 about the online poll that you conducted to mark the 10th anniversary of the Howard government. The

question asked was: ‘How would you rate John Howard’s decade in power?’ The options were:

1. A job well done
2. Leadership that plays on fear
3. Time for a change
4. I don’t care

Where did you get this idea that the Prime Minister’s leadership plays on fear?

**Senator BOB BROWN**—It might have come from me, for a starter.

**Senator ALLISON**—It is pretty obvious.

**Senator FIERRAVANTI-WELLS**—I just want to put it to you: isn’t this just simply another example of SBS taking its particular left-wing stance on the war on terror and counter-terrorism protections?

**Mr Brown**—As we responded to this, there was one negative reference to the Prime Minister, which you have emphasised, which was offset by a positive option. So there was a plus and a minus and a neutral one—‘I don’t care’—and one regarding time for a change, which was driven at that stage, back in March, by much publicised leadership issues of the day.

**Senator FIERRAVANTI-WELLS**—But surely the slant of the questioning is heavily biased in one direction.

**Senator CONROY**—Oh, stop it!

**Senator FIERRAVANTI-WELLS**—I am asking Mr Brown for an opinion.

**CHAIR**—With respect, he has given an answer and said that there were options there.

**Senator FIERRAVANTI-WELLS**—I will move on then, Chair.

**CHAIR**—If you would, yes.

**Senator FIERRAVANTI-WELLS**—Senator Brown has some questions, so I will let Senator Brown ask his questions and then I will come back.

**Senator BOB BROWN**—I can begin by asking why SBS was so biased that it did not put a similar question about me, as the Leader of the Greens, or about Senator Allison, as the Leader of the Democrats, or, indeed, about Mr Beazley. Why did SBS have this right-wing bias that it only asked the question about the Prime Minister?

**Mr Brown**—It was the Prime Minister’s 10th anniversary.

**Senator BOB BROWN**—But it was the 10th anniversary of my being with the Greens, so why not a similar question?

**CHAIR**—Obviously not a high public profile point.

**Senator CONROY**—Cut it out, Senator Eggleston.

**Senator BOB BROWN**—Unlike Senator Fierravanti-Wells, I do not watch *Stripperella*, but I do want to ask the minister about the fact that Australians pay for commercial television through advertising revenues—and we therefore have an interest in what goes to air

generally—which is part of the bailiwick of politicians. Minister, do you have any concerns that SBS is going outside standards that are set by commercial television in Australia if you think that SBS has at least the consideration for viewers in setting its standards that commercial television has in Australia? If not, what is the difference?

**Senator Coonan**—The free-to-air commercial television stations operate according to certain standards, which are well known and are enforced by the authority. The national broadcasters operate in accordance with their charters. My interest in that is very much that they should observe in broad terms what their charters require them to do. I have a responsibility to ensure that they are properly funded, and I consider that I have a responsibility to ensure that complaints mechanisms work appropriately so that people who do not think they are observing their charters or who want to make some complaints have a mechanism to do so. So it does differ from the standards that the free-to-air observe. It is a very different type of arrangement. I think that both the national broadcasters have an obligation to be fair. It is part of what I think taxpayers require in that they want fair and accurate reporting, and that is a balance.

**Senator BOB BROWN**—Do the commercial operators have an obligation to be fair?

**Senator Coonan**—The commercial operators have an obligation to observe their codes of conduct and their standards.

**Senator BOB BROWN**—But I am asking about fairness.

**Senator Coonan**—You can have a look in the standards to see whether you think there is any requirement to be fair.

**Senator BOB BROWN**—I ask you to take this question on notice. Would you do a comparison between commercial operators in Australia and the ABC and SBS to see which has the greater or lesser content of violence going to air, and of sexually explicit material, because that is what Senator Fierravanti-Wells is bringing to the fore here today, and report back to the committee on that comparison, both on the quality and time that that sort of program is going to air?

I am hearing here that, in some way or other, there has to be a restriction clamped on SBS on this occasion, and it is coming for the ABC, which ought not be put upon the commercial broadcasters, and yet both are funded by the public. If there is any difference in the approach we should take to restrict SBS and ABC in a way that commercial broadcasters ought not be restricted, what is it? Does experience show that the commercial broadcasters have been tighter in their censorship of violence, which I am much more concerned about, or of the sexually explicit material which Senator Fierravanti-Wells has been taking so much time to ask you about today?

**Senator Coonan**—Any broadcaster in Australia has to comply with classification guidelines, Senator Brown. So, first of all, that is a standard requirement for all broadcasting. Because the national broadcasters are publicly funded, they have charters to observe which obviously the free-to-air broadcasters do not. But free-to-air broadcasters have both standards and codes of conduct that enable people who are offended by any content, or who would otherwise wish to complain, to complain to the regulator.

So it is not really an exercise that I could or should undertake, because they are very different types of organisation. One is a commercial organisation that can, within limits, do what it likes. It can advertise; it has a lot more freedom than the national broadcasters to do what it wishes so long as it does not infringe classification guidelines or, indeed, its own co-regulatory arrangement. It has a co-regulatory arrangement where it voluntarily observes a lot of the codes of conduct. They are about to be reviewed, starting next year, I believe. They are developed in consultation with the regulator and do involve some community consultation. It is just a very different type of broadcasting if it is a commercial broadcast supported by advertising, but it still has to comply with the classification arrangements, as do the national broadcasters.

**Senator BOB BROWN**—The point I am making here is that the Australian public at large pays for both the public broadcasters and the commercial broadcasters. What I am asking you to give to the committee is an assessment of the difference in the restrictions on what can go to air. Already you have told the committee that there is less restriction on the commercial sector.

**Senator Coonan**—No, I have said they are different. The commercial sector does not have to comply with a charter. What I can do is answer questions about whether or not the national broadcasters comply with the charter. Those questions can be put to me, but I do not see that trying to do some sort of comparative exercise in something that you really cannot compare is an appropriate task to ask me to do in supplementary estimates. I just cannot see that it is something that I could usefully do. But you most certainly can have, and I will produce for you, the codes of conduct and standards. I can produce all of the classification codes, and that will give you some opportunity, if you wish to pursue this point—and you are entirely free to do so—to make your own comparisons. Otherwise it is a value judgement.

**Senator BOB BROWN**—No, it is a very important thing, you see, because it goes to the heart of democracy. A democracy is only as healthy as the information which the voters in that democracy get. I could make out a very strong case to say that, in some areas of commercial broadcasting, there is a huge, unremitting right-wing bias which attacks the fundamentals of democracy because it is not balanced. We are having an attempt here to paint the public broadcasters as in some way nonperformers when it comes to obligations to be fair to the public. I am saying the public put much more money into the upkeep of the commercial broadcasters than of the public broadcasters. What I want to know is: what is the difference in standards that apply to both in our democracy? We are also getting mores brought up by Senator Fierravanti-Wells. We are effectively hearing an attack on SBS as being licentious. I want to know if that is fair to SBS, given the performance of commercial broadcasters. Let me give you one example. I was in San Francisco last week. Due to jetlag I woke up at 12.30 am; I thought it was six o'clock or something—you know what it is like, Minister.

**Senator Coonan**—You need to take some melatonin; it is the great mainstay of travellers.

**CHAIR**—Try being a Western Australian coming to Canberra regularly. But can you proceed to your question, please?

**Senator BOB BROWN**—It is about across-the-board violence. I turned from one program to the next. It is a culture of violence which worries me a great deal. I would like an assessment of how that is going in Australia. I believe there is more violence, more sex and



more political bias on those high-rating commercial programs than there ever is on the public broadcasters. I would like an assessment of that. Senator Fierravanti-Wells is asking you to do a lot of work, Minister, in assessing the performance of SBS. I am saying: let's extend it across the board. Will you do that for us?

**Senator Coonan**—I cannot. To start with, the free-to-air broadcasters are not supported by an appropriation of the parliament. It does not arise. Their remit, other than their codes of conduct—

**Senator BOB BROWN**—The public pays for them.

**Senator Coonan**—I can produce the codes of conduct but I cannot do the exercise that you are seeking, Senator Brown. You can do it for yourself. You are certainly welcome to. You are welcome to make any comments, subject to the committee's indulgence, that you wish, I would think, in terms of what proposition you might want to put. But it is not a proper exercise to be trying to compare something that does not really arise in supplementary estimates.

**Senator BOB BROWN**—It is a fundamentally important exercise for our democracy.

**Senator Coonan**—I am not saying it is not fundamentally important; I am saying it is not a proper task to ask me or the department to do, because anyone can watch free-to-air television and, if they do not infringe their licence conditions, the standards, the codes of conduct or the broader classification scheme which applies to all broadcasting, that is not something we can make value judgements about. I can produce for you the codes of conduct. You can then make a judgement if you wish about whether you think they are infringed, and there is a complaints mechanism to follow with the regulator.

**Senator BOB BROWN**—The point from me, however, unless you can countermand it, is that they have more violence, more sexually explicit material and more political bias than the public broadcasters. Would you countermand that?

**Senator Coonan**—I am not in a position to answer that sort of question, if indeed it is one that you can properly ask me, Senator Brown. I am trying to deal genuinely with your inquiry, as I always do. I do not just dismiss something you are trying to put to me.

**Senator BOB BROWN**—I am very serious about it.

**Senator Coonan**—What I am saying is that, without evidence that you want to produce to me, it is simply an assertion and I cannot agree or disagree.

**Senator BOB BROWN**—I will just finish by saying that Senator Fierravanti-Wells is asking you and the good people from SBS to produce that evidence. I am saying it is fair that we ask for that across the board.

**Senator Coonan**—But I cannot do that across the board, and I should not do it if it is not part of supplementary estimates. The taxpayer funds SBS. The taxpayer funds the ABC. They have very specific obligations under the charter, and that is why they are properly a subject for probing during estimates. That is why we are sitting here. The free-to-air do not have to turn up. They do not have to answer any questions about it. They operate within a regulatory environment where the regulator will turn up. You are entitled to ask the regulator questions, and I will certainly produce the codes of conduct if that will help you.

**CHAIR**—The regulator appears later this afternoon, later in the program. If you want to come back and ask ACMA their opinion about these matters, that would be an appropriate time. But it is not appropriate at the moment.

**Senator BOB BROWN**—I just ask the minister once again—

**CHAIR**—You have already put the question.

**Senator RONALDSON**—Chair, this is an absolute nonsense argument. You have made your point, Senator Brown; let's get on with it.

**Senator BOB BROWN**—I ask the minister again: will you do an assessment?

**CHAIR**—Senator, you have asked that for the third time and the minister has answered it twice.

**Senator Coonan**—I really do not have a different answer, Senator Brown.

**Senator BOB BROWN**—So the answer is no.

**CHAIR**—That is not what the minister said.

**Senator Coonan**—It is not no; it is a matter that is not appropriate for estimates.

**CHAIR**—The minister said that it is not appropriate and also that SBS is a public broadcaster. I think Senator Wortley has a question.

**Senator ALLISON**—I have a point of order. If Senator Brown's question has been ruled out by the minister as being inappropriate to be asked and answered then so should the questions that were put by Senator Fierravanti-Wells.

**CHAIR**—If I might answer that: the essential point is, as the minister said, that SBS is a public broadcaster, part funded by the federal government, and therefore it is appropriate that they are questioned at estimates. It is not appropriate to ask questions in relation to the free-to-air broadcasters, except to the regulator, which is ACMA. When that part of the agenda comes up, you are quite welcome to ask that question.

**Senator BOB BROWN**—I have a point of order. Would you produce a ruling to say why it is not appropriate to ask about broadcasting services in the way that I have before an estimates committee? I think you are wrong. I think it is quite proper of me to ask the minister at this junction the questions I have put, and I stand by them.

**CHAIR**—You may think that, but I think it is appropriate to be asked of the regulator. The minister has answered this question three times, and I think we will leave it at that and move on. I call Senator Wortley.

**Senator WORTLEY**—I think my question is to Mr Ingram. How many vacancies are there currently in SBS radio? Where do the vacancies occur? How long has each position been vacant? And when does SBS expect to fill those vacancies?

**Mr Ingram**—If you do not mind, I will take that on notice.

**Senator WORTLEY**—Thank you.

**Senator FIERRAVANTI-WELLS**—In a report on SBS world news on 3 August, you had a story headlined 'Prison ships to hold refugees', which referred to a federal government plan to temporarily hold illegal fishermen and asylum seekers on a ship in Australian waters. These

people are not refugees, yet your headline said clearly 'Prison ships to hold refugees'. As we all know, you cannot be a refugee until you are assessed to be one. Surely this is just an attempt to put a negative, demonising spin on the government's proposal.

**Mr Brown**—I will take that one on notice. I am not familiar with that story.

**Senator FIERRAVANTI-WELLS**—Thank you. In your answer to question No. 243 about a budget night poll where you suggested to your audience 'I dislike the way Indigenous health has been ignored', despite an additional \$137 million in spending on Indigenous health bringing the annual total to almost \$600 million, your defence relied on criticism of the budget from the Australian Medical Association. It seems somewhat appalling that you take your editorial cue from the AMA. In your answer to question No. 244, you said your failure to include references to spending on Indigenous health was 'an oversight'. This was one of the areas which I would have thought SBS would take a particular interest in, given its charter specifically refers to Indigenous issues, yet it is very clear in this poll that you wanted to foster an impression that the Howard government was deliberately ignoring Aboriginal health. Isn't that simply another example of putting the worst possible spin on what the government was doing?

**Mr Brown**—I think we responded to question No. 244 with the acknowledgement that the reference to Indigenous health spending was an oversight. But, with regard to our particular obligations to Indigenous matters under our charter, we went on to say that most of the Indigenous spending announced in the budget was included. You can go through coverage of emerging events of that type, and I would suggest that in virtually every media outlet you will find something that was overlooked or slightly inaccurate. That is inevitable. But I do not accept that you would assign to that oversight some sort of motive of a left-wing conspiracy.

**Senator FIERRAVANTI-WELLS**—It just seemed very specific, given the material that was there and given that you particularly slanted the question to say 'I disliked the way Indigenous health is being ignored'. You were the one that made the assumption in trying to draw people out without even bothering to see. If you are going to ask and you are going to run and seek opinion in relation to that, one would assume that you would inform yourself at the very least of what evidence is available to back up your assertion that, allegedly, Indigenous issues had been ignored.

**Mr Brown**—I take responsibility for the oversight in this case.

**Senator FIERRAVANTI-WELLS**—We will look for the next coverage. I want to take you back to *Dateline*. In answers to questions from the last estimates you defended the guest book for this program. I think the guestbook reveals not only that you encourage anti-American sentiment but also that it is used to promote the most wild conspiracy theories. I have a two-page list, which I shall place on notice, but here are just a few examples: 'The US used a micronuc in Bali to carry out the Bali bombings'; the now all too familiar 9/11 conspiracy theories; 'John Howard is about to declare martial law'; 'The bankers forced John Howard to add two battalions to the Army'; and 'Israel has become poisoned by depleted uranium and French nuclear testing in the Sahara and should be nuked to save the Mediterranean'. This is not a guestbook in the normal sense, where viewers exchange ideas about the *Dateline* programs. This has really become a little taxpayer funded nest for people

to basically come out with the most outrageous things, and you are just allowing them to stay on your guestbook. Can you explain that?

**Mr Brown**—Surely some of the extreme conspiracy views are easily recognised by audiences. It seems to me that their appearance on the guestbook does not give them any greater credibility than if they were uttered in the pub. They are simply a single person's expression, and I think Australian audiences are well able to determine for themselves what is absurd, and if somebody expresses an absurd view it is recognised as such. What you are asking me to do is to go through every presentation across SBS and delete stuff.

**Senator FIERRAVANTI-WELLS**—My question goes to two things. If you do look at the guestbooks, you can see that there is quite a robust exchange—in fact, bullying in some instances—of different views. So much for tolerance and harmony! I am going to put these on notice, but it really goes to the question of your responsibilities in relation to the guestbook. Does somebody monitor this? What sort of procedures do you have in place? ABC has a moderator and there is some sort of procedure in place. The question is about putting the examples to you but also asking you what procedures are in place to deal with some of the most outlandish things: how long you leave this stuff on there and that sort of thing. So it goes to not only quantity but also is a quality issue.

**Mr Brown**—I will take that on notice.

**Senator FIERRAVANTI-WELLS**—I want to now go to the coverage of the Middle East. It is my personal opinion, which I think it is probably shared by others, and I believe that you have had complaints in relation to the coverage of the recent conflict—

**Mr Brown**—The Lebanon-Israeli conflict?

**Senator FIERRAVANTI-WELLS**—Yes. I want to take you back to some of the questions from the last estimates. You were asked why the *Dateline* program—*Dateline* again!—broadcast misleading representations of a woman called Marian Farhat. You had a promo for the program that stated that her three sons were killed by the Israeli military. You were asked why you had neglected—and this is 253, if you are looking for it—to mention that they had been killed whilst carrying out terrorist attacks against innocent civilians. You answered that in a short promo it is not always possible to 'convey the full complexity of such a report'. Why didn't the promo simply say that she had three sons who were killed while carrying out terrorist attacks? The thing that concerns me about this is that SBS's promo, instead of simply stating the facts, was deliberately biased against Israel. That is my concern. You are creating a misimpression about what the program was really about.

**Mr Brown**—I do not think there is any evidence of deliberate bias. Promos are prepared by the promos department. I think the point we have made is that in the space of a 10-second message it is not possible to get all the information across. It is worth recording, though, that in the story itself we said: 'Mariam Farhat, the so-called "Mother of the Martyrs", featured prominently in the Hamas election campaign. Farhat is featured in a campaign video farewelling one of her sons as he prepared to attack Israel, killing five before being killed himself.' There is no suggestion here that we avoided the full explanation of these circumstances. What you are choosing to isolate is the promo. The promo is not designed to provide a full information to the audience. It is designed to provoke an interest from the

audience to watch the full item. I would have to say, Senator, that the version you have put forward is equally possible.

**Senator FIERRAVANTI-WELLS**—I would have thought the fact that she has had three sons killed by the Israeli military carries a distinct impression—

**Senator ALLISON**—But they did kill them.

**Senator FIERRAVANTI-WELLS**—Senator Allison, I am just asking Mr Brown about a promo and the impression that was sought to be created in getting people interested in watching this program, or otherwise. That is the gist of my question, Mr Brown. You do not agree that it does create an impression? Or do you agree that perhaps the promo could have been a little more explicit by the usage of a couple of extra words?

**Mr Brown**—No. I think that the version we have used, and the version you have just offered, could equally have featured in a promo. It is not intended to communicate a bias.

**Senator RONALDSON**—Mr Brown, do you believe that the SBS coverage of the Lebanon-Israeli conflict was biased?

**Mr Brown**—I think I have already acknowledged that two or three shortcomings were identified through our complaints procedure.

**Senator RONALDSON**—But, apart from that, you believe that it was otherwise balanced?

**Mr Brown**—Apart from that, yes, from what I saw. I did not see everything, but my general sense of the coverage was that it was balanced.

**Senator RONALDSON**—You yourself have just said that you did not monitor, so you cannot make an informed decision. Was anyone monitoring it?

**Mr Brown**—News and current affairs coverage is monitored by news and current affairs, so it is between the director of news and current affairs, the executive producer of news and the executive producers of the various programs.

**Senator RONALDSON**—Did you ask them the question?

**Mr Brown**—The matter came up, obviously, in the course of discussion about complaints. There were 17 complaints during the course of the conflict. I have already indicated that two were upheld and three were partially upheld.

**Senator RONALDSON**—How were those complaints given? I understand that if you complain via email it cannot be treated as a formal complaint; is that right?

**Mr Brown**—That was the case. People are then usually directed to make a written complaint, so that would be a fair comment about this particular circumstance. But you should be aware that that was a matter specifically addressed in the latest review. As of 4 October, under the new codes, complaints can be lodged via email. They can be lodged online, so they were not required to lodge by letter. People who make a complaint that appears to be formal via email or by telephone are usually advised to go to the online page where they can just fill in a form to make a complaint. So there was electronic complaint lodging available even pre 4 October. Post 4 October there is both online and email complaint lodging available.

**Senator RONALDSON**—And those complaints will be given formal status as appropriate?

**Mr Brown**—Yes.

**Senator RONALDSON**—What review, if any, was done by news to determine whether there was balanced coverage?

**Mr Brown**—There was no overall review. The course of a war is a series of events unfolding day by day. The test for news and current affairs is twofold for an event of this nature. Firstly, there is the political rhetoric—that is, the justification, the claims and the counterclaims that inevitably surround a conflict of this type. A news organisation has a responsibility that those points of view are fairly expressed and that they are done so in a balanced manner.

Secondly, there is the coverage of the event itself. Wars are not football matches; they are not 40 minutes each way, so there is not the same balancing requirement in the context of coverage of events. If more is happening on one side of the border than the other, then you will see a greater degree of coverage of that than the other side. You would be aware that media organisations around the world have been dealing with this issue of how do you do balanced coverage of a war—the events, not the debate. It is vexatious, because in one area you have got massive casualties, in another area you have got lesser casualties. Do you therefore say, ‘Well, we’ve got 100 dead in a bunker, but we haven’t got a matching three-minute report from what’s happening in Israel,’ even though not much that day was happening in Israel. Of course the answer is that you do not do that.

**Senator RONALDSON**—Even if these people were in bunkers because the sirens had gone off and there were missiles coming in, that is not newsworthy?

**Mr Brown**—No—

**Senator RONALDSON**—Oh, and that is a really flippant comment about it not being a football game.

**Mr Brown**—I genuinely believe that to be the case.

**Senator RONALDSON**—It has been terrific spin for the last two hours, Mr Brown, but let us get down to tintacks. You are obligated and your news and current affairs department are obligated to provide a level of balance. I asked you whether you believed it was balanced.

**Mr Brown**—And I told you yes, I believed it was.

**Senator RONALDSON**—You said it was. I then asked you whether you had monitored it, and you said no.

**Mr Brown**—I said I had partially monitored it. I said I had not seen all of it, so I have seen some of the coverage.

**Senator RONALDSON**—No, in response to a question from Senator Wortley, you said that you had not monitored it. They were your words. You are now saying you partially monitored it.

**Mr Brown**—No, let me make it clear. I see some of the coverage, the news and current affairs department sees all of it.

**Senator RONALDSON**—Had you monitored it or not? Or do you partly monitor it?

**Mr Brown**—It is probably inappropriate to call it ‘monitoring’. I view material whenever I can, and given the scale of coverage of an event of this type over the time that it ran, I could not claim I have watched most of it.

**Senator RONALDSON**—Just for the record, monitoring is your expression and not mine.

**Mr Brown**—Yes, I accept that. I am not watching every night’s news from a monitoring point of view.

**Senator RONALDSON**—Do you know how many SBS staff were in either Lebanon or Israel?

**Mr Brown**—No, I would have to take that on notice. It is not very many; we do not have the resources to deploy large groups.

**Senator RONALDSON**—So a lot of it came from other sources, including the BBC?

**Mr Brown**—The sources that we have available to us are the BBC, ABC America, CNN and the agencies that provide raw footage for compilation back here, plus some deployment of our own people.

**Senator RONALDSON**—It would be fair to say that the main source would be the BBC?

**Mr Brown**—It would be a large source. I am not sure if it was the main one, because agencies probably are greater.

**Senator RONALDSON**—So it was a large source.

**Mr Brown**—Yes. I certainly saw a reasonable level of BBC coverage.

**Senator RONALDSON**—Are you aware that recently BBC staff have revealed that they believe the BBC is biased?

**Mr Brown**—I am not aware of that position.

**Senator RONALDSON**—One of the BBC’s most senior journalists, Andrew Marr, has stated publicly that the BBC is not impartial or neutral, and that certainly came through in their reports. There are also reports about a recent BBC diversity summit, the outcome of which was if Osama bin Laden wanted a platform to explain his views, the BBC would give it to him. Would SBS do that?

**Mr Brown**—It is hard for me to deal with hypotheticals of that type. The thing is I am not quite sure where we are going—

**Senator RONALDSON**—I know where I am going. Would you, or would you not?

**Mr Brown**—We take the BBC feeds and we make a selection from those. We have a responsibility to make sure that what we put to air is as accurate as we can possibly be confident of.

**Senator RONALDSON**—I have asked you a question; what is the answer?

**Mr Brown**—Put the question again.

**Senator RONALDSON**—You know exactly what the question is.

**Mr Brown**—No, I would like to hear it again, exactly, so I am absolutely clear about it.

**Senator RONALDSON**—If Osama bin Laden came to SBS and said he wanted the opportunity to present his views, would you give him that opportunity, as the BBC would do?

**Mr Brown**—Yes, I believe I would. Given the opportunity to cross-examine Osama bin Laden on what has happened in this world in the last few years, damn right I would. I would personally be asking to do the interview myself.

**Senator Coonan**—And we would all probably watch.

**Senator RONALDSON**—What would you ask him?

**Mr Brown**—I would take him back over the series of events and ask him for a possible explanation as to why he believes that is justified. You take a devil's advocacy role, as you would with any leader in a similar situation, whether it is a leader of a movement that is terrorist in nature or any other movement. This is the stuff of journalism. Are you suggesting that we would turn down an interview with a leading world figure, whether they are right or wrong, and an opportunity to explain to the world and challenge this person on what has happened—

**Senator RONALDSON**—Would you ask him whether he was a terrorist or ran a terrorist organisation, for example?

**Mr Brown**—Yes, but I think that would emerge in the course of a normal interview anyhow, because an explanation of what he was doing would surely lead to that conclusion.

**Senator RONALDSON**—If he said that it was, would you then describe al-Qaeda as a terrorist organisation the next time you were referring to them?

**Mr Brown**—No.

**Senator RONALDSON**—You wouldn't?

**Mr Brown**—No.

**Senator RONALDSON**—So you have a known terrorist acknowledging that they are a terrorist, but you would still take a neutral position in relation to the description of that organisation as al-Qaeda?

**Senator ALLISON**—It is a really hypothetical question, and it is hard to see where Senator Ronaldson is going on this issue.

**Senator RONALDSON**—Mr Brown has answered half of it, so he can answer the rest of it.

**CHAIR**—Senator Allison has made a point. It is hypothetical, but it is up to you, Mr Brown, whether you choose to answer. It is against standing orders.

**Mr Brown**—We use self-description. So if part of the self-description is that they are terrorist then, in terms of quoting them as saying that, that is perfectly acceptable under our guidelines. But if, in the course of the interview, that was the language he used then it would be perfectly correct to use that language back to him in the course of that interview.

**Senator RONALDSON**—We have used the word 'terrorist'. Are you talking—

**Mr Brown**—If it is a self-described terrorist organisation, then that would be the label that I would use.



**Senator RONALDSON**—In any report? Would SBS then use the word ‘terrorist’ in any report after that?

**Mr Brown**—If that organisation was continuing to describe itself as ‘terrorist’, then yes. As long as that was the case, that would be a legitimate claim.

**Senator RONALDSON**—So you would instruct your journalists to refer to them as terrorists in any future news reports, documentaries—

**Mr Brown**—As claimed, self-described, whatever the correct language is.

**Senator RONALDSON**—What is the SBS policy with respect to the characteristics of a terrorist organisation? What would qualify Hezbollah to be described as a terrorist organisation?

**Mr Brown**—We do not have a criteria of the type that you are suggesting, because our policy is one of neutrality in terms of labelling. We leave it to the audience to determine whether or not that is an act of terror or the organisation is terrorist one—unless it is a claim by a third party or a self-description by that organisation. That is not to say—and I want to make this point clear—that SBS are therefore denying that these are terrorist organisations. It is simply saying that we, in common with other broadcasters, adopt a neutral position in these circumstances—and I have explained why. To do anything other than that would simply invite a situation where there would be an endless debate about who is on the list and who is not, and there would be many people insisting that organisations that you do not believe are terrorist should be on the list, and SBS would have to respond to that. I do not think it is appropriate for journalists and producers to be daily put in a position of having to make a judgement of that type. I think if I made that judgement I would be sitting in front of this committee having to explain every single one of those labels and how they were used. Therefore, it is our policy to take a position of neutrality in terms of labelling.

**Senator RONALDSON**—I find that a most extraordinary statement—that you are prepared to remained so-called neutral in the face of overwhelming evidence of terrorism and that you would not use the word ‘terrorist’ to describe an organisation.

**Mr Brown**—We are neutral in terms of labelling but not neutral in terms of the scale and detail of our coverage. My view is that Australians can easily make up their minds about this information. They have it presented to them. It does not need to be labelled in order for an Australian to form a conclusion about what that act or that group is. I have already explained why. I have heard you cross-examine the ABC on this point and force some concessions there. I know that there are some areas where it seems pretty clear-cut that it is a terrorist organisation and an act of terrorism, but to adopt a policy that says, ‘Oh, that’s easy; we’ll stick labels on them,’ starts to then gradually shift along the line where it is less and less clear-cut. Whether in Aceh, Indonesia, Sri Lanka—

**Senator RONALDSON**—You do not accept the ABC’s concession?

**Mr Brown**—After all of the discussion which I witnessed here and the following newspaper comment, I am not actually sure exactly what the ABC position is.

**Senator RONALDSON**—Aren’t you?

**Mr Brown**—No.

**Senator RONALDSON**—I will tell you. They acknowledged they were terrorist organisations and that they should be described as such.

**Mr Brown**—I hope it was said here, because I saw subsequent newspaper comment and articles which demonstrated that they did not have that same view.

**Senator RONALDSON**—Watch this space, because you will be sitting about 10 feet back when those people are sitting about 10 feet forward and that matter will be discussed with them as well. So that I am absolutely clear, do you believe Hezbollah is a terrorist organisation?

**Mr Brown**—I am not going to comment on my personal beliefs on these organisations. I am quite capable of making my own mind up about what is a terrorist act and who is a terrorist, but I do not need to share that. Certainly, as the editor-in-chief of an organisation that has a position of neutrality in labelling, it would be wrong for me to put my own personal labels on those organisations.

**Senator RONALDSON**—Where does the label ‘militant’ come from? Is that neutral? Has anyone in your organisation referred to Hezbollah as a militant organisation?

**Mr Brown**—It is possible; I could not say for certain.

**Senator RONALDSON**—Is ‘militant’ labelling?

**Mr Brown**—Yes, it is a form of labelling. It is less politicised—

**Senator RONALDSON**—So you are saying they should not be called militant either?

**Mr Brown**—No, I am not saying that. I am saying that in terms of the use of the words ‘terrorist’ and ‘terrorism’ we have taken a position, and have done for some years, not to use that label. There are other labels, like militant or democrat—

**Senator RONALDSON**—Come on, militant and democrat are not in the same genre. That is a stupid comment to make.

**Mr Brown**—I am just saying that there are lots of labels that one could use in association with coverage of world affairs.

**Senator RONALDSON**—Why is militant labelling but terrorist is not? You tell me.

**Mr Brown**—I suspect because of the politicisation of the term and the way in which it is used to create support for the opposition to that position, and it does not really matter which side. You can see it quite clearly demonstrated in the Middle East. Israel will claim that the organisations arrayed against them are terrorist organisations. Syria, as we saw the other day, said that the Israel defence force was a terrorist organisation.

**Senator RONALDSON**—Are you aware of what Australia describes Hezbollah as?

**Mr Brown**—It is on the list of terrorist organisations.

**Senator RONALDSON**—They are described as terrorists.

**Mr Brown**—It is the Australian government list, isn’t it?

**Senator RONALDSON**—Let me finish. We have Australians overseas fighting organisations such as Hezbollah, described by the Australian government, and the US, Canada

and the UK, as a terrorist organisation, and you think it is okay to remain neutral in relation to this issue? You are comfortable with that?

**Mr Brown**—I am comfortable with the position we have, in common with other broadcasters, to adopt a neutrality in terms of not labelling groups ‘terrorists’.

**Senator FIERRAVANTI-WELLS**—But, Mr Brown, the ABC conceded here that they now refer to Jemaah Islamiah, Hezbollah and Hamas as ‘terrorist organisations’. You are quite out there on your own, you know, on this issue.

**Mr Brown**—I do not believe we are.

**Senator FIERRAVANTI-WELLS**—This is the point of what Senator Ronaldson is talking about. SBS is putting itself right out there separate to everybody else. This is what the ABC told us on the last occasion. This is the information that we have. Why can’t SBS adopt the same position? What makes you so different?

**Mr Brown**—I do not believe we are different. I believe if you look—

**Senator FIERRAVANTI-WELLS**—Why aren’t you adopting the same position?

**Mr Brown**—I can finish the answer? Simply, we do not model ourselves specifically on the ABC in that every time the ABC changes its codes and practices we do likewise. In the same way, it does not model itself on us every time we change our codes and guidelines.

**Senator RONALDSON**—If an organisation takes credit for killing civilians, how would you describe them?

**Mr Brown**—That they have ‘claimed responsibility’. That is how I would describe it.

**Senator RONALDSON**—What?

**Mr Brown**—Senator, you can go round and round on this. You are trying to get me into a position where I say, ‘Yes, they deserve to be called a terrorist in that situation.’

**Senator RONALDSON**—No.

**Mr Brown**—What I am saying is that we have a position of neutrality here. I keep making the point: that is not to deny that these may be acts of terror or they may be terrorists, but to leave it to the Australian audience to reach that conclusion. You seem to think that somehow, if we put a label on it, that carries greater authenticity to the audience.

**Senator FIERRAVANTI-WELLS**—But, Mr Brown, you source material where it specifically refers to ‘terrorist’, but you refer to it as ‘militant’, because that is the particular impression that you want to make. That is the concern that we have here. SBS does not like calling terrorist organisations ‘terrorist organisations’; you want to call them ‘militants’. That is the concern that we have.

**Mr Brown**—We do not change—and I know that you have a few questions—

**CHAIR**—We will have to finish after you answer this question, because we have now reached one o’clock. If you would like to answer that, we will conclude.

**Mr Brown**—I just wanted to make the point that we do not change quotes where third parties or even the terrorist group itself uses the term ‘terrorist’. I know that there is a question on notice concerning that and we will see whether that is the case or not on notice.

**Senator RONALDSON**—If one of your—

**CHAIR**—No. We are two minutes overdue, so we will adjourn.

**Senator RONALDSON**—Just very quickly. I will give Mr Brown a chance to think about it on the way back. If one of your journalists accuses someone of committing war crimes, is that neutral?

**CHAIR**—You consider that and answer it after lunch, Mr Brown, because we are adjourning.

**Proceedings suspended from 1.02 pm to 2.09 pm**

**CHAIR**—We will resume. Mr Brown you were considering your response to Senator Ronaldson.

**Senator RONALDSON**—I will get to that in a second, Mr Brown. Has SBS ever described something as ‘a terrorist attack’?

**Mr Brown**—I do not know the answer to that. I would have thought that probably they have at some stage. This editorial guideline has been in operation for about three years. Clearly, if it were acknowledged as a terrorist attack by the perpetrator, then that would be in accordance with the guideline as well.

**Senator RONALDSON**—On Thursday, 11 September, the *Insight* program referred to terrorist attacks in the United States.

**Mr Brown**—Was that Jenny Brockie, somebody else on the *Insight* team or a guest?

**Senator RONALDSON**—It was the presenter. This report was from Miriam Jones, so take it as a presenter. On *Dateline*, 30 October 2002, 2½ weeks after the Bali bombing, she reported:

Indonesia is counting the cost of the terrorist attacks.

So SBS has used the expression ‘terrorist’.

**Mr Brown**—I think that one you just quoted would have pre-dated the guideline. My recollection is that the guideline came into effect in 2003.

**Senator RONALDSON**—That is all very well. That does not make the guidelines right, and that is my exact point. If a terrorist act is performed, who is it performed by?

**Mr Brown**—I suppose it is axiomatic; it is a terrorist.

**Senator RONALDSON**—Exactly. Why would SBS remain neutral in relation to the expression ‘terrorist’, when you acknowledged clearly—as you should—that a terrorist act is performed by terrorists? Why would SBS not be prepared to label someone as a terrorist if they have performed a terrorist act?

**Mr Brown**—I can only repeat the position that I have expressed before—that SBS has adopted a policy of neutrality of labelling of terrorists and terrorism to avoid the very vexed question of the way in which that label is used to position oppositions. As I think I said before, whether it is in Sri Lanka, Aceh, Indonesia or, more particularly, the Middle East, there are lots of occasions that the term is used where, I am sure, you would disagree with that labelling. So to position SBS so that it has to make the judgement about what exactly is an act

of terrorism and who is a terrorist, and after a lot of consideration and discussion with other broadcasters around the world, we adopted the position of neutrality in terms of labelling so we are not requiring our journalists to make a day to day judgement on this issue.

**Senator RONALDSON**—When did you say that policy was changed?

**Mr Brown**—At the earliest, it was late 2003. It might have been 2004.

**Senator RONALDSON**—I notice that George Negus referred to the word ‘terrorism’ on 27 July 2005. You said before lunch that the expression ‘militant’ is similar to ‘democrat’. Can I ask you a question? In SBS’s view—

**Mr Brown**—I did not say that. I did not say it was ‘similar to’; I just said there were a number of different labels and I cited two examples. I do not particularly align them together.

**Senator RONALDSON**—Come on, Mr Brown! A lot of people are listening to this. You quite clearly used the word ‘militant’ in the same description as the word ‘democrat’.

**Mr Brown**—I plucked two examples out of the air and said there were lots of labels that one could use which are not restricted. This is the only labelling that I am aware of where there is a policy position. Whether the labels were ‘extremist’, ‘militant’, ‘feminist’ or whatever, I was just plucking examples out of the air. I was not aligning those.

**Senator RONALDSON**—You have had time to think about it over lunch, I suspect, Mr Brown.

**Mr Brown**—I had not thought about that at all.

**Senator RONALDSON**—When I objected to that, you did not respond in that manner; I invite you to look at the transcript. Given that you have now changed your evidence to this committee, I put it to you that a democrat would not fire rockets indiscriminately into civilian areas and then claim credit for it. I put it to you that a democrat would not be committed to the destruction of a sovereign state. You had the opportunity to clarify that before lunch had you wanted to do so and you chose not to do so.

**Mr Brown**—I am quite confident that the transcript of these proceedings will show exactly what I meant, which was to pluck two examples out. Nothing that I said, Senator, allowed you to link those two as though they were the same.

**Senator RONALDSON**—Your evidence to this committee still is that you believe the word ‘militant’ is not a label?

**Mr Brown**—No. I did not say that.

**Senator RONALDSON**—It is a label?

**Mr Brown**—It is a label, as is democrat, as is feminist—as all those descriptors of people and their behaviour are labels.

**Senator RONALDSON**—But you said ABC staff are not allowed to label people.

**Mr Brown**—SBS. No I said we have a neutrality on labelling people ‘terrorists’.

**Senator RONALDSON**—Oh, so it is just ‘terrorists’ that they are not allowed to refer to!

**Mr Brown**—That is the response I have previously given.

**Senator RONALDSON**—On SBS *World News* on 16 July, for example, Jeremy Bowen referred to Hezbollah as a ‘militant group’. Is that labelling them?

**Mr Brown**—It is a label, obviously. I do not understand your confusion there, Senator.

**Senator RONALDSON**—Is that a label?

**Mr Brown**—Yes. And in using that label there is nothing that runs against SBS editorial guidelines. The only editorial guideline relating to labelling relates to terrorism and terrorists. I am sure I have been clear on that point.

**Senator RONALDSON**—I do not think you have been. So it is only that one word—

**Mr Brown**—Two.

**Senator RONALDSON**—that is not allowed to be used because it is labelling. Is that right?

**Mr Brown**—Why don’t I read out the editorial guideline so that it is absolutely clear, and this is the only one that relates in this area.

**Senator RONALDSON**—I would be very pleased.

**Mr Brown**—The guideline states:

SBS Television journalists will not label a group or individual as a “terrorist”, or incidents as “terrorism” or “terror” except in circumstances where:

Directly quoting individuals using the words “terrorist”, “terror” or “terrorism”.

Individuals or organisations describe themselves as “terrorists” or as being responsible for acts of “terrorism” or “terror”.

The term is applied to the reporting of general issues such as “anti-terrorism” measures or “anti-terrorism” laws.

**Senator RONALDSON**—What date was that?

**Mr Brown**—That was dated in the second half of 2003.

**Senator RONALDSON**—So we have Mr Negus, who in July 2005 referred to ‘terrorism’.

**Mr Brown**—He may, of course, have been referring to ‘terrorism’ in a general sense.

**Senator RONALDSON**—Did you say that guideline was dated from mid-2003?

**Mr Brown**—Mid- to late-2003.

**Senator RONALDSON**—Do you think this *Insight* program of 11 September was before or after that?

**Mr Brown**—The *Insight* program would be after it, wouldn’t it? It was the second one you quoted which sounded to me that it might have been before. You quoted one from 2002, but I think the *Insight* one was 11 September of this year.

**Senator RONALDSON**—No, it was 2003.

**Mr Brown**—2003? I am not sure.

**Senator RONALDSON**—So your view is that the expression ‘militant’ is not a label that is unable to be used by SBS journalists?

**Mr Brown**—That is correct.

**Senator RONALDSON**—I put it to you, Mr Brown, that the generally accepted use of the word ‘militant’ would be that it is a label—

**Mr Brown**—I agree.

**Senator RONALDSON**—and, in the context of terrorism, another description of organisations of that genre. Quite frankly, the defence that it is not in the SBS guidelines is meaningless.

**Mr Brown**—I can only repeat that the guideline emerged after a debate about requiring journalists to make a judgement on what were highly charged and politicised terms—‘terrorism’ and ‘terrorist’. As a consequence, this guideline emerged. It is not unusual. It is similar to the one the ABC had, although I think you said that that is being changed. That same guideline does not apply to any other labels.

**Senator RONALDSON**—I asked you a question before lunch about whether it would be appropriate for one of your reporters to accuse another country of committing war crimes. What is your response to that?

**Mr Brown**—Apart from the issue of defamation, which obviously comes into play, there is not anything in the editorial guidelines that would prevent a journalist from making that point in an interview or making that allegation in an interview. But I would have to say that there is nothing to stop a journalist in the course of an interview from asking a question of the person being interviewed about whether or not they are a terrorist. It is not the same as labelling. To take a position in an interview, to ask questions, to seek information and, on occasions, to play a devil’s advocate role and put points to interviewees would not, in my view, contravene this guideline. If somebody was involved in something which it might be reasonably concluded was an act of terrorism and we were able to interview the alleged perpetrator, then in my view it would not wrong to say in that interview: ‘Was this not an act of terrorism and are you not a terrorist?’

**Senator RONALDSON**—I did not ask you about that; I am talking about war crimes. Is the following an objective presentation of the issue? It is George Negus interviewing Efraim Halevy on 12 July 2006:

GEORGE NEGUS: Mr Halevy, do you accept the fact—again of reliable and responsible commentators—that what has been going on in Gaza in recent days, including the bombing of the power plant and collective punishment of the Palestinian people, amounts under Geneva Conventions to a war crime?

Do you think that is balanced? Do you think that is an objective presentation of the issue—‘Mr Halevy, do you accept the fact ...’?

**Mr Brown**—I think it is a reasonable question. If it were stated by the presenter as a fact, that would be different. I think we have to be careful to acknowledge the distinction here. It is a standard current affairs journalistic process to put points to people being interviewed and sometimes to put them strongly to force an explanation out of somebody. There is not anything inherently wrong in playing a devil’s advocate role in that situation.

**Senator RONALDSON**—Come on, Mr Brown, this is not playing the devil's advocate—'Mr Halevy, do you accept the fact ...'

**Mr Brown**—The response to which was probably, 'No, I don't' and a very vigorous denial. That is the issue, isn't it, really? What does the audience leave this exchange with? A view that the question was inappropriate or a reflection on the fact that a very strong answer came back that put things firmly on the record?

**Senator RONALDSON**—The response could only deny the fact as alleged. The fact was not substantiated by the interviewer. The interviewer put it as a fact and then asked for a response. Of course, having heard the words 'Do you accept the fact,' the listener is going to think that it is a fact. Do you think that is appropriate? If you do, just say so so we all know exactly where we are coming from.

**Mr Brown**—I do not have an issue with that question.

**Senator RONALDSON**—You do not have an issue with that line of questioning?

**Mr Brown**—No, I do not. It is a line of questioning that I and many other journalists have used over the years to put a position.

**Senator RONALDSON**—That something is a fact?

**Mr Brown**—To put to somebody 'do you accept?' is a standard journalistic question.

**Senator RONALDSON**—Exactly. But the phrase 'do you accept the fact that' is entirely different from 'do you accept', is it not?

**Senator CONROY**—It is poorly phrased, Rono.

**Senator RONALDSON**—Is it different or not? He has answered his own question, I think.

**Mr Brown**—Let me answer it. I am trying to recall the exact wording of the question as you read it out, but it seemed to me that the fact that he was alleging was the fact that assertions had been made. Isn't that right?

**Senator RONALDSON**—Sorry?

**Mr Brown**—You have the question there. Isn't the fact that he is alluding to the fact that assertions were made by well-known commentators, or something like that, not the fact that this happened?

**Senator RONALDSON**—He asks:

... do you accept the fact—again of reliable and responsible commentators—that what has been going on in Gaza in recent days, including the bombing ... amounts under Geneva Conventions to a war crime?

If you think that is justifiable, we know where we are going on this. On 5 April 2006, there was a reference on *Dateline* to terrorist acts.

**Mr Brown**—In what context?

**Senator RONALDSON**—It states:

ETA has waged a horrific campaign on the Spanish state for decades. It has killed over 800 people in terrorist acts over the past 20 years.



Is that okay?

**Mr Brown**—I suspect not.

**Senator RONALDSON**—You will be doing something about it?

**Mr Brown**—I will take it on notice.

**Senator RONALDSON**—Are you aware that *Dateline* often refers to an organisation called Human Rights Watch? Indeed, the *Dateline* website provides links to Human Rights Watch.

**Mr Brown**—In association with specific stories? There is surely not generally a direct link from *Dateline*.

**Senator RONALDSON**—I am advised that *Dateline* currently provides links to the Human Rights Watch website in the US, so I suspect there is. *Dateline* says that Human Rights Watch:

... is the largest human rights organization based in the United States. Human Rights Watch researchers conduct fact-finding investigations into human rights abuses in all regions of the world.

On 26 July, Nadim Huory, the Human Rights Watch representative in Lebanon, was interviewed by Mr Negus on *Dateline*. I will give you this quote from Mr Negus. He says:

It would appear the Israelis feel as though they have a free hand.

Is that an objective or an impartial comment?

**Mr Brown**—It is hard for me to judge the quality of an interview and the appropriateness of a question without seeing the entire interview. That may have been said in response to something that the interviewee said.

**Senator RONALDSON**—It was not a response; it was a direct question. Do you think that is appropriate?

**Mr Brown**—Questions flow from answers. I would rather take that on notice and have a look at the totality of the interview.

**Senator RONALDSON**—On the 26th, as I said, Mr Negus interviewed a Human Rights Watch representative from Lebanon who described the actions in Lebanon as war crimes. On 5 August, in a report from Israel, the director of Human Rights Watch said that ‘lobbing rockets blindly into civilian areas is without doubt a war crime’. I will repeat what he said: ‘Lobbing rockets blindly into civilian areas is without doubt a war crime.’ Why would that war crime not be discussed by *Dateline* when the Human Rights Watch item from Lebanon some weeks before was given substantial airplay?

**Mr Brown**—I do not know whether it was or was not. Again, I will take that on notice. If these points are about the way in which *Dateline* covered the Lebanon-Israeli conflict and you are selecting pieces from it, I think it is more appropriate for me to look at the programs that you are pointing to so that I can give you an informed view on the appropriateness of what was carried out.

**Senator RONALDSON**—I am mindful of the time, unfortunately. I have a final question in respect of terrorism: irrespective of the Australian view of Hezbollah, that does not in any way guide the way SBS will treat an organisation? I just want that clarified.

**Mr Brown**—That is correct. The guideline does not permit that.

**Senator RONALDSON**—Who changes guidelines?

**Mr Brown**—In this particular case, this guideline was produced by the Director of News and Current Affairs and approved by the senior executive.

**Senator RONALDSON**—In 2003?

**Mr Brown**—Yes.

**Senator RONALDSON**—Has it ever been reviewed?

**Mr Brown**—There was a small review—some minor adjustment to clarify the policy regarding references to terrorism and terrorists applying equally to references to terror. But that was more a semantics argument. I do not think there has been a substantial review.

**Senator RONALDSON**—‘Campus watch’ was due to be screened on 25 October.

**Mr Brown**—What was the title?

**Senator RONALDSON**—‘Campus watch’, on *Dateline*. You are not aware of ‘Campus watch’?

**Mr Brown**—I am sorry, I did not recognise the label. This is a story that was due to go to air last week but it did not. It was displaced by emerging events. I think it is due to go to air this week.

**Senator RONALDSON**—Replaced by what?

**Mr Brown**—Some breaking story, I cannot remember exactly. Something happened that pushed it out. That is quite standard on *Dateline*.

**Mr Meagher**—Solomon Islands, I think.

**Senator RONALDSON**—Nice to hear from you!

**Mr Brown**—That is quite standard.

**Senator RONALDSON**—Did you have reporters in the Solomons?

**Mr Meagher**—I think it was simply that the developments in the Solomon Islands coinciding with the Pacific Islands Forum meant the decision was made—a pretty ordinary editorial decision—to cover some circumstances there for that program. It is fairly standard.

**Senator RONALDSON**—How long was the ‘Campus watch’ item?

**Mr Meagher**—I am afraid I do not know.

**Senator RONALDSON**—How long was the Solomon Islands item?

**Mr Meagher**—I watched that episode of *Dateline*, and I think about two-thirds of the episode was taken up with a piece from the Pacific Islands and then an interview with Hugh White. The rest of the program was a journalist with Australian troops in Iraq, reporting on the way in which troops were carrying out their duties while on active service in Iraq.

**Mr Brown**—At the end of the program it was acknowledged that the item you are referring to had been deferred a week.

**Senator RONALDSON**—Has there been any change to that item since it was first published on the website?

**Mr Brown**—I do not think the whole item has been published on the website.

**Senator RONALDSON**—No. Since it was advertised, have there been any changes?

**Mr Brown**—Not that I am aware of. My understanding is that its deferral was simply to make room for another more topical story. As I said, it is quite common within *Dateline* to have items that are shifted for a week because of something else emerging.

**Senator RONALDSON**—That is all from me at the moment.

**CHAIR**—We have a short period more for SBS.

**Senator FIERRAVANTI-WELLS**—Mr Brown, did I understand your answer previously? Perhaps you could clarify whether you have done an assessment of SBS's coverage of the recent Middle East conflict. Did I understand that your answer was, no, that you had not?

**Mr Brown**—That is correct.

**Senator FIERRAVANTI-WELLS**—Perhaps I might refer you to an assessment that was done and was published in the *Australia/Israel Review*. As you can appreciate, they would take a very key interest in this matter. I want to pick up a number of points that they have made, and I want to ask your opinion as to whether that criticism is justified under the circumstances. They state:

Undoubtedly the media coverage of Israel's war against Hezbollah could have been greatly improved ... By a mile, the worst outlet in the electronic sphere was *SBS-TV News*.

What they didn't say is often as important as what they did. Ross Cameron reported on July 29 that "UN peacekeepers have abandoned two more border observation posts...The first was abandoned when a UN soldier was wounded, the second after four UN soldiers were killed by an Israeli air strike." The wounded soldier was hit by Hezbollah small arms fire, as the UNIFIL press release of July 28 explained, but Cameron neglected to mention this.

Is that a justifiable criticism of that sort of coverage?

**Mr Brown**—I cannot recall that report.

**Senator FIERRAVANTI-WELLS**—I have a number of them.

**Mr Brown**—I can see that, but really, as I understand it, these are not matters that you have personally verified; these are allegations made by AIJAC or a Jewish lobby group?

**Senator FIERRAVANTI-WELLS**—They are relying on documents which have been received—

**Senator RONALDSON**—It does not matter who it is from—

**Mr Brown**—I am only trying to be clear on it.

**Senator RONALDSON**—it is just a matter of answering.

**CHAIR**—Let Mr Brown make his comment.

**Senator RONALDSON**—It is totally irrelevant who they are from.

**Senator FIERRAVANTI-WELLS**—The article from the *Australia/Israel Review* continues:

The UNIFIL release—

which obviously comes from the United Nations—

also mentioned “frequent incidents of Hezbollah firing from the vicinity of the [UNIFIL] positions” as have other UNIFIL releases, but Cameron did not see fit to mention this either. Similarly, Vesna Nazor covered the incident in reports on July 26, 27 & 28, but also failed to mention these crucial facts.

So you have what appear to be official documents from the United Nations being released that your journalists are failing to admit.

**Mr Brown**—We have the claim of the article that that was the case. That has not been verified. The point I would make is this: if indeed these shortcomings were known to this organisation, why would it not lodge a complaint through the formal complaints process and have it properly assessed? It is possible—

**Senator FIERRAVANTI-WELLS**—Mr Brown, the point is—

**Mr Brown**—Could I just finish?

**CHAIR**—Let Mr Brown finish.

**Mr Brown**—It is possible that there is more mileage to be gained by creating a newspaper headline than having it tested by an objective scrutiny. If you put those on notice, we will look into them. But I would have preferred—and I think it is for everyone’s benefit—that those sorts of complaints were made through the formal complaints process.

**Senator FIERRAVANTI-WELLS**—I understand that—

**Mr Brown**—Maybe some of them have. I may be wrong.

**Senator FIERRAVANTI-WELLS**—That is my point. I understand that your organisation did receive complaints about the coverage of the conflict. I am asking you whether the criticisms are justified. It went on:

SBS-TV News has made extensive use of reports from Lebanon by BBC reporters—

which Senator Ronaldson referred to—

which have focussed at great length on the suffering of Lebanese civilians and destruction of the country. They often make little or no effort to provide context for the Israeli actions by, for example, explaining that Hezbollah was firing rockets at Israel from the bombed areas. Indeed, at times they do the opposite. Ian Pannell, on July 23, surveyed the damage in the Bekaa Valley and stated, “the damage we saw was not to Hezbollah, but to the people and the economy of the Bekaa Valley.” Given the well-documented Hezbollah practice of hiding its weapons in and even firing from civilian property, it is hard to see how Pannell could possibly have been so sure.

**Mr Brown**—Those sorts of complaints do feature amongst the complaints that have been made. As I have already said, most of the complaints were not upheld. They were not, in the opinion of the Audience Affairs Manager, have validity. I have to say that, when you are reading that out, the shortcomings that have been claimed there are not ones that I observed watching our news coverage. I think the actions of Hezbollah in launching rockets were well

documented. I can recall specific reports that address the issue of the claims that Hezbollah was hiding behind civilians inside Lebanon and therefore triggering civilian casualties. I can remember that being well covered as well. I cannot specifically respond today on a day by day basis, but I can give you a general assurance, based upon my viewing of what I saw and of the complaints process that I have overseen, that many of the points made there were covered by SBS television news.

**Senator FIERRAVANTI-WELLS**—Perhaps I could go on.

Orla Guerin, long time and oft complained about BBC Middle East correspondent ... Walking through Bint J'Beil, site of the heaviest fighting of the conflict, she intoned, "The damage here is absolutely incredible. I haven't seen a single building that isn't damaged in some way. Many have been flattened, many have been singed. This town has really been wiped out.

**Mr Brown**—I think that was the report on which complaints were upheld.

**Senator FIERRAVANTI-WELLS**—Okay. Thank you. There was another one:

Ross Cameron consistently referred to Haifa as "Israel's second largest city" and on July 29 to Israel's "two biggest cities, Tel Aviv and Haifa."

He obviously does not accept that Jerusalem is part of Israel, but perhaps we can allow him the odd mistake. I will put the rest of my questions on notice. Thank you.

**Senator RONALDSON**—I have a couple here. Nick Lazaredes of the SBS *Dateline* program filed a report on the war in which he showed only damage in Lebanon and spoke only to Lebanese and to Franklin Lamb, whom he described as:

A former congressional aide and international law expert ...

Professor Lamb was extremely critical of Israel. That is not surprising, given that he is a research associate of an organisation called If America Knew, which is an organisation dedicated to stopping American support for Israel. Lazaredes did not mention that. Do you think that, if he was aware of it, he should have mentioned it?

**Mr Brown**—Again, I will take that on notice. I would like to look at those specific reports that you are talking about rather than isolated sentences. I will form a view and respond directly to that.

**Senator RONALDSON**—All right. On 21 September Mary Kostakidis announced:

Three Palestinian men, reported to be goatherds, died in an Israeli missile attack after approaching an area from where two rockets had been fired into Israel.

In actual fact, the Israelis had said that these two men were seen handling a rocket launcher. Again, there was no mention of that. On SBS news on 5 October, Prue Lewarne, speaking over scenes of Palestinians crying over covered bodies said:

It is scenes like this that fuel Hamas popularity on the Arab street. Two Palestinians killed after an Israeli air strike.

What she did not mention was that they were Islamic Jihad members.

**Mr Brown**—Or possibly it was claimed they were. Most of these sorts of issues tend to revolve around claim and counterclaim. However, to respond to the particular point you have raised, those sorts of complaints may well be the ones that have gone through the objective

complaints system. I hope they were, because if they are serious they should be dealt with that way. So it is entirely possible that they have already been assessed by SBS and have been demonstrated not to have been well founded. Alternatively, if they have not gone through the formal complaints process and you are tabling them for questions on notice, then I am happy to respond to those.

**Senator FIERRAVANTI-WELLS**—The general problem with your coverage—and these are a very small number of examples—is that they are just typical—

**Senator RONALDSON**—They are the tip of the iceberg.

**Senator FIERRAVANTI-WELLS**—of an attitude by SBS of always putting an anti-Israeli, anti-Jewish stance on issues. That is the basic complaint: your lack of balance on these issues. You always prefer a situation that really does put the most negative light on issues. That is the general complaint, Mr Brown.

**Senator RONALDSON**—Absolutely.

**Mr Brown**—With respect, Senator, that is not the general complaint.

**Senator FIERRAVANTI-WELLS**—Can you let me finish. That is the point that we are making. You can sit here and you can disagree with me all you like. We have put questions. We have put examples to you. I appreciate that you will disagree with them. We hope that you will give them at least some consideration and not take this Senate into contempt and treat us with contempt. Perhaps you will provide us with a better standard of answer than what you have provided on questions on notice in the past.

**Mr Brown**—Let me respond to the first point that you made, which was about ‘the general complaint’. What you are really referring to is the complaint from a particular part of our audience, because the complaint from Palestinian and Arab areas is not the same as ‘the general complaint’ that you are referring to. You would be aware that we receive complaints and petitions delivered to our Melbourne office and protest marches from the other side of the conflict and not from the Israeli side of the conflict. So I do not think it is appropriate to characterise the complaints that you are handling and quoting from Jewish publications as being ‘the general complaint’, because I think they are quite specific.

Secondly, I do not believe there is anything that suggests that I would hold this committee in contempt or do anything other than give you a frank and forthright response to the points you have made, including acknowledgement of shortcomings, if that is demonstrated.

**CHAIR**—Thank you, Mr Brown. I think that concludes your appearance.

[2.46 pm]

#### **Australian Broadcasting Corporation**

**CHAIR**—Welcome. Mr Scott, I understand you wish to make a short opening statement.

**Mr Scott**—Yes. I am very pleased to be here representing the ABC. I will keep these opening remarks brief so that we can field any questions you may have. I met many of you at the recent committee hearings into the government’s media reform legislation, which I thought was a good opportunity to underline the vital role the ABC plays in ensuring media diversity in Australia. I intend to make it my business to attend Senate estimates hearings. I

have worked in government, and I understand the importance of public accountability where public funding is involved.

I have with me Murray Green, our Director Corporate Strategy and Communications, a man with broad experience and deep knowledge about the organisation, and David Pendleton, our Chief Operating Officer, who keeps us all within our budgets.

**Senator RONALDSON**—What about Mr Cameron?

*Senator Conroy interjecting—*

**CHAIR**—Let Mr Scott proceed.

**Mr Scott**—I will come to that, Senator. If we cannot answer your questions immediately, we will seek to obtain an answer before our allotted time is expired or we will take the question on notice. The ABC receives a great deal of public money, and we do a great deal for the public with it. Close to \$800 million per annum funds five radio networks, two domestic television networks, Radio Australia, the Australia Network, ABC Online and digital radio.

Since starting in this job almost four months ago I have visited ABC operations in most parts of Australia and talked to hundreds of ABC staff, including many journalists, producers and program makers. There is a very strong bond between the Australian public and the ABC; it is a bond that seems to get stronger the further away you move from the capital cities. Surveys by Newspoll underline this, finding that more than 90 per cent of Australians believe the ABC provides valuable or very valuable service.

We have 65 live microphones open each morning on ABC radio right across Australia. We are getting more local as other media companies are retreating to the cities and syndicating. More than 12 million Australians watch ABC TV each week, and more than six million tune into ABC radio. More than one million Australians a day are watching the 7 pm ABC news and the *7.30 Report* on television. Around one million listen to *PM* each week and two million to *AM*, and well over half a million pages of ABC News Online are read by Australians every day.

NewsRadio has been a wonderful addition to the media diet for thinking Australians over the past decade and, as you would know, it is the first choice of quality taxidrivens around the nation. The Australia Network broadcasts to 41 countries, 10 million homes and 200,000 hotel rooms from the Cook Islands to Mongolia and to Australian service men and women serving in Iraq and Afghanistan. Radio Australia has an estimated audience of more than 20 million listeners each week. We have more reporters in more locations, both within Australia and overseas, than any other media organisation in the country, and on top of that there are 42 ABC shops and 88 ABC centres across Australia.

Being the public broadcaster also means setting higher standards for ourselves than apply to any other media organisation in Australia. Senators would be aware that a fortnight ago I released the revised edition of the ABC editorial policies, which will come into force from March next year after a detailed training program is rolled out. The editorial policies govern the way we broadcast. They were last published in 2002 and updated incrementally in July 2004 and February and June 2005. The revised edition has emerged from lengthy and detailed discussion between staff, including journalists, senior policy officers and the board. They have the approval of the board and the endorsement of the senior management team.

Some of the media reporting and commentary on the revised policies has been a little wide of the mark. I will mention two important aspects and, of course, I am happy to take your questions on this matter. Firstly, the editorial policies provide greater emphasis on the need for the ABC to be impartial, not only in our news and current affairs output but also in our topical and factual and opinion content. That means presenting a range of perspectives on matters of contention and public debate. This is fundamentally about maintaining and enhancing the ABC's reputation for fairness, accuracy, balance and objectivity. We take this seriously. The message I am repeating, both internally and externally, is that this is really about good journalism—journalism that is fair, accurate, balanced and objective; journalism that lets the facts speak.

Secondly, there is the issue of how we live up to these policies. On top of existing mechanisms, which include program reviews and the most independent and rigorous complaints-handling system in the Australian media, I am creating a new position of Director of Editorial Policies to oversee compliance. This person will have an editorial audit role and the capacity to undertake or commission research and will provide advice directly to me as editor-in-chief on whether we are meeting the standards we have set.

I want us to be hard-nosed in assessing the bias question ourselves because there are few more serious allegations that can be made against serious journalists. The ABC cannot afford to be biased or be seen to be biased. It is worth noting that, of the 170,000 contacts the ABC receives from the public each year, just half of one per cent are complaints about political bias. I think context is important when evaluating complaints, in particular when assessing the relative importance of complaints. ABC news and current affairs, for example, has more than 650 journalists producing almost 15,000 unduplicated hours of programming each year for ABC radio and television services alone.

Realistically, mistakes will occur. We are not perfect. As a broadcaster: our journalists, producers and presenters know that they must meet deadlines. The 7 pm news goes to air at 7 pm, not at 10 past, and, as is the case with all media organisations, sometimes the pressure to meet immovable deadlines or the immediacy of a live microphone results in decisions that may have been different had there been more time for reflection and review. It is important to have good policy and processes in place, including a rigorous complaints-handling process. There will, of course, be occasions where, following proper investigation, the ABC's perspective of a particular matter differs from that of a complainant and no compromise or concession is possible. There must be room for genuine disagreement, either about particular broadcasts or about the obligations imposed by stylistic guidelines as opposed to mandatory editorial policies.

As I have said publicly, I am keen to engage in constructive dialogue on these matters—and I would hope this is a two-way street. Where the ABC has improved its performance or been strong in meeting its responsibilities as a public broadcaster, I hope that some credit will flow to the organisation. I see it as part of a broader community commitment to the essential role the ABC plays in serving the Australian people, telling Australian stories, encouraging debate and discussion of important issues and bringing the nation together. These are my priorities.

**CHAIR**—Thank you. Senator Conroy?



**Senator CONROY**—Welcome, Mr Scott. I would like to start with the new editorial guidelines that you made reference to. But, firstly, both Senator Ronaldson and I were querying the fact that you seem to be a bit short on the number of people who normally come along to estimates, and you have indicated that you would like to make a comment.

**Mr Scott**—Yes. I have looked at the names and the numbers of people who have come to Senate estimates hearings in the past, and I think it has varied from time to time. I have brought along with me today Mr Pendleton, the chief operating officer, who has a number of key operational areas of the organisation reporting through to him; and Mr Green, who looks after strategy and communications work and who was for a period of time the Acting Managing Director. I am here as Managing Director and also in my role as editor-in-chief of the organisation.

I believe Senator Ronaldson made a reference to news and current affairs, so if there are particular issues to do with our news and current affairs performance I am happy to attempt to answer those questions in my role as editor-in-chief. I am also happy to answer any questions and to speak on the output of the ABC operation across radio, television, news and current affairs and our new media and online division. If there are any specific questions that I cannot answer in the time that I am sitting here, I am happy to take those questions and provide answers on notice. As I understand it, I do not think at any time there has been a full complement of the executive at estimates. I am here today and I have brought along two other senior members of the executive, and we are happy to answer your questions as best we can.

**Senator CONROY**—That was a great speech. I was just wondering where the rest of the officers were. Are they busy or did you decide not to bring them?

**Mr Scott**—I decided that this was a good team that could represent the key issues that are being faced in the organisation, and I am happy to answer any questions.

**Senator CONROY**—Because you have only just got the job, you probably have not witnessed Telstra's performance at estimates over recent years. You might want to get someone to draw to your attention the view that senators have when not a full complement of officers turns up.

**Mr Scott**—I know there was criticism of the ABC previously when the Managing Director did not turn up to estimates. I indicated in my opening statement my intention to turn up to estimates. I am responsible for the operations of the organisation, and I am happy to answer questions as best I can.

**Senator CONROY**—So you are gagging the rest of your staff?

**Mr Scott**—No, there is no gagging involved in this at all. We are happy to answer your questions as best we can. We expect we will be able to answer the breadth of them here today.

**Senator CONROY**—With no disrespect, Mr Green and Mr Pendleton have come along many times in the past and they have not been able to answer all the questions we have put to them on many occasions. I am sure other senators would agree. I am just perplexed at the decision that you seem to feel that you can now cover off on probably the other four or five officers who regularly turned up.

**Senator RONALDSON**—Mr Scott, I reckon you might break the drought, because you must think we came down in the last shower. To not have Mr Cameron here, who has been the subject of considerable examination—

**Senator WORTLEY**—And Ms Howard, to say the very least.

**Senator RONALDSON**—And Ms Howard.

**Mr Scott**—I note your concerns, but I understand that there have been a number of occasions when Mr Cameron has not attended the estimates committee hearings in his role as head of news and current affairs.

**Senator CONROY**—But he has not been stopped from coming by you.

**Mr Scott**—I understand that over time there has been a different configuration of members of the executive who have been here and that on no occasion have all members of the executive been here. What I bring today are two very experienced members of the executive and myself, with my responsibilities across the entire operations of the ABC.

**Senator RONALDSON**—I do not want to take up Senator Conroy's time, but I am very disappointed.

**Senator CONROY**—I concur. I notice that you describe yourself as editor-in-chief. Is that a new title for the CEO, or is it the same title?

**Mr Scott**—It is the same title. It is a role that I believe is carried in the legislation.

**Senator CONROY**—I have just never heard it before for someone in your position.

**Mr Scott**—It has been established since the corporation.

**Senator CONROY**—As I said, no-one else has ever described themselves as that when they have appeared before us.

**Mr Scott**—My background is as a journalist. I am comfortable in and around news and I am comfortable discussing news matters. That is part of my responsibility as Managing Director and, as such, I am happy to speak to it.

**Senator CONROY**—So it is encompassed within your role as Managing Director?

**Mr Scott**—As Managing Director, yes.

**Senator CONROY**—So your actual title is Managing Director?

**Mr Scott**—Yes, that is true, but my role does encompass the role of editor-in-chief of the organisation. If you look at the recent history of the ABC since it became a corporation in 1983, you will see reference to the title throughout.

**Senator CONROY**—But you are actually employed as the Managing Director?

**Mr Scott**—Yes, that is true.

**Senator CONROY**—But you preferred to be called 'editor-in-chief'? I just want to make sure I call you the right thing; that's all.

**Mr Scott**—You can call me 'Managing Director', Senator!

**Senator CONROY**—Thanks! I would like to talk about the new editorial guidelines. Some long-term critics of the ABC have taken the new guidelines as a concession by you and the board that the ABC is biased. What do you make of that interpretation?

**Mr Scott**—I think that is a simplistic reading. As I said in comments I made a fortnight ago, as a rule I have attempted not to comment on 75 years of ABC history which took place before I arrived. On the issue of bias, I indicated that I did not believe that the ABC was anywhere near as bad as some of its critics would suggest but not as pristine as its supporters may hope. But what I have said in my comments is that the ABC needs to face up to its critics. If there are critics that believe the ABC is biased, then the ABC should not deny that that criticism takes place. The ABC should be able look to its own policies and performance and mount a robust defence, and I believe these policies enable us to do so. I should say in background to these policies that they have been over a year in the making. So, even though I was involved in the final stretch of their approval and sat in on the board meetings that finally ratified them, they did come out after a year's work and discussion and consultation with staff, senior policy makers and members of the executive.

**Senator CONROY**—I absolutely accept that you have inherited them. They clearly were well in train.

**Mr Scott**—They were not set in stone, but they were well in train.

**Senator CONROY**—I do not believe that you instigated them, inspired them or had anything else to do with them other than dealing with them practically, as you inherited them when you took over.

**Mr Scott**—There have been forms that have assisted the organisation up until now, and this is the latest edition.

**Senator CONROY**—Piers Akerman is one of those who have made this interpretation. Is he simplistic?

**Mr Scott**—I think sometimes the debates around bias can be simplistic. Sometimes there is an attempt to polarise when the complexity of the reality, the circumstances, should be more evident. There should be more nuance in the debate. There have been a number of critics from either side of that debate who have waded into the commentary in the last two weeks, but what we have tried to do is to produce policies that we believe will be functional and workable and will help the ABC fulfil its obligations under the act to be fair and impartial.

**Senator CONROY**—Where has the ABC been not 'anywhere near as bad' as its critics would suggest? Where has it been biased? If you make the statement that it is not 'anywhere near as bad', you must therefore be conceding that there have been instances of bias. Where has it not nearly been as bad?

**Mr Scott**—As you know, we have a very detailed complaints process. Sometimes complaints can be made with that process and be upheld. There will be examples of broadcasting that takes place that we do not believe uphold the standards we have set down for editorial policies. That is not surprising because of how much broadcasting we do. Every morning 65 live microphones broadcast live journalists. My background is in newspapers, where a significant safety net takes place between the reporter, the files, the editor who looks at it and the subeditor—a number of checks and safety nets come into play before the paper is

actually published. But as you would know, and I know, newspapers also make mistakes. So when you are broadcasting the range, the breadth and the extent of the material we are publishing—very much part of it live broadcasting—then, of course, there will be mistakes and I admit that. And the ABC admits that. So there are times when we have put to air material that in hindsight we regret putting to air; therefore, I think it is foolish to suggest—as I said in my speech—that we are pristine when our performance sometimes has left something to be desired and we have found that ourselves.

**Senator CONROY**—I accept that the ABC has made mistakes. They are all documented. There is a complaints mechanism in place right now, based on a set of guidelines, and there have been a small number of mistakes over a large organisation, which have been acknowledged through the complaints mechanism. But your statement that it is not nearly as bad as its critics suggest implies a much broader problem.

**Mr Scott**—No, I am saying that there are critics who suggest that the ABC has major problems in these areas. What I said in my statement was that I do not think the ABC is nearly as bad as its critics would make out. I believe the ABC really performs admirably and well, particularly given the extent of broadcasting that it undertakes and the level of scrutiny that that broadcasting receives. Sometimes I think people confuse robust questioning and challenging of people—particularly challenging of politicians—as being an example of partiality, whereas I sometimes think it is an example of robust, quality journalism.

**Senator CONROY**—I accept all of that, Mr Scott, but I would like you to justify your statement that it is not nearly as bad. I accept that there have been mistakes. They are catalogued and exist and have been demonstrated through the complaints process.

**Mr Scott**—So you are asking me why I think the ABC is better than its critics would suggest.

**Senator CONROY**—No, I am asking you to identify the areas where you agree with the critics.

**Mr Scott**—I have not codified them and specified them. I am simply acknowledging—

**Senator CONROY**—This is like a press conference, where I get to ask you lots of robust questions and where you get to justify what you have said previously. I would like you to codify them.

**Mr Scott**—I am simply acknowledging in my answer to you that there would on occasion be times when we believe we have let down our editorial policies. One of the questions that perhaps some of the other senators might ask me about is on a broadcast we did earlier in the year on *Behind the News*.

**Senator CONROY**—I am not asking you what the other senators are going to ask you; I am—

**Mr Scott**—I can give you an example. We admitted—

**Senator CONROY**—asking you to justify your statement, to codify where you believe that the critics are justified.

**Mr Scott**—My answer to that is simply that there are examples of when the ABC breaches its editorial policies. I am admitting that. I think it would be foolish to deny that that is the

case. An example that has come to light in recent times since I have been Managing Director was on our programming of *Behind the News*, where we ran a program related to Middle East coverage. We do not believe it passed the tests that would be set out in our editorial policies. We do not attempt to be defensive around that. If there are further detailed examples the senator would like, I am happy to provide him with a written response to that.

**Senator CONROY**—I am not talking about the ones that are publicly acknowledged via the complaints process—that is, the ones that have been upheld. By definition, they are on the public record and have been uncovered by your editorial policy and by your complaints mechanism. But you go further in your statement that it is not nearly as bad as the critics say by acknowledging implicitly in that statement—

**Mr Scott**—When I am saying that the ABC is not nearly as bad as its critics make out, I am talking about the critics who are suggesting that the ABC has plenty of examples of bias in it. I am actually mounting a defence of the ABC when I say the ABC is nowhere as bad as its critics might make out. I am saying that it is not as pristine as some of its supporters might suggest. I have given you some examples already about where the ABC has not been pristine.

**Senator CONROY**—Your comment that it is not nearly as bad implies a much broader concern on your behalf.

**Mr Scott**—No, I think, Senator, with respect, that you are misinterpreting my statement. In the context of my speech—and I am happy to provide you with a copy of my speech—

**Senator CONROY**—I have a copy right here.

**Mr Scott**—I talk about the critics of the ABC. I say they fall into a number of different categories, and I outline what those categories are. But what I finally say is: ‘I do not believe the performance of the ABC is nearly as bad as its critics make out.’ So in fact, in relation to the line you are asking me to codify further, that is actually a statement in support of the performance of the ABC over time. I am happy to give you details of where I think the ABC’s performance is fine and where the ABC has performed well and give you further detail on that, if that is what you would like.

**Senator CONROY**—I guess you are familiar with the phrase ‘damning with faint praise’: ‘not nearly as bad’.

**Mr Scott**—I disagree. That is your interpretation of my speech. I think that is unfortunate, because I do go into detail on the kinds of areas where I believe the ABC’s performance has been very strong and very robust, even though there are critics. I think some of the questioning that happens to politicians in a political exchange by a Kerry O’Brien, a Tony Jones, a Virginia Trioli or a Jon Faine are good examples of the ABC engaged in robust exchange and robust journalism, whereas there are some critics who might believe that some of that questioning is inappropriate.

**Senator CONROY**—In your speech to the Sydney Institute, you asked the question: ‘Does the ABC have a problem with editorial values?’ You said that it was an important question but you did not actually answer it.

**Mr Scott**—Yes.

**Senator CONROY**—In your speech you also stated:

It is fair to say there is something of a disjunction between the critics' and the public view of bias and the ABC. Of those 170,000 contacts the ABC receives from the public every year, just half of 1 per cent are complaints about ... bias.

I would put it to you that a large proportion of those are from the Liberal Party.

**Mr Scott**—I would say, though, that if you read the Ken Inglis history of the ABC: *Whose ABC? The Australian Broadcasting Corporation 1983 to 2006*, you would see that some of the criticisms that are being made of the ABC now and some of the criticisms that might be made from members of the Liberal Party are similar to criticisms of the ABC made by the Labor Party, including previous Labor ministers and Prime Ministers, and that a view has been prevailing across the left and the right. I said that in my speech. I also said that the ABC needs to be robust in its engagement around those criticisms, to set high standards for itself and to be able to monitor, measure and judge its performance over time. I have said that it is no use pretending that those critics do not exist. They are not all conservative critics; there are critics from the Labor Party as well. We need strong, robust policies that are clear for our staff, that we can measure and review over time and that we can assess our performance on.

**Senator CONROY**—If the best that you can do in supporting the ABC is to say that it is not nearly as bad as its critics say it is, I would not define that as a robust defence. You said in your speech:

Of those 170,000 contacts the ABC receives from the public every year, just half of 1 per cent are complaints about ... bias.

What is the problem that you are targeting with these new guidelines, when the number of complaints is miniscule?

**Mr Scott**—Firstly, 170,000 is a very big number. That covers a range of contacts that come through in a variety of different ways. As you would concede, there has been noise around the ABC's performance on questions of fairness, bias and impartiality over a period of time and across of range of political spectrums. There had been an attempt in previous editorial policies to address some of that as far as news and current affairs were concerned. But the architects of the new policies—and Mr Green was very involved in this process—attempted to make sure that these policies were relevant to the ABC's structure now.

I will give you some examples of this. The previous policies suggested that all our news and current affairs work came out of the News and Current Affairs Division of the ABC. Clearly, there is other programming coming out of other divisions that covers news and current affairs—programming that comes out on local radio, for example. Part of John Faine's program would be news and current affairs. In our new editorial policies, we needed to think in terms of how the listener perceives it and how the viewer perceives it rather than how we create it. So the guidelines for news and current affairs cover news and current affairs regardless of which division creates that content within the ABC. That is an example of where these policies needed to emerge and evolve, given the changing output of the ABC over time.

**Senator CONROY**—No-one is suggesting that you do not have critics or that critics do not exist but just because critics make noise does not mean there is necessarily any substance to it. The issue here is the problem of substance that you are responding to as opposed to the noise of the critics.

**Mr Scott**—We wanted to make sure that our policies applied to all areas of the ABC and that there were no areas of the ABC which they did not apply to in the first instance, and then—

**Senator CONROY**—You did not extend the existing guidelines to other areas.

**Mr Scott**—But that is in part what we have done.

**Senator CONROY**—What you have done is to substantially change the guidelines.

**Mr Scott**—I would not overstate that. We have created four different categories of content—news and current affairs, topical and factual, opinion, and performance. We have created a new area of opinion so that there can be a greater plurality of voices and greater debate on the ABC. It is not an attempt to shut down debate; it is an opportunity to say that on many of these issues there are divergent views and that we are keen for that plurality of views to come forward. It is an attempt to be more comprehensive in the editorial policies. It puts me in a far better position to mount a robust defence of the ABC if there are spurious questions being raised by people about the ABC's performance. In a sense, the greatest response to critics, if in fact their criticisms are unfounded, is evidence that can come back on the performance of the ABC over time. That is what I believe these editorial policies will enable us to do more effectively.

**Senator CONROY**—The performance over time is probably measured best by how successful the complaints have been. I put it to you that there is not a strong record of complaints being upheld. That is not to say that there is not a lot of noise.

**Mr Scott**—I am not sure that that is quite right.

**Senator CONROY**—I am taking the example that you gave, which is how you much produce—so the complaints as a proportion of the enormous number of hours of content and discussion that take place on the ABC.

**Mr Scott**—I suppose I would say that the challenge of the ABC to perform well in these areas—to be fair, balanced and impartial—is not an option for us. It finds its demands in section 8 of the act. For us to have robust policies that allow us to engage around these issues to ensure that we are meeting our requirements under the act is an imperative for us. You might think that is a little onerous and a little unnecessary. I would say to you that it is the requirement set down by the legislation, so we do have to take it seriously. We do have to have comprehensive policies. We do need to measure them and ensure that we are meeting those policies and those requirements over time.

**Senator CONROY**—A robust defence to Senator Ronaldson and Senator Fierravanti-Wells will not cut it with 'It is not nearly as bad as you say'.

**Mr Scott**—What was your question?

**Senator CONROY**—The question is that, on the sustained noise that you get from some of the other senators on this committee—

**Senator FIERRAVANTI-WELLS**—Sustained noise, Senator Conroy!

**Senator CONROY**—A robust defence is not—

**Mr Scott**—Can I simply say that, since my appointment, I have met with members of the government and members of the opposition. I have spoken to people who currently work at the ABC and with people who have worked previously at the ABC. I have tried to study the history of the ABC. I do not believe that some of the questions that have been raised about the performance of the ABC, which these policies will help us meet and deal with, are partisan issues. I would again refer you to the history of the ABC that has been written recently, which indicates that the kinds of issues that may have been raised by the senators now are issues that were raised by previous Labor governments and previous prime ministers.

**Senator CONROY**—That has nothing to do with the question. What is the problem that you believe the board has been targeting? There is not an overwhelming case history—

**Mr Scott**—That is the first time you have raised the board.

**Senator CONROY**—I am trying to not personalise this, Mr Scott, because you inherited most of this. I only mention the board because I did not want to say, ‘You believe you are targeting’. If you want me to say, ‘Mr Scott, what is the problem you think you are targeting,’ I will happily go there.

**Mr Scott**—The challenge for us is to be able to meet our requirements about fairness, impartiality and balance that are set out in section 8 of the act and to be able to do that in a thorough and comprehensive way in order that it meets the way that the ABC currently operates. The example I gave earlier was that previous policies that suggested news and current affairs content only came from the News and Current Affairs Division was outdated. These policies are more comprehensive. They have been designed in a way that gives us confidence that, if we can meet them and fulfil the requirements set down in them, we have will have absolutely met the requirements that exist under section 8 of the act for fairness, impartiality and balance. I would be interested in your views on where you believe these policies—

**Senator CONROY**—The great part of about Senate estimates is that I get to ask you the questions and you get to answer them, Mr Scott. But we can have a dialogue at another time. I am allowed only 15 minutes at a time.

**Mr Scott**—It is very hard for anyone to mount an attack and suggest why the ABC should not aspire to be fair, balanced and impartial and why the ABC should not have some mandatory guidelines to steer our program makers and our broadcasters in that direction and for us to have a mechanism that gives us confidence that we are meeting those guidelines at the time.

**Senator CONROY**—But it is incumbent on you, Mr Scott, to explain the case for change, which you have patently not even made an attempt to do.

**Mr Scott**—I would disagree with that.

**Senator CONROY**—You will not codify. You will not give any description.

**Mr Scott**—No, I disagree with that.

**Senator CONROY**—Even the raw statistics do not support that there is a massive case of bias. So the issue here is that the board has made a substantive change to the guidelines and you do not have a case for it.



**Mr Scott**—But I would say to you that these policies are reviewed—or are in the process of being reviewed, anyway—after a five-year period. What I have said about these policies—and I said to the staff when I launched these policies to them—is that we are not going to bronze these policies; we are going to see how effectively they work in practice over time. These editorial policies are designed to assist program makers and those journalists who are involved in making content to deliver content that we believe to be fair, impartial and balanced at the ABC over time. That is what they are designed to do, and they are designed to be, in a sense, more relevant to the way the ABC currently operates than the previous guidelines that were drafted in 2002.

Why are we confident that they will do that? Because the people who are really the driving force around these policies are the journalists and the broadcasters and the policymakers at the ABC, who spent some months pulling apart the previous policies, suggesting and questioning how they work well, and who came up with the format of these new policies. Of course, that then did go to the board, and there was discussion with the board. I sat in on the final meeting of the board with senior executives of the ABC, senior policymakers, and there was complete agreement around these policies. Why were they necessary? Our broadcasters and our policymakers, the people involved in writing them, believed that they were a more complete and comprehensive way of providing editorial policies in this year than the previous ones in 2002.

**Senator CONROY**—So in the last couple of years there has been no wave of successful bias claims coming through the complaints process, by the Press Council about the ABC? There has not been any upsurge in bias complaints?

**Mr Scott**—An upsurge, would you say, Murray?

**Mr Green**—No.

**Mr Scott**—No, I do not think you would detect an upsurge, but the policies are designed, in a sense, to reflect some views and criticisms that may have existed around the ABC.

**Senator CONROY**—Criticism is different from successful bias claims. I agree with you: you are never going to find a situation where people are not saying that the ABC is biased in one direction or the other on a variety of issues, but the question that you have to actually justify for the substantive change that has been made is whether or not there was some inherent bias taking place at the ABC—for which, frankly, no case has been proved despite the best efforts of a couple of my colleagues.

**Mr Scott**—It is about providing fair, balanced, impartial performance of the ABC over time, and we believe these policies are comprehensive and—

**Senator CONROY**—But, again, that is some suggestion that that has not been the case in the past, Mr Scott. You are continuing to damn the past with every word you utter.

**Mr Scott**—I think that is an overstatement. It was our policymakers who looked at how these policies worked in practice and who gave us guidance and suggested in the drafting how they could be clearer and more comprehensive to the people who are involved in directing, creating and broadcasting.

**Senator CONROY**—I put it to you simply that you have caved in to silence your critics—critics that have not actually proven their case.

**Mr Scott**—Let me tell you quite clearly: I do not expect—and I say in my speech that I do not expect—that these policies will silence critics. In fact, I say that I expect that there will possibly be increased criticism and increased scrutiny, and perhaps these policies are a rod for our own back. But I absolutely reject the view that would suggest that the ABC should not aspire to have the highest standards as far as fairness, impartiality and balance are concerned. If these policies are more comprehensive than the previous ones, that is a good thing. I reject any suggestion that we should not be able to measure and monitor our performance over time. That is the requirement of section 8 of the act. We take that very seriously, and that is what these policies attempt to deliver.

**Senator RONALDSON**—Hear, hear!

**Senator CONROY**—I would start panicking at that point! One of the key features of the new policy is the creation of this new position of ABC Director of Editorial Policies.

**Mr Scott**—Yes.

**Senator CONROY**—Who will make the appointment of the Director of Editorial Policies? Is it a board appointment, or is it the managing directors, the editor-in-chief or—

**Mr Scott**—I will be chairing the selection panel. The final make-up of the selection panel has not been determined as yet.

**Senator CONROY**—Is it a board? Will the board members be on it?

**Mr Scott**—I can tell you that I have asked Mr John Gallagher QC, who headed the board's work—the editorial policy committee of the board—to be on that committee with me. It is not atypical in organisations for a direct report to the chief executive for there to be a board representative on that committee.

**Senator CONROY**—It is, did you say?

**Mr Scott**—No, it is not. That would not be atypical for a board member to be included on direct report to the Managing Director.

**Senator CONROY**—Mr Green and Mr Pendleton were not selected by a board member, were they?

**Mr Scott**—I believe that board members had previously been on selection panels for direct reports; for example, the position of the Director of Television was filled earlier in the year. I understand the Chairman of the ABC, Mr Donald McDonald, served on that committee.

**Senator CONROY**—The board is interfering in appointments on a regular basis.

**Mr Scott**—No, if you look at issues of corporate governance, you would see that it is not atypical for board members to sometimes be represented on the selection panel for direct reports.

**Senator CONROY**—I have spent some time in my career on corporate governance. I am willing to test my knowledge of it against yours whenever you would like.

**Mr Scott**—Happy to, Senator. It is not atypical; it is certainly not interference. It is not a board appointment. I will be chairing that selection panel. Mr Gallagher has worked intimately with the policy makers and the broadcasters and the journalists on the development of these policies. Apart from the Chairman, Mr McDonald, he is the most experienced director on the board. He has been on the board I think since 1999. I greatly admire his judgement as a QC and his decision-making prowess. I think he is an absolute asset on the selection panel and I look forward to working with him on it. The advertisement for the position has been run—you have probably seen it in the newspapers—and we will be interested to see which applicant we get.

**Senator CONROY**—You have stated that the ABC Director of Editorial Policies will undertake research and commission research. What sort of budget will the director have?

**Mr Scott**—That is yet to be determined.

**Senator CONROY**—What sort of ballpark are we talking?

**Mr Scott**—I would suggest there might be a couple of hundred thousand dollars to enable us to take research internally and externally, but I would not want to be locked into that figure. It is the kind of question that I suppose I was looking to determine with the person who finally fills the role. What I would suggest is that a number of organisations, including the ABC in the past, have commissioned external people to provide reviews of processes. I would expect most of the reviews would take place internally, but there have been occasions where external reviews have been done. I know the BBC, when they were reviewing some of their policies and programming in recent times, used external consultants or external academics to do that work.

**Senator CONROY**—So the research budget may be a couple of hundred thousand dollars. What sort of budget in general did the director have? How many staff will work to the director?

**Mr Scott**—That is yet to be resolved, and that will be resolved as we substantively create the position and fill the position.

**Senator CONROY**—You have advertised the position. I presume you know what they are going to be doing.

**Mr Scott**—Yes, we have advertised the position but the final make-up of how that person will work, where they will work and the kind of resources around the position is yet to be determined.

**Senator CONROY**—I am trying to establish what this new bureaucracy will look like.

**Mr Scott**—I do not think it is a bureaucracy.

**Senator CONROY**—Thanks for your opinion, but it is a little hard when you do not know how much the department will have, how many staff—

**Mr Scott**—When it is established, I am sure you will ask me questions further and I will be glad to provide that detail for you when it is established.

**Senator CONROY**—I am still entitled to ask you now.

**Mr Scott**—And I will have the detail for you when we have established it.

**Senator CONROY**—Given that this visit has been such a wonderful step forward for freedom of speech, I thought you would have been a little more prepared at this stage—before you advertised the position.

**Mr Scott**—Yes, we have advertised the position.

**Senator CONROY**—Yes, but without knowing how many staff the person has or what level of seniority they have. Usually these things are measured on the basis of how many staff and the responsibilities you have. What is the salary? I did not actually see the ad.

**Mr Scott**—The salary is yet to be determined. That will depend on the person we select and the experience of the person we select.

**Senator CONROY**—So someone applying for the job has no idea how much they will be paid?

**Mr Scott**—Often these kinds of things are worked out in negotiation with the successful candidate.

**Senator CONROY**—There is normally a ballpark starting figure. Most ads I see in the paper say, for example, \$100,000-plus; \$200,000-plus; \$300,000-plus.

**Mr Scott**—This ad does not carry that detail.

**Senator CONROY**—I am asking you for the detail. You must have an indication of how much taxpayers' money you are going to spend on this position.

**Mr Scott**—The final salary will be negotiated in consultation with the successful candidate.

**Senator CONROY**—What is the ballpark figure?

**Mr Pendleton**—There is banding benchmark work done for direct reports to the managing directors. It is based on the 0.10 of the Hays remuneration survey, which excludes the financial sector, and we try to midpoint around there. That is where the salaries sit.

**Senator CONROY**—So what is the salary range we are talking about?

**Mr Pendleton**—I could not tell you off the top of my head, but it is the bottom 10 per cent of—

**Mr Scott**—We will take that question on notice and get back to you.

**Senator CONROY**—Are you in the same band?

**Mr Pendleton**—We are benchmarked against that bottom 10 per cent, yes.

**Senator CONROY**—So what is the band that you guys are in? I will not ask you about your individual salaries—though I can if I want, and you have to answer—but you must know.

**Mr Pendleton**—The band would run in the order of anything from salary of \$150,000 up to about \$250,000 or \$280,000—within that sort of band.

**Senator CONROY**—Thank you. It did not hurt at all, did it, Mr Scott?

**Mr Scott**—No. But the final salary will be negotiated with the final candidate and—

**Senator CONROY**—Will it be above—

**Mr Scott**—you will be able to ask me that question.

**Senator CONROY**—I will be able to ask you the final outcome, but I am asking you now what the bandwidth is, for which I now have an answer. It will not be outside that band?

**Mr Scott**—I would not expect so.

**Senator CONROY**—That would start getting dangerously close to the editor-in-chief's salary; we couldn't have that! So we do not know what they are going to be paid. We do not know how many staff they are going to have. We do not know what sort of budget we are going to have. We do not know what sort of research. But you have advertised the position.

**Mr Scott**—Yes, that is right. It is a new role, and we will work out the precise operation of that person and the resources they need to draw on in consultation with the person when we select them. I do not think it is unusual, when we are creating a new functionality and we are going to be putting a new person in that role, rather than building it all for them before they arrive, to actually want to work with them and talk with them about how it operates best in practice, once they get there. That would seem to be the sensible way to do it, and that is the way we are going about it.

**Senator CONROY**—What sorts of research projects do you envisage would be commissioned?

**Mr Scott**—They could be different kinds. We have our detailed editorial policies, of course, and I have likened this role and this function to an audit and risk function that could exist within a corporation. You want to ensure that there is compliance exists within the organisation with the editorial policies. So it might be a review of a program or series of programs, but, as importantly, it might be review of content across the ABC. We currently have performance reviews of programs that happen through the divisions but, if you look at our coverage of content on a specific issue—childhood obesity, for example—the head of editorial policies might undertake a review of the ABC's coverage of that issue in local radio, on Radio National, on our television programs, on our factual and topical programs—

**Senator CONROY**—I appreciate that they are going to be the chief censor of the ABC. I appreciate that.

**Mr Scott**—Can I say, Senator, that I think that is a very unfair depiction.

**Senator CONROY**—But accurate.

**Mr Scott**—No, it is an absolutely unfair depiction. What this person does is provide us with confidence that the editorial—

**Senator CONROY**—Looks over everybody else's shoulder.

**Mr Scott**—policies of the ABC are being complied with. I have no problems with that. Why create policies if you do not want them to be complied with? Why have—

**Senator CONROY**—You are right: you must have a policeman when you create new laws.

**Mr Scott**—Why create policies and attempt to aspire to reach those policies if you are not going to check to see that those policies are being adhered to? I do not think it is chief censor at all, because—

**Senator CONROY**—It is exactly what it is.

**Mr Scott**—what we are trying to do is to provide licence to our staff to broadcast comprehensively under the editorial policies that have been created.

**Senator WORTLEY**—Mr Scott, the wording that you used indicated that the person would actually come from outside the ABC, so it would not be—

**Mr Scott**—I am sorry; if I did that; that was not the intention that I had. I have never said that, and I do not believe I said that this afternoon. We have advertised the position, and we would welcome applicants from within the ABC or outside the ABC. We do not have a view. And we do not have a preferred candidate on this, of course. That is why we have advertised: to see who might be interested in applying.

**Senator WORTLEY**—The wording that you used certainly gave me that impression, but I will look at it in *Hansard*.

**Mr Scott**—I am sorry, I did not mean that.

**Senator CONROY**—You said you drew inspiration from the BBC governance unit. I have not met with them.

**Mr Scott**—I do not think they were my words.

**Senator CONROY**—You were suggesting that you had looked at what the BBC had done in this area.

**Mr Scott**—No, what I said was that in the past other media organisations had commissioned external research to give them guidance on their performance. An example I used was the BBC, which recently commissioned external research to review their policies on the Middle East. There was quite a lot of coverage around that. Apart from that, I made no reference to the governance unit of the BBC.

**Senator CONROY**—The BBC has a huge governance unit, as I am sure you are familiar. It is probably almost as big as the ABC the last time I checked.

**Mr Scott**—I have not seen it, but I will take your word for it.

**Senator CONROY**—It is a big unit, separated out, in a different building in a different area. Who will determine the research agenda of the chief censor?

**Mr Scott**—No-one will, because we do not have a chief censor. The Director of Editorial Policies, however, reports to me, and I will work with the Director of Editorial Policies to determine that research agenda.

**Senator CONROY**—So there will be no further need for external work?

**Mr Scott**—Some of that research might be commissioned externally. The Director of Editorial Policies will be in the position of commissioning it, but I expect the Director of Editorial Policies will work with me, guide me and advise me on the work this person thinks should be done internally and the work that perhaps should be done externally.

**Senator CONROY**—You mentioned a macro look across all the areas as part of the responsibilities. Will they be looking at micro issues as well to determine how many times a particular presenter breaches the style guidelines by using the word ‘our’, for example?

**Mr Scott**—No, this role is about the implementation of editorial policies. The style guide that operates in news and current affairs is not part of the ambit of the Director of Editorial Policies. The style guide serves a totally different purpose and role in the organisation. I am happy to discuss the style guide if you wish, but that is not the role of the Director of Editorial Policies.

**Senator CONROY**—Will any research that is done be released to the public, or will it be purely internal?

**Mr Scott**—This will be our research that comes to me. There was some misreporting about this before I made the announcement. I think some of the confusion that has emerged stems from that. This is not an external ombudsman role, and this is not a new corrections policy or complaints unit; this is somebody who works to me, across the ABC, to provide me with advice and guidance on our ability to implement these editorial policies. Therefore, work that comes to me comes to me; it is the same as my other direct reports. It is not a public role in that respect.

**Senator CONROY**—So Derryn Hinch should not apply? It is not a naming and shaming?

**Mr Scott**—I do not see it as a big public role. I see it just the way I think good audit and risk functions operate in other organisations. They in a sense operate quietly. They often operate off to the side of the organisation but they do provide assurance—

**Senator CONROY**—Even more insidious.

**Mr Scott**—In what respect?

**Senator CONROY**—Operating quietly behind the scenes—even more insidious.

**Mr Scott**—Fundamentally it is our program makers who are responsible for this—our head of television and news and current affairs and radio. But, just like an audit function, it provides us with confidence and assurance that the policies are being adhered to.

**Senator CONROY**—So you will commit to bringing the chief censor to estimates?

**Mr Scott**—Not necessarily at all.

**Senator CONROY**—So we are not even going to be allowed to ask him questions. Even better!

**Mr Scott**—I am happy to attend, and you will be able to ask me questions.

**Senator CONROY**—So he has a completely secret role, just wandering around the organisation looking over people's shoulders and no-one can ask him any questions.

**Mr Scott**—I think that is an unfair depiction of it, and I do not think your depiction correlates with the evidence that I have given to the committee this afternoon. However, if that is the view you want to make of it, I may not be able to influence you on that. But I do think the facts around the role, and the facts as I have explained them, do indicate a contrary stance.

**Senator CONROY**—Will the director of ABC editorials, otherwise known as 'chief censor', receive complaints direct from the public to investigate issues?

**Mr Scott**—No, we have a separate complaints division for that and that is where the public's complaints will go. It is not a public complaints mechanism.

**Senator CONROY**—Will the director have the power to discipline or to make recommendations on disciplining staff who are seen to have not complied with the guidelines?

**Mr Scott**—It is certainly not a disciplinary role, because it is not a line management role. The Director of Editorial Policies will report to me on performance over time. If issues emerge from that, I suppose I would pursue them with the output directors, as we call them—the heads of television, radio, news and current affairs, new media, and digital services.

**Senator CONROY**—Will people such as the Director of Television or the Director of Radio receive reports from the chief censor?

**Mr Scott**—They will come to me in my role as Managing Director across the organisation. Of course, I would expect, because my management style is open and collegiate—

**Senator CONROY**—Except when it comes to estimates.

**Mr Scott**—I am open and collegiate with my senior colleagues here, and I would expect that I would then discuss any specific reports with the directors concerned. That is my style.

**Senator CONROY**—Would the director's reports be taken into account in assessing staff performance for bonuses?

**Mr Scott**—That is a good question; I had not considered that. I believe that if the Director of Editorial Policies indicates that there is a certain area where we have continued to fail to meet the requirements that the executive have signed up to, and that we have signed off here, clearly that would be a matter that I would raise with the relevant director and we would discuss that performance over time. We would set standards out there to seek to improve, because this role is about helping us to meet these editorial policies. These editorial policies are designed to help us to meet the requirements of the ABC Act. So a failure for us to do that over time is clearly a matter you would want to raise and discuss with staff.

**Senator CONROY**—So the answer then is yes.

**Mr Scott**—If you were asking me whether we will take seriously reports and findings of the Director of Editorial Policies, the answer is absolutely; otherwise we would not create the position.

**Senator CONROY**—Will the position be available to assist staff on editorial issues? How often would you expect the position to be called upon to make calls on the content of a program?

**Mr Scott**—We are working that through. There might be discussions around the interpretation of the editorial policies—almost like policy interpretations.

**Senator CONROY**—That is what a censor does.

**Mr Scott**—What you want the Director of Editorial Policies to be is an in-house asset from time to time so that, if staff have a particular interpretation of these policies they want to check and clarify, they could go to the Director of Editorial Policies on that. Of course, what I have said earlier is that we are not going to bronze these policies. It will be reviewed over



time. The Director of Editorial Policies will be involved in that as well, just to ensure that these are actually workable in practice.

**Senator CONROY**—So the Director of Editorial Policies will be called in to make calls on the contents of programs.

**Mr Scott**—It would be available to respond to me if I had a particular question around an issue.

**Senator CONROY**—That is what I said—to be called in.

**Mr Scott**—Yes, that would be a possible element of the role.

**Senator CONROY**—Do you think this is likely to be a rare or a daily occurrence?

**Mr Scott**—I think we will know over time. I do know that the reviews will take place, but I think we will know over time the extent to which the organisation will want to draw on that expertise.

**Senator CONROY**—You mentioned that there was going to be staff education?

**Mr Scott**—We call it training, which is what you would expect.

**Senator CONROY**—Are you waiting until after the censor is appointed before you do that, or will you start that staff training on the guidelines before they arrive?

**Mr Scott**—We are not appointing a censor; we are appointing a Director of Editorial Policies. But already training modules are being developed. It is no use creating policies or evolving policies the way we have done here without training staff as to what these policies are. We expect to develop a modern, contemporary training mechanism so that we can train all staff in the editorial policies before we commence in March. When new staff join the ABC, they will be able to be trained in these policies as well.

**Senator CONROY**—Inducted.

**Mr Scott**—They are more demanding policies than exist anywhere else in the Australian media, because of our statutory requirement to provide fair, balanced, impartial—

**Senator CONROY**—Can I come and watch when you train Kerry O'Brien?

**Mr Scott**—I am not sure that the training will be open to the public but everyone will be trained in the policies.

**Senator CONROY**—So Kerry can look forward to one? Tony Jones?

**Senator FIERRAVANTI-WELLS**—You will be able to sell tickets, Mr Scott.

**Senator CONROY**—I was not going to go there, but I was thinking that, Senator Fierravanti-Wells.

**Mr Scott**—I will let the enterprise division know that you think it is an initiative.

#### **Proceedings suspended from 3.45 pm to 4.02 pm**

**Senator CONROY**—Mr Scott, you have likened the new director's position to that of a financial or risk auditor within a major company. Do you think that there is a danger that you will create a very risk-averse culture within the ABC?

**Mr Scott**—I hope not. In fact, in my comments to the staff, my speech and my subsequent media interviews, I went out of my way to suggest that really I am encouraging journalists to create great journalism, to be bold and to, as I said, shine the light in the dark places. I appreciate that great journalism will upset people. So not for a moment in creating and developing these policies are we trying to make the ABC benign or innocuous or pull its punches. What we want to do is to make sure we have the high standards of good journalism—that fairness, impartiality and balance—that you really need in order to create journalism of the highest standards. But I fully expect that that terrific legacy of investigative journalism that exists at the ABC and our ability to ask tough, robust questions will remain under these policies. That is our intent.

**Senator CONROY**—I want to go back to a question I asked you earlier about the view that the ABC is biased. I am looking at a Piers Ackerman article. I am sure you read it; your name leads it. He says:

Mark Scott, CEO and editor-in-chief—

He prefers your new title—

of ‘our’ ABC has now acknowledged what many within the nation’s largest media organisation choose to ignore—the bias that exists within the institution.

Piers thinks you have coded message there—I and others do as well—in the statements that you say present a defence of the ABC. It is just remarkable how three individuals can all hear and speak the same words and get completely different interpretations.

**Mr Scott**—Such is the challenge of modern communications. But I would say that I think I have clearly identified in my comments that there are critics out there. Of course Mr Akerman is one and there are others as well. I have said the ABC needs to be in a strong position to mount a defence to these critics. If you a serious-minded journalist, the allegation of bias is about as serious an allegation as can be levelled against you. So what you want to do is to have high standards, as we have in these editorial policies, and to have confidence that we are performing well against those high standards, and that is why we are creating the new position.

**Senator CONROY**—And you have used the words that ‘it’s a weapon to take on the critics’.

**Mr Scott**—Yes.

**Senator CONROY**—And it is operating in complete secrecy inside the ABC, there is no public scrutiny and there are secret reports.

**Mr Scott**—Senator, that is definitely wrong.

**Senator CONROY**—No, it is not wrong at all.

**Mr Scott**—The editorial policies—

**Senator CONROY**—Give a commitment to bring the editorial—

**Mr Scott**—The weapons are the policies, and the policies are not operating in secret. The policies are being widely disseminated.

**Senator CONROY**—They are being administered in secret, though.

**Mr Scott**—No, they are not being administered in secret at all.

**Senator CONROY**—Yes, they are.

**Mr Scott**—They are being administered in every program, every journalist has been trained in them and every director of the organisation knows about them. The policies are anything but a secret.

**Senator CONROY**—But the person implementing them is a secret.

**Mr Scott**—No, the person implementing them is not a secret. The people implementing them are the 4,500 members of the ABC staff.

**Senator CONROY**—And the chief censor.

**Mr Scott**—No, every executive director of the ABC is implementing these policies. These policies have never had more attention. These policies have never been open to more scrutiny. The fact that you are suggesting that they are being implemented in secret is, with respect, absolutely preposterous. The process whereby we are reviewing these policies—

**Senator CONROY**—The chief censor, who is overseeing them, is a person who reports only to you.

**Mr Scott**—You said they were being implemented in secret. That is absolutely untrue.

**Senator CONROY**—By him.

**Mr Scott**—The policies are not being implemented—

**Senator CONROY**—He will have a daily role which will not be open to public scrutiny.

**Mr Scott**—Senator, I am afraid you have misunderstood. The policies are being implemented by the ABC staff. The policies have never had more scrutiny. The policies have never been more open. To suggest the policies are being implemented in secret is absolutely untrue. There will be an auditing process of these policies that takes place, but that is not the implementation of these policies.

**Senator CONROY**—An expert on audit governance knows that auditors are required to turn up at annual general meetings and ask questions from shareholders. That is corporate law now. You may not have kept up with that one. Will you give a commitment to bring your auditor along so that taxpayers, including us, can ask your chief censor questions?

**Mr Scott**—My understanding of this meeting is that it is not an AGM.

**Senator CONROY**—You do not hold an AGM, do you? Consider this your AGM: you are reporting to parliament.

**Mr Scott**—I note your views, Senator, and I will reflect on them.

**Senator CONROY**—Thank you. Just going back to the issue of hoping that you do not create a risk-averse culture, staff will be able to minimise problems by avoiding challenging or controversial programs. This is the nature of when you create a chief censor to overlook these things. The chief censor will not care if a program is bland or boring; they are there to second-guess subjective news judgements, and that is where what you are doing just fails.

**Senator Coonan**—Senator Conroy, we do not mind a bit of colour, but this is not a chief censor; let us be fair about this.

**Senator CONROY**—You are entitled to your opinion and I will keep expressing mine. I welcome your opinion. I am not going to censor your view.

**Senator Coonan**—I am going to put on the record that this is Senator Conroy's description and certainly does not respond to the official title.

**Senator CONROY**—Sorry, Mr Scott, did you want to add anything? I was just asking about the issue of bland and boring to avoid the chief censor.

**Mr Scott**—As I have indicated to you, the Director of Editorial Policies is anything but a chief censor. I do not believe that the implementation of these editorial policies will be a dampener on the creativity of the journalism that operates within the ABC. We are showing a greater commitment to news and current affairs than any other news organisation in the country. As I pointed out last week, Channel 9 scrapped *Business Sunday*, we recruited Ali Moore and we are now doing two hours of news and current affairs every night.

**Senator CONROY**—Do not wrap yourself in the ABC flag to defend what you are doing.

**Mr Scott**—No, I am not. I am just saying that we have a clear commitment to credible, robust journalism and we do not believe that, by simply having high standards, we are somehow being a damper on fair and independent journalism. As a journalist of some experience, having worked across newsrooms, I do not believe having high standards of fairness, balance and impartiality cuts against credible, independent and robust journalism. The very best journalists, the journalists who are out there doing the creative work, the journalists who are out there doing the investigative journalism, will tell you that having high standards of fairness, balance and impartiality does not in any way form an anchor or a restriction on their ability to do their work.

**Senator CONROY**—You are replacing subjective news judgments with objective tick-a-box routines.

**Mr Scott**—In what way is that? I do not understand that at all, from my reading and understanding of the policies. In fact, the policies, as they exist now, are very similar to the policies that have existed previously in the news and current affairs division in the organisation. There is nothing in these policies that restricts journalists to undertake robust journalism, absolutely nothing.

**Senator CONROY**—You are going to be placed in a situation where you are going to be asked by senators to justify, as the previous witnesses from SBS were, why certain people had not got a go on the question, because that is what would represent balance. I will come back to this—

**Mr Scott**—Good. These policies are straightforward to defend. The ABC does believe in plurality of viewpoints. We do believe that principal, relevant viewpoints should be expressed in news stories; we do not believe that the ABC should have a point of view or a particular perspective in a news story. That is simply good journalism, so I am happy to defend it.

**Senator CONROY**—No-one is arguing that, Mr Scott.

**Mr Scott**—Good.

**Senator CONROY**—You are continually creating this straw man, that even Piers Akerman worked out, and wrapping yourself in the ABC flag to defend what you are doing. A key feature of the guidelines is the notion of impartiality.

**Mr Scott**—Yes.

**Senator CONROY**—This is not a new concept in news and current affairs programs is it?

**Mr Scott**—No. However, what we are saying is that news and current affairs not only emerge from the ABC news and current division, but they may also emerge from other divisions.

**Senator CONROY**—What changes do the new guidelines make for news and current affairs content?

**Mr Green**—Very little. The essential requirements of accuracy, impartiality and objectivity remain core business. What is different is that these expectations are now there for all news gathering throughout the organisation. We also have the expectation that these requirements are mandatory rather than something that might have been regarded in some areas as being slightly discretionary.

**Senator CONROY**—So the only major change is the fact that the work of staff on these programs is now monitored by the chief censor?

**Mr Green**—No, it is not monitored by the Director of Editorial Policies—

**Senator CONROY**—It is the only major change.

**Mr Scott**—That is not what Mr Green just said. Mr Green indicated that there will be some areas where news and current affairs content has been created at the ABC that has not emerged from the news and current affairs division that will now be covered by these programs. The other thing that he indicated was that, had there been any suggestion or uncertainty as to whether in fact these policies covering all ABC staff were mandatory—

**Senator CONROY**—I never knew of impartiality being voluntary. I am shocked, and I am sure Senator Ronaldson would be shocked to think that the previous application was voluntary impartiality.

**Mr Scott**—There is no uncertainty under these policies now.

**Senator CONROY**—I did not know there was uncertainty previously, but Mr Green seemed to indicate there was.

**Mr Scott**—No, what we have done is create these new content areas as well and we have specified what the guidelines are that exist in these new content areas. We have broadened where news and current affairs take place, so it is not just in the news and current affairs division. As you would understand, Senator Conroy, from appearing regularly on ABC local radio, our local radio programs regularly do news and current affairs.

**Senator CONROY**—I cannot remember the last time I appeared on local radio.

**Mr Scott**—You have not been on 774?

**Senator CONROY**—Not for a long time.

**Mr Scott**—We can check that out.

**Senator CONROY**—Yes, and I am sure you will then quickly work out why. For opinion, topical or factual content the guidelines state that programs can take a particular perspective, but there must be a range of perspectives presented over time on each platform—that is, the individual television or radio network or on ABC online. Is ABC online going to be considered the balance if the Prime Minister—

**Mr Scott**—No, on each platform.

**Senator CONROY**—I just want to clarify those issues. So each platform has to have balance on each platform.

**Mr Scott**—Over time. Yes, that is right.

**Senator CONROY**—You told the Sydney Institute: ‘On contentious matters, we need to hear the full range of voices.’

**Mr Scott**—Yes, ‘the principal relevant viewpoints’ is the line that we have used in the policies.

**Senator CONROY**—And you said: ‘The ABC has to be the place for the contest of all ideas.’

**Mr Scott**—Yes.

**Senator CONROY**—I would like to explore how this principle will apply in practice. Some have expressed concerns that your suggestion will turn the ABC into a ‘soapbox for nutters’. Last week we had the presenters of shows like the *Health Report* and the *Science Show* expressing concern that they would become hostage to vested interest groups wanting equal time.

**Mr Scott**—Can I just correct you there. That emerged through the *Media Watch* program and, as I understand it, a series of questions was put to those people and they responded. My recollection is that they did not believe that this is how the policies would work in practice—because there are safeguards. One of the safeguards is that principal relevant viewpoints need to be concerned, so not every viewpoint. That is where you will expect your program makers to be able to exercise judgement. Our journalists and program makers exercise judgement all the time and they will continue to exercise judgement. We are saying that it is in matters of contention or public debate that the plurality of views needs to be heard also.

**Senator CONROY**—Will creationism be entitled to an airing on the *Science Show* if it has done a program on evolution? You cannot deny it is relevant. In the US it is an even bigger debate.

**Mr Scott**—The judgement of that will be made on principal relevant viewpoint. For example, I know that there has been debate and discussion around intelligent design. I believe Mr Robin Williams has written a book around intelligent design, where the theory and arguments around intelligent design are examined.

**Senator CONROY**—That is just a propaganda name for creationism. Why do you give it that—

**Mr Scott**—Because that is the name that Mr Williams uses in his book on it. Principal relevant viewpoints is the test that our program makers will use.

**Senator CONROY**—So is creationism getting its own show?

**Mr Scott**—I am not getting into the specifics of it.

**Senator CONROY**—I am; I am asking. These are the practical examples that you are going to have to answer.

**Mr Scott**—Principal relevant viewpoints will be considered.

**Senator CONROY**—Is creationism a principal relevant viewpoint that is now entitled to an airing under your new guidelines?

**Mr Scott**—The question that the people on the *Science Show* will need to consider when they are discussing science is whether in fact they believe that creationism is a matter of science or a matter of faith.

**Senator CONROY**—Ultimately your censor is going to decide this.

**Mr Scott**—They will exercise that view based on their judgement of what the principal relevant views are on scientific matters. If in fact they believe that creationism is not a principal relevant view to do with scientific matters, then that will be the decision that they will make.

**Senator CONROY**—They can make that decision—

**Mr Scott**—If there was a complaint that came through to the complaints division on that, then we would evaluate the decision-making process over time. That is the way it will operate.

**Senator CONROY**—Has creationism got a run on your network yet?

**Mr Scott**—I am sure there have been investigations of the claims of creationism over the 20- or 30-year—

**Senator CONROY**—Would it get as fair a go as evolutionism?

**Mr Scott**—Principal relevant views. I want to be very clear: it is not about a stopwatch, it is not about timing it and it is not about weighing it all up; it is just making sure that principal relevant views—

**Senator CONROY**—What I call ‘tick a box’.

**Mr Scott**—No, not tick a box; principal relevant views being heard and expressed. That is the test.

**Senator CONROY**—There is a very lively debate internationally about the teaching of creationism versus evolutionism.

**Mr Scott**—If there was a discussion around whether evolution should be taught in schools in an educational program, I imagine in the completion of that program, yes, there would be discussion from the proponents of those who thought creationism should be taught in schools and those who did not think it should be taught in schools.

**Senator CONROY**—No, that is news reporting issue.

**Mr Scott**—You talked about the teaching of creationism in schools. I was taking that as an example to discuss the principal relevant viewpoints being expressed.

**Senator CONROY**—No, what I was doing was highlighting that there is a lively debate out there.

**Mr Scott**—Yes, indeed.

**Senator CONROY**—The issue is what will be required of the *Science Show* under your new guidelines and whether or not the editors of the program will ultimately be second-guessed by your censor.

**Mr Scott**—One of the good things about this process is that we are creating these policies and guidelines, but they will go to the program makers in the divisions to be implemented. I am not going to second-guess the *Science Show* makers here. They have been doing that show for the best part of 30 years, to international acclaim. I am saying that they will take these guidelines and they will know that when they are discussing science matters, either through that program or on Radio National over time, because it is the platform rather than the topical and factual programming, principal relevant views need to be expressed. That will be a judgement they make. If queries emerge from that, then there is a review process that will take place, as takes place now.

**Senator CONROY**—So there must be a range of perspectives presented over time on each platform.

**Mr Scott**—Yes.

**Senator CONROY**—If the *Religion Report* did a report on Sheik Hilali's recent comments about 'uncovered meat', would it be necessary to get someone on to defend the Sheik's position?

**Mr Scott**—That is a topical and factual program. What you would find is that on the platform, over time, there would be debate around that issue.

**Senator CONROY**—So you will be inviting on supporters of Sheik Hilali's views?

**Mr Scott**—No. I think there will be debate that emerges over time.

**Senator CONROY**—I suppose a few Taliban members might be available to give an interview to support him.

**Mr Scott**—What the principal relevant viewpoints will be is the test that we use. That is what the program makers will deal with, and we will review that performance over time.

**Senator CONROY**—But I am asking you: if you are to comply with your own guidelines that state that 'a range of perspectives presented over time'—for example, this same program on the same day—

**Mr Scott**—I think you would find on that matter that the Sheikh's comments would serve as the articulation of the view that he had on the matter. And then, because principal relevant views are heard, the voices of criticism might emerge over time.

**Senator CONROY**—So you are allowed to have 10 people on who bag him but no-one else.

**Mr Scott**—As I said, this is not a stopwatch-driven exercise.

**Senator CONROY**—No, it is balanced over time.



**Mr Scott**—This is to ensure that principal relevant views are heard over time.

**Senator CONROY**—No. It says, ‘A range of perspectives presented over time’.

**Mr Scott**—Yes: a principal relevant view.

**Senator CONROY**—And there could be a range of perspectives in support. The Taliban are available to support Hilali’s views on women. So are we to look forward to their being on the show?

**Mr Scott**—No. I would imagine there would be programs that will investigate what he said and why he said it, and then other voices and viewpoints would come to bear on them.

**Senator CONROY**—So you would get a range of people who disagree with him but no-one who agrees with him.

**Mr Green**—Senator, what I think you will find under these policies is robust debate and discussion on the ABC airwaves, which is what we would support—that is, intelligent engagement around the issues. The contestability of ideas is what you will hear more of on ABC radio and television. I think that is a good thing.

**Senator CONROY**—On the *Health Report*, will supporters of alternative medicine be entitled to have their views heard?

**Mr Scott**—The test that Norman Swan and others involved in the *Health Report* will do is that they will attempt to broadcast their program, and we will need to ensure, because it is a topical and factual program, that over time principal relevant viewpoints are heard. They may not all be heard on the *Health Report*—for example, I could easily see in the breadth of programming that appears on Radio National that the *Health Report* might focus strongly on evidence based medicine but that, over time, other viewpoints on alternative medicine, herbal medicine or other alternative remedies might come forward on another program. So it is not as though Norman Swan and the *Health Report* team will be narrowly constrained in the way they report on evidence based medicine in the *Health Report*, but we are saying that principal relevant viewpoints on matters of contention or public debate will be heard on the platform over time. Again, that plurality of views to recognise that the public is intelligent, that the public does not always want to be told what to think but wants to hear a diversity of views is the way we want to do it. That is the way that Radio National really operates. There is a range of viewpoints on a full range of subject matters that come to bear over time.

**Senator CONROY**—So, when the ABC regularly covers President Bush or Prime Minister Howard talking about the war on terrorism, will we have a plurality of views opposing them?

**Senator IAN MACDONALD**—You can always get Beazley on.

**Mr Scott**—Senator, I think it is an interesting example that you raise. I would have thought it an example that we experience now. The Prime Minister regularly appears on the *7.30 Report*, *AM* and a range of other ABC programs, so does the Leader of the Opposition and so do supporters of the Bush administration’s policies.

**Senator CONROY**—No, I said ‘the war on terrorism’. Let us be clear about this. Kim Beazley supports the war on terrorism, so do not try and pretend—as Senator Macdonald did, which you just lapsed into—that Kim Beazley does not support the war on terror.

**Mr Scott**—Let me change, then: if in fact there is a debate around whether Australian troops should be withdrawn from Iraq—

**Senator CONROY**—No, I am asking you about the war on terror. You can make up another example later and debate it with Senator Macdonald. I am asking you about the war on terror.

**Senator IAN MACDONALD**—If I had a chance to ask a question—

**Senator CONROY**—I am glad you have finally come back after four hours, Senator Macdonald.

**Senator IAN MACDONALD**—I have been watching this on the in-house TV in the hope that it was going somewhere. It has not—

**Senator CONROY**—I sat through most of the Liberal Party's questioning to the SBS for two hours.

**Senator IAN MACDONALD**—You have been going for—what—an hour and a half now?

**CHAIR**—Senator Macdonald, we will let Senator Conroy finish his line of questioning and then we are going to Senator Fierravanti-Wells.

**Mr Scott**—Sorry, Senator; could you state the question again.

**Senator CONROY**—I was talking about the war on terror and what the alternate point of view on the war on terror was going to be if you had the Prime Minister or President Bush on.

**Mr Scott**—I would expect that on the platform over time there will be—

**Senator CONROY**—Supporters?

**Mr Scott**—No, there will be a range of views, starting with the nomenclature of the term 'the war on terror', and a range of debates that you will find from Christopher Hitchens through to Mark Steyn and a range of other commentators as well on the current operations of policy, how it is operating, and how it is being waged by the United States, Australia and others.

**Senator CONROY**—That is about the actual waging, though. I am talking about the philosophy behind it. President Bush keeps standing up and talking about the philosophy behind the war on terror. John Howard does. What I am talking about is: who is available that will now get a guernsey on the ABC to oppose the war on terror?

**Mr Scott**—If you are saying that there are not other principal relevant viewpoints and there is no—

**Senator CONROY**—No, I am not; just name one.

**Mr Scott**—No, but if you are saying that there are not then the ABC is not constrained here. The principal relevant viewpoints have been heard. But I am sure that, if in fact there is debate around principal relevant viewpoints, if there are matters of contention and public debate, our program makers will be able to bring that to bear in implementing these policies.

**Senator CONROY**—Okay.

**CHAIR**—Senator Conroy, I think we might change questioners and come back to you.

**Senator CONROY**—Sure.

**Senator IAN MACDONALD**—Senator Fierravanti-Wells has generously allowed me to ask one question, Mr Chairman.

**CHAIR**—All right.

**Senator FIERRAVANTI-WELLS**—You can ask two, Senator Macdonald.

**Senator IAN MACDONALD**—Well, I will make a comment. Can I just congratulate the ABC yet again on the local radio. I never do about your city productions, but in rural areas the ABC local radio does a fabulous job. Well done. We should keep telling them all that. I hope you keep funding them well out of the generous budget the government gives you. My question is: when is NewsRadio going to come to Townsville? It seems to be everywhere else in Australia except Townsville.

**Senator CONROY**—When are they getting out of that caravan out the back in Cairns?

**Mr Scott**—Thank you for your question. Firstly, I will briefly make reference to local radio before I go to the specific of NewsRadio. Local radio has never been stronger. It is now operating in 60 radio stations around the country. It is interesting that, at the ABC's 50th birthday, I think there were 37 local radio stations; now there are 60. We are finding that the strength of local radio is growing ever more with the investment of the National Interest Initiative staff who were placed out there to provide more local programming and more local news. On the back of that, they are building strong websites, the Backyard websites, and the Backyard websites are amongst the fastest-growing websites in terms of traffic at the ABC.

**Senator IAN MACDONALD**—They never give me enough publicity, but they still do a fabulous job!

**Mr Scott**—They do. We do not actually have a date for Townsville at the moment, I believe. We have 13 NewsRadio sites that the minister announced that are underway at the moment. So we have announced 13 sites, and there are 35 more sites that we are looking at. One of the questions that we are dealing with as far as Townsville is concerned is the availability of spectrum—whether there is an appropriate frequency that we can broadcast NewsRadio on with the other spectrum that is allocated in the Townsville area—and the use of that spectrum. When it comes to rolling out NewsRadio, we first have to have that spectrum made available, and that is currently being investigated by ACMA. We are waiting for advice from ACMA on the availability of spectrum in the Townsville area.

**Senator IAN MACDONALD**—But you are not suggesting to me that you can have all the stations you have in Canberra or Sydney and there is no trouble with spectrum but, with the few stations there are Townsville, there is some trouble?

**Mr Scott**—No, I think that is right.

**Mr Pendleton**—It is the availability of spectrum and finding a suitable band to do it. The planning is expected to free it up. It is part of the stage 3.

**Senator IAN MACDONALD**—Are you seriously telling me that you can find bandwidth in a place like Canberra, where you have dozens of radio stations, or Sydney, where you have hundreds of radio stations, but that in Townsville, where you have a handful of radio stations, you cannot find it?

**Mr Pendleton**—That is the advice. At this stage—

**Senator IAN MACDONALD**—Who gives you that?

**Mr Pendleton**—ACMA.

**Mr Scott**—ACMA is responsible for the administration of frequency, and it will be able to provide you with more detail on that. That is the advice we have. Part of the challenge of rolling out NewsRadio is the ability of spectrum, which would be for the ABC in many of these areas, the fifth network that we are providing in the local area, and then there will be a range of commercial providers as well. ACMA will be able to provide you with more detail on that.

**Senator IAN MACDONALD**—Perhaps I should be questioning the minister rather than you. I think every other substantial place in Australia has NewsRadio. For some reason, Townsville does not seem to have it.

**Ms Williams**—I think the response was, as Mr Scott said, that there is a planning process and that this is the next stage of the planning process that ACMA is involved with. I do not know where that planning has got to. It is a staged planning process.

**Senator IAN MACDONALD**—If ever we get to ACMA today, I would be very interested to ask them the questions.

**Senator FIERRAVANTI-WELLS**—Mr Scott, I had hoped to ask my questions to a number of your staff who are not here, so we will see how we go. My first question was to Mr Dalton. I wanted to ask him about the waterfront series, the *Bastard Boys*. I have here a notice from a union website which says that the ABC asked for unionists to take part in filling at Port Botany. It also says that this involvement with the ABC gave them an opportunity to promote the anti-government, Your Rights at Work campaign. Did the ABC provide a bus to transport the unionists, and did it also take them up to a protest outside a local company, Botany Cranes? I am reliably informed that, on 16 September, a group of unionists who were being filmed by the ABC as extras were also taken up to that company and staged a protest outside the firm's front gates. Did anyone at the ABC organise this protest, or at least provide the transport to and from the protest? Were these people paid by the ABC?

**Mr Scott**—I will have to take that question on notice. That would be the first time that has been brought to my attention. Can I give you a bit of background on the *Bastard Boys* issue, which is a matter that I think you have corresponded with me on. This series was commissioned in late 2005. Filming of it has been completed; it is now in post-production; and it is expected to go to air in early 2007.

You have expressed some concerns to me about this series before. It attempts to tell the story through the eyes of a number of participants of the waterfront dispute, and those participants include the ACTU Secretary, Greg Combet, and Patrick's CEO, Chris Corrigan. Each episode features one of the main characters, and a final episode in the series tells the event through the eyes of Chris Corrigan. On that specific matter, filming took place at Port Botany and in Melbourne. But as to the specific issue that you raise, it has not been brought to my attention. I will take that question on notice.

**Senator FIERRAVANTI-WELLS**—I will also provide you the extract from the Your Rights at Work website. This is a very serious issue. If the ABC is providing a bus to take extras—

**Mr Scott**—I must say that I will endeavour to get an understanding of that. I would encourage you not to take literally and at face value what may have been advanced in that document and what it is suggesting as being done in the name of the ABC. We need to check the veracity of that matter, and I will get back to you on that.

**Senator FIERRAVANTI-WELLS**—If indeed it is true, as I suspect that it is, can you also advise the committee what action you may take in relation to it?

**Mr Scott**—Let me check the veracity of it and then I will provide you with advice.

**Senator FIERRAVANTI-WELLS**—Thank you. I also wanted to say to Mr Dalton that one of your presenters, Corinne Grant, *The Glass House*, is also the public face of the union's anti-government IR campaign. She has also evidently produced a radio ad for the unions. I have to say that a very cosy arrangement between the unions and the ABC troubles me.

**Mr Scott**—I have not seen that campaign.

**Senator FIERRAVANTI-WELLS**—Again, that is on Your Rights at Work. I will produce a copy of that for you.

**Mr Scott**—Thank you.

**Senator FIERRAVANTI-WELLS**—It is interesting that one of the comments in the guestbook on *The Glass House*—and I have a copy here dated 6 October—is that even comedy the ABC is entirely devoted to 'misguided left-wing politics'. It is interesting that such comments are appearing on your guestbook.

I note the extensive media coverage of two recent programs on *Behind the News*—the now notorious item about the Israel-Lebanon conflict and the item that showed those equally notorious pictures of mating kangaroos in an item for eight- to 12-year-old children about their pets. I want to know how these sorts of things can get past your program producers. According to the program website, a gentleman by the name of Mr Ray Warren is responsible for checking these things. Did he check and, if he did, how could he have missed such outrageous mistakes? If he did not check, why not and what efforts are going to be made to make sure this material is checked and checked with a greater deal of scrutiny?

**Mr Scott**—I think they are separate issues, and if I can I will take them in turn. I saw a reference to the mating kangaroos on, I believe, *Media Watch*. Clearly it was a failure of the editing process and the editorial judgements that are required. I believe it was inadvertent and an oversight. I do not believe there was any malice involved in that, but it was a failing.

Let me talk about the coverage of the issues in the Middle East on *BTN*. Senator, you wrote to me on this, Senator Ronaldson did and a few other people as well. We have acknowledged that the *Behind the News* program on 25 July, as well as material included on the website, was a serious breach of ABC's editorial policies. Not only were there issues of factual inaccuracy but some descriptions in the story were over simplistic and inappropriate. We believe we took appropriate steps to address this serious breach.

You may not be aware that *Behind the News* on 17 October this year showed a new program on Israel and the Lebanon recovery, which I believe was comprehensive, fair and balanced. That program drew on the expertise of the ABC news and current affairs division in developing the program. I do think that this was an issue around the original *Behind the News* program. Clearly—and I am happy to discuss our coverage of Middle East issues—we have numerous reporters who have operated from the field and people who have studied the Middle East conflict closely. I was concerned that the news journalists who were operating in the creation of *Behind the News* did not draw on the expertise that existed in the organisation around this kind of programming, and that was a programming failure.

We have set up a mechanism whereby *BTN* can draw on the expertise of our news and current affairs division when they are trying to do something that really is quite challenging, and that is to take a very complex area—a very emotional and involving area—of news making and attempting to simplify it in a way that can effectively be communicated to primary school students. It is a very demanding attempt at programming, particularly when you are dealing with such complex issues. So we have asked that the *BTN* team draw on the expertise that exists in the ABC around these content areas and in the news and current affairs division.

**Senator FIERRAVANTI-WELLS**—I want to take you to the new program called *First Tuesday Book Club*. I understand that the first *First Tuesday Book Club* had an auspicious start and that one of the presenters made a jibe along the lines of ‘not like John and Jeanette invading Iraq’. It was bad enough that this comment was made on an arts program, but why drag Mrs Howard into it? Will you investigate that? Is this the sort of program that is now going to be covered by the editorial policies?

**Mr Scott**—Yes, all programs will be covered by a category of editorial policy. Part of the achievement of the editorial policy is to say that all things we do have an editorial content. I suspect that that would be dealt with by topical and factual programming. Speaking generally, I have welcomed the addition of the *First Tuesday Book Club* to the ABC schedule. I think anything that we can do to encourage people to read and to talk about reading is a positive contribution. There have been a number of programs like this in the United States linked to the *Today* show and the *Oprah Winfrey Show*. They have shown an increase in community reading and in discussing books on the back of that, and we thought that this was a good thing for the ABC to be involved in. But I note your concerns on the comment made on that particular program.

**Senator FIERRAVANTI-WELLS**—My next set of questions were to be to Ms Howard. Last time she attended estimates I asked her whether Lindsay McDougall was working at Triple J at the time that he was promoting his musical compilation *Rock Against Howard*, and she categorically stated no. Then in answer to question No. 173 she said:

I have been told that he was not employed by the ABC at the time that you asked the question about when he put that CD compilation together.

Now we learn that he was indeed working there virtually full time. I was very concerned about Ms Howard’s rather strident denials to me. It was clear that, notwithstanding my concerns about Mr McDougall, which have been an ongoing issue that I have had with the

ABC, she was very defensive about it. Now I understand why—because he has obviously been working there for quite some time.

**Mr Scott**—He had been a casual, I understand, that is all.

**Senator FIERRAVANTI-WELLS**—Whilst that may be the case, he worked a lot. He was filling in and he was doing Saturday afternoons. He was doing quite a range of work.

**Mr Scott**—Yes, you have seen the answer to the question, Senator; he had taken a number of casual shifts.

**Senator FIERRAVANTI-WELLS**—The other issue that I had with Ms Howard was in relation to her interview that she gave to Margaret Simons. She is obviously not here, so perhaps I will put that question to her on notice. The thing that concerns me is that we have had so many problems with radio. Radio has been a source of ongoing problems, and your senior staff have overseen a lot of the complaints that I have made. Indeed, you may recall that just after you became Managing Director I forwarded to you and other board members volumes 1 and 2 of *The ABC of Bias*. This forms part of volume 3. I have not sent it to you yet, Mr Scott, but I will send it to you. What I am concerned about is that the people who have overseen a lot of the problems that we have canvassed in this estimates process are still in those positions, and Ms Howard is one of them. What assurances can you give me that we are not just seeing the deck chairs being shifted a bit? What conscious efforts are going to be made to ensure that the very people who have been in positions that could have enforced previous editorial guidelines are not going to ignore what you have now put into place?

**Mr Scott**—I do not think the deck chairs have been shifted at all. The management team that I inherited is in place. Ms Howard's reputation and her track record with radio really speaks for itself. As I said to Senator Ian Macdonald, local radio has never been stronger in terms of the audience that it reaches, and we are extending the rollout of news radio.

Let me talk generally, and then let me talk about specifics. I would not underestimate the challenge of managing the breadth that our radio commitment delivers. Again, I draw a comparison to my experience in a newspaper business, where a journalist would write a story but would often be checked by the news editor, the page editor, the subeditor, the page editor again and the check sub before story is published.

What we have in radio is live microphones. It is out of the mouth and it is on the air and it is broadcast. We have 65 live microphones going at the same time every morning. I know that you monitor that output with vigilance, and so it does not surprise me that you do find examples of statements that we might regret being made, statements that are out of the mouth before the brain fully gets into gear. That will happen and, Senator, if you remain in your position for a long time and I remain in my position for a long time, given the volume that we are creating, it would not surprise me if you could create more volumes to send to me on examples of possible failure that take place in our broadcasting. That has to be a given.

I would say though that these new policies provide clearer guidelines to all of our staff on what we mean by fairness, impartiality and balance. If there was a view in the organisation that editorial policies applied only to the news and current affairs division, then we have made it very clear through these revised policies that it applies to everyone. We are going to be training all staff in these editorial policies. That would include all staff on local radio,

including some staff who work there who have never trained as journalists but who have had some local radio training. All staff will be trained in these editorial policies. These are mandatory policies; I know this because I have been an avid reader of *Hansard* transcripts of this committee over the years. There has been some debate around what is mandatory and what is not mandatory. These policies are mandatory, and we have made it clear to staff.

**Senator FIERRAVANTI-WELLS**—You mean there is a memo that says this is mandatory? A memo that we can locate as opposed to being—

**Mr Scott**—We have stated it. Mr Green has stated it, I have stated it, we have stated it to staff; it is in the policies that these are mandatory. We can talk about style guides another time if you wish, but these editorial policies are mandatory, so it is the requirement of our executive, it is the requirement of our staff to see that they are adhered to. The one caveat I draw on that, I suppose it is a caveat I made to Senator Conroy: these are demanding and exacting standards. We want to make sure that they are workable in practice, and so we will review them over time to see our success in being able to deal with it. But your concern that you seem to be implying, Senator, is would people turn a blind eye to these? No, that is not how we have set it up. We have set up demanding policies, an ability to audit and a commitment to train all staff in these policies.

**Senator FIERRAVANTI-WELLS**—So that when you do have instances such as Ms McDonald wrongly broadcasting—and I just note these as examples—

**Mr Scott**—Yes, and you have corresponded with me on these, I suspect.

**Senator FIERRAVANTI-WELLS**—Yes, I did, Mr Scott. You and I have engaged in a lot of correspondence.

**Mr Scott**—We have rabid correspondence.

**Senator FIERRAVANTI-WELLS**—Yes, that is right, and thank you for your responses. For example, Sarah McDonald wrongly broadcasting that Hicks had to not been charged and that the Taliban in Afghanistan was a government recognised by the US and Australia. Things like Virginia Trioli's guest making some comment about David Hicks not being charged and she does not correct him. Things like Barry Cassidy making comparisons between Bob Hawke's comments in 1990 that no child would live in poverty with a similar statement made by Kim Beazley. Sarah McDonald makes the comment that 'Bob Hawke lived to regret that comment, let's hope Kim Beazley doesn't.' Why is it of such concern to an ABC broadcaster whether or not the Labor leader comes to regret one of his comments?

This is where my concerns are. You have put into place an editorial policy but you are still dealing with the same people who, for years, in our opinion—and judging from the history of the three years that I provided to you, notwithstanding the various steps where we had pulled people up, the complaints that had been made by Senator Santoro, me and Senator Ronaldson—were making the same mistakes. That is the concern that I have. You are still dealing with the same people. What will change their attitude from, can I say, a rather laissez-faire one—when you have the same people making the same mistakes over and over again—to a new situation now? Do you understand what I am getting at?

**Mr Scott**—Can I answer that in a few ways. In part of my correspondence to you, I identified three factors that are relevant. We have detailed policies. They run to 50-plus pages,



much like a legal code. You may continue—and I am sure you will continue—to identify breaches in those codes but, as I have said to you, one of the things I am keen for us to work through are which matters are really important. Whilst you may find breaches, not all breaches are of the same magnitude and the same level of importance. Part of our managing this over time will be to deal appropriately with breaches of editorial policy, given their magnitude.

The second thing I said to you was that, at times, we need to reflect on the fact that there are different processes in place. Some of the things that you had picked up on are when a commentator or a broadcaster has failed to correct a factual statement that has been made by someone who is interviewing them or by someone who has called in on talk-back radio. The only thing I would say to you is that the demands of that on a broadcaster are very strong. We may not in all circumstances be able to expect a broadcaster to pick up all factual errors that someone who they are interviewing might make or that someone makes on talk-back radio, and that might be an unreasonable expectation. Part of our weighing up the response to this, even though there is a breach of policy, is what a reasonable expectation for the performance of that staff member would be given the particular constraints of the broadcast that they are involved in.

Thirdly, if in fact we are making good progress around these things, will we get any recognition of the progress we are making in implementing these editorial policies, because I am sure you will always be able to find examples and you will always be able to find breaches. But we do have these editorial policies for a reason. These policies are mandatory and we do expect our staff to be able to implement these policies.

**Senator FIERRAVANTI-WELLS**—I might leave it there. I have other questions, but I will give Senator Ronaldson—or other senators—the opportunity to deal with an urgent issue.

**Senator RONALDSON**—I want to raise a matter which I would view as an attempt by the ALP to politicise the ABC and using ABC to give credence to a political ad in relation to the recent dispute between the ALP and the ABC in Victoria over a television advertisement which used footage of Ted Baillieu, the Leader of the Opposition in Victoria, taken from *Stateline*. I understand that a complaint was lodged by the Victorian Liberal Party. Is that correct?

**Mr Scott**—I will let Mr Green answer this. He managed this issue for us.

**Mr Green**—Yes, we did have a complaint from the Liberal Party in Victoria.

**Senator RONALDSON**—I take it from what you have said that the issue is now resolved. Is that right?

**Mr Green**—That is right.

**Senator RONALDSON**—Is it correct that the ALP initially refused to pull the ad but backed off when the ABC indicated it would seek an injunction

**Mr Green**—Yes, we had made a request that the attribution of *Stateline* in that particular advertisement be removed. The Premier indicated that he was satisfied that they had met all their legal requirements so, on the basis of that, we wanted to protect the ABC's commitment to being seen to be impartial. Our concern was that, by having the attribution in the ad, it

could give the impression that the ABC contributed to and endorsed the statement that was being made.

**Senator RONALDSON**—Absolutely.

**Mr Green**—And, because time was running out, we went to the Supreme Court of Victoria and sought an injunction for the attribution to be removed.

**Senator RONALDSON**—Was that injunction granted, or did the ALP do something about it beforehand?

**Mr Green**—The ALP agreed to remove the attribution.

**Senator RONALDSON**—After the injunction was lodged?

**Mr Green**—That is right.

**Senator RONALDSON**—How was the matter eventually resolved?

**Mr Green**—The attribution was removed.

**Senator RONALDSON**—So was the vision removed from the ad and the sound retained, or how was the ad formulated?

**Mr Green**—No, what was at stake was some audio that was taken from *Stateline* of the Leader of the Opposition in Victoria. Our concern was that associated with that audio was a statement saying that this had come from ABC *Stateline*, and I think it gave the date.

**Senator RONALDSON**—Do you know whether the ABC has ever had to take out an injunction in these sorts of circumstances?

**Mr Green**—I cannot recall, in my recollection, that we have gone to that extent.

**Senator RONALDSON**—How long have you been with the ABC, Mr Green?

**Mr Green**—I have been involved in looking after election coverage since 1997.

**Senator RONALDSON**—If anyone was going to know about it, you probably would, I suspect. I will move on from the politicisation of the ABC by the ALP to other matters. Can I just say, Mr Scott, that I am extremely disappointed that Mr Cameron is not here. I have to say to you that I think it is a bad error of judgement. He has been here for the last four estimates—

**Mr Green**—Two.

**Senator RONALDSON**—No, four. Since May last year, he has been at all those estimates. I have to be quite frank with you: I am bitterly disappointed that this decision was made.

**Mr Scott**—I note your concern.

**Senator RONALDSON**—If someone thinks it was a smart move, can I tell you that I think it was a very bad one.

**Mr Scott**—No, I do not think it is viewed as a smart move. My understanding is that Mr Cameron had been at the last three but had been in his position and had not been at a number of estimates committees before that and that the ABC has had a number of different executives who have appeared at this estimates committee over time. Today I have some

senior executives here. On the editorial issues, I am happy to answer and be involved with those questions.

**Senator RONALDSON**—I appreciate that you are, but what is Mr Cameron's official title?

**Mr Scott**—He is Director of News and Current Affairs.

**Senator RONALDSON**—What is Ms Howard's official title?

**Mr Scott**—She is Director of Radio.

**Senator RONALDSON**—Are there any other directors?

**Mr Scott**—Yes, the Director of Television, the Director of News and Current Affairs—but, if you go into direct reports to me, there is also the head of the Australia Network. There is the head of Radio Australia.

**Senator RONALDSON**—So you have not brought with you anyone who is actually responsible for the day-to-day vision or the day-to-day sound, whom we historically have had before this committee?

**Mr Scott**—But, as the chief executive of the organisation, I am responsible for those areas. And, without wanting to be self-serving, what you have before you is the most senior executive in the organisation responsible for all those areas. I could understand your concern had I not shown, and I understand that there was concern previously when my predecessor did not show at one of these hearings. But I am here now, and I am here to, in my best endeavours, answer questions that you have.

**Senator RONALDSON**—I suspect you are here, Mr Scott, because you believe it appropriate to be here.

**Mr Scott**—Absolutely.

**Senator RONALDSON**—Similarly, I believe it appropriate that Mr Cameron and Ms Howard should be here, particularly in the light of the matters that were raised with Mr Cameron over some hour and a half—I suspect it was, at least—at the last estimates hearing.

**Mr Scott**—I have read that transcript, and I am happy to discuss those issues with you.

**Senator RONALDSON**—Particularly given what was viewed as a fairly momentous event, where we finally got an acknowledgement from the ABC via Mr Cameron about whether organisations were terrorist organisations or not. It was seen as a very significant breakthrough when we finally got an admission from Mr Cameron that Hezbollah is a terrorist organisation.

**Mr Scott**—I am happy to discuss those issues with you.

**Senator RONALDSON**—What is your understanding of the qualification that Mr Cameron made in relation to perpetuity?

**Mr Scott**—Can you just give me a bit more detail about the 'perpetuity'?

**Senator RONALDSON**—Mr Cameron qualified his discussions of terrorist organisations by saying they would not be quoted by the ABC in perpetuity. What is the background to that?

**Mr Scott**—As you would know and understand through your correspondence with us, and hearing things we have said previously, our editorial policy outlines a preference that labelling, where possible, should be avoided. We ask our journalists to make professional judgements about using words such as ‘terror’ and ‘terrorists’. Groups like Hezbollah, and Hamas, and Islamic Jihad might be described as terrorist groups if they commit acts of terrorism.

**Senator RONALDSON**— Mr Scott, please. We have been through this. I do not want this pat answer again that we had at the last estimates. The comment was made and the acknowledgement was made, so let us not go down that track. Why would there be some qualification about the length of time that an organisation might be labelled as a terrorist organisation?

**Mr Scott**—I suggest to you that, as history moves on, organisations change. There would be some who, in the late fifties and early sixties, would have wanted to refer to the African National Congress as a terrorist organisation, but, as history emerged over time, as Nelson Mandela was released from jail and became President of South Africa and an internationally respected world leader, the continued use of the expression ‘terrorist organisation’ for the African National Congress would not have been seen to be sensible and wise.

**Senator RONALDSON**—On Jemaah Islamiah, how long do you think it is appropriate—

**Mr Scott**—I am not in a position to judge, but if I go to Hamas for a minute—

**Senator RONALDSON**—Sorry, I am asking the questions. There apparently is a policy that they will not be called ‘terrorist organisations’ in perpetuity. I have just asked you how long JI is going to be described as a terrorist organisation by the ABC, and you said, ‘I do not know.’ So, what is the perpetuity policy?

**Mr Scott**—I think, to go back to my previous reference, it is just to reflect that organisations change over time and political circumstances change over time, and I think Hamas is an interesting example now. Hamas might be described as a terrorist group if it commits acts of terrorism, but we find ourselves in the circumstances now, as you well know, where Hamas is the democratically-elected Palestinian authority government. So, not every reference to Hamas on ABC radio or broadcasting carries the label ‘terrorist organisation’. If Hamas continues to be linked back to terrorist activities, then it would have that phrase—terrorist groups—attached to it from time to time, but not in every circumstance and not always because the preference in the editorial policies is for labelling to be avoided and the preference remains for labelling of groups or individuals to be avoided, except where labels provide valuable information or context.

**Senator RONALDSON**—When were Hamas elected—or so-called elected, to use your words?

**Mr Scott**—I do have that detail. Last year, I would think. We can check that.

**Senator RONALDSON**—Do we know when?

**Mr Scott**—I do not have that off the top of my head. We can check that for you.

**CHAIR**—It was in the last half of last year, I think.

**Mr Scott**—Yes, I think that is right.

**Senator RONALDSON**—It has been about 11 months since Hamas carried out a terrorist act, so I will be interested to see where that fits in. You believe they have got some de facto legitimacy now, do you?

**Mr Scott**—No, they have legitimacy in the fact that they are the democratically-elected Palestinian government. You asked me specifically for examples around perpetuity and what I have attempted to demonstrate in my answer to you is that the role and nature of organisations can change over time. I gave you the example of the African National Congress. We have all studied and watched issues in Northern Ireland over the last 15 years, 50 years and 100 years, and the changing roles that organisations play. So if Mr Cameron says to you that an organisation may not always carry a title of ‘terrorist’, then I think an historical view would suggest that, yes, organisations do change over time.

**Senator RONALDSON**—Why would Mr Cameron describe them as a terrorist organisation at the last Senate estimates, when they were apparently elected last year?

**Mr Scott**—Because clearly they have committed acts of terrorism, and if they continue to commit acts of terrorism they would, on occasions, be described as a terrorist group.

**Senator RONALDSON**—You said they are no longer described as terrorists because they were elected to government.

**Mr Scott**—No, I did not say that. I was giving you an example of how organisations change over time. I was simply pointing out to you that, in reports on ABC broadcasts where we were discussing Hamas in their role as the democratically-elected Palestinian authority government—perhaps we were doing a story on whether peace talks would be involving Hamas and the State of Israel—in talking about Hamas in that role, we may not describe them always as ‘the terrorist group Hamas’. We would be discussing Hamas in their role as the democratically-elected Palestinian National Authority government.

**Senator RONALDSON**—Are they still a terrorist organisation or are they not?

**Mr Scott**—If they are committing acts of terrorism, they would be described as a terrorist group.

**Senator CONROY**—They have not renounced the principles of their charter. They have not accepted the right of Israel to exist.

**Mr Scott**—The implication of your question seems to be that, ‘would they constantly carry the title ‘terrorist group’ in all our broadcasts,’ and I have indicated to you that our preference remains for labelling of groups or individuals to be avoided, except where the labels provide valuable information or context.

**Senator RONALDSON**—I know, you have said that. I am asking you a question. Are they still, in the ABC’s view, a terrorist organisation or not, yes or no?

**Mr Scott**—We have talked about Hezbollah and Hamas and Islamic Jihad.

**Senator RONALDSON**—No, Hamas. We have been talking about Hamas for the last five minutes. I will get onto JI later on. But, Hamas, are they or are they not?

**Senator CONROY**—Even the UN is still saying, ‘Don’t deal with them until they repudiate their charter and accept Israel’s right to exist.’

**Mr Scott**—In issues that are related back to their terrorist activity, if we decided that a label provided valuable information or context, then they would carry that label.

**Senator RONALDSON**—It is 11 months since they have committed an act of terrorism. At the last Senate estimates, they were a terrorist organisation. What has happened between then and now if they are no longer a terrorist organisation? What has happened? There has been no repudiation, as Senator Conroy said.

**Mr Scott**—No. We got into this conversation because we were talking about perpetuity, and I have simply indicated and outlined to you the policy as it exists now. The policy that exists now is the policy that existed as outlined by Mr Cameron.

**Senator RONALDSON**—You got into the perpetuity issue on the basis of Hamas being elected as a government. That is where you started this process, and you are back-peddalling at a million miles an hour. I will ask you again. Is Hamas a terrorist organisation or not? If it is not, what has changed between the last Senate estimates and now?

**Mr Scott**—Terrorist groups, if they commit acts of terrorism—

**Senator RONALDSON**—I am happy to stay here until 11.00 pm, but I am going to get an answer, Mr Scott.

**Mr Scott**—I can tell you.

**Senator RONALDSON**—It is a pity that Mr Cameron was not here, which he should be, as I could direct the questions to him—but anyway, you are here so you answer.

**Mr Scott**—That is fine. I am happy to answer your questions. Terrorist groups, if they commit acts of terrorism, or are involved in terrorist activities might be described as terrorists. I have indicated to you that groups that fall into that category include Hezbollah, Hamas and Islamic Jihad.

**Senator CONROY**—So they are a terrorist organisation.

**Mr Scott**—What I have said is that it does not mean they will be referred to as terrorists in every story. I have said to you, they may not be labelled as terrorists in every story, because our preference is to avoid labelling, except where labels provide valuable information or context. That is in our editorial policies. But there may well be occasions when you will find Hezbollah, Hamas and Islamic Jihad described as terrorists on the ABC.

**Senator RONALDSON**—That is terrific.

**Mr Scott**—Thank you.

**Senator RONALDSON**—But Mr Dawson, or someone, has prepared a nice answer for you because you thought this question might be coming up, and that is marvellous, and he is doing a great job, and you have read it out. Congratulations. Are you going to answer my question?

**Mr Scott**—I have answered your question.

**Senator RONALDSON**—No, you have not answered my question.

**Mr Scott**—In what respect?

**Senator RONALDSON**—You are refusing to answer. Mr Chair, this witness is refusing to answer my question, and I would like you to direct him to do so.

**CHAIR**—I am sure that the witness is answering within his capacity. The question of whether or not—

**Senator CONROY**—I will support Senator Ronaldson's dodging and weaving.

**CHAIR**—The question of whether Hamas is a terrorist organisation is one that exercises the United Nations, the United States government, and I am sure that President Bush would be grateful for Mr Scott's advice on this, as would the Secretary-General of the United Nations.

**Senator RONALDSON**—As they were for Mr Cameron's advice, Chair, at the last estimates.

**CHAIR**—Indeed.

**Senator RONALDSON**—Thank you. Will you direct the witness to answer the question?

**Mr Scott**—I am happy to answer that question again.

**Senator RONALDSON**—Just table that document you are reading, if that is what you want to do.

**Mr Scott**—No. We can backtrack into the conversation. You started asking about perpetuity, and I indicated to you—with a relevant, contemporary example—how organisations can, in fact, change over time, which is why Mr Cameron made that statement last time. What I have indicated to you is that the ABC has a policy, a preference, to avoid the labelling of groups, except where those labels provide valuable information or context. I have indicated to you, and I will repeat it again, that Hamas, Hezbollah and Islamic Jihad may well be described as terrorist groups if they commit terrorist activities. But what I have indicated to you is that it does not automatically mean they will be referred to as a terrorist group or a terrorist organisation in every story. The example of why that is the case that I gave you was, specifically, Hamas. Hamas is the democratically elected Palestinian authority government and there may well be stories that cover Hamas in that role that are not linked back to or do not generate the label of 'terrorist'. That is my answer to your question.

**Senator RONALDSON**—Okay. So we have got a different description for the government wing as opposed to the terrorist wing?

**Mr Scott**—It depends on the context of the story. If there is a story where the Palestinian authority government is entering into talks with the state of Israel, then that might well be a story where Hamas is not referred to as a terrorist organisation.

**Senator CONROY**—They may have to renounce their position.

**Mr Scott**—They may well, I absolutely appreciate that. But what I am simply indicating to the senator, is that, yes, on occasions we will label such organisations as terrorist groups, but we will not necessarily name them as a terrorist group on every occasion we discuss them.

**Senator RONALDSON**—Such a good start, Mr Scott.

**Mr Scott**—Thank you.

**Senator RONALDSON**—Such a good start, and you are back with a pack again: it is very, very disappointing. You are aware that Islamic Jihad are constantly referred to by your reporters as ‘militant groups’?

**Mr Scott**—Is that a question?

**Senator RONALDSON**—Yes, it is.

**Mr Scott**—I understand that there would be occasions where they might be referred to as that, but our policy is to try and avoid labelling, where possible, unless we believe it provides valuable information or context.

**Senator RONALDSON**—The description of JI as a terrorist organisation, that is providing valuable information, is it?

**Mr Scott**—I believe that, in the context of some stories, it would be, yes.

**Senator CONROY**—Are you sure you—

**Mr Scott**—I think it depends, Senator Conroy, on the context of the story and the background. But I think you will find a number of examples where it is referred to as a terrorist organisation.

**Senator CONROY**—No, but the point of Senator Ronaldson’s question is: at what point? I am getting the sense that the question is: why aren’t they called that all the time? And you said, ‘Well, there may be some times.’ I am asking: ‘At what times would you not call an organisation a terrorist group? What is your test so that when propaganda is being sprouted it should be labelled as a terrorist organisation?’

**Mr Scott**—I understand that view. I think it just depends on the context of the story and, in a sense, the information that has appeared around that story in the state of the broadcast, but there would be many occasions where it would carry that tag.

**Senator RONALDSON**—In June this year, Geoff Thompson said:

Abu Bakar Bashir is no longer believed to have influential links with the terrorist network ...

This is JI. There is a terrorist network there.

**Mr Scott**—We do—

**Senator RONALDSON**—Here is Jonathan Harley in the *7.30 Report* on 29 June this year describing Islamic Jihad as a militant group, and yet they have been conducting terrorist attacks against Israel this year. JI has not conducted attacks for 12 months but, in June, JI was still being called a terrorist organisation.

**Mr Scott**—Yes.

**Senator RONALDSON**—But Islamic Jihad is not.

**Mr Scott**—You will find occasions where the term ‘militant’ is used, but you will also find occasions where ‘terrorist group’ is used. Our preference is for labelling to be avoided except where we think it provides valuable information or context in that particular story.

**Senator RONALDSON**—I know you can find me plenty of examples of JI being described as a terrorist group. Can you give some examples in the Middle East, for instance, where someone has been described as a terrorist?



**Mr Scott**—Let me take that on notice and come back to you.

**Senator RONALDSON**—You do not know?

**Mr Scott**—I do not have complete transcripts of programs here. You are quoting some examples of programs from four or five months ago. If you wish me to identify some from transcripts, we can look to do that and get back to you on notice.

**Senator RONALDSON**—You indicated earlier that you are going to take steps to ensure that your coverage in the Middle East is ‘even-handed and fair’—I think that was the comment you made.

**Mr Scott**—That is true.

**Senator RONALDSON**—Will Mr Richard Zananiri feature in those plans?

**Mr Scott**—Can you give me a little more detail on him?

**Senator RONALDSON**—I certainly can. In a correspondent’s report of 29 January this year, Mark Willacy said that he uses what is called a fixer by the name of Richard Zananiri to do things like set up interviews.

**Mr Scott**—Yes.

**Senator RONALDSON**—He used the expression ‘fixer’. Do you know anything about this Zananiri?

**Mr Scott**—You will find they are common for foreign correspondents. It is a term that is often used to apply to someone with strong, detailed local knowledge on the ground. Often these people are used to try and facilitate interviews, but they are also used to provide some level of safety advice, local knowledge and insight on the ground. Certainly, some of the journalists that I worked with in my previous organisation had a long-established history of using people who were described as fixers on the ground.

**Senator RONALDSON**—They do things such as organise interviews and those sorts of things, don’t they?

**Mr Scott**—That might be part of their role. Often they provide a translation service, transportation or other levels of advice.

**Senator RONALDSON**—Do you know if this Mr Zananiri was a Palestinian who stood for election in the Palestine elections and works for a church group that is strongly anti-Israel?

**Mr Scott**—No, I am not aware of that.

**Senator RONALDSON**—Can you take that on notice?

**Mr Scott**—Yes, I will.

**Senator RONALDSON**—What is the process with fixers? What editorial or other control do you have on the use of fixers? What are the guidelines?

**Mr Scott**—I will take that on notice too and come back to you.

**Senator RONALDSON**—You are not serious. You have no idea?

**Mr Scott**—No, I am saying that you have asked a detailed question on an operational matter and I will come back to you with details.

**Senator RONALDSON**—This is a group of people who potentially can unduly influence the outcome of reports and you do not know whether there are any guidelines associated with their use?

**Mr Scott**—I will seek details on that and we will put that it on notice.

**Senator RONALDSON**—I think Mr Cameron might have had an answer to that.

**Mr Scott**—He may have.

**Senator RONALDSON**—A pity he is not here.

**Senator CONROY**—Perhaps he should have come.

*Senator Fierravanti-Wells interjecting—*

**Senator CONROY**—I'll be in that.

**Senator RONALDSON**—That is an even better idea.

**Senator CONROY**—Shall we move that way? Shall we come back when the full complement is here?

**Senator RONALDSON**—I want to ask you about some further statements. Jane Hutcheon said on *Lateline* on 25 July:

More than 100 Palestinians have now died in Gaza since Israel launched an operation to free its soldier captured there—

My emphasis on 'there'—

a month ago.

But he was not captured in Gaza, was he?

**Mr Scott**—I do not have that detail in front of me. Can I just talk about the Middle East coverage generally—

**Senator RONALDSON**—No, sorry—

**Senator CONROY**—We get to ask the questions.

**Senator RONALDSON**—I do not want another written sheet. I am going to ask you some further questions. It was the Palestinians who actually launched the raid into Israel, wasn't it, to capture these soldiers? I presume you want to take that on notice as well. And here is a caption from a photograph the ABC published on its website:

... smoke rises after Israeli jets fired missile on the village of Rachaya Al-Fokar near Chibaa in south Lebanon after Hezbollah guerillas captured two Israeli soldiers in attacks in south Lebanon

Again, they were captured inside Israel, weren't they?

**Mr Scott**—I will take that on notice.

**Senator RONALDSON**—And, again, those attacks to take them were launched by Hezbollah. And here is Tony Eastley on *AM* on 13 September:

The seizure of the soldiers was used by Israel as a reason to launch attacks into Lebanon against Hezbollah.

I put to you that Mr Eastley is suggesting that Israel wanted to attack and just needed a reason it could use.

**Mr Scott**—I would put it to you, Senator, that our coverage of the Israel-Lebanon conflict received considerable scrutiny. I refer you to the comments in the *Australian Jewish News* on 25 August that said: ‘The Australian Broadcasting Corporation, which in the last few years has received a lot of criticism from Jewish leaders, was deemed to have covered the conflict fairly by media commentator Dr Tzvi Fleischer, who said the ABC’s TV and radio coverage offered a broad range of perspectives.’ It may not have been perfect, but I believe we covered this conflict well and we continue to monitor it well. I received correspondence from Dr Colin Rubenstein, from AIJAC, whom I believe you know, who wrote to me and said he was pleased to acknowledge what he believed to be significant improvements in recent times, in response to our Middle East coverage.

So, out of the thousands of hours of coverage of the Middle East conflict, you may be able to find some examples where you believe there are some areas of factual errors, but I would say to you that we put more staff on the ground both in Lebanon and in Israel to provide comprehensive coverage of this matter than any other media organisation. I believe our coverage was fair and balanced and, to the very best part, to the best of our ability, accurate. It attracted positive comments, including comments from some people who often complain about our Middle East coverage. Therefore I was proud of the work that our staff did, and I believe they need recognition for that.

**Senator RONALDSON**—I could probably get you to table these answers, I reckon, because you are reading from them.

**Mr Scott**—Notes have been prepared, Senator, but I saw that extract from the *Australian Jewish News* myself, and I thought it was worth while quoting back to you.

**Senator RONALDSON**—Was the correspondence you received—you mentioned a letter from a Dr Rubenstein—in relation to the Lebanon-Israeli matter, or was that in relation to matters generally?

**Mr Scott**—It was in relation to matters generally, yes, but he did then want to make specific comment on our coverage of Middle Eastern issues. Do you disagree with Dr Rubenstein’s comments?

**Senator RONALDSON**—This is an inspired first-up performance, Mr Scott. You have asked Senator Conroy questions; you are now asking me questions.

**Senator Coonan**—Sadly, no answers!

**Senator RONALDSON**—I am sure you don’t mean that, Minister!

**Senator Coonan**—No!

**Senator CONROY**—I think she was referring to you, Senator Ronaldson!

**Senator FIERRAVANTI-WELLS**—I think she was referring to you, Senator Conroy!

**Senator RONALDSON**—I want to now get onto other matters. I want to take you to answers to questions 234 through to 238 from the last estimates. These involved allegations of your reporters’ extensive practice of deliberately misreporting Israeli spokesmen.

**Mr Scott**—I will just get those answers.

**Senator RONALDSON**—There are numerous examples, from recollection, such as, ‘Israel says it killed four Hezbollah fighters’, when Israel said it killed four terrorists. You said there that it is common practice to paraphrase people, and you should not automatically adopt the terminology of any government. But I am putting to you that you are actually making a false statement there, and I will run through why. There was Tony Eastley, with Mark Willacy on *AM* on 14 June:

Mark Willacy, as I understand it Israel says this attack was against militants?

MARK WILLACY: That’s right.

There was Paul Lockyer on 3 July in the *Midday Report*: ‘Targets which Israel claims were used by militants.’ I have, if you want to see it, a transcript from the Israeli government website. What it says about the same incident is:

IDF forces attacked several terrorist targets in the Gaza strip ...

So, when a statement was made that ‘Israel claims were used by militants’, they did not make that claim, and therefore the reporting of it was false, wasn’t it?

**Mr Scott**—To paraphrase, it depends whether you believe that Mr Willacy was making a direct quote or he was paraphrasing their statement. You will find much journalism that takes place is not just a series of direct quotes, but it is an attempt to paraphrase the thrust and the intent of what was originally stated. What you have here is written transcripts. It makes it look like a direct quote but, as it has been communicated on the radio, someone is reading it out. I believe it is not a direct quote, but it is indirect language; therefore, the question is whether you believe that that indirect language is a fair representation of what was said. You are putting it to me that the use of the word ‘militant’, rather than the use of the word ‘terrorist’, is not a fair representation. What we are saying is that the reporters are on the ground in the midst of it and are expecting to use their professional judgement in doing this style of reporting.

**Senator RONALDSON**—So commentary would not be appropriate? If it was not direct quotes and it was commentary, it would not be appropriate?

**Mr Scott**—If we are referring to the answer to question 234, where your question was about Mark Willacy on Radio National news last September, and there is a quote there, I am saying that I do not believe that quote was an attempt to directly quote; rather, it is an attempt to use indirect language to convey the thrust of what he believed Israel had described. Where we may have some debate here is whether in fact you believe that that is an accurate representation of what Israel had been saying.

**Senator RONALDSON**—My recollection was that in the answers to those questions there was some commentary that you should not adopt the language of one side in the conflict.

**Mr Scott**—I have the answers here. We said:

Reporters are expected to use their professional judgment in choosing the most appropriate terminology to describe a set of events.

Our reporters would do that in every story on every program every day. We then said:

It is common practice for reporters to paraphrase statements made in media releases or by official spokesmen.

And that is what Mark Willacy has done there, as have Ros Childs and others. We do say that we do not automatically accept or adopt the terminology of any government anywhere, so paraphrasing is not atypical by our news organisation or by any other news organisation.

**Senator RONALDSON**—I will take that but, generally, you do not think that the language of one side in a conflict should be adopted by your reporters, in a general sense?

**Mr Scott**—In a general sense we would allow our reporters to paraphrase if they thought they were effectively communicating the thrust of it.

**Senator RONALDSON**—Can I give you some examples?

**Mr Scott**—Yes, please.

**Senator RONALDSON**—Sally Sara, when talking about one of the Hezbollah robberies, said:

But he remains willing to sacrifice his home in the name of the resistance.

David Hardaker, on *AM* on 4 July, when speaking about a member of Islamic group called the al-Qasim Brigade:

Friends and relatives swarm around to touch the 30-year-old who has now become a martyr.

Matt Brown, on the *Midday report* on the same day, said:

The ambulance is ready to go and collect more martyrs.

Matt Brown again, on *Lateline* on 3 July, referred to the Palestinian cemetery reserved for the bodies of martyrs. So your reporters will not use the language of the Israelis, for example ‘terrorists’, and they change it to ‘militants’ when clearly that was not what was used, but you are happy to use the language of other people, such as ‘martyrs’ and ‘resistance’ et cetera. Isn’t that a case of a classic double standard?

**Mr Scott**—What you have quoted there are some examples, and there may well be other examples that refer back the other way. What we say is that we expect the reporters who are there on the ground reporting to exercise their professional judgement. We have had numerous comments praising the work of David Hardaker, who has been our new correspondent in the Middle East this year. I believe he has done absolutely outstanding work. We want him to exercise his professional judgement in using the most appropriate terminology, and sometimes he may paraphrase—sometimes he may paraphrase from either side. That is what you would expect him to be able to do in communicating his story.

**Senator RONALDSON**—So you are happy with the use of the word ‘martyr’?

**Mr Scott**—I am happy to allow our journalists to use their professional judgement in constructing the story, given the events that they were reporting on at the time, and I am not going to sit back here and judge them on that. Without studying them, some of those examples did strike me that they were actually reporting on the reaction of the community to what had happened around.

**Senator RONALDSON**—What? ‘The Palestine cemetery reserved for the bodies of martyrs’?

**Mr Scott**—The other one.

**Senator RONALDSON**—‘The ambulance is ready to go and collect more martyrs.’

**Mr Scott**—It was the other one that I was referring to. The example might well be the reporter reflecting the view and the sentiment of the emotion of the community members who were there at the time. And that is why you have reporters on the ground—to do that level of journalism. We expect them to use their professional judgement in such circumstances.

**Senator RONALDSON**—You are happy for JI to be described as terrorists. You are happy for your reporters to misrepresent what the Israeli government has said about various attacks. So you are prepared to change the words from ‘terrorist’ to ‘militant’ but, in the same breath, you are prepared to allow someone to make a very subjective commentary, referring to ‘martyrs’ and ‘resistance’?

**Mr Scott**—I respond in the context that I believe our Middle East coverage to have been fair and balanced, and I believe commentators who had previously been critical of the ABC’s Middle East coverage have said the same thing. So those are the general comments in which I frame my answer. I do believe that it is appropriate for our reporters to paraphrase statements made in media releases. Our journalism is not reporters reading out media releases. Our journalists will paraphrase from time to time. If our reporters are reporting from the field, and they are reporting the sentiment and the emotion that may exist in some members of a community, they may reflect that in their reporting also. When we did this reporting from the Middle East, we reported from both sides of the border. We had a range of experienced journalists in the field, and I believe our Middle East coverage was fair, accurate and balanced to the best of our ability, and that is the response that I have had from most fair-minded critics on our coverage.

**Senator RONALDSON**—I do have a significant number of questions, but I think Senator Conroy wants to ask some.

**Senator CONROY**—Thank you, Senator Ronaldson. I had an artificial program break installed on me, and I was mid question or mid track of questions with you before. I want to return to the Sydney Institute—that balmy evening in Sydney when you told the Sydney Institute that the new guidelines would have particular impact on our documentary production and acquisition. Could you elaborate on that comment? What is wrong with the documentaries the ABC is broadcasting at present? Is there bias?

**Mr Scott**—Nothing necessarily.

**Senator CONROY**—Not necessarily?

**Mr Scott**—The concept, as outlined in the policies, is one of platform neutrality, so what we need to ensure is that through and across our schedule on television that a plurality of principal relevant viewpoints is heard. Of course, you would expect our policy makers, program makers and those who commission programs to have a view to the implementation of editorial policies as they purchase documentaries. I would say, though, that I think our performance around documentaries is strong. I am very pleased with the ratings performance of our documentaries, particularly in the second half of this year.

**Senator CONROY**—If you purchase a documentary on John Curtin, for instance, does that mean you have to purchase one on Menzies?

**Mr Scott**—No. What we are talking about around this are matters of contention or public debate. I do not believe a program on John Curtin triggers matters of contention or public debate.

**Senator CONROY**—Does the censor agree?

**Mr Scott**—We do not have a chief censor.

**Senator CONROY**—Not yet. You also did a very famous documentary *Labor in power*. I was just wondering whether this means you have to do ‘Liberals in power’?

**Mr Scott**—I suspect there were documentaries done on Liberals in power and Labor in power.

**Senator CONROY**—It was a very specific documentary series on Labor in power. It was riveting viewing. I appreciate you probably could not get the ‘riveting’ aspect, but you could still do the Liberals in power.

**Mr Scott**—We will note your programming request.

**Senator CONROY**—I just wondered if there would be balance. If you buy a documentary critical of the Bush administration, will it have to be balanced by one that is supportive?

**Mr Scott**—I would point out is that it is not documentary for documentary, stopwatch for stopwatch.

**Senator CONROY**—That is what I am trying to establish.

**Mr Scott**—It is, that over time, principal relevant views are aired. It might be that some views are aired in a documentary program and other views emerge through the nature of other programming on the schedule.

**Senator CONROY**—That is a ‘yes’ then. If you have purchased a documentary that is critical of President Bush on topical issues, you will, over time, have to get some programming that is supportive of President Bush.

**Mr Scott**—No. We just need to ensure that across the schedule on television, principal relevant viewpoints are being aired. They might be aired already. They might be aired through a range of other programs. We just have to be mindful that principal relevant viewpoints are being aired, and that is what we ask our schedulers and the Director of Television to do. And they happily signed off on this policy.

**Senator CONROY**—You will be looking for balance over the platform of views that are pro Bush?

**Mr Scott**—Yes. We want to make sure that the principal relevant viewpoints are being aired.

**Senator CONROY**—Is Newt available for interview? It seems that you are seriously impinging on subjective judgements about newsworthiness with a tick-a-box mentality—with an objective test—and they are just comprehensively incompatible.

**Mr Scott**—I fundamentally disagree with that. What we are saying is that the ABC should be the forum where ideas can be aired, debated and contested. We are saying: let the ideas come forward, let the different viewpoints emerge, let there be debate in the community. If there is any sense that we are trying to restrict, restrain or lock down, I think it is absolutely the opposite. We have even said that there will be a category called ‘opinion’ for opinionated commentary to be aired on the ABC. You take a negative view on it. I believe that the staff and the executives who worked on these policies and developed them up take a positive view on it—that under these policies there should be debate and there should be a range of views that are heard.

**Senator CONROY**—I am sure that all of your staff will respond to your chief censor’s views.

**Mr Scott**—We do not have a chief censor, and we are not allowed to have one.

**Senator CONROY**—Not yet. As you mentioned, the guidelines will now apply to performance content like comedy and satire. Is there a requirement for this content to be impartial?

**Mr Scott**—No. Let me find the specific reference to it. I am glad you raised it; thank you for that.

**Senator CONROY**—I know there have been some last minute changes.

**Mr Scott**—I am concerned that there has been some misreporting on this issue, and I appreciate the opportunity to make it clear. We do encourage and promote a range of performances, and our performance category ‘satire’ is part of that. We ask that staff who work in the performance areas operate under the key ABC values of honesty, fairness, independence and respect. We say that satire has a legitimate place in ABC content. We recognise that people most often satirised are those who are prominent in public life.

**Senator CONROY**—Usually the ones in power.

**Mr Scott**—Usually the ones in power, that is true.

**Senator CONROY**—It is hard to be balanced when there is only one party in power at a time.

**Mr Scott**—The issue of balance does not come into this performance category, so we do not have to worry about that as far as performance is concerned. We just ask it to be executed in a way that recognises the impact that it has on people. But satire for a long time has played an important role in the ABC schedule, and it will for a long time to come.

**Senator CONROY**—I want to draw out and emphasise the point you have made strongly. Many of the critics of the ABC are focused on comedy and satirical programs such as *The Glass House*, *The Chaser* and *Clarke and Dawe*. What impact will the new guidelines have on that sort of content?

**Mr Scott**—It is performance, so we will be asking those people to execute under the guidelines that I have just outlined to you there.

**Senator CONROY**—In other words, no change. That is what I thought you were saying earlier.



**Mr Scott**—We have classified performance for the first time, but some of the arguments that have been raised—and I think in a semi-humorous vein about a stopwatch being run over *The Chaser* and spending as much time—

**Senator CONROY**—I do not sure some of those people have got a sense of humour that have been doing that, though, Mr Scott.

**Mr Scott**—We outline our criteria for performance, but the issues about balance do not come into the performance play.

**Senator CONROY**—What role would the new chief censor have in assessing this content?

**Senator Coonan**—There is no chief censor.

**Senator CONROY**—I did not quite hear you, Senator Coonan.

**Senator Coonan**—There is no chief censor.

**Senator CONROY**—Are you assisting Mr Scott again? I thought he was doing fine without your assistance.

**Senator Coonan**—I am just assisting you, Senator Conroy.

**Senator CONROY**—You just speak up then; I want to hear it properly.

**Mr Scott**—There is no chief censor, and we are not about to have one. It would depend. The issues are around making sure we are exercising under the key values of the ABC, I would suppose. We do say that staff involved in satirical content need to consider the potential for satire to cause harm to groups or individuals, and you should refer upward as required. That is the standard ABC policy. They should be aware of the impact of their satire.

**Senator CONROY**—Satire, by definition, is going to cause some degree of harm.

**Mr Scott**—Yes, absolutely, and we recognise that.

**Senator CONROY**—I struggle to think of satire that did not, or am I too narrow minded about it?

**Mr Scott**—In a sense, this often applies to perhaps attacking groups in the community. The only restraint that this has is in the restraint that might come from just being aware of the impact that your work can have. That is the question that is being asked—to just be aware of the impact that your work can have. But, fundamentally, I do not believe that the area of satire will be a key focus of the new Director of Editorial Policies.

**Senator CONROY**—I would not have thought it would be much of a focus at all, to be honest, given how you have defined—

**Mr Scott**—I do not think it is going to be a focus, and I have not indicated in any of my public comments that it will be.

**Senator CONROY**—Gerard Henderson has noted that Clarke and Dawe regularly mock the Prime Minister and the Leader of the Opposition but not the Greens. Don't laugh, there could be a new chairman, I hear. Mr Henderson was also critical of Clarke and Dawe for their skit on *The 7.30 Report* mocking the new editorial policies. Will your guidelines do anything?

**Mr Scott**—I saw the humour in it.

**Senator CONROY**—I know you have a sense of humour, Mr Scott. Will your guidelines do anything to address Mr Henderson's concerns?

**Mr Scott**—No. If we classify the Clarke and Dawe work as performance, then I am not sure it will have an impact in the way that Mr Henderson outlines it. There is nothing that I have indicated that suggests it does. If that is how that work is classified, then I think it will probably have a minimal impact there.

**Senator CONROY**—I think it was last estimates that Senator Fierravanti-Wells was critical of a Red Symons broadcast where he said that 774 ABC Melbourne supported Senator John Kerry in his endeavour to become President of the United States. We cannot take sides in Australia but I have had it from management that we can take sides elsewhere in the world: 'We want Kerry to win' Would this sort of comment attract the attention of the Director of Editorial Policies, or is this satire?

**Mr Scott**—I interpreted that as humour and satire.

**Senator CONROY**—So did I, because I was listening to it at the time.

**Senator FIERRAVANTI-WELLS**—Are you saying that I have no sense of humour, Senator Conroy?

**Senator CONROY**—But, as I said, Mr Scott, maybe you and I have just got very perverse senses of humour. I would like to turn to your plans for the *Media Watch* program. In your speech to the Sydney Institute you stated that:

I have encouraged the director of television—

the chief censor—

to work with the Media Watch team—

**Mr Scott**—No, even under your classification—

**Senator CONROY**—Sorry, no, he does not fall into that category; my apologies. You said: I have encouraged the director of television to work with the Media Watch team to review their format and content next year to ensure there is more opportunity for debate and discussion around contentious and important issues.

Could you outline what concerns you have with the current format.

**Mr Scott**—There were three sentences that I said in that speech, out of very many sentences of quite a long—

**Senator CONROY**—Do you wish your chief censor had been working at this point?

**Mr Scott**—No. It was quite a long speech, and there is one sentence that possibly was not in the text that you said. I said, 'Look, a number of our programs are going to have to think and work out how editorial policies may affect them,' and I gave an example. An example is *Media Watch*, and I said there what you suggested, and then I also said—

**Senator CONROY**—No, but you are saying that you have already directed changes to be made—

**Mr Scott**—Yes, I know; I am just saying—

**Senator CONROY**—prior to the new guidelines.

**Mr Scott**—I am just putting that sentence in context. The context was that I believe a number of our programs will need to think through what they mean in terms of the changing editorial policies; then that sentence there. Then, I think, if you have the comment there, you will see that I believe that *Media Watch* plays an important role in our schedule, it is much loved, and I hope it has a long future with the ABC.

**Senator CONROY**—Forget the soft soap. You are shafting programs.

**Mr Scott**—Not at all.

**Senator CONROY**—Tell us how you are going to do it.

**Mr Scott**—You see, I think that, if you read that final sentence, you will see that I am doing anything but shafting the program. I am saying the program has an important future on the ABC.

**Senator CONROY**—Yes, after you say how it should have a format.

**Mr Scott**—I have simply said that I believe this is where the director of television is operating. Mr McEvoy—

**Senator CONROY**—No, you directed the Director of Television because you do not like the current format. You do not like the current format. So can you tell me what is wrong with the current format?

**Mr Scott**—I mentioned that question. The discussions I have had with the Director of Television are around the opportunities for *Media Watch* to ensure a greater diversity in the sense of a range of voices to be heard through the structure of the program around a range of contentious media issues. The final makeup of the program for next year will be determined when a new executive producer is appointed, and that will be a discussion that involves the new executive producer and the Director of Television.

**Senator CONROY**—Well, given that you have chased the old one out—

**Mr Scott**—No. I need to correct you on that, Senator. I understand that it was in June that Mr McEvoy indicated that he wished to make a career change and not continue on with *Media Watch*—

**Senator CONROY**—What problems do you—

**Mr Scott**—so it was nothing to do with me and nothing to do with these policies.

**Senator CONROY**—Name the problems with the current format, Mr Scott. You are not going to get away with shimmying on this one, like you were able to get away with it with Senator Ronaldson. What is a problem with the format?

**Mr Scott**—There is no shimmying here. Let me say that I believe that there are a number of issues around media—

**Senator CONROY**—Name them.

**Mr Scott**—Senator, you yourself embody, in the way that you are constantly commenting on media issues, that there are diverse points of view that can come to bear around media issues. One of the things I have said to the *Media Watch* team is: is there an opportunity within their format for more voices around the debates to be heard? I still expect that there

will be occasions where *Media Watch* catches somebody doing absolutely the wrong thing and uses the power of that program to reveal the bad journalistic practice. But many of the things that *Media Watch* is involved in also are issues of debate and contention amongst the media.

**Senator CONROY**—Cash for comment.

**Mr Scott**—Cash for comment might well be one, but the direction of media policy change might be another.

**Senator CONROY**—What—Alan Jones should be given five minutes to reply?

**Mr Scott**—As I have said to you, there will still be occasions where *Media Watch* catches people out and it uses its program to deliver that. But there are other occasions, such as issues to do with media—

**Senator CONROY**—There will still be occasions; how generous of you!

**Mr Scott**—There will be occasions when issues like media law reform come up where there are divergent views in the community and it would be good for *Media Watch* to provide a forum for those voices to be heard. But the details of the program next year are still to be worked out.

**Senator CONROY**—You still have not named what your problem was. It is the same game that you played with your less than robust defence of the ABC. You have completely dumped on a program, as now the Managing Director or editor-in-chief—call yourself what you like. You have dumped on a program publicly, and you are not prepared to actually outline a problem.

**Mr Scott**—I did not dump on the program.

**Senator CONROY**—You have dumped on it.

**Mr Scott**—No, I haven't.

**Senator CONROY**—You have directed that its format be changed.

**Mr Scott**—No. What I said is that they should review that format. What I have indicated to them is what I have indicated to you—that there are often contentious issues of community debate around media performance, separate to the catching out of people who have done the wrong thing. There is significant debate. It would be good within the format of *Media Watch* for those voices to be heard.

**Senator CONROY**—So you want a chat show.

**Mr Scott**—No. They did an interesting program on concentration of media ownership. They looked at issues around various country towns. I think it would have been great to have heard some of those people speak for themselves about their media experiences, rather than there simply being a delivery from the studio. Some of that might be—

**Senator CONROY**—*Media Watch* is opinion, though, isn't it?

**Mr Scott**—It could be classified as opinion, or it could also be classified as topical or factual. But I think that there are opportunities for a range of voices to be heard on some of these issues; it is as simple as that.

**Senator CONROY**—You are not going to get away with just keeping on saying, ‘They can do this and do that.’ You are going to have to actually spell it out.

**Mr Scott**—A lot of what *Media Watch* does and has done has been very good. That is why I said it is a popular, loved program.

**Senator CONROY**—So why does it need to be changed to what you want?

**Mr Scott**—One of the reasons is that it has had a very similar format for a long period of time. Many of the formats of our programs change over time. I do believe, on some of these contentious media issues—as you yourself embody, Senator—

**Senator CONROY**—No, do not draw me into it. This is about you and your view. You are the one changing the program.

**Mr Scott**—I am using you as an example of often wanting to bring a divergent voice onto a media policy issue. Just as that is the way you operate in your professional life, there are other people out there who may have divergent views on a media issue. I think it would be good for *Media Watch* to be able to convey that.

**Senator CONROY**—So you feel that it has not presented a balanced enough perspective?

**Mr Scott**—No, I have not said that.

**Senator CONROY**—No, you have not said anything. You are shafting the program, you are dumping on it, and you are avoiding actually criticising it.

**Mr Scott**—No. I think there are opportunities for the program to be even better. I am encouraging the Director of Television to work with the new EP to that end.

**Senator CONROY**—So, if they review it and come back saying, ‘No, we don’t want to make any change,’ you will be happy ?

**Mr Scott**—Clearly, I then will have a discussion around that.

**Senator CONROY**—I will take that as a no. They have now got the message big time: change it to the way Mr Scott wants, or else.

**Mr Scott**—No. The Director of Television and I agreed on the opportunities that exist.

**Senator CONROY**—‘We’re at one with the opportunity, yep.’ So the new executive director has got the message: do not come back with the same format. You want change.

**Mr Scott**—No. We have not yet appointed an executive producer of *Media Watch*.

**Senator CONROY**—Whichever poor bunny gets to live under your direct thumb will understand his job. Gerard Henderson—where has the minister gone?—has said that there should be two presenters.

**Mr Scott**—Yes.

**Senator CONROY**—Is that what you propose? A left- and a right-wing presenter?

**Mr Scott**—That is not in our plans.

**Senator CONROY**—What are your plans? I thought you had not made any plans.

**Mr Scott**—I do not see *Media Watch* in terms of a left and right dichotomy in that way.

**Senator CONROY**—Do you agree with the critics who suggest that *Media Watch* has had a series of left-wing presenters?

**Mr Scott**—No. That would not have been the way I would have framed the discussion.

**Senator CONROY**—How would you frame the discussion?

**Mr Scott**—I would frame the discussion as there being often contentious issues around the media on which there are a diversity of views. I think on occasions it might be useful for *Media Watch*, in its format, to have the facility to ventilate a range of views.

**Senator CONROY**—Did the board, or specific members, ask you to review the format of *Media Watch*?

**Mr Scott**—No, they did not.

**Senator CONROY**—One former host of the program, David Marr, has questioned the rationale for the change of format that is being mooted: ‘You argue that, when you catch someone out plagiarising, what is there to debate?’

**Mr Scott**—Yes. As I have said to you, when someone is caught out in wrongdoing, I expect the format of *Media Watch* might well be similar to the way it is today. I think it is human nature for previous hosts to be very defensive of the programs and the formats they have done, so I understand Mr Marr’s view. All I am saying is that I think there might be opportunities for *Media Watch* to be a little bit more diverse in its format, rather than just having one way of approaching stories.

**Senator CONROY**—I would like to turn to issues surrounding the ABC decision not to publish Chris Masters’s book, *Jonestown*.

**Mr Scott**—Yes.

**Senator CONROY**—Can we start at the beginning. When did the ABC commission this project?

**Mr Scott**—I believe the book was commissioned some years ago, after Chris Masters completed a documentary on Mr Jones for *Four Corners*.

**Senator CONROY**—Was it just a decision of the management of ABC Enterprises?

**Mr Scott**—I believe it was, yes.

**Senator CONROY**—When did the board first become aware of the project?

**Mr Scott**—I am not aware of that. I believe there was media coverage of the fact that Mr Masters had signed a contract to complete the book.

**Senator CONROY**—Over the next few years, what oversight did the ABC have on the project? Did Mr Masters provide drafts or updates on his progress?

**Mr Scott**—I am not entirely sure of that. I know it will have been managed in a similar way to books that are published in the ABC Books division. They publish somewhere between 140 and 180 books a year. There would have been an editor involved in the process who would have been the liaison person for Mr Masters on that work.

**Senator CONROY**—Did the board receive reports?

**Mr Scott**—I am not aware of that. They certainly did not receive any drafts. I think it would be absolutely atypical, and I do not believe they received any updates into the substance of what had appeared in the book at all. In the meetings I have had with the board, there is no reporting mechanism currently under way whereby Enterprises reports on the substance of books that are currently in print. In fact, even the lists of books currently commissioned and under way do not, as a matter of course, come up to the board.

**Senator CONROY**—In total, how much money did the ABC spend on the *Jonestown* project?

**Mr Scott**—Around \$100,000. That would include the advance to Mr Masters for the work, but also prepublication work that was completed, much of which was refunded to the ABC from Allen and Unwin.

**Senator CONROY**—Can you provide a breakdown of the costs?

**Mr Scott**—I can give that to you on notice.

**Senator CONROY**—I understand that, on 5 June, lawyers for Mr Jones wrote to the ABC, threatening a defamation action. Is that correct?

**Mr Scott**—I would believe that to be right.

**Senator CONROY**—Had Mr Jones's lawyers seen the book?

**Mr Scott**—I doubt so. I do not think that would be right.

**Senator CONROY**—What was the basis of their concerns?

**Mr Scott**—I do not have a copy of the correspondence with me, but there would, I imagine, be some in response to numerous media reports that were in circulation relating to the book.

**Senator CONROY**—Was it this letter that promoted the interest of the ABC board in the book?

**Mr Scott**—The ABC board considered this matter prior to my arrival as Managing Director. My understanding is that the ABC board's interest in the book was linked to the possible legal risk that publication of the book generated back to the Enterprises division of the ABC. Enterprises operates under the auspices of the ABC, but it operates specifically to raise money for the ABC.

There was concern that a range of legal manoeuvres that could be undertaken by Mr Jones's lawyers could give rise to considerable non-recoverable legal costs to the ABC, which may have affected the profitability of the book. It was in light of that legal advice and the potential cost risk that the ABC board took the decision to release Mr Masters from his contract, to allow him to take his manuscript to other publishers and have the book published elsewhere. In the book publishing business, the ABC is in a different business from other publishers. It is not our core business at all. We publish books to make money. There was concern at the financial risk the publication of this book might entail.

**Senator CONROY**—Did the ABC obtain legal advice on whether the book was defamatory? What was the conclusion of this advice?

**Mr Scott**—I do not have that detail in front of me. However, I think the focus of the ABC board was the cost that would be involved arising from defamation action.

**Senator CONROY**—You have a good lawyer on the board. You were telling me that earlier.

**Mr Scott**—Yes, I do. As I said to you earlier, I was not a participant in that meeting, but I am saying to you that costs can, of course, arise through defamation hearings and cases, irrespective of what the final outcome of that defamation case might be.

**Senator CONROY**—*Media Watch* is a much maligned program.

**Mr Scott**—Not by me.

**Senator CONROY**—Certainly by you, Mr Scott. You will never escape that tarnish. That chief censor should have been in place to take those three lines out.

**Mr Scott**—We do not have a chief censor.

**Senator CONROY**—No. You should have had one at that point.

**Mr Scott**—Are you advocating that we have a chief censor?

**Senator CONROY**—According to *Media Watch*, Terry Tobin QC had told ABC Enterprises that the book could be successfully defended in court and Robyn Watts, the Director of Enterprises, was waiting for the written report, but the board would not wait. So the board got no advice whatsoever.

**Mr Scott**—The advice that came through to the board was that there was a likelihood that there would be unrecoverable costs linked to a defamation action. That is slightly different from whether the book would be a success.

**Senator CONROY**—Who gave that advice?

**Mr Scott**—It was legal advice that came from the general counsel of the ABC.

**Proceedings suspended from 6.00 pm to 7.04 pm**

**Senator CONROY**—We were talking about *Jonestown*. When the book was considered by the board, did ABC Enterprises argue that the book should be published?

**Mr Scott**—No. I do not think that is a fair reflection. But as I said earlier, I was not at the meeting. I understood that ABC Enterprises presented the detail involved with the costing of the book; the legal advice was there and the decision was made by senior executive, the management team and the board. I think it would be human nature to say that some of those people who had worked on the book with Mr Masters for a long period of time were disappointed not to see the ABC publish it. But it was a commercial decision that was made.

**Senator CONROY**—My understanding—and again this is from the *Media Watch* program; no wonder they don't like it so much—is that *Media Watch* had a copy of a memo which indicated that the recommendation was to publish the book.

**Mr Scott**—I do not have a copy of that memo here, but certainly there would have been people involved in Enterprises who had worked on the book and who were keen to see it published. But I think the reasons the board outlined at the time were well documented and canvassed.



**Senator CONROY**—In June it was announced that ABC Enterprises would not be publishing *Jonestown*. Can I confirm who made that decision, because there was some confusion. Was it Ms Watts, the Director of ABC Enterprises, or was it the board?

**Mr Scott**—I think it was the management team and the board. That is my understanding, even though it did happen before I took up my appointment. I understand that it was a decision of the senior management team and the board. There is certainly no question that it was discussed at the board meeting.

**Senator CONROY**—I have not got any argument about that. It is just that Mr Green claimed that it was ABC Enterprises.

**Mr Scott**—The senior management, including ABC Enterprises, Mr Green—

**Senator CONROY**—Are the board members part of ABC Enterprises?

**Mr Scott**—No, they are not. As I indicated in a radio interview—

**Senator CONROY**—I have got the transcript. It is just that Mr Green indicated one thing and you have indicated something else.

**Mr Scott**—The management team and the board.

**Senator CONROY**—Mr Green, do you want to take the chance to correct the record? You are now fully apprised of the facts.

**Mr Green**—I have no disagreement with what Mr Scott is saying.

**Senator CONROY**—I am sure you have not, but I am offering you the chance to correct the record from your previous public statements.

**Mr Green**—Which public statements are these?

**Senator CONROY**—In which you claimed that it was ABC Enterprises that made the decision.

**Mr Green**—They certainly were involved in the decision.

**Senator CONROY**—But the board members are not members of ABC Enterprises, as Mr Scott has just said.

**Mr Green**—No. But as Mr Scott has said, it was a decision that was explored by the board as well as by the Director of Enterprises.

**Mr Scott**—And it was announced by Ms Watts; the statement was made by Ms Watts.

**Senator CONROY**—Yes, and Mr Green maintained that it was solely the decision of ABC Enterprises.

**Mr Scott**—I do not think the word ‘solely’ was used.

**Senator CONROY**—Notwithstanding what Ms Watts may have said, the truth from the acting ABC management at the time would have been a good thing, rather than a deliberate mislead.

**Mr Green**—I do not accept that.

**Senator CONROY**—You do not accept that you failed to mention that the board were involved in the decision?

**Mr Green**—It was made clear when the release was made that the matter had been discussed by the board, and the person who announced the decision was the Director of Enterprises.

**Senator CONROY**—You wrote your letter to staff in which you said you argued the decision—‘it represents censorship’—by ABC Enterprises ‘not to proceed with this publication’. That is a straight mislead, Mr Green. That is a letter you wrote.

**Mr Green**—No, it is not. It was a decision by the Director of Enterprises not to proceed.

**Senator CONROY**—It is a straight mislead.

**Mr Green**—It is not; I do not accept that.

**Senator CONROY**—You can paint it any which way you want, Mr Green. You have misled ABC staff, you have misled the Australian public and you are not taking the opportunity to correct the record even now, when the truth has been exposed.

**Mr Scott**—No. Can I say, Senator, that I think it is a misstatement.

**Senator CONROY**—It is not a misstatement at all.

**Mr Scott**—We have clearly indicated that the matter was discussed by the management and the board. The matter was announced by Ms Watts from Enterprises.

**Senator CONROY**—So you defend your officials when they mislead the public.

**Mr Scott**—Ms Watts was the executive responsible for Enterprises and the publication of *Jonestown*. She was the executive who communicated the decision that *Jonestown* would not be published. She is the executive who carries the line management responsibility for that. I think you are splitting hairs on it. We have made it very clear that the board had a conversation about it. We have made it very clear that the senior management team was involved in that. We have made it very clear that Ms Watts announced it and that her division was finally responsible for that book.

**Senator CONROY**—If you are comfortable with your staff splitting hairs, to put the kindest possible interpretation on it, to the Australian public—

**Mr Scott**—I have the highest respect for Mr Green, an executive of high integrity—

**Senator CONROY**—I have offered him the opportunity to correct the record and he has chosen not to.

**Mr Scott**—an executive of high integrity, Senator.

**Senator CONROY**—Is this the first time the board has ever intervened to veto the publication of a book?

**Mr Scott**—I think ‘veto’ is an incorrect word. The book did not come up to the board because of its substance, and didn’t come up in a review because the board was reviewing all Enterprise’s books. It came up because of advice that talked about potential legal costs and legal risks involved in publication of this book. So the board does not, by nature of its operations, review the forward lists and commissioning process of ABC Enterprises, but they do have a fiduciary responsibility to be cognisant of significant legal risk and the risk of legal costs as it emerges. So my expectation is that as a rule they would not be involved in issues

like this, except when there was advice that there could be significant legal risk. Just as when we undertake other matters which might trigger significant legal risk, at times the board would be involved.

**Senator CONROY**—And the board took the decision to not proceed.

**Mr Scott**—The book was discussed with the board, with the management team and announced by Ms Watts.

**Senator CONROY**—I put it to you strongly that the board vetoed the book. The recommendation from ABC Enterprises in the memo was that it should go ahead, and the board had a different view, and that's fine.

**Mr Scott**—It was discussed by the senior management team and the board, and the book did not go ahead. It has been well documented, canvassed and discussed over recent months, and in recent weeks.

**Senator CONROY**—The ABC decided not to publish the book for commercial reasons.

**Mr Scott**—Yes.

**Senator CONROY**—In a letter to staff, Murray Green stated that there was a real possibility that the book would incur a significant loss.

**Mr Scott**—Yes, because of potential legal risk—unrecoverable legal expenses. It was a commercial decision.

**Senator CONROY**—Are you prepared to table the legal advice on which you acted?

**Mr Scott**—No, there was legal advice that came to the board, and we won't be tabling that legal advice. But I have seen that legal advice, Senator, and I understand the rationale behind it.

**Senator CONROY**—That was the internal—

**Mr Scott**—Yes, legal advice to the board.

**Senator CONROY**—It wasn't an external advice.

**Mr Scott**—The paper, I think, was internal advice.

**Senator CONROY**—I thought you said earlier it was your internal, in-house counsel, I think you described it as.

**Mr Green**—General counsel.

**Senator CONROY**—Did the ABC determine that the project was not viable only after it received a letter from Alan Jones' lawyers? Surely this potential threat always existed.

**Mr Scott**—I expect, Senator, that was the issue that brought the publication of the book into focus, given the timing of it and yes, it did result in a consideration of the potential risk of unrecoverable legal cost and, as I said earlier, I think it is important to remember that ABC Enterprises exists to further the ABC brand but to provide an additional revenue stream back to the ABC. We only undertake books that we believe will be profitable for us and generate a return. If *Jonestown* had not done that, it would have been a burden on the operation of the ABC. I have also, in my interviews, been at pains to make separate that commercial decision and the broad operations of the editorial integrity of the ABC, including its news and current

affairs division. I think it is important those issues not be confused. The board did not attempt to suppress the publication of the book.

**Senator CONROY**—Well, it succeeded.

**Mr Scott**—If the management team and the board were attempting to suppress the publication of the book, they would have simply slowed down its publication. They would not have allowed Mr Masters to say, ‘You can take your manuscript elsewhere and publish it elsewhere’ and there was a complete expectation that a publisher would pick it up and publish it, as has proven to be the case.

**Senator CONROY**—You have drawn a distinction between the standards that apply to products produced by ABC Enterprises and the output of ABC radio, TV and online content.

**Mr Scott**—Yes.

**Senator CONROY**—Do you think this is a distinction that is understood by the general public?

**Mr Scott**—Yes. That is a fair question and I think the *Jonestown* debate brought this into focus. ABC Enterprises operates under the auspices of the ABC and, of course, we are allowed to raise revenue under our operations. But unlike the rest of the ABC, clearly our radio, television and news and current affairs are not attempting to make profits, are not attempting to draw revenue. That is not what they are designed to do. It is what Enterprises is designed to do. Why are we in the Enterprises business? We are certainly not in the Enterprises business to take money away from radio, television and news and current affairs. We are in the Enterprises business so that we can extend the ABC brand under the auspices and the values of the ABC to bring revenue to our programming. Enterprises will deliver this year around \$20 million in revenue that we can put to programming. So, yes, our Enterprises business is in business to make money for ABC programming. We are unashamed about that and we believe it plays a vital and important role.

**Senator CONROY**—Do you think the general public understands the hair you have split there?

**Mr Scott**—I do not think it is a hair that is split at all. It is just that different parts of the ABC are designed to fulfil different purposes. Do the people who go into the 42 ABC shops and 88 ABC centres believe that we are helping to deliver a return to the ABC from those activities? Absolutely I think they do.

**Senator CONROY**—Are you prepared to put a health warning on the non-ABC products now?

**Mr Scott**—What do you mean by ‘a health warning’?

**Senator CONROY**—That this is ‘not covered by the editorial standards of the ABC’?

**Mr Scott**—It has nothing to do with the editorial standards of the ABC. What I am saying is that, broadly, the products for sale in the ABC shops and centres are items that have links back to ABC programming or that broadly come under that covering. So you will find DVDs there from the ABC, but also from the BBC and other activities that are programmed on the ABC. The reason we stock the BBC videos is that we believe they will make a profit that goes back to the ABC. The reason we record some ABC recording artists is that we believe they

will make a profit and help return money to the programming of the ABC. I do not think there is a disconnect in the community's mind on this.

**Senator CONROY**—Do you think that people who buy a book that has the ABC logo on it expect that a lesser editorial standard applies to it?

**Mr Scott**—I do not understand where you are coming from when you say, 'a lesser editorial standard'.

**Senator CONROY**—You are the one saying—

**Mr Scott**—No. I am talking about an additional burden, not a lesser burden. It is an additional burden that comes to bear on products that we put out through the Enterprises label. Not only does it have to meet our editorial standards and requirements—

**Senator CONROY**—No, it does not.

**Mr Scott**—it also has to be done in a way that makes money.

**Senator CONROY**—No. I am sorry. I listened to you carefully at the time of this debate, which unfortunately was in your first few days. You can just get lucky sometimes, Mr Scott. I do not know which cat you squashed or which mirror you broke. I listened to you quite carefully and you were quite clearly distinguishing between the material sold in your shop and its quality and—

**Mr Scott**—Do you have a reference, Senator, where you can quote me on that?

**Senator CONROY**—I am paraphrasing you. I am saying that I remember distinctly because I followed you on a number of shows.

**Mr Scott**—I disagree with you on your recollection. I am sure there are bona fides to your recollections, Senator. But as I understand what I was attempting to communicate there is that there is an additional burden that comes on Enterprises, which is that that material has to make money.

**Senator CONROY**—You were arguing the exact opposite, Mr Scott. You might want to sit back in the cold light of day—

**Mr Scott**—I absolutely disagree, Senator.

**Senator CONROY**—You argued the exact opposite.

**Mr Scott**—No, I did not. I argued that the products that we put out, be they music or books, or whatever else, through ABC Enterprises have to make money. Therefore, that is an additional burden and responsibility.

**Senator CONROY**—Do you think your board—I have removed you from the responsibility for this, Mr Scott—has any credibility when it comes to robust news and current affairs programming and content when it is scared off from producing a book published by ABC Enterprises because of the threat of legal action? Do you really think there is any credibility left for your board?

**Mr Scott**—Senator, I can tell you that in the board meetings that I have sat in on, I have received no indication from board members that they want us to, in a sense, be quiet and passive around our journalism and not to practise good quality, aggressive, investigative

journalism. There is nothing in our editorial policies that the board has endorsed that would be an inhibitor to good, investigative journalism. The only additional test around Enterprises was whether that book was going to make us money or cost us money if we were to publish it. Again, that is separate from the operation of the rest of the business. I received no signs from the board members in my dealings and discussions with them before I took on the role, and none since I have become a director, that they are not committed to ABC news and current affairs being committed to quality investigative journalism. I am a journalist by training and background, and if I did not believe the ABC was committed to high-calibre journalism I would not have taken on the job.

**Senator CONROY**—Your board lacks credibility because it ran up the white flag at the threat of legal action and one letter. Yet the board wants to be taken seriously about being interested in serious news and current affairs programming.

**Mr Scott**—I think the test for our news and current affairs journalism—

**Senator CONROY**—The test is that your board ran up the white flag and ran for cover.

**Mr Scott**—The test comes day in, day out, on *AM* and *PM*, the 7 o'clock news, the 7.30 *Report*, *Four Corners*, *Lateline*, *Lateline Business*, *Insiders*, *Outsiders* and *Landline*. There is the gamut of news and current affairs programs that we run day in, day out and that are of a scale, quality and veracity unmatched anywhere in Australian journalism. That is where our test comes, and I think we pass that test well.

**Senator CONROY**—Is the ABC aware of whether Mr Jones has instigated any legal action over the book since it was published?

**Mr Scott**—I am not aware of that, but I would not expect to be aware of that—

**Senator CONROY**—I think we would all be aware of it by now.

**Mr Scott**—because we are not publishing the book. So I do not know.

**Senator CONROY**—Mr Jones has not made any comments along the lines that he is planning on suing you over the book?

**Mr Scott**—I am not aware.

**Senator CONROY**—And there has been plenty of public debate about the book and plenty criticism of the book.

**Mr Scott**—Absolutely.

**Senator CONROY**—But Mr Jones has not indicated at any stage in the two or three weeks—

**Mr Scott**—I accept your word for that, Senator. I am not aware of any comments that he has made.

**Senator CONROY**—There is no legal action at all. So you ran for cover; the book gets published by somebody else; there is no legal action; and your board look like cowards and fools.

**Mr Scott**—I certainly cannot comment for Mr Jones. I do not know what actions he will take. Time will tell, but my experience on these matters is that, many a time, if defamation

action is taken, it is taken well after publication and not within the first two weeks. I have no idea of what Mr Jones will do, and it will not be a matter of concern to the ABC.

**Senator CONROY**—People do normally indicate pretty quickly.

**Mr Scott**—It will not be a matter of concern for the ABC.

**Senator CONROY**—Given the strong sales of the book, do you think the board's decision that the book would lose money is likely to be accurate?

**Mr Scott**—It is an interesting question, and it is a bit chicken and egg. One of the reasons there has been so much publicity around the book is all the publicity generated at the time the decision was made that the ABC would not publish it. That generated enormous publicity for the book. We have seen more of that publicity in recent weeks. We do not know.

**Senator CONROY**—You do not know. It is going to make money. Isn't Allen and Unwin reaping the benefits of an investment made by the taxpayers?

**Mr Scott**—To a degree, I understand that view.

**Senator CONROY**—It would be a fact, wouldn't it?

**Mr Scott**—Allen and Unwin did take the manuscript that had been commissioned by the ABC; that is well documented.

**Senator CONROY**—Can the ABC confirm that the book is actually on sale in ABC shops?

**Mr Scott**—Yes, it is; and I will tell you why. The book is on sale at the ABC Shop because it has been written by an ABC journalist. Some of that book had its origins in a *Four Corners* program. The decision not to publish the book was not based around the content of the book; it was based around legal advice and the commercial risk of the publication of that book.

**Senator CONROY**—It was not based on legal advice; it was an internal general counsel.

**Mr Scott**—Yes, a lawyer who provides legal advice to the board.

**Senator CONROY**—I think you probably need to get a new lawyer and a bunch of board members who understand something about commercial publishing, because clearly they have been completely wrong. They have run up the white flag. They look like cowards. They have damaged the reputation of the ABC board and the institution which we all care about, including you, and they look like financial fools because the book is making money. The board look like fools and cowards.

**Senator FIERRAVANTI-WELLS**—Mr Scott, you will be pleased to know that I have considerably reduced my questioning—

**Senator CONROY**—We are all pleased to know that.

**Senator FIERRAVANTI-WELLS**—On the issue of *Media Watch*, can I thank Ms Attard for putting my letter to constituents on her website.

**Mr Scott**—Yes.

**Senator FIERRAVANTI-WELLS**—And when she does get some complaints, could you pass on to her that I would be happy to receive copies of whatever comes.

**Mr Scott**—Yes, Senator. Even I have a copy of your letter to constituents.

**Senator FIERRAVANTI-WELLS**—You are a constituent in New South Wales, Mr Scott, so I am pleased—

**Mr Scott**—Senator, it says in your letter that you want to be contacted on instances of left-wing bias at the ABC, and I was interested in whether you were interested in any cases of bias.

**Senator FIERRAVANTI-WELLS**—I am happy to receive—

**Senator CONROY**—It is not possible for Senator Fierravanti-Wells to find right-wing bias. She is far out there.

**Senator FIERRAVANTI-WELLS**—Thank you, Senator Conroy! I only have 10 minutes—come on. There is a whole range of issues that I will put on notice, but one of the things that we have pursued for some time has been this issue of comments personally directed at the Prime Minister. Certainly the gist of the correspondence and material I have provided to you in the volumes I have certainly goes to that. For example, Jennifer Byrne, standing in for Richard Glover on Sydney radio, made this comment about the Prime Minister's attendance at the 50th anniversary dinner for *Quadrant* magazine:

I think what struck me was that the Prime Minister was making no excuse for his attendance at this.

Is it the view of journalists at the ABC that the Prime Minister should have to provide an excuse when he talks to a conservative audience? In another instance, a radio presenter in Darwin, Richard Margetson, made this comment when he was interviewing the Prime Minister on 4 October:

It is 23 past 10. John Howard is with us. He is the Prime Minister of Australia, in case you have never heard of him.

**Mr Scott**—It is a little difficult to respond to these. You are giving me sentences in the context of a conversation.

**Senator FIERRAVANTI-WELLS**—I am, but I will give you the rest.

**Mr Scott**—I suppose on the last one it does sound to me like an attempt at humour, making the point, I suspect, that the Prime Minister is the best-known citizen in the country.

**Senator FIERRAVANTI-WELLS**—I will provide them to you. I ask these in the context of something that has been very frequent at the ABC: this very strident and at times absolutely disgusting usage of material against the Prime Minister, which, I am sure, under the new editorial policies will be viewed with greater caution than it has perhaps been in the past.

I also want to raise some points about Mr Hicks. One of your news executives, Mr Sunderland, has seen fit to issue a memo about the picture of David Hicks firing a bazooka—or at least holding one. Your reporters have to make sure:

... that care should be taken to ensure it is used appropriately.

What does this mean? Does it mean that it should only be used if one of your stories refers to his time in Kosovo? That is the scenario that was put to me by one of your journalists. Also, how many times have you broadcast that photo since the memo was issued back in September?



**Mr Scott**—I do not have a copy of the memo.

**Senator FIERRAVANTI-WELLS**—You can take that part of it on notice. Would it equally be appropriate to use the picture of Hicks in a sweater at home in Adelaide only if your story referred to his time in Adelaide? I mean, how many pictures of Hicks do you have?

**Mr Scott**—There are not a lot, actually, and it is an issue, I think. For a long time that was the only picture of Hicks that was in circulation. I think there are a few more now. I am not sure of the origins of Mr Sunderland's memorandum, but I will get details and respond to you on that.

**Senator FIERRAVANTI-WELLS**—Thank you. I want to now take you to some comments that have been made following a speech by Mr Robb. I did raise it at question No. 169. This is the question of Mr Robb's speech where he only referred to the words 'integrate', but your journalist referred to it as 'assimilate'. It is question No. 169.

**Mr Scott**—I will just get a copy of it now.

**Senator FIERRAVANTI-WELLS**—Do you know the difference between 'integration' and 'assimilation'? Effectively, the first is 'an equal part of something' versus 'absorbed into', if I can make that distinction. In your answer to question No. 169, which queried why reporter Mark Tobin made a reference to a government policy of 'assimilation' even though the reference was to 'integration'. You said that was perfectly okay. Since then we have also had Mark Colvin on 15 September saying that the Prime Minister had referred to 'assimilation' when he actually referred to 'integration'. He never said anything about 'assimilation'. I will provide that to you. Indeed, in a story run on Friday, 15 September on *PM*—the reporter was Daniel Hoare—Mark Colvin specifically refers to 'assimilate' when the Prime Minister clearly on eight occasions during that interview referred to 'integrate'.

**Mr Scott**—Do you believe that the word 'assimilate' is somewhat more loaded? Is that the thrust of your question? Is it a point of grammatical or language accuracy? What are you suggesting?

**Senator FIERRAVANTI-WELLS**—No, I think it has a distinct meaning. I grew up in a culturally diverse environment and have been a part of that for a long time, and there is a difference in meaning between the words 'assimilate' and 'integrate'. In any case, if the Prime Minister or Mr Robb continue to use the word 'integrate', why do your journalists have to use the word 'assimilate' when the Prime Minister or Mr Robb have not used 'assimilate' but 'integrate'?

**Mr Scott**—Are you saying that because of the way they are using the language they would believe that 'assimilate' was an accurate reflection of their views? It partly goes to the question we had from Senator Ronaldson earlier. I think there are many occasions, particularly in journalism of the spoken word rather than written text—but certainly in written text as well—where journalists will not use a whole series of direct quotes, which read and sound a little bit like the reading of a press release, but will attempt to paraphrase.

**Senator FIERRAVANTI-WELLS**—I hear what you say, Mr Scott. I want you to go back and have a look at the speech that Mr Robb gave.

**Mr Scott**—Yes, okay.

**Senator FIERRAVANTI-WELLS**—It was a lengthy speech. It focused on integration and what integration meant. There was no mention of assimilation. They are, in my view, two different concepts. If there was a reference to ‘assimilate’ in speeches, then I would appreciate your comment, but there is no reference to it.

**Mr Scott**—I understand that, Senator. I think the thrust of the issue, which I will go back and investigate, is whether in fact in common usage there is an understanding that they are similar words and, in a sense, are transferable words or whether they are words with precise different meanings. So we will investigate that.

**Senator FIERRAVANTI-WELLS**—Mr Scott, you must consider that in the context of its meaning in the culturally diverse and contemporary culture of Australia.

**Mr Scott**—Yes, I appreciate that. We will come back to you on that.

**Senator FIERRAVANTI-WELLS**—Thank you. Finally, I want to end on something that has been raised on other occasions in the past, the use of the title ‘Mr’. Why do terrorists and paedophiles get the respectful ‘mister’ treatment from your reporters? For example—and I will produce all this to you—Faheem Lodhi is convicted of planning major terrorist attacks in Sydney, and we get seven references to ‘Mr Lodhi’ from Leigh Sales. Convicted child rapist Bradley Pendragon gets ‘Mr Pendragon’. Why? Your style guide talks about referring to some people and not others by their first name because it creates the impression of sympathising with people. There are two issues here. One is ‘mister’ and I really would appreciate your comment on that sort of usage of the title ‘Mr’. We have seen it with Osama bin Laden in the past.

**Mr Scott**—Yes, I understand that. I have not checked the style guide recently on that, but my broad understanding is that ‘mister’ is not used in association with someone who has been convicted. If in fact that has been the case that is a breach of the style guide that is distributed to staff. I am happy to talk about the use and operation of the style guide if you like, or perhaps we can discuss that some other time.

**Senator FIERRAVANTI-WELLS**—We have covered that terrain quite copiously in the past.

**Mr Scott**—I am happy that it has been dealt with in my absence.

**Senator FIERRAVANTI-WELLS**—We are still happy to traverse the same ground. I now want to ask you about the style guide rule on referring to some people and not others by their first name, because it creates the impression that the ABC sympathises with the person or the issue.

**Mr Scott**—Yes, that is right.

**Senator FIERRAVANTI-WELLS**—You have previously been provided with more than 100 examples of this, including David Hicks, Cindy Sheehan, Scott Parkins—cause celebres of immigration activists—and various ALP politicians. Can I add to the ABC sympathy list the following people: two Israeli conscientious objectors; federal independent MPs Peter Andren and Bob Katter, affectionately referred to regularly on the ABC as ‘Peter’ and ‘Bob’; ALP pollster Rob Cameron; British Labour leaders Tony Blair and Gordon Brown; Queensland Labor Deputy Premier Anna Bligh; ALP federal MP Peter Garrett; Major Alfredo

Reinado, the East Timor rebel soldier who has threatened to kill Australian soldiers; Abdulla Merhi, one of the Melbourne men committed to stand trial on terrorism charges; South-East Asia's most wanted terrorist and bomb-maker behind the Bali bombings that killed 88 Australians, Noordin Mohammed Top; and finally, the al-Qaeda leader Osama bin Laden. Could you please explain, given that we have traversed this terrain so many times before, and I will produce the pile again—and these are your own warnings that have been given time and time again—whether you are happy that listeners will form the view that the ABC sympathises with people like terrorists?

**Mr Scott**—Yes, Senator. It appears what you have outlined there is a continued distinction from the preferred approach that is set out in the style guide. We will continue to monitor and review it. I would simply say to you that the preferred approach is that first names not be used in those styles of interviews, but it does happen on occasions and, when it happens on occasions and it is drawn to our attention, it is drawn to the attention of the staff member concerned.

It is in the style guide for a reason and the reasons are as you have outlined. I would simply point out that we are going around the clock—65 radio stations. Many of those interviews will be examples of live microphones and live interviews that are taking place. In a lot of common day parlance and conversations, people do use Christian names, but we do use the 'Mr' or the 'Mrs' or the 'Ms' in the more formal interview setting. I imagine sometimes it does slip out. It is not the preferred approach in the style guide. When we are aware of the difficulty it is raised with the journalist and the reporter concerned. I would prefer that it did not happen as much as it does.

**Senator FIERRAVANTI-WELLS**—The reason I say it is a problem is that it is the same old offenders and they are senior journalists, people like Eleanor Hall, Barry Cassidy, Maxine McKew—we may not hear it from Ms McKew for too much longer.

**Senator CONROY**—You did not call her by her first name, did you?

**Senator FIERRAVANTI-WELLS**—I did.

**Mr Scott**—That is part of the challenge. The one that you talked about the other night, and you wrote to me about on the *Lateline* Friday forum, where Maxine McKew made a reference to a political candidate by her Christian name, that Friday night forum has a more relaxed, informal debating style.

**Senator FIERRAVANTI-WELLS**—The question I wanted to ask you is: under your new policies will all these forums now be covered?

**Mr Scott**—The editorial policy is covering the forums but the news and current affairs style guide, which is the one that you are specifically referring to, which covers the news and current affairs events—

**Senator CONROY**—Surely, you cannot possibly complain if Joe Hockey and I are having a debate and the compere refers to us by 'Steve' and 'Joe'?

**Senator FIERRAVANTI-WELLS**—I am just asking the question, Senator Conroy.

**Mr Scott**—Again, when we review these things—and I will go back to the things that we spoke about at the very beginning—some of these breaches will be more important than

others. There will be lots here and there will be some that are on Friday night at 11 o'clock with Senator Conroy and Mr Hockey together. That may not be a profound breach in the informal spirit of that debate. Some of the other examples that you commented on are more serious.

**Senator FIERRAVANTI-WELLS**—They are, and you understand the context in which I ask. It is those that are of particular concern.

**Mr Scott**—Secondly, when we weigh it up and look at it, we will look very carefully at those ones which have been prerecorded and should have been picked up by our processes compared to those that are happening with live microphones. Then we will look to track and see if our performance is improving over time. Even so, Senator, it is one of those things, with your media monitoring processes underway and everyone listening to those 65 live microphones where you will probably continue to be able to find breaches of this policy, I suspect.

**Senator FIERRAVANTI-WELLS**—Thank you. I do not have any other questions.

**Senator CONROY**—I would like to ask you some questions about the new deal for AFL radio broadcast rights that was announced a few weeks ago. I did note an article by Glenn Mitchell in the *Herald-Sun* where you were quoted as saying:

If the AFL walks away from having the national broadcaster calling the main Saturday afternoon match in Melbourne in pursuit of a buck, it does so at its own peril and at the peril of the game. Our message to the AFL is clear. They will have to live with that decision. We are still in robust discussions with the AFL, however they need to learn to work with the national broadcaster, not relegate it to a secondary caller of the game.

**Mr Scott**—Yes.

**Senator CONROY**—Are you happy with the outcome?

**Mr Scott**—It was a negotiation and I had a number of concerns. Some of my concerns were that under the initial proposals that came to us from the AFL we would not be able to have as comprehensive a provision of the game around the country as we had. Subsequent to that point of the negotiation some concessions were made by the AFL. I think we now have a satisfactory result. That result will allow us to provide a minimum of five games broadcast into Melbourne on a weekend: Friday night, Saturday afternoon, Saturday night, Sunday afternoon and the Sunday twilight game. All finals and public holiday games will be broadcast on the ABC. Western Australia and South Australia will be able to have all their local matches broadcast and *NewsRadio* will continue to provide a coverage.

Is that everything that we wanted, Senator? No, it is not. Do we still believe it demonstrates a fundamental commitment to the game and our ability to deliver the game around the country? Yes, we do. Given the price we paid compared to the money that the AFL got from the commercial broadcasters, our leverage to maximise the outcome for ourselves was somewhat limited but it has been in negotiation and there has been compromise on both sides and, yes, we think it is a satisfactory result.

**Senator CONROY**—You can confirm that under the deal the ABC is a second-tier broadcaster under the definition that you yourself described?

**Mr Scott**—We have not paid as much as the commercial broadcasters and therefore we have not been able to leverage the same deal that the commercial broadcasters have done. I am confident in the final wash-up, with the minimum of five games in Victoria, Tasmania, Western Australia, South Australia and the Northern Territory on the weekend, we will provide a strong and robust coverage, including plenty of Collingwood games, I am sure.

**Senator CONROY**—You are not calling the main Saturday afternoon match, though?

**Mr Scott**—It will depend on how many games are being played in Melbourne in the afternoon. There will be a number of times during the season when we are.

**Senator CONROY**—Yes, when there is only one.

**Mr Scott**—Yes, a number of times in the season when we are.

**Senator CONROY**—I know you are familiar with Melbourne Saturday afternoon and footy?

**Mr Scott**—Yes, indeed.

**Senator CONROY**—Let me assure you there are, on most occasions, more than one match.

**Mr Scott**—Yes, but there will be a number of occasions where there is one game.

**Senator CONROY**—A couple.

**Mr Scott**—I am pretty confident that between the Friday afternoon, Saturday night, Sunday afternoon and Sunday twilight games there will be other great games as well. The other thing I am confident about is that with our team—Gerard Whateley, Drew Morphet and the broadcasting team—

**Senator CONROY**—A good team.

**Mr Scott**—we have got the best team commentating on football in the country and we will continue to get terrific audiences.

**Senator CONROY**—It will not be calling the main match on a Saturday afternoon—what you described yourself as second tier.

**Mr Scott**—We did the best we could in the negotiation of it, Senator.

**Senator CONROY**—But you have ended up not getting the coverage of the main match in Melbourne on a Saturday afternoon.

**Mr Scott**—We did the very best we could in the negotiations. We were up against commercial competitors who reportedly had paid a million dollars for the rights.

**Senator CONROY**—Do you think this will have an effect on ABC audiences?

**Mr Scott**—I hope not. *Grandstand* is the pre-eminent sporting brand on radio. We are very confident that we are going to get terrific audiences for our Ashes broadcasts. We continue to do a lot of sport on the weekends.

**Senator CONROY**—I appreciate that.

**Mr Scott**—I would hope not.

**Senator CONROY**—I am talking about the impact from not getting the main football game on a Saturday afternoon in Melbourne.

**Mr Scott**—I would hope it would not have a significant impact on our audiences. We will monitor it and see, but we would hope not.

**Senator CONROY**—Are you familiar with the different levels of team support in Melbourne for different clubs?

**Mr Scott**—I certainly understand that Collingwood have rabid supporters.

**Senator CONROY**—It has a very big following, that is very true. I will declare I am a member of the Collingwood Football Club, which usually means that I am at the match on a Saturday afternoon. I do sometimes tune in while I am even watching.

**Mr Scott**—Yes.

**Senator CONROY**—Having said that, I will not be able to tune into the ABC while I am watching if Collingwood is the main match.

**Mr Scott**—It depends how they are performing in the season, I suppose.

**Senator CONROY**—That is true, but I am confident about next season so I am confident that I will not be listening to Collingwood on your radio station on Saturday afternoons any more. That is my problem, because I really do not want to listen to those geeses on the other channels. That is my serious problem.

**Mr Scott**—It was a negotiation, Senator. As I indicated to the AFL through those comments, and our negotiators indicated, we believe that the ABC—

**Senator CONROY**—I think it is a plot for you to cover Senator Kemp's team on a Saturday afternoon, frankly.

**Mr Scott**—has a vital role in furthering the strength of the game. We believe we will be able to provide comprehensive coverage. If you are asking me, Senator, was it everything that we wanted: it was not everything we wanted but we think it is a reasonable outcome in the circumstances.

**Senator CONROY**—There were media reports last week that the ABC may be in negotiation with Seven and Ten to show AFL matches next season.

**Mr Scott**—Yes. That is not true, Senator. We are not negotiating with them to show it on the main channel and we cannot show it on the second channel.

**Senator CONROY**—It has been reported that you could show AFL on ABC2, but this is not possible under Senator Coonan's restrictive media laws.

**Mr Scott**—No, it is not possible under the current guidelines on the coverage of AFL sport and antisiphoning.

**Senator CONROY**—If our amendments had got up, you would have been able to, but we failed.

**Mr Scott**—I note your comment, Senator.

**Senator CONROY**—We failed. But I would expect that I and other senators may want to comment further on ending up being a second-tier broadcaster—not necessarily as a criticism

of your negotiations but as a criticism of the AFL's in, to borrow your phrase, pursuit of a buck at the expense of the game. You may find they are very popular comments.

**Mr Scott**—They already got a spirited response from the AFL, as I recall.

**Senator CONROY**—And you should stick by them. Mr Scott, it was reported in the *Australian Financial Review* that you and Mr McDonald attended a Menzies Research Centre function on Friday, 4 August, where the minister gave a speech. Is that correct?

**Mr Scott**—Yes, indeed, and can I say—

**Senator CONROY**—I am sure you can understand where my questions will go.

**Mr Scott**—Senator, there were numerous leaders of the Australian media there from a full range of commercial and public sector broadcasters.

**Senator CONROY**—Did you pay to attend the event?

**Mr Scott**—I believe it was free of charge. It was not a lunch; it was a morning tea.

**Senator CONROY**—Are you aware of the link between the Liberal Party and the Menzies Foundation?

**Mr Scott**—I am.

**Senator CONROY**—Did you consider that your attendance might undermine public perception about the independence of the ABC?

**Mr Scott**—No. I was happy to attend that event. I have been invited, I understand, to speak at the Evatt Foundation at some stage in the future.

**Senator CONROY**—I feel sorry for you if you have!

**Mr Scott**—The minister was giving a speech which was important in the context of the media law reform. There was a significant level of expectation around that speech and that is why most media leaders in Sydney attended the event on that day.

**Senator CONROY**—Have you attended any other political party fundraisers since you took up your position with the ABC?

**Mr Scott**—No party fundraisers, no. I do not expect to attend any fundraisers.

**Senator CONROY**—Are any other board members attending?

**Mr Scott**—I cannot answer for the board.

**Senator CONROY**—Do you think it is appropriate for ABC management to attend political party fundraisers?

**Mr Scott**—I have not considered the issue. I do not intend to—

**Senator CONROY**—I am happy for you to take it on notice and give us your considered view.

**Mr Scott**—Yes, I will respond to you on notice on that.

**Senator CONROY**—What are the reasons behind the substantial changes in presenters on ABC Radio, Illawarra?

**Mr Scott**—I will have to take that on notice. I have not tuned into Illawarra much. I have not been to Wollongong yet, but I will be attending there in time.

**Senator CONROY**—Why are three longstanding presenters not currently broadcasting on the local station?

**Mr Scott**—I will take that on notice and come back to you.

**Senator CONROY**—Is there any truth—and we may even be able to confirm this right here and now—in the rumour that one local presenter was stood down following a complaint from Senator Fierravanti-Wells?

**Mr Scott**—There has been an issue with an announcer down there, but let me take that on notice and come back to you on it.

**Senator CONROY**—Was it in regard to a complaint from Senator Fierravanti-Wells?

**Mr Scott**—I would say that I have received numerous complaints from Senator Fierravanti-Wells on a full range of issues, so it might well be, but let me come back to you on notice.

**Senator CONROY**—Given the snowstorm that that probably represents, I accept that you may not be able to recall each of them.

**Mr Scott**—Yes. Thank you. I will come back to you on notice on ABC Illawarra.

**Senator FIERRAVANTI-WELLS**—Can I help perhaps, Senator Conroy?

**Senator CONROY**—We may be able to get to the bottom of this right now.

**Senator FIERRAVANTI-WELLS**—There have been a number of instances that led to complaints about issues on ABC Illawarra.

**Senator CONROY**—So you did make some complaints about an individual reporter?

**Senator FIERRAVANTI-WELLS**—I did make some complaints. I did indeed.

**Senator CONROY**—And they are currently not on air?

**Senator FIERRAVANTI-WELLS**—I do not know what the situation is. Mr Scott will be able to tell you whether they are.

**Mr Scott**—I will come back to you on that, Senator.

**Senator CONROY**—What ABC procedures are in place which protect the rights of journalists and presenters to procedural fairness in the event of complaints lodged by politicians?

**Mr Scott**—The ABC does not actually make a distinction between complaints lodged by politicians and complaints lodged by members of the public.

**Senator CONROY**—Even vexatious ones?

**Mr Scott**—There is a process that we follow when a complaint is made. There is an investigation that takes place on the facts of the matter, whether in fact editorial policies were adhered to and whether instructions were followed, and then we follow the usual disciplinary procedures that would follow from that.



**Senator CONROY**—You can understand that it does look a little odd that one journalist has been complained about by Senator Fierravanti-Wells in her home town and he is not there at the moment. But I look forward to your comprehensive response.

**Mr Scott**—Yes, we will respond to you.

**Senator CONROY**—Losing one is careless. Losing three does sound like a campaign of some sort.

**Senator WORTLEY**—A former ABC employee will face trial in Sydney in November for allegedly defrauding the ABC by using false petty cash claims, invoices, Cabcharge dockets and ABC credit cards between May 2000 and October 2004. How many members of your staff have been investigated and had allegations of negligence directed at them in relation to this case?

**Mr Scott**—I am not sure that we are in a position to answer that because it does relate to a matter that is before the court, as you suggest, and will be before the court in November. I cannot answer any question that is related to issues from within the ABC that will come up for trial in November.

**Senator WORTLEY**—This is not in relation to the court case as such but in relation to what you consider to be negligence.

**Mr Scott**—It is in relation to incidents that are going to be reviewed before the court in November, and so, of course, I cannot answer that.

**Senator WORTLEY**—Can you take the questions related to this on notice and provide the answers following that.

**Mr Scott**—Following the resolution of the court case, yes, we can.

**Senator WORTLEY**—How many of the staff members that are being or have been investigated came under the alliance and CPSU agreement and how many came under the senior executive agreement or AWAs?

**Mr Scott**—We will put that on notice for after November and the case resolution, assuming the legal processes are complete and no longer before the court.

**Mr Pendleton**—The court dates have been held over to sometime next year, actually, in relation to the court matter.

**Mr Scott**—When we are able to answer those questions, we will.

**Senator WORTLEY**—In response to these allegations coming to light in late 2004, the ABC embarked on an antifraud campaign during 2005, and I understand that Deloitte's were engaged during the second half of 2005 to undertake a survey about fraud prevention at the ABC.

**Mr Scott**—Yes.

**Senator WORTLEY**—At the budget estimates hearing in October 2005, I requested of you, Mr Pendleton, a summary of the results and you provided in your response:

Strategies to address the general risk of fraud within the ABC were detailed in the Fraud Control Strategies within the Fraud Control Plan. In this regard, the Corporation's fraud control strategies were

assessed against recognised better practice by Deloitte Touche Tohmatsu, who concluded that the strategy is 'highly effective' and existing fraud control efforts are 'excellent'.

In addition, the current Fraud Risk Assessment and Fraud Control Plan for 2005-2007 is in the process of being finalised and the results are due to be presented to the Audit and Risk Committee in its December meeting.

I understand that last Friday in the *Financial Review* there was an advertisement for risk management positions within the ABC, and I would just like to read from that, if I could, because it says in there:

The ABC is seeking two experienced risk professionals to implement the findings of a comprehensive risk review across the ABC. The manager risk analyst will motivate a small team and be hands-on in delivering the risk review recommendations and preparing management and board audit and risk reports.

Can you tell us what, in the outcome of the review, has led to the ABC going down the path of expanding its risk management team?

**Mr Pendleton**—They are slightly different issues. The fraud control plan will still be coming to the December board audit committee for its consideration, and that will outline a range of strategies in the coming two to three years to be undertaken by Group Audit in rolling out fraud prevention awareness activities within the organisation. Quite separate to that, the ABC has been doing a lot of work in terms of its risk management and the implementation of its risk management approach to and procedures within the ABC. We engaged KPMG to help us benchmark the work and our preparedness in terms of risk management, our policies and procedures, and made quite a comprehensive report of recommendations for lifting our risk management approach to the next level. Those two positions that you saw in the *Financial Review* are existing positions. They are just vacancies that have occurred over the last few months.

**Senator WORTLEY**—So they are not new positions—they are existing positions?

**Mr Pendleton**—Yes.

**Senator WORTLEY**—Thank you for clarifying that. I would like to move to *ABC Editorial Policies 2007*. Mr Scott, I was interested in the opening statement of your address to the Sydney Institute on the editorial values of the ABC in relation to the *ABC Editorial Policies 2007*. I very deliberately wanted to speak about this issue regarding the Sydney Institute. Could you expand on it, please?

**Mr Scott**—Yes, absolutely. I think there has been some misreporting of this. If you look carefully at my speech, what I am saying is that the ABC should not be defensive about criticisms but take them seriously, evaluate them and find out if there is substance. If there is substance, the ABC should attend to its own position. But if there are not problems then the ABC should mount a robust defence. I very deliberately went to the Sydney Institute, as I said in my speech, because Gerard and Anne Henderson have long been outspoken critics of the ABC. By me attending there and giving a speech there, it was symbolic of the ABC facing up to its critics and facing up to the hard questions, and I made a number of references to the ongoing criticisms of the ABC by Mr Henderson.

I must say that I think people did overreact. Everybody speaks at the Sydney Institute. The Prime Minister, the Leader of the Opposition, umpteen ministers, umpteen shadow ministers and other public servants. Senator Conroy I am sure has appeared there. It is a place where you go and give a major speech.

**Senator WORTLEY**—It was deliberately chosen—

**Mr Scott**—Yes, to face down the critics. That is my view.

**Senator WORTLEY**—In relation to the complaints procedures that are outlined in the *ABC Editorial Policies 2007*—and perhaps we might be able to clarify some of this—complaints in the first instance go to Audience and Consumer Affairs?

**Mr Scott**—Yes.

**Senator WORTLEY**—If management and the ABC disagree with a course of action or finding then it goes to the Director of Corporate Strategy and Communications?

**Mr Scott**—Yes.

**Senator WORTLEY**—There is the Complaints Review Executive, which is a senior manager with editorial experience, and then there is the Independent Complaints Review Panel, which is established by the board. Then ACMA, of course, is the final one. In 13.7.14 you refer to the Independent Complaints Review Panel. It reads:

Reviews will be conducted entirely informally, without legal representation.

I take it that these reviews will include reviews with ABC staff?

**Mr Scott**—Senator, we have found the clause. What is your question on the operation of that?

**Senator WORTLEY**—I take it that these reviews will include interviews with ABC staff.

**Mr Green**—They may do.

**Senator WORTLEY**—They may do?

**Mr Scott**—We are saying that it is not a formal process. We are not saying it is a role with barristers. It is about sensible people sitting down and reviewing the substance of the matter.

**Senator WORTLEY**—In relation to that, there have been some concerns raised because it talks about legal representation. Will staff be entitled to union and/or legal representation at those reviews?

**Mr Green**—Normally we would be seeking information about a program. There is no process of investigation that—

**Mr Scott**—It is not a disciplinary hearing.

**Senator WORTLEY**—On that point, in that same section it talks about:

ABC staff will not be obliged to disclose confidential sources which they are entitled to protect at all times.

**Mr Scott**—Yes.

**Senator WORTLEY**—So it does indicate that it could be journalists that are called to—

**Mr Scott**—They could be there and be talked about. But, as I am saying, it is not a disciplinary process. It is an investigation to find out how the story has come together, what the processes were that were undertaken by the journalist and program maker—

**Senator WORTLEY**—Will they be entitled to union representation?

**Mr Scott**—It is not a union related issue, I do not think. It is an interesting one, Senator. Staff members can bring along someone else if they are involved in a formal disciplinary process, but this is not a disciplinary process. This is an investigation to find out whether our journalism was right or not.

**Senator WORTLEY**—So the answer is?

**Mr Scott**—It has not come up before. Let me take that on notice and come back to you formally.

**Senator WORTLEY**—Thank you. I understand that there was discussion with the relevant unions regarding ABC prize money for radio journalists being distributed back to the specific program team that the journalist or program maker was part of, but that the ABC did not honour the undertaking and has implemented or put forward the policy.

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

**Senator WORTLEY**—In regard to conflict of interest—I always read those sections with interest—do you consider tutoring in journalism at a recognised university by an ABC journalist, in their own time, to be a conflict of interest?

**Mr Scott**—The conflict of interest section talks about potential conflict of interest, actual conflict of interest and a perceived conflict of interest. I think the answer to your question would very much depend on the person and the circumstances at the time. We say:

There should be no conflict between the private interests of ABC staff and their official duties. The outside activities of staff, including financial, personal and political relationships, must not compromise the editorial integrity of ABC programs. Staff are expected to arrange their affairs in a manner that will prevent conflict of interest.

It would very much depend on the circumstances at the time.

**Senator WORTLEY**—I am familiar with what it says. Can you see a situation of conflict of interest where a journalist has been asked to tutor at a university?

**Mr Scott**—Yes, I could—absolutely.

**Senator WORTLEY**—Would you like to elaborate?

**Mr Scott**—I would imagine that if that tutoring involved people that were then being reported on by the program that the person works on, that would absolutely be a conflict of interest.

**Senator WORTLEY**—If there was a reporting of that particular program, then obviously the journalist would have to declare a conflict of interest. But, given that there was no story in relation to the university—

**Mr Scott**—It sounds to me like you are talking about a specific case. You asked me if there are any examples where I could see there would be a conflict of interest and I said that there were. If you have a specific case that you would like us to address—

**Senator WORTLEY**—No, I do not have a specific case that I would like you to address at this stage. What I would like is clarification of tutoring at universities in journalism courses by ABC staff in their own time.

**Mr Scott**—My only answer to that would be that it depends, and it would depend as to whether in fact that tutoring gave rise to a potential or actual or perceived conflict of interest. That would depend on the circumstances at the time.

**Senator WORTLEY**—Thank you. I do have some other questions but I will put them on notice.

**Senator LUNDY**—I have one question. I did indicate to the witnesses earlier that I would ask some questions and I will place them on notice. Can you ever envisage a time when the ABC would be willing to pay for the rights to broadcast the national women's netball league or, indeed, the tests?

**Mr Scott**—We are committed to covering women's sport. We have a better track record on that than anyone else in broadcasting, as you know. The market clearly does not exist around the competition for bidding for those kinds of programs as it does for some other sport, but we are going to continue to want a close relationship to enable us to broadcast these sports where we can. I do not have the details of the commercial arrangements before me now, but I am happy to come back to you on that.

**Senator LUNDY**—If you could take that on notice, and also the ratings of the recent test series, that would be very interesting.

**Mr Scott**—They were very impressive. We were delighted, and we were delighted to be able to show that deciding test live.

**Senator CONROY**—Absolutely, and congratulations for taking that decision.

**Senator LUNDY**—Yes. It was a very good decision to have the last game live.

**Mr Scott**—Thank you, Senator.

**CHAIR**—We thank the ABC and Mr Scott. You have given a strong performance, Mr Scott, on your first appearance here.

**Senator CONROY**—I am not sure that that is what Senator Ronaldson would say.

**CHAIR**—We will have a short adjournment.

#### **Proceedings suspended from 8.04 pm to 8.06 pm**

**CHAIR**—Just for the sake of the information of the departmental officers here, we are just going to change the agenda a little. We have DCITA appearing three times between now and the conclusion. We are going to hear Australia Post, ACMA and then the department as a block. We call Australia Post, who appear to have come in force. I welcome the officers from Australia Post. I know Senator Parry has been waiting to ask some questions, so we might start with him.

**Senator PARRY**—I will first of all do something novel and address some financial figures out of the annual report. There is an item on page 75 of this year's annual report, the one signed off on 29 September. Under 'Current liabilities, payables' there is a figure for unearned postage revenue. Could that figure be briefly explained to the committee, please?

**Mr Tenace**—That is in regard to stamps in the hands of the public, which are stamps that have been prepaid on behalf of the service that is yet to be performed.

**Senator PARRY**—Like an unrepresented cheque, but in the form of a stamp?

**Mr Tenace**—Yes, that is correct.

**Senator PARRY**—Could someone explain: under ‘Licensed post offices’, is there a net figure of the return for the 2,975 licensed post offices back to Australia Post that you could point me to?

**Mr Tenace**—No, there is not in the annual report.

**Senator PARRY**—Can you estimate what the revenue from licensed post offices would be? I gather it is a positive figure, if we could establish that in the first instance.

**Mr Tenace**—I would assume it would be.

**Senator PARRY**—Any idea?

**Mr Tenace**—No, I would not be able to guess at this stage.

**Senator PARRY**—Is that something that is ascertainable through internal figures of Australia Post?

**Mr Tenace**—It is probably a question we would have to take on notice.

**Senator PARRY**—Thank you, I would appreciate that. Talking about licensed post offices, it is described on page 24 and again on page 46 of the annual report, but in particular 24, where it indicates the relationship is quite a sound one and it regards licensed post offices as business partners. There are some quite glowing comments about them there. On page 46, it is very similar. Under the heading Saturday—and I quite like the way the report addresses some of the issues with Australia Post—it basically talks about the Moora licensed post office, located 189 kilometres north of Perth, as ‘a favourite place for locals to stop and chat,’ so it really displays the image of licensed post offices as being an integral part of Australia Post. Can you indicate the relationship with the licensed post offices and the Licensee Advisory Council, how that is linked and how valued you see the LPOs?

**Ms Button**—The Licensee Advisory Council is made up of representatives from licensees who are elected by their peers and representatives from Australia Post.

**Senator PARRY**—And does Australia Post have a good relationship with those?

**Ms Button**—Yes, it does.

**Senator PARRY**—Are there current complaints at all?

**Ms Button**—About the process itself? No.

**Senator PARRY**—About anything to do with licensed post offices, LPOs?

**Ms Button**—There is the occasional issue that does arise but we have processes to deal with those at local, state and national levels.

**Senator PARRY**—Can you indicate, are there any major national complaints on the cards at the moment?

**Ms Button**—Not that I am aware of, no.

**Senator PARRY**—In relation to payment details at retail agencies and LPOs, is there a difference between retail agencies—that is, Australia Post owned or controlled retail agencies—and the LPOs, which act as retail agencies? For example, do they have the full range of merchandise? Is there any discrimination between the agencies and the LPOs?

**Ms Button**—There is a core range of services that licensees have to take on, and they are generally the core Australia Post offers: bill payments and some basic banking services.

**Senator PARRY**—Could I just stop you on bill payment. What are the requirements that the LPOs have on bill payment? For example, is there a monthly amount they must meet? Do they have minimum transaction figures?

**Ms Button**—No. We do not actually set targets for them. They set their own budgets. We pay them a commission based on the volume of transactions and the commission will vary depending on the agency principal.

**Senator PARRY**—Would you be aware of the cost for LPOs to have EPOS, which is Australia Post's equivalent of EFTPOS, I suppose. What does EPOS stand for?

**Ms Button**—Electronic point of sale.

**Senator PARRY**—Without the terminal aspect and the funds aspect? So the EPOS that Australia Post has, do you know the cost involved for each LPO to install and have or maintain or be given, or whatever the licence agreement is?

**Ms Button**—Not off the top of my head. I can get that information for you.

**Senator PARRY**—Okay. Do you have one charge for each LPO? Is it a standard charge across the nation?

**Ms Button**—That is my understanding, but I will confirm that for you.

**Senator PARRY**—That would be appreciated. Are you familiar with a product called Bill EXPRESS?

**Ms Button**—Yes, I am.

**Senator PARRY**—Does Australia Post have an issue with Bill EXPRESS?

**Ms Button**—They are a competitor of Australia Post.

**Senator PARRY**—That is right; as a competitor. Apart from being a competitor, there are no other issues at all?

**Ms Button**—Billpay is part of the core service that a licensee offers on behalf of Australia Post, so if a licensee was to choose to then do something similar for Bill EXPRESS, they are going against the agreement that they have with Australia Post.

**Senator PARRY**—What does that agreement specify? I will not hold you to the exact wording, but are there particular clauses or particular tenets of that agreement?

**Ms Button**—Yes, there are. It talks about being in competition with the core services that they have agreed to take on for Australia Post. I can get the wording for you.

**Senator PARRY**—It would be good if you could provide that on notice. What would happen if someone in a post office, an LPO, had signed up a contract—I understand you have contracts where you can—for what is called the Bank@Post scheme? Are you familiar with

the Bank@Post scheme? They are three-year agreements, I understand. If someone had signed up for a three-year agreement and then also took on Bill EXPRESS, what would happen to the three-year agreement?

**Ms Button**—I think, and I will have to confirm this, we do go through a process. It is a similar process to any other instance where a licensee might take on a service that is in competition with a core service. We would go through the local area manager, providing advice and reasoning and then escalating it if necessary.

**Senator PARRY**—Has the Licensee Advisory Council made any complaints concerning the issue of EPOS and the relationship with Bill EXPRESS?

**Ms Button**—The only discussion that I have participated in on the Licensee Advisory Council has been one where they recognise that Bill EXPRESS is a competitor and a competitive threat.

**Senator PARRY**—Is there any complaint concerning charging of Australia Post if they have a Billpay account as well? It has not been raised at all by the licensee?

**Ms Button**—Not at a national level, no.

**Senator PARRY**—Would you be aware if any state has raised this?

**Ms Button**—If it has not been resolved at the state level it gets escalated to the national level, so if it has been raised at a state council and resolved, then I might not necessarily hear of it.

**Senator PARRY**—I have information that, in relation to the current payment of \$90 per month—\$1,080 per annum—to have an EPOS terminal with Australia Post, if the same LPO installed Bill EXPRESS because a certain client base needed it for other clientele who were not in competition with Australia Post, the LPO now has to pay \$7,500 per annum because they have Bill EXPRESS. Are you familiar with that fairly high increase in annual rentals or annual agreement fees?

**Ms Button**—No. We will have to take that on notice. We have a different charge depending on the number of transactions a licensee might bring in through the outlet, but I do not have the details with me.

**Senator PARRY**—I would appreciate you looking into that. I understand that 10 licensed post offices in one state are affected and that, through the Licensee Advisory Council, Australia Post has been made aware of the matter but that there has been no further progress. I would appreciate it if you could look at that as well and provide that information to the committee.

Does Australia Post have a policy about competitor groups that they might necessarily use the same client base? I can give you an example in my home state of Tasmania. Aurora, the power company, has a preference for Bill EXPRESS, and customers who like to do everything at a one-stop shop—similar to what is said on page 46 of the annual report this year—do so because these LPOs are so friendly and so community based. The prevention would be that this particular LPO would have to pay something like a tenfold increase in annual fees to maintain Bill EXPRESS as well as be an LPO. Is there an Australia Post policy that indicates what the guidelines should be, how competitive you should be and what sort of



strong deterrence you would have in place to deter Bill EXPRESS from being available to LPOs?

**Ms Button**—Only in relation to the core services that are contained within the LPO agreement. Other than that, we do not really have any strong—

**Senator PARRY**—So the core services simply stipulate not to have a competitor bill-paying service, and that is it. There is no other consideration?

**Ms Button**—For bill payment, no, that would be it. There have been some particular instances in Tasmania that I am aware of, but I believe that that has been resolved with the licensees having a direct agreement with the agency principals in question.

**Senator PARRY**—How do you mean they have been resolved?

**Ms Button**—There was a situation where they wanted to go through Bill EXPRESS to be able to offer certain agency principal bills, but then I think Bill EXPRESS pulled out of it and they were able to deal directly with the agency principal. Again, I can give you details of those.

**Senator PARRY**—I would be interested—and I am sure the committee would—in any policy guidelines or directives you may have in relation to dealing with competitors.

**Ms Button**—Sure.

**Senator PARRY**—I think we would all be sympathetic to the fact that Australia Post needs to be competitive and have an advantage for their own product, but I find those figures, if correct, to be fairly out of whack with normal deterrence fees and charges. Thank you on those issues. I think the other matter concerning the breakdown of LPO revenue into Australia Post is going to be taken on notice, so they are all the questions I have.

**Senator CONROY**—In February and May we talked about Australia Post's practice of sending injured employees to a medical examination by facility nominated doctors, or FNDs. In May 2006 the AIRC, based on clause 26.5.10 of the award, decided that Post was not permitted to direct injured workers to attend company doctors or threaten disciplinary action if they did not. At the time of the last estimates, Post indicated that it was going to appeal the decision to the full bench of the commission. Did Post proceed with that appeal?

**Mr McDonald**—It lodged an appeal, but the advice from our legal people after we lodged the appeal was that it would not have provided the necessary clarity to enable those provisions to properly operate. These are longstanding provisions and they are important in ensuring that we have a process that helps rehabilitate people from illness and injury as quickly as possible, with a safe return to the workplace. As a result of that advice we took the alternative course of issuing a determination under the Australian Postal Corporation Act, and we advised the union and the staff at the time.

**Senator CONROY**—You were going to lose the case on appeal.

**Mr McDonald**—No, certainly not. We lodged an appeal, as I indicated to you in the May hearing.

**Senator CONROY**—Yes, and then you chose not to proceed with it.

**Mr McDonald**—For the reasons I said. We had legal advice—

**Senator CONROY**—You were going to lose.

**Mr McDonald**—We lodged an appeal. When we worked through that appeal, the legal advice was that the more appropriate course to get clarity of procedures and to make sure we had things defined so that managers understood clearly what they needed to do in this arena was the issuing of a determination under the Australian Postal Corporation Act, which we have done for some other conditions.

**Senator CONROY**—You were going to lose the appeal, so you used the Australian Postal Corporation Act to unilaterally change the terms and conditions of employment to override the conditions of the award.

**Mr McDonald**—No. I said we were not going to lose the appeal. The appeal did not proceed. I have explained the reasons why we went down the course of issuing a determination.

**Senator CONROY**—Because you were going to win, of course!

**Mr McDonald**—No, because it needed to be provided a clear set of procedures, which would not have been provided if we had won the appeal.

**Senator CONROY**—How many other employers in the country have the ability to rewrite the rules when a commission decision goes against them?

**Mr McDonald**—I cannot answer that.

**Senator CONROY**—Because you did lose the original case.

**Mr McDonald**—We had a decision made, yes, by the Industrial Relations Commission that that award provision only provided for a medical assessment in a narrow set of circumstances, as was discussed at the last hearing. That provided, as I said to you in May, a deal of concern for us because this was a longstanding provision which was necessary for us to have a safe workforce and to help people back after injury. That had been a longstanding process.

**Senator CONROY**—Why didn't you let the appeal go through?

**Mr McDonald**—For the reasons I have said.

**Senator CONROY**—You could still be having the appeal right now. The change did not rule the appeal out.

**Mr McDonald**—We wanted to have a clear set of procedures.

**Senator CONROY**—But you could have had that and won the appeal as well.

**Mr McDonald**—We did not need to, because the determination provided that set of conditions in the appropriate detail, and we have attached management guidelines on the operation of that.

**Senator CONROY**—The last time we discussed this issue there were serious legal issues arising if the commission decision stood, which is the case right now. The commission decision stands. That's correct, isn't it?

**Mr McDonald**—No, it is not.

**Senator CONROY**—I'm sorry? They have made a determination, you have not appealed it and therefore it stands, or have I missed something?

**Ms Walsh**—It was our advice following the decision of Senior Deputy President Drake that the manner in which that matter was conducted in the commission—that is, it was not a full hearing, there was no evidence provided and we did not have the opportunity to provide full submissions—meant that, in effect, it was not a decision and therefore was not appealable or would not result in a proper appeal process.

**Senator CONROY**—A decision was made. You accepted that a decision was made. You can only appeal a decision.

**Ms Walsh**—Our advice was that it was not properly a decision made—it was more in the form of an opinion.

**Senator CONROY**—So you just get to sit here and say that and you do not ever have to put your money where your mouth is?

**Ms Walsh**—In effect, we took that advice. We saw that there was going to be a lack of clarity going forward on an important policy that provides some critical elements for us in providing safety in the workplace, getting people back to work and being productive in the workplace.

**Senator CONROY**—Can we just strip away the gobbledygook rubbish, okay? A decision was made by a commissioner. You had the choice to appeal it and you ran.

**Ms Walsh**—No, Senator. The advice that we had was that it was not a decision that could be properly appealed and it was not a decision that would give us an outcome that would allow us to go forward with some clarity. On that basis, we looked at the alternatives, and the alternative was to proceed with a principal determination under the Australian Post Corporation Act.

**Senator CONROY**—You might want to table your legal advice, because until we see that we are just going to keep laughing at you every time you try and pretend it was not a decision.

**Ms Walsh**—That is the advice that we have.

**Senator CONROY**—Mr McCloskey, are you willing to table your legal advice?

**Mr McCloskey**—I think we would need to take that on notice.

**Senator CONROY**—I am sure you will. You want to sit here and pretend that a decision is not a decision. You did not have the guts to appeal it and now you want to try and pretend that it is not an outcome. It is a decision. There are serious legal ramifications from you not appealing and overturning this decision. You can put up every piece of legal sophistry you want but you are going to need better legal advice than you have been getting so far to not cost taxpayers hundreds of millions of dollars. There is no retrospective effect on this decision by the AIRC, is there?

**Ms Walsh**—No, there is not.

**Senator CONROY**—What is the status of all the information obtained by Australia Post purportedly in reliance on the award clause?

**Ms Walsh**—The advice that we received is an issue that the senator put at the last Senate estimates hearing. Again, we sought advice on that and the view is that that information has been properly obtained.

**Senator CONROY**—But the commission has ruled that it has not been—that you have improperly used the award.

**Ms Walsh**—As we answered at the start, it was the case that it does not apply retrospectively. In the intervening period between the decision and when we proceeded with a principal determination, we did not proceed with the application of that policy, so we did so with no retrospectivity.

**Senator CONROY**—I am talking about all the years of cases that you have illegally obtained medical information for.

**Ms Walsh**—Our advice is that there was no such illegal obtaining of information over that period.

**Senator CONROY**—For years Australia Post has coercively gathered private medical information without legal authority. You cannot use the award as the reason for gathering that information.

**Mr McDonald**—This has not been a situation of gathering illegal information.

**Senator CONROY**—You have gathered this information illegally.

**Mr McDonald**—This has been a situation of us referring people for medical advice in situations where they have an injury in the workplace, with a view to getting them back to work. As we discussed at the last hearing, there are riders around what information is provided and how that is used.

**Senator CONROY**—You have obtained illegal information—obtained it absolutely illegally—and you should be ashamed of yourselves, all of you.

**Mr McDonald**—Our advice is that it has not been obtained illegally and our advice is that the determination is an appropriate legal course to take.

**Senator CONROY**—I am not questioning whether or not you found a different way to try and obtain this information. That is not the issue. The way that you have obtained information has no standing in law, none whatsoever. You have coercively obtained medical information from your employees and you should be ashamed of yourselves, at a minimum.

**Mr McDonald**—We are proud of the fact that we have been able to get people back into the workplace and rehabilitate them from injury quickly, often at no cost to the individual.

**Senator CONROY**—Will some compensation claims need to be re-opened because they were determined on the basis of information that was illegally obtained? Have you taken legal advice on that?

**Ms Walsh**—We have not taken legal advice on that. My initial view would be that, no, we would not, but I am happy to take that point on notice.

**Senator CONROY**—There are some great class actions coming. I hope you are going to get better lawyers. Will Australia Post review the cases where the unlawfully obtained FND reports were used to deny claims for workers compensation entitlements?

**Mr McDonald**—We have pointed out that that information, on our advice, was not obtained illegally.

**Senator CONROY**—Will you be reviewing the cases where you denied claims on the basis of this information?

**Mr McDonald**—No, we will not, for the reason I said.

**Senator CONROY**—While you might want to pretend to yourselves that you have done the right thing, have you taken any advice about whether you have any liability if the doctors are found guilty of illegally passing on information?

**Ms Walsh**—We have not taken any advice on that.

**Senator CONROY**—I think you should because I am sure, as their employer, that you are going to be faced with some claims from them soon, and you are going to need good legal advice about this. Are you aware if doctors are going to be faced with any class actions for having illegally passed on information?

**Mr McDonald**—No, certainly not.

**Senator CONROY**—Do you think it is a possibility?

**Mr McDonald**—No, for the reason we have said—that we have had good legal advice that we have acted appropriately.

**Senator CONROY**—You have not got any legal advice on this issue at all. I am talking about what the doctors have done now, not what you have done. The doctors have illegally passed information on. They have actually got a problem as well and they are going to come knocking on your door when the class actions start hitting.

**Mr McDonald**—We do not believe that is the situation and, as indicated, we will look at that issue.

**Senator CONROY**—I have been made aware of the case of a Mr Stuart Garfath who works at Seven Hills. He states that when he injured himself at work in August he attended an FND with his supervisor. Mr Garfath says that the doctor in question rang his manager during the examination. He states that he was excluded from the conversation and he gave no permission for it to occur. Is that the sort of practice permitted under this new determination?

**Mr McDonald**—I do not know of that particular case. We have laid down some clear guidelines. I should say there are two mechanisms here. One is where somebody suffers an injury in the workplace. We offer them the opportunity to voluntarily—it is up to them—go to one of our doctors. They can go to one of theirs if they wish.

**Senator CONROY**—Voluntarily? Does the supervisor usually go in a voluntary situation?

**Mr McDonald**—They may go to assist the person in getting there. I do not know the details of the case you are talking about. I do not know whether the doctor contacted the manager about what sorts of duties might be available in that particular work location.

**Senator CONROY**—Mr Garfath does not know what the conversation consisted of because he was not allowed to participate in it or listen to it.

**Mr McDonald**—We would need to look into that, Senator.

**Senator CONROY**—Is this within your procedures?

**Mr McDonald**—No. It is something we would need to look at.

**Senator CONROY**—Is it legal for the doctors to phone up and behave like this?

**Mr McDonald**—I think it is appropriate for a doctor to check what sorts of duties might lie in the particular workplace. It might help that person to come back.

**Senator CONROY**—So they are allowed to pass on the information from the worker?

**Mr McDonald**—Not the medical details.

**Senator CONROY**—It must be a fascinating conversation: ‘I can’t tell you what’s wrong with him but is there any work where he can just sit down?’ That must be a hilarious sort of conversation. You do not really believe conversations like that take place, do you, Mr McDonald?

**Mr McDonald**—Yes, I do. If the person agrees for details to be provided between doctors, that is a separate thing. Our doctors are there to look at assisting the person in terms of treatment and to look at what might be available in terms of return to the workplace.

**Senator CONROY**—And if they do not want to be assisted in the treatment?

**Mr McDonald**—If the individual does not?

**Senator CONROY**—Yes.

**Mr McDonald**—That is up to the individual. As I have said, the treatment is totally voluntary.

**Senator CONROY**—The examination is voluntary?

**Mr McDonald**—If a person has an injury in the workplace, we offer them the opportunity of going to one of our doctors. This is distinct from a fitness for duty assessment. If they go to one of our doctors—

**Senator CONROY**—Does that mean that you are entitled to their information if they go under any circumstances?

**Mr McDonald**—What sort of information?

**Senator CONROY**—Their medical information.

**Mr McDonald**—No.

**Senator CONROY**—Do you think by specifying that they could only work sitting down, for instance, that might be giving away medical information?

**Mr McDonald**—No.

**Senator CONROY**—Your answer would suggest it is.

**Mr McDonald**—I would think that would be quite legitimate in ascertaining what work might be available in that particular work centre that might suit the person’s particular situation. This is about assisting an employee to get back to work. That is a voluntary process.

**Senator CONROY**—It is about blatant bullying and illegal activity by your organisation, Mr McDonald. That is exactly what this is about.

**Mr McDonald**—Totally the opposite, Senator. This is something we are extremely proud of: the ability we have had to get people back into the workplace with rehabilitation. That is a process that is strongly supported by Commonwealth and state bodies. We take a lot of pride in that process. We provide that service free of charge. It is voluntary, as I said. We have doctors who understand the Australia Post workplace. It is something that has grown up over time because the benefits have been there. We have had 8,000-plus people who have taken up that opportunity. We have had very few complaints about it and if we had a complaint about treatment—

**Senator CONROY**—I have been presenting lists of them to you for six or 12 months now, Mr McDonald.

**Mr McDonald**—There was a list of 10, Senator, 12 months ago. Two of those were found to be situations where the supervisor had not acted appropriately and they were dealt with. In terms of a workforce of 36,000 and 8,000-plus referrals, it is a success story.

**Senator CONROY**—I am afraid I do not take on face value any statement by Australia Post that people are engaging in this voluntarily—not a shred of face value on that statement. You might be very proud of it. I look at it as bullying and intimidation.

**Mr McDonald**—Quite the opposite. We have a form which I can provide to you which is given to each person who attends. The benefit, as I said, is treatment by somebody who understands the workplace. It is generally a situation where our doctors will see the person much more quickly than a private GP would. Most of our people continue to see the facility nominated doctors because of that benefit, but they can go to their own doctor and take their own doctor's assessment.

**Senator CONROY**—If an injured employee attends an FND examination as directed under your principal determination but (a) only presents themselves for a standard medical examination, being an eye test, temperature test, blood pressure test, stand on one leg et cetera, (b) does not allow your FND to treat or conduct an examination of the work injury, and (c) directs the FND in writing that he or she has no authorisation to forward personal private medical information to Australia Post, what would be Post's reaction?

**Mr McDonald**—Under that principal determination there is an ability for us to assess fitness for duty—not to give treatment but to assess whether somebody is fit to go back into the workplace. As you would know, I think, there is a provision that if somebody has been off work for 13 weeks—

**Senator CONROY**—I am not talking about the 13 weeks. Do not revisit that, Mr McDonald. You have run that rabbit out every time we have got into these discussions. This is not about the 13 weeks and coming back to work.

**Mr McDonald**—Alternatively, if we have a doubt about somebody's capacity to go back to work—about whether they are safe from their own perspective or from the perspective of the impact they might have on others in the workplace—we have a right to have them referred for a fitness-for-duty assessment. We also have a right, if somebody, say, cuts a finger in the workplace or has a minor injury and the time off is at odds with that, to have them assessed. It is an assessment for fitness for duty, not treatment. The person still has the right to accept the treatment given by their own doctor.

**Senator CONROY**—I appreciate all that you are saying, but I have given you a very specific example.

**Mr McDonald**—Yes.

**Senator CONROY**—You have directed them to attend.

**Mr McDonald**—Yes.

**Senator CONROY**—They present themselves for a standard medical examination: eye test, temperature, blood pressure, stand on one leg et cetera. They do not allow them to treat or conduct an examination of the work injury and direct the FND in writing that they have no authorisation to forward personal, private medical information to Australia Post. Would Post seek to discipline this employee?

**Mr McDonald**—I do not know the circumstances of that.

**Senator CONROY**—No. I have just presented you with a very straightforward set of circumstances. An employee that you forced to go and see one of your doctors presents in that exact fashion and hands them a piece of paper that states these three things.

**Ms Walsh**—In the circumstances, if that is a workplace injury, it would be dealt with under the workers compensation legislation, which is an entirely separate set of circumstances and does have compulsory requirements for an employee to undertake medical examinations.

**Senator CONROY**—Yes, but not with your doctor.

**Mr McDonald**—Yes. Under the workers compensation legislation the person can be referred to a doctor chosen by the delegate assessing the workers compensation claim.

**Senator CONROY**—Yes, the delegate. That is not you. It is not Australia Post's directive.

**Mr McDonald**—No, that is the delegate assessing the workers compensation claim.

**Senator CONROY**—Yes. That is an entirely different set of circumstances. Do not try and draw them together. They are completely different. This is an injured employee who attends an FND examination as directed under your principal determination, so you have directed them to go to this doctor. They walk in and hand the doctor a piece of paper that states those three things. Will you discipline them?

**Mr McDonald**—That situation has not happened, but the assessment is on fitness—

**Senator CONROY**—Will they be in breach of your determination if they present in that manner?

**Mr McDonald**—They need to be assessed by the doctor as to whether they are fit for duty. That depends on the role they have and the work they undertake. The details of the specific medical examination that would be done by a doctor in that situation, I cannot speculate on.

**Senator CONROY**—In Mr Garfath's case, the employee left the surgery and the supervisor purchased crutches next door in the chemist. The doctor ruled him fit for duty the next morning. He subsequently got treated by an independent doctor that he had never seen before, who put him off for a week. It sounds like you have a very zealous bunch of supervisors and doctors.

**Mr McDonald**—I do not know the particular details of that case.



**Senator CONROY**—The supervisor buys him crutches and he still gets sent back to work.

**Mr McDonald**—That would need to be looked at. I do not know the circumstances of that case. I am happy to take it on notice to have it looked at and to see what the context was. If he claims crutches were bought, I do not know, but we would take any—

**Senator CONROY**—The supervisor buys him crutches. What are these guys on? A percentage? Are their bonuses so badly linked to making sick people work?

**Mr McDonald**—I do not know whether the supervisor was trying to assist that person or if the doctor had recommended that he needed crutches. Perhaps that was a very beneficial thing for the supervisor to do, there and then. If we had a concern raised about the medical assessment given by one of our doctors on the individual, we would take it seriously and have it examined. There are hardly any that have been raised.

**Senator CONROY**—Under the culture of fear and bullying that exists in your organisation on this matter, I am not surprised.

**Mr McDonald**—I disagree with you, Senator, totally.

**Senator CONROY**—Hopefully you will not ever get injured and have to test it.

**Mr McDonald**—I point out again the numbers that I gave you of people who go through this process and continue to go through it.

**Senator CONROY**—They are forced. Do not sit here and try and pretend you have got some success on your hands when it is absolutely forced. It is mandatory, especially now.

**Mr McDonald**—At the end of the day, we have a responsibility to help people who are injured in the workplace in their rehabilitation, and that is exactly what we are doing.

**Senator CONROY**—I would like an answer to the question I have asked you. If a person presents under your determination and follows the three points I have mentioned, will Post seek to discipline the employee? It is pretty straightforward.

**Mr McDonald**—I have said to you before that the assessment required needs to have regard to the responsibilities of the job. That is a theoretical question that you are posing. It is a medical assessment. I cannot answer what the appropriate medical assessment required is. As I said to you, we have not had the situation raised.

**Senator CONROY**—The only report they are able to make is about a standard medical examination: an eye test, a temperature test, blood pressure, stand on one leg et cetera. They are not allowed to conduct an examination of the work injury, and the FND is not allowed and has no authorisation to forward personal, private medical information to Post. It is very straightforward, Mr McDonald. If you want to say, 'I'll give you a considered answer on notice,' that is fine, but I would have thought, given that your experts are right here, that you would be able to answer the question.

**Mr McDonald**—No. I will give you an answer on notice. As I said, it is a theoretical question, but I will check it and respond to you.

**Senator CONROY**—Is Australia Post aware that their FNDs are placing themselves in a situation that has the potential to lead to medical review board complaints and potential

litigation due to FNDs engaging in conduct outside standard ethical medical practices because of the Hippocratic oath: that they are here to help, not to do your bidding?

**Mr McDonald**—Certainly not.

**Senator Coonan**—Senator Conroy, the way you have put that question, it is entirely speculative. You can put facts but you cannot put a speculative position and then ask the officers to agree.

**Senator CONROY**—I did not ask him to agree. I asked him if they were aware.

**Senator Coonan**—How could they be aware of that? It is not a factual position.

**Senator CONROY**—I am aware of it, and I do not even work with Australia Post. I am not running the program.

**Senator Coonan**—I think you accept positions very readily, Senator Conroy. Let me put it that way.

**Senator CONROY**—No, I just asked him if they were aware. I did not ask him to agree.

**Senator Coonan**—But aware not of a fact; aware of an allegation that you are talking about. It is not based on a fact.

**Senator CONROY**—Mr McDonald, sorry? The minister spoke over you then.

**Senator Coonan**—You cannot put that to a witness, Senator Conroy—not properly.

**Senator CONROY**—So you are pleading the fifth, an appropriate thing to plead at this point.

**Senator Coonan**—We do not have the fifth, but what we do have is questions based on facts and you are entitled to ask the officers about facts.

**Senator CONROY**—You are not aware of any circumstances like that, Mr McDonald?

**Mr McDonald**—No. I have said I am not, Senator.

**Senator CONROY**—Thanks. I could not hear you because the minister kept talking over you. Can Australia Post advise whether the AMA or any other recognised medical professional body supports your FND policy and principal determination?

**Mr McDonald**—I am not aware of any concerns from the AMA. We have looked at our injury prevention management process before with the AMA. They have not raised any concerns.

**Senator CONROY**—Are they aware of it?

**Mr McDonald**—Through management prevention processes, yes, they are.

**Senator CONROY**—Yes, FNDs. I would like to just get some data on the use of FNDs; and I am happy for you to take these questions on notice.

**Mr McDonald**—Yes, certainly.

**Senator CONROY**—How many employees, state by state, have been directed to attend an FND under your principal determination? How many of these employees have made a workers compensation claim for lost time, injury, treatment or medical consultation/examination? How many of these employees have been denied liability for

incapacitation or partial incapacitation payments with their workers compensation claim? How many of these employees have exercised an appeal against Post's refusal to accept liability or make total or part workers compensation payments; and of these appeals, how many have been revoked at the reconsideration level, AAT proceedings or entered into a settlement? Thanks.

Last estimates we discussed the number of armed robberies at Australia Post outlets. In answer to a question on notice, Post disclosed that there were more than 90 armed robberies at post offices across Australia last financial year. You noted in your reply that there had been a 50 per cent reduction in armed robberies since 1997-98. What has been the trend in more recent times?

**Mr McCloskey**—The figures were based on a decline from 1997-98, when there were 230 armed robberies nationally, to 105 in 2005-06. In New South Wales, because I think that was where your interest was, over the same period the reduction was from 145 to 53.

**Senator CONROY**—I was trying to get a sense of what the trend had been in more recent years, though.

**Mr McCloskey**—I can provide you with that. If I take it, on a national level from 2001, it is a downward trend.

**Senator CONROY**—I was going to ask for data for the whole 10 years.

**Mr McCloskey**—I can do the full 10 years. I have got figures here. Nationally, starting in 1997-98, it was 230, 199, 144, 125, 130, 112, 111, 103 and 105 last year. For New South Wales over the same period it was 145 in 1997-98, then 115, 56, 61, 86, 74, 56, 47 and 53.

**Senator CONROY**—Did you say there had been 230?

**Mr McCloskey**—In 1997-98 nationally there were 230; down to 105 last year. This year so far for the September quarter nationally there have been 18, which is a decline of 25 per cent on the equivalent for the previous year, and in New South Wales there were a total of five, which was a decline of 67 per cent.

**Senator CONROY**—Post's response gives the impression that it is satisfied with its security arrangements, but 90 armed robberies is still disturbing.

**Mr McCloskey**—We are satisfied that we have a comprehensive risk assessment in place and that we have appropriate security, given that risk, for our outlets.

**Senator CONROY**—What additional measures does Post propose to protect staff and customers from the trauma of an armed robbery?

**Mr McCloskey**—If staff or customers are exposed to the trauma of an armed robbery, there would be appropriate counselling provided.

**Senator CONROY**—I was surprised to see that only 72 per cent of corporate outlets have a closed-circuit TV.

**Mr McCloskey**—That is the national figure. In New South Wales it is 90 per cent. It is based on the actual assessment, a risk assessment, of the individual outlets. There are three levels of risk: low, medium and high. Where an outlet is assessed to be of medium or high

risk, then the installation of CCTV is compulsory, whether it is a corporate outlet or indeed a licensed outlet.

**Senator CONROY**—Every 7-Eleven in the country, I think, has a closed-circuit TV.

**Mr McCloskey**—Our assessment processes have been endorsed by ASIO and by Comcare. The security standards that relate to those were developed in consultation with the CEPU and POAAL, both of whom sit on a security forum that meets quarterly. There was a comprehensive review earlier this year, in February, of the whole process as well.

**Senator CONROY**—You have had a record profit. That is right?

**Mr McCloskey**—That is correct, yes.

**Senator CONROY**—A \$367 million record profit.

**Mr McCloskey**—The figure is in relation to a restated figure for the previous year under AIFRS, the new international accounting standards. So in a comparison, year on year, that makes this year just gone a record profit, even though the absolute figure was slightly lower than that reported for the previous year.

**Senator CONROY**—Do you agree that closed-circuit TVs are an effective deterrent?

**Mr McCloskey**—They are considered to be necessary as a security item where we believe the particular offices are at a medium or a high risk of target for robbery.

**Senator CONROY**—Do you think you could consider as a minimum security measure the installation of CCTVs in every post office outlet, given you have got a record level of profitability?

**Mr McCloskey**—It can certainly be considered, but within the processes that I described to you and the various standards that are applied where the risk assessment is applied. If the feeling is that there is a need, certainly it will be there. But if it is not felt that there is a real risk of that particular office being targeted, then it is not a requirement. I should add, though, that in all new offices CCTV is being installed and also in any refurbished offices.

**Senator CONROY**—I understand that. But I am just saying that they cannot be that expensive, given you have made a record profit of \$367 million, just to top up the rest of the network.

**Mr McCloskey**—It is not related to our profit levels. It is a security group and their assessment and processes that have been put in place in consultation with the CEPU and POAAL. It is a whole wide range of security issues, one of which is CCTV.

**Senator CONROY**—I have been lucky enough to tour one of your mail centres in a previous committee process. Are there a lot of robberies at mail sorting centres?

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

**Senator CONROY**—I noted a lot of CCTV cameras at all of the mail centres where there do not seem to be, as you have said, any robberies.

**Mr McCloskey**—Those CCTV cameras are there for internal security purposes.

**Senator CONROY**—To ensure staff do not rob?

**Mr McCloskey**—To ensure the integrity of the mail centre.

**Senator CONROY**—To ensure the staff do not rob the mail, which is fair enough. Does every single mail sorting centre have one of those—in fact, many more than one? Having wandered round, I did note that there were many.

**Mr Newman**—All our major mail centres do have internal CCTV for internal mail security. That is correct.

**Senator CONROY**—So it is good enough to spy on your own workers to make sure they are not robbing the place, but an armed hood could come wandering in and you are not prepared to commit to putting CCTVs in all of your outlets?

**CHAIR**—That is not fair. It is perfectly reasonable to have internal security. Senator Conroy, you have had more than half an hour. We might go to Senator Ronaldson.

**Senator CONROY**—I have one or two more questions on this area, if I could finish; if that is all right, with your indulgence?

**CHAIR**—We will indulge you, Senator Conroy.

**Senator CONROY**—Thank you. You did not get to answer the question.

**Senator Coonan**—Which question?

**Senator CONROY**—I did not ask you a question, Senator Coonan.

**Senator Coonan**—No, which question?

**Senator CONROY**—I was asking, given the record level of profitability, given that you are prepared to put cameras internally on your own staff to make sure they are not robbing the mail—a perfectly reasonable thing—is it not reasonable to put a CCTV in each of your outlets?

**Mr McCloskey**—I have described the crime risk model that our security group have in place and operate as one that is appropriate to the retail environment. It is one that has been approved and endorsed by ASIO and Comcare and one that has been put in place, in terms of the security standards that apply, in consultation with the CEPU and POAAL.

**Senator CONROY**—I know this will not be your preferred reading, but I am looking at the CEPU journal, page 3, the spring 2006 edition, which has a photograph of Stu Garfath on crutches. I appreciate you will not be able to see this and I will not wave it around because it is no use to *Hansard*; but there is a very clear picture of the poor guy on crutches, despite the fact that the doctor has ordered him back to work.

**Mr McDonald**—Senator, as I indicated to you, we will look at that particular case, but the record has been as I said. It has been a very successful process, with very little concern raised. If there is a concern raised, we will take it seriously and examine it. We are happy to do that.

**Senator CONROY**—It is not hard to find more information than I have given you. Stuart Garfath's photo is in the journal, along with quite a bit of commentary along the way. It should be easy for you to track down. I do have more questions, but I will happily pass over.

**Senator RONALDSON**—Who is our firearms and fire parts through the mail expert?

**Mr McCloskey**—I will try and answer any questions you may have on that.

**Senator RONALDSON**—You are the man, Mr McCloskey, are you—fully boned up on this issue?

**Senator CONROY**—I do not want you to steal my questions, Senator Ronaldson. It is a Liberal Party plot!

**Senator RONALDSON**—Can you just run through the decision that was made earlier this year to ban the international carriage of firearms and parts. Is that right?

**Mr McCloskey**—That is correct—in January of this year.

**Senator RONALDSON**—What about internally?

**Mr McCloskey**—Domestically, there is no absolute prohibition. The difference between the international mail stream and the domestic mail stream from Australia Post's perspective is that we have a way of knowing what is in a parcel, if it is in the international mail, because there is a requirement for a Customs declaration. Given that the legislation domestically in many states prohibits the delivery of firearms in the mail and, in some cases, the sending of firearms in the mail, Australia Post's view was that it could not be knowingly complicit in a breach of state legislation.

Domestically, we have no way of knowing what is in the mail. If something is lodged in Australia for delivery in Australia, there is no declaration on it. We do not ask what is in it, but we do make people aware of what the state legislation may contain through our Post guides, and we see the onus being on the individual or the business to ensure that they comply with state legislation.

**Senator RONALDSON**—Is it, effectively, banned internally?

**Mr McCloskey**—Within Australia?

**Senator RONALDSON**—Yes.

**Mr McCloskey**—Banned by Australia Post or banned by state legislation?

**Senator RONALDSON**—Is it Post policy that there is not to be the transfer by post of firearms parts and components?

**Mr McCloskey**—Domestically?

**Senator RONALDSON**—Yes.

**Mr McCloskey**—No, it is not banned.

**Senator RONALDSON**—It is not?

**Mr McCloskey**—No.

**Senator RONALDSON**—So you will not stop the flow, even if they were identified?

**Mr McCloskey**—If somebody were to say to us, 'This particular parcel contains a firearm,' and we were aware that it was illegal in that state for a firearm to be sent through the mail, obviously we would not carry it. But, in the normal course of domestic business, people lodge parcels and there is no need to inquire what the content is.

**Senator RONALDSON**—Okay. So you are making value judgments about what the domestic law is of some of these states and you are banning licensed gun dealers from

sending through this material if they identify it. So you are happy for them to send it through illegally, according to you, if it is not identified, but if it is identified, then you will not let them do it.

**Mr McCloskey**—We are not happy for us to be knowingly complicit in a breach of state legislation.

**Senator RONALDSON**—Have you got your own legal advice in relation to these state laws?

**Mr McCloskey**—We have. We have analysed the state legislation and, within our Post guide it is itemised at a high level as to what is allowed and is not allowed in particular states.

**Senator RONALDSON**—Well, let us go through it: Tasmania. That is Senator Parry's state. If you are a licensed firearms dealer, you can send to and from, can't you?

**Mr McCloskey**—The—

**Senator RONALDSON**—Well, the answer is yes. Northern Territory: it does not apply if you are the holder of a firearms dealer licence; sending it outside, again, if you are the holder of a firearms licence. New South Wales: what are the rules there? Licensed firearms dealer: you are allowed to.

**Mr McCloskey**—In New South Wales and, indeed, in Tasmania, it is not permissible for the delivery or receipt by mail or to cause to be received by mail in those states firearms, and in the case of Tasmania, I think also firearm parts.

**Senator RONALDSON**—This section does not apply to a licensed firearms dealer who is sending to, or receiving from, another licensed firearms dealer any firearm, firearm part or ammunition.

**Mr McCloskey**—Which state are you referring to?

**Senator RONALDSON**—Tasmania. This is the Firearms Act, section 100 subsection (6), 'Mailing firearms and ammunition within state'. Section 101, 'Mailing firearms outside state': 'A person must not send any firearm, firearm part or ammunition to any person by mail unless (a) the person sending it holds a firearms dealer licence.' What was the reason for this ban?

**Mr McCloskey**—Basically, as I think I explained at the May estimates, this whole area was looked at in response to changing operational circumstances faced by Australia Post, both with incoming and outgoing mail, and incidents that had arisen in both directions. What caused the prohibition to be imposed was that quite a number of state laws explicitly prohibited the delivery of firearms and, in some cases, firearm parts by mail.

**Senator RONALDSON**—Mr McCloskey, you are not seriously coming back to this committee after the event, after you have been shown up, trying to find another reason—

**Senator CONROY**—After I have asked those questions.

**Senator RONALDSON**—Exactly—after Senator Conroy asked those questions. Your reason now is the state laws, is it?

**Mr McCloskey**—That is what I explained to the committee back in May.

**Senator RONALDSON**—You have been telling anyone who is prepared to listen that the reason for this was because of 81 incidents which apparently held up the mail.

**Mr McCloskey**—We have certainly referred to 81 incidents.

**Senator RONALDSON**—You most certainly have.

**Mr McCloskey**—We have also referred to incidents of outgoing mail dispatches being delayed and interrupted and we have also referred to state legislation that, in many instances, prohibits the use of mail for the carriage of firearms and firearm parts.

**Senator RONALDSON**—But you are not talking about the incidents anymore, Mr McCloskey. They have dropped off.

**Mr McCloskey**—I was explaining that that was what caused Australia Post to look at this in the first instance, to focus on it: we had a number of interruptions, both incoming and outgoing.

**Senator RONALDSON**—How many of these 81 incidents, these stoppages, involved firearms or firearm parts?

**Mr McCloskey**—In the 81 incidents, they were different forms of weaponry. I have since been informed by our friends in Customs, I think since the last hearing, that none of them actually involved firearms or firearm parts.

**Senator RONALDSON**—No, not a single one of them.

**Mr McCloskey**—That is correct.

**Senator RONALDSON**—One of the reasons for you—

**Mr McCloskey**—But they were weaponry.

**Senator RONALDSON**—interfering with the livelihood of these people was based on an absolutely false premise—that those incidents related to firearms or firearms parts, and that is not correct, is it?

**Mr McCloskey**—As I think I have explained previously, that is what caused us to look at this whole area in the first instance. It left us with a view that we had no option but to proceed and maintain such a prohibition, and to define it in the way in which we did was because of the complexity of state legislation and the explicit prohibition in many instances of the use of the mail to carry firearms and firearm parts. We have also indicated that we perfectly understand and sympathise with the position in which people find themselves and we would be more than happy to review the scope of the prohibition, particularly insofar as inert firearm parts are concerned, were there to be a change in the legislative environment.

**Senator RONALDSON**—I am intrigued. If you thought that there was an issue with state legislation, why would it take only one unsubstantiated stoppage to bring your attention to that?

**Mr McCloskey**—That is just how it happened. From an operational perspective, we were concerned that, with 100 per cent screening of incoming mail, there were increasing instances where weaponry and things like grenades and whatever were causing interruptions to our processing. Outgoing, we had instances where whole mail dispatches were held up in transit at Heathrow, where firearms had been removed from dispatches. So it was looked at and it



just developed through the policy process. Our legal people, when they were brought into it, focused on the actual state legislation and what its implications were for the carriage of firearms in the international mail.

**Senator RONALDSON**—Mr McCloskey, I will personally apologise to you—and Senator Conroy might want to listen to this as well—if I am wrong with this, but I would bet a not insubstantial amount of money that the initial premise for this decision was the time that the stoppages were taking coming through the mail centre. We had all sorts of discussions about this, about what had to happen and who did what when the alarm bells went off or whatever it was—up to two or three hours at a time—and that was the initial premise.

**Mr McCloskey**—That is right. That is absolutely correct. We have never denied that.

**Senator RONALDSON**—And it was wrong!

**Mr McCloskey**—Yes, in a sense, that is right. It was not the correct premise but what it did was reveal a legislative situation.

**Senator RONALDSON**—How can a three-hour stoppage in an international mail centre, or whatever it might be, in any way relate to state laws? Even Senator Conroy could not draw a bow as long as that.

**Senator CONROY**—I think I could!

**Mr McCloskey**—We have never claimed that the stoppage related to state law. It was state law that ultimately left us with no option but to impose the prohibition that we imposed and to define its scope in the way that we did.

**Senator CONROY**—When did you discover that you had actually banned them for the wrong reason and that the evidence that you had given to us was incorrect?

**Mr McCloskey**—No, what I am saying now is quite consistent with the evidence that I gave in May at the estimates hearing. If you go back and look at the transcript, you will see that what I am saying now is exactly what I was saying in May, other than in relation to the 81 incidents, which at that stage we did not realise did not contain any firearms as such.

**Senator RONALDSON**—Could you provide the committee with a copy of the letter or whatever that first went out when this matter came to your attention.

**Senator CONROY**—Would that be the smoking gun?

**Senator RONALDSON**—Yes, I suspect it might be. It would have got through! Can you provide me with correspondence that went anywhere immediately after this decision was made, whether it was to people who complained about the decision or—

**Mr McCloskey**—Certainly I can.

**Senator RONALDSON**—And that will refer to both of these matters, will it?

**Mr McCloskey**—It would depend. I cannot say for certain.

**Senator RONALDSON**—I suspect it would depend on when it was sent out. Mr McCloskey, have you been involved in tripartite meetings with Customs and AQIS?

**Mr McCloskey**—No. I normally would not be involved in any such meeting. I attended a meeting some years ago that both Customs and AQIS were involved in, but not on this issue.

**Senator RONALDSON**—Has anyone else on Post's behalf been to any more meetings other than the one you have been to?

**Mr McCloskey**—Yes, there are regular tripartite meetings involving Post, AQIS and Customs.

**Senator RONALDSON**—In relation to this issue?

**Mr McCloskey**—This issue was first raised operationally with Customs in, I think, September 2003 and was developed over a number of meetings subsequent to that. No, I was not involved in any of those particular meetings.

**Senator RONALDSON**—Can you take on notice whether there was a tripartite meeting on 2 December 2005 at which Australia Post undertook to provide details of the proposed prohibition.

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

**Senator RONALDSON**—Can you advise the committee whether that was provided to the tripartite group prior to the decision being made on 6 January.

**Mr McCloskey**—Yes.

**Senator RONALDSON**—If indeed in that tripartite meeting on 2 December the expectation was that this would be provided to the group prior to any decision being made, why would you have gone ahead and made that decision without any reference back to the tripartite group?

**Mr McCloskey**—Are you asking me to take it on notice, because I do not know exactly what transpired.

**Senator RONALDSON**—I have just asked you a question. If you want to take it on notice, you can.

**Mr McCloskey**—I do not know what transpired at that particular tripartite meeting in early December of last year.

**Senator RONALDSON**—If at that meeting Post had agreed to provide the tripartite group with details of the proposed prohibition, would it be unreasonable to expect that you would have gone back to that tripartite group with the proposal prior to its implementation?

**Mr McCloskey**—If it is as you describe, then I would agree.

**Senator RONALDSON**—Yes, thank you. Can you take the rest of that on notice. Just so I am absolutely clear, the initial—

**Senator CONROY**—I think you have got it clear already, Senator Ronaldson.

**Senator RONALDSON**—I do not know whether I have. I just need to double-check it, Senator Conroy. Just so I am absolutely clear, the initial decision was the 81 incidents.

**Mr McCloskey**—The 81 incidents was a contributory factor, that is correct, and also an increasing number of incidents and the fact that we had had a number of occasions when firearms had caused interruption at transit points overseas, particularly at Heathrow Airport. In one instance, that had caused a delay of just on three weeks to a whole mail dispatch.

**Senator RONALDSON**—I would be interested to see that correspondence that I asked you to table before, because I have in front of me a letter, which I am not going to table, which makes it quite clear that the prohibition was imposed because of concerns about increasing delays in mail processing, and the words are used, ‘You’ll also note Australia Post is now concerned,’ which is in relation to the state laws.

**Senator CONROY**—I note that Australia Post’s annual report once again reported record profits, which we have already discussed, including high levels of productivity returns when compared to the national average. I have also noted the significant increases with executives’ salaries and cash bonuses since 2004. How much have those increases been in the last year or two?

**Mr McCloskey**—In our annual report we detail the salary levels for I think it is the six or seven most senior people within the organisation with responsibility for managing it.

**Senator CONROY**—But given the outcomes, the increases in salaries and cash bonuses are reasonable, aren’t they? I could say ‘generous’. I could use a lot of other words.

**Mr McCloskey**—Yes, they are in line with, sort of consistent with, what is payable in the marketplace.

**Senator CONROY**—Can Australia Post confirm that it is refusing to maintain the longstanding employee condition of a tea-break in the new agreement?

**Mr McDonald**—We have given an undertaking that we will maintain custom and practice in relation to tea-breaks. In fact, we are into EBA7 negotiations at the moment. Our EBA6 expires at 31 December. We gave a commitment to maintain existing custom and practice on tea-breaks.

**Senator CONROY**—So why won’t you include it in the document?

**Ms Walsh**—The reason we were not going to include it in our new EBA is that it is in the existing EBA, EBA6 as it is colloquially referred to, and it simply says in that agreement that custom and practice in relation to tea-breaks will prevail—a fairly simple statement, one would imagine.

**Senator CONROY**—What is wrong with having the same simple statement in EBA7?

**Ms Walsh**—EBAs in our view should avoid conflict over those issues. Unfortunately, during the life of EBA6 there have been a number of disputes relating to what is custom and practice in relation to tea-breaks, so we have had commission hearings and the like around those sorts of issues. It is our view that tea-breaks are best worked out, as to the timing and duration, in the workplace, and that is the best place for it. It is not the best place for it to be in an EBA, where it is dealt with at a national level. On that basis, we think that is how it should be dealt with.

**Senator CONROY**—You have record profits, you have generous increases for the executives on the basis of the record profits, and you are too tight to write a tea-break into the award.

**Ms Walsh**—It is not an issue of being ‘tight’, if that is the word for it. The issue is: what is going to be the best outcome for the efficient running of workplaces? And we think the best outcome is for it to be worked out at workplace level. We have made a commitment, and we

have said this to the union representatives during our EBA7 negotiations, that there is no intention on the part of Australia Post to remove tea-breaks. It is simply an assessment about where the best place is to have those tea-breaks assessed and worked out, and that is the workplace.

**Senator CONROY**—Mr McDonald is getting a \$123,000 cash bonus, a 25 per cent annual pay rise, and you are quibbling about tea-breaks.

**Mr McDonald**—I think, as Ms Walsh has said, we are not quibbling about tea-breaks. We are providing tea-breaks in accordance with custom and practice. We gave that undertaking previously and we are continuing that, and that is part of the discussions we are currently having in relation to the new prospective EBA7.

**Senator CONROY**—You can understand how it looks, Mr McDonald. I did not mean to pick on you personally; it is just that you are the only one at the table. Mr Bill Mitchell has done particularly well. He has got a \$148,000 cash bonus and an annual pay rise in total of 60 per cent. Somebody seems to be benefiting over the increased productivity of Australia Post, and I would have thought that quibbling about the tea-break, given that it is already in the documents and you are saying you are going to keep it away, really is a pretty mean effort.

**Mr McDonald**—There is no suggestion of us taking away the tea-break. We are not. We are maintaining custom and practice.

**Senator CONROY**—Then write it into the award.

**Mr McDonald**—We have said it here on the record and we have said that to the union in negotiations. It will continue.

**Senator CONROY**—And in mail centres in Victoria? There is some suggestion that mail centres in Victoria, the state I am from, will lose their tea-breaks as part of this wonderful negotiation process.

**Ms Walsh**—I am not sure of the basis upon which that information has come to you, because that is certainly not the case. Again, we have affirmed to the union—and to our employees, importantly—that we will be maintaining tea-breaks. As I said, it is just a matter of where they are best worked out and agreed.

**Senator CONROY**—Do you agree that Post is in a position to offer its award employees a pay increase comparative to last week's Fair Pay Commission decision, given the record profit margins and productivity levels?

**Mr McDonald**—Our staff are currently paid above the minimum wage, and in terms of negotiation with the unions we proposed a pay increase of three per cent plus \$500 bonuses in terms of EBA7. In fact, our staff get a two per cent pay increase next month. But that is all part of negotiation.

**Senator CONROY**—Two per cent and \$500 compared to 60 per cent and \$148,000.

**Mr McDonald**—I think, as Mr McCloskey explained, the basis for management levels is set according to that market, and we do salary surveys on that.

**Senator CONROY**—I am not being critical of the fact that you have done a good job in terms of Australia Post. I am just pointing to the disparity between the negotiating position

you are adopting with your workforce and the generosity of the information listed in your own document. I am not accessing any secret information, just what is in your Post—

**Mr McDonald**—No. I am just pointing out the different bases on which pay is set, according to which market. I do not think it is appropriate to get into the detail of EBA7 here because we are in the midst of negotiations.

**Senator CONROY**—Sure, and I am not trying to buy into it—just the ‘in general’ stuff. I am just drawing the point out that there is a generous pay package based on increased productivity and profitability for the executives, and I have no quibble. I think you are doing a great job in a general sense, notwithstanding some of the arguments we have had earlier tonight.

**Mr McDonald**—Thank you.

**Senator CONROY**—I think the way Post is run has been a fantastic transformation.

**Mr McDonald**—Just let me say that in terms of EBA7 and in terms of the pay increase for our award based employees, we have put together a package which includes a roll-up of existing conditions. It includes job security and a fair pay outcome, and job security is integral to us continuing to provide jobs without the need to compulsorily retrench people, which we have been successful in. There are different bases, but we think it is a very good package we have put together for EBA7.

**Senator CONROY**—Hopefully, the workers think that too.

**Mr McDonald**—I would hope they see that.

**Senator CONROY**—And hopefully they get to keep their tea-breaks in the award.

**Mr McDonald**—I have just assured you that that is what we are doing.

**Senator CONROY**—Just be glad yours does not get listed in there, Ms Walsh. Does Australia Post provide lists of its licensees, franchisees, to outside parties—for instance, suppliers?

**Ms Button**—No, we do not.

**Senator CONROY**—Are suppliers of goods or services permitted to use the official mail service to circulate information on their products to LPOs?

**Ms Button**—They have to pay for it.

**Senator CONROY**—I understand the official mail was recently used to circulate mail from two insurance brokers; is that correct?

**Ms Button**—They paid for it.

**Senator CONROY**—How much did they pay?

**Ms Button**—I cannot tell you, but I can find out. They would have been the commercial rates that we offer our customers.

**Senator CONROY**—It was full postage?

**Ms Button**—Yes, it would have been. They provided the collateral, I understand, and we distributed it. I will check.

**Senator CONROY**—Did it include labour costs and stationery? I am happy for you to take these questions on notice.

**Ms Button**—Thank you. I will have to take that on notice.

**Senator CONROY**—Is this a service open to other suppliers of products and/or services?

**Ms Button**—Which particular service?

**Senator CONROY**—The access to the information.

**Ms Button**—If they pay, we are happy to deliver, yes.

**Senator CONROY**—If suppliers of products and services wish to contact Australia Post's licensee network, why shouldn't they use other, more transparent ways, even your own advertising mail service? Why do they get to go in this way?

**Ms Button**—That would be their choice, I guess. I will have to find out why they chose that medium.

**Senator CONROY**—Just to return to my favourite topic, I understand that the tea-breaks were attempted to be removed from mail centres in Vic before the last EBA and that is why they were included in EBA6. What guarantee is there that tea-breaks would be protected if a local manager chose to ignore custom and practice?

**Ms Walsh**—Senator, I am not entirely sure of the circumstances to which you are referring in Victoria. There have been two disputes in Victoria in relation to tea-breaks, one in relation to four-hour part-time staff and one in relation, as I understand it, to our transport drivers. They have been the subject of proceedings in the commission. It is my understanding, with the four-hour part-time staff, the custom and practice was that those four-hour part-time staff did not receive tea-breaks, so the custom and practice continued that they did not receive tea-breaks. For the transport drivers, as I understand it, again tea-breaks were provided where there was a natural break in their duties. Once again, we have continued with that custom and practice.

The CEPU's views differ from ours on that front and that is something that we have continuing discussions with them about. I do not accept that we took tea-breaks off any of our employees and, once again, reiterate that that is certainly not our intention under EBA7 and the negotiation process for that agreement.

**Senator CONROY**—I have some more questions on franchisees but I will put them on notice. Senator Wortley has a couple of questions.

**Senator WORTLEY**—I understand that Australia Post discontinued its economy air parcel service in September.

**Mr McCloskey**—That is correct, yes.

**Senator WORTLEY**—Can you explain why that decision was made?

**Mr McCloskey**—Yes. Essentially, it was a commercial decision taken in the interests of the majority of our international parcel customers and the longer-term competitive position of the airmail service. What happened was that economy air was effectively merged with the airmail service and that enabled us to hold the price of our airmail service and to marginally reduce it for items above two kilograms. Economy air usage had been falling steadily over a

number of years. The volumes were falling by, on average, four per cent a year to a point where less than 16 per cent of international parcel volumes in 2004-05 used the economy air service, as against almost 80 per cent of the airmail service.

**Senator WORTLEY**—How much money did this raise or save for Australia Post?

**Mr McCloskey**—I do not think it raised any additional money or, if it did, it would have been marginal. Basically what it did was allow us to hold the price of our airmail service, rather than have to put it up—and indeed marginally reduce it, for items above two kilograms—and therefore to benefit the 80 per cent of customers who use that service and, at the same time, strengthen the competitive position of our airmail service against our competitors, going forward.

**Senator WORTLEY**—I would like to come back to the issue of benefiting your customers in a moment, but Senator Conroy previously raised a question on notice about this matter and the minister stated that Australia Post has advised that it undertook extensive market research before making its decision. Can you outline the nature of that research?

**Mr McCloskey**—Yes. Just general research of the market and what customers were looking for—what sorts of services they were looking for, what ones they valued and so on and so forth. That is the general normal market research that we would undertake.

**Senator WORTLEY**—So customers were surveyed?

**Mr McCloskey**—Individuals would have been surveyed, focus groups and the like—normal market research approaches, Senator.

**Senator WORTLEY**—And that would have included customers of that particular service?

**Mr McCloskey**—In some instances, no doubt, there would have been customers of that service.

**Senator WORTLEY**—I have received many emails and letters regarding the online retailers, particularly booksellers, and I have a letter here with me from a constituent of mine in South Australia who owns a second-hand book store and relied heavily on this service. He said he spends around \$25,000 per year on that. He claims that he was not informed about the changes at all and found out by logging on to the Australia Post website. I also have another constituent saying that she will be severely inconvenienced and disadvantaged by the removal. I am wondering if people like this, being small business people whose livelihood depends on this service, deserve this type of hardship, and what Australia Post has done to ensure they are looked after with regard to the service.

**Mr McCloskey**—In relation to the booksellers, we have a commercial agreement with the Australian Booksellers Association that provides significant discounts off the standard rates for their members. We have renegotiated that agreement. The previous agreement expires tomorrow and a replacement agreement was negotiated with the Australian Booksellers Association which was finalised a little while ago and signed formally last week. They were booksellers who were members of that association who have access, regardless of their volume levels, to significant discounts on prices. In fact, prices that would be lower than the previous card rate economy prices in some instances.

It is open to any business that has reasonable volumes to negotiate with Australia Post for special rates and anyone who has on average around \$400 a month worth of business, which is not a lot in international mail, would qualify for a special agreement with Australia Post, a business agreement.

**Senator WORTLEY**—The particular agreement you are talking about is with the Australian Booksellers Association. Is that correct?

**Mr McCloskey**—That is correct.

**Senator WORTLEY**—What is the term of the new agreement?

**Mr McCloskey**—The terms of the agreement would be commercial-in-confidence.

**Senator WORTLEY**—Not the terms of the agreement, but how long is the agreement?

**Mr McCloskey**—I would have to take that on notice; I am not aware of what the term is.

**Senator WORTLEY**—Were the booksellers out of pocket as a result of the closing of the economy air service and then entering into this agreement?

**Mr McCloskey**—We have had a longstanding agreement with the Booksellers Association. That originally applied only to domestic mail, but four or five or six years ago or thereabouts, earlier in this decade, it was extended to include international mail.

**Senator WORTLEY**—The constituents that have raised concerns with me were specifically referring to international as well.

**Mr McCloskey**—And certainly, in the first instance, if someone were doing \$25,000 worth of business with us on an annual basis, they would be quite eligible for significant discounts in their own right. They would not have to be party to an umbrella-type agreement such as we have with the Australian Booksellers Association.

**Senator WORTLEY**—Would you be able to provide me with the term, that being the time frame, of that new agreement?

**Mr McCloskey**—I can certainly do that, yes.

**Senator PARRY**—I have a couple of questions on mail delivery and the complaints procedure for nondelivery of mail. Do you have recorded complaints of where there has been bulk postage from particular entities? If I use, as an example, the mail of a member of parliament: clearly stamped envelopes with the member of parliament's details. Do you have complaints or do you receive complaints concerning nondelivery of some of that material when it is posted out in bulk?

**Mr McCloskey**—I have not seen any such complaints but it is possible that such complaints may exist. Certainly we do receive complaints from time to time.

**Senator PARRY**—Could the committee receive, on notice, any information you have, in particular in relation to mail maybe of a political nature, as to the variety of complaints, if you can release that information without names, but concerning types and individuals and locations?

**Mr McCloskey**—That information might be difficult to obtain in the sense that we will not necessarily centrally be aware of what complaint might have been lodged locally. We do have



a central system; if people would have contacted our normal call centre—in that case, such complaints would be logged.

**Senator PARRY**—Are you saying that, if a complaint is lodged with a local post office, say, from a member of parliament, that complaint only remains within the local post office?

**Mr McCloskey**—Yes, I think that would be the case. We do have a central 1300 number for complaints and all of those complaints would certainly be logged, but if somebody went in—

**Senator PARRY**—If a member of parliament went to a local post office and made a formal complaint in person to the local manager, it would stay within the confines of that post office?

**Mr McCloskey**—That is possible. I suspect that would be the case but I do not know for certain. I would have to take that on notice.

**Senator PARRY**—Do you have any random inspection or supervision of when there is bulk mail delivery to ensure that bulk mail delivery reaches its final destination? Do you do any inspections of its distribution?

**Mr McCloskey**—Yes. We have externally-run monitors for bulk mail as well as for ordinary mail done by third parties under contract. The performance for our bulk mail last year was, I think, 97.4 per cent on time, and for ordinary mail it was 95.6 per cent on time.

**Senator PARRY**—What about nondelivery, as in just physically not being delivered?

**Mr McCloskey**—If we receive a complaint then obviously we will follow up on that.

**Senator PARRY**—If I provided you with evidence of a particular suburban street, for example, that did not receive mail, yet everyone else in that suburb did receive mail, would you regard that as a serious offence?

**Mr McCloskey**—If one individual—

**Senator PARRY**—If a whole street was missing, say, a bulk mail-out.

**Mr McCloskey**—By way of clarification, are you speaking of addressed mail or unaddressed mail?

**Senator PARRY**—Say addressed mail.

**Mr McCloskey**—There would clearly be a problem in the network if a whole street missed out, and it would be investigated quite seriously, of course.

**Senator PARRY**—What sorts of penalties would be involved if a mail deliverer failed to deliver mail or deliberately did not deliver mail?

**Mr McCloskey**—They would be subject to serious disciplinary action.

**Senator PARRY**—Thank you.

**CHAIR**—I think that concludes Australia Post, so we thank you for your patience today. Thank you for appearing, and we shall no doubt see you in February.

[9.38 pm]

**Australian Communications and Media Authority**

**CHAIR**—We welcome representatives of ACMA to the table. Senator Conroy will be asking questions. Please proceed.

**Senator CONROY**—Following the passage of the new media laws there was a fair bit of activity in the market. I understand that after the PBL deal with CVC, the minister stated that she had asked ACMA to have a look at whether or not it met the existing Foreign Investment Review Board requirements. Can ACMA advise on the progress of this investigation?

**Mr Chapman**—Thank you, Senator, for the question. The minister's request and direction to us to have a look at that matter coincided with our own what I think is increasingly proactive position that ACMA is taking. We have met with the advisers to that particular transaction. They have provided all documentation to us, and we are looking through that. We will be taking legal advice. It underscores a very important point that at the moment we are actively, as you would expect us, continuing to monitor transactions against the current law, as well as preparing to enforce the new law. The short answer is that there was a fulsome presentation to us. It is entirely consistent with our obligations to enforce the current law. We are working through that material and we will be taking the matter from there. But it is actively under consideration.

**Senator CONROY**—I would like to quote from Sam Maiden's article in the *Australian*. She was quoting Senator Coonan:

I have asked ACMA to have a look at whether or not it meets the existing Foreign Investment Review Board requirements which appear to be the particular issue at hand at the moment.

Do you have responsibility for the Foreign Investment Review Board?

**Mr Chapman**—No, we do not.

**Senator CONROY**—So when the minister asked you to look into the FIRB requirements, what did you say?

**Mr Chapman**—We recognise where our responsibilities are under the Broadcasting Services Act.

**Senator CONROY**—And it is nothing to do with FIRB.

**Mr Chapman**—We have no matters to deal with the foreign investment aspect. We simply got on with our business.

**Senator CONROY**—So when the minister publicly stated that she had referred the FIRB requirements to ACMA, what did you tell her?

**Mr Chapman**—I did not have any particular correspondence or dialogue with the minister.

**Senator CONROY**—You did not point out to her that you have no role or responsibility for FIRB?

**Mr Chapman**—I have not finished. Sorry, Senator. The senator was no doubt, I assume, talking about a number of aspects of consideration and we took our cue to deal with the aspects for which we have responsibility, and it was not, frankly, a matter that required us to

have any further dialogue with the minister. She had indicated that she wanted the matter looked into and, as I indicated to you, we had coincidentally that same day already met with the advisers to that deal and that night had been presented with a full suite of documents that referenced that deal. We are having a look at that. We are in the information gathering phase and we will be reporting back to the authority meeting in about 10 days time.

**Senator CONROY**—You do not believe that you have any role to advise the minister when she has referred something to you that is not actually within your area?

**Senator Coonan**—It is a control issue—convertible notes.

**Senator CONROY**—The quote is quite specific. I have read it out. I am happy to read it out again.

**Senator Coonan**—That does not mean to say it is right, Senator Conroy. Why don't you ask me if it is correct, first of all?

**Senator CONROY**—I quote:

I have asked ACMA to have a look at whether or not it meets the existing Foreign Investment Review Board requirements ...

**Mr Chapman**—We have a responsibility with the control provisions.

**Senator Coonan**—That is exactly right.

**Mr Chapman**—We are looking at those.

**Senator CONROY**—They are nothing to do with FIRB.

**Senator Coonan**—No, they are nothing to do with FIRB, but they are to do with control and they are to do with the convertible note issue.

**Senator CONROY**—I am sure that Mr Chapman understands the difference between FIRB and ACMA, but I just want to make sure that he informed you. Anyway, I will move on. I understand that ACMA has a lot of work to do in order to prepare for new media legislation. I would like to explore what is involved and how the work is progressing. ACMA has to plan and auction the spectrum for Channel A and Channel B. Now, this spectrum has already been set aside for datacasting and there was a failed auction process back in 2001. How complex is the planning task for these new services? Can you take me through the process?

**Mr Chapman**—Thank you for raising the matter of our workload under the new reforms. We have a number of matters to deal with under that new package. For example, that includes the protection of diversity under the 5-4 and the 2-3 test. Another example is the establishment of the register of controlled media groups. There are matters relating to amendments to the digital conversion of framework. As you have referenced, there are matters touching on the sale of the unallocated spectrum and planning matters therewith. Another example of the work that we have under these new media reforms is the implementation of local content rules, with respect to both television and radio, following a review that we will be undertaking and then reporting back to the minister. There are a number of aspects, and you have touched on one, Senator.

I will in due course refer specific matters arising out of that package to several of the GMs who are sitting here with me at the table who are across the operational aspects. It might be at

this time a good opportunity to perhaps confirm the obvious: we have a significant workload as a result of this new package of reforms. We will need to be near the top of our game. We are very cognisant of the significant preparatory work that is required. As I just touched on, Senator, until such time as the relevant parts of the legislation are proclaimed, the current obligations remain and we will continue to enforce these with vigour, as you would expect us to.

Industry is actively engaging with us and we are with it. I want to assure the senators that we are looking at some of the known rather than the speculated transactions. Where there is cause for concern, we will pursue them and we will use the existing powers under the act. We are acutely aware of the responsibilities that we are charged with. I am aware of some of the perceptions that have existed about our predecessor, and make no mistake: we have the mindset within ACMA, and I have personally the mindset, to deliver. We have a quiet confidence about the way that we are going about this.

I think we are well placed to respond to the new responsibilities. We are currently recruiting relevant expertise. We are aware of what is required under the legislation, and therein is the essence of your question. We have started to allocate resources accordingly and we have commenced activities in a number of areas in anticipation of the law coming into effect. For example, we are already developing our technical specifications for the working of the register of the controlled media groups, and we will continue to make sure that our resources are applied flexibly, in particular over the pinchpoint of the next six months, to deliver on the many tasks that we have in front of us. That is my responsibility as the chief executive of this organisation: to continue to make sure that we are alive, flexible, and have the internal elasticity to deliver on these responsibilities.

**Senator CONROY**—You are entitled to make an opening statement when you sit down.

**Mr Chapman**—I just thought that I would take you through some of the background to your question, because it is a very understandable question and there are a lot of aspects and a lot of moving parts to it. There are a number of examples of why I say we are well placed to deliver on these programs. These types of activities are not new to us. For example, we have extensive experience in media control investigations, and in this regard I would like to cite the current LME investigation and previous conflicts investigations, such as the Ten Network-CanWest arrangements some years ago. We are well practised in the establishment and maintenance of registers. For example, we are already maintaining a control register for commercial radio and commercial television licences and a register of associated newspapers.

We know what is required in developing and applying local content licence conditions because we have done this with skill for regional commercial telephone licences. We have increased enforcement powers agreed by the parliament, and they are a welcome addition to the armoury of regulatory tools that we have. For example, they allow us to move more rapidly to issue infringement notices for the nonprovision of information.

Thank you for your indulgence in allowing me to say that. I wanted to take the opportunity to let senators know that we are very alive to the suite of responsibilities. We are of a strong mindset to deliver, and I am very confident of our ability to do so. Dealing specifically with the question you raised, Senator, I ask Mr Giles Tanner to take us through the building blocks with regard to the allocation of those two unassigned channels.

**Mr Tanner**—Your question was about our state of preparedness to auction licences A and B, as we now have. As the chairman suggested, we have certainly had ample warning that this one is coming. We have worked very closely with the government to date in the furnishing of the report, particularly on demand for the channel earlier this year, and we have been tracking the process very closely since then and providing advice where that is appropriate. For that reason, my intention is to put a set of allocation options to the authority for a broad decision on a way forward at the earliest opportunity. At this stage, I expect that to be at the first meeting in December.

Until I have a final sign-off on a couple of choices that are available to the authority in the way it proceeds, I am reluctant to talk in too much detail about the process, because it would be speculative on my part, but I can give you a general indication as to—

**Senator CONROY**—What are those key choices that you need sorted out?

**Mr Tanner**—The extent of any further planning work that will be undertaken either before the auction or after the auction in light of licence B's potential use for mobile is one issue. The form of the price list allocation process is a fairly stock one. The nature and content of any merit preconditions of the sort that have been put in legislation around licence A and their relationship to any roll-out condition would be fairly major issues for the design of the process. The timing for the operation of the process would then be affected by issues such as the need to work in scope for the ACCC to do what it has to do under this regime, particularly in respect of licence B, where it will be considering access undertakings by bidders. Clearly, that process has to interleave neatly with our process so that the market can identify itself and get access undertakings approved with the ACCC and then able to participate in a price based allocation with us.

**Senator CONROY**—Would that involve setting a reserve price?

**Mr Tanner**—I would expect that the setting of a reserve price would be a key step in the process. I am now speaking very indicatively based on my experience of previous allocations rather than from any knowledge of what ACMA will decide in detail, but we would typically, with so many issues to resolve, go out very early on with a general set of issues so that we can get feedback from the developing market for these licences which can help us in the detail design of something which will work. We would then do a fair bit of work behind the scenes to get the determination ready, to do any planning we may decide to do and to do some of those other tasks I have mentioned.

The process would then commence with an information paper, which would be comprehensive, including everything that we think the market needs to know about these channels and what we may do with them in the future. There would then be a period for people to identify themselves, during which time we would determine a reserve, and I would expect licence B bidders to be going to the ACCC about the issue of access undertakings. If we have more than one bidder for a licence, we would have to have some sort of price based allocation. If there is only one bidder then you would expect to find that that calculation of the reserve will come into play. That is broadly and indicatively what you would expect, followed by a period for the payment of the full amount.

As I said, though, I am putting options to the authority in the next three to five weeks. I think 7 December is our target. If we can do it quicker than that, we certainly will so, if that is what we are going to do, we can get out to the market as quickly as we can.

**Senator CONROY**—Is a discussion paper out to the market, or just information to the authority, who will then put a discussion paper out?

**Mr Tanner**—We will certainly go to the authority, because it is the authority's decision on the way forward. Past practice has been, when designing a new process for a new situation, invariably to go out in a preliminary way with some questions and an indication of what you are thinking, because you invariably learn something from the potential bidders in that process. I would say that will be uncontroversial and unsurprising. If we do that, I like to think we would do that as soon as possible after going to the authority, so it may be early to mid-December.

**Senator CONROY**—When will you provide advice on the scope of narrowcasting on channel A? The minister has asked you to provide this advice, and people will want it well before the auction.

**Mr Tanner**—That is an issue on which I might defer back to other parts of the agency.

**Mr Chapman**—Nerida?

**Ms O'Loughlin**—As we mentioned at the recent Senate hearings, we are expecting to put out a discussion paper and guidelines in the coming months. We have started preparation of those. We expect that we will have something out late this year or early next year.

**Senator CONROY**—There has been a suggestion that with mobile TV there needs to be a new spectrum plan. Mr Tanner, is that right?

**Mr Tanner**—There have been quite a few stories going around about it. There is no need for a new spectrum plan. In fact, the particular issues around the licence were canvassed in the discussion paper we put out at the start of this year, when we sought comments from the market. The issue with licence B, in essence, is that, like licence A, it was originally planned for fixed reception for digital terrestrial television. In other words, it was planned as the seventh digital TV channel.

In the last couple of years the option of using at least some of those planned channels for mobile has emerged, and the possibility that at least one of the two channels in each market might be offered for mobile as well as fixed has moved onto the agenda. I think it was amply canvassed in the first half of the year but, because the channels were originally designed with fixed reception in mind, the fact is that there is not necessarily a channel that is optimal for how we think mobile users are going to use channels in every market. So all the channels that constitute licence B can be used for mobile.

If you want to underline that point, consider that the current Bridge Networks trial in Sydney of mobile television is taking place on a channel which we would say is far from optimum for mobile television. We anticipate, though, that a minority of the channels will be more expensive and difficult to optimise for mobile than is ideal, for various reasons—typically because they have digital television channels adjacent to them. The particular reason we anticipate this difficulty is because we are anticipating that mobile television will have a

somewhat different network architecture than fixed television, which tends to rely on a big single transmitter covering a vary large area.

With mobile, it is a little bit more like a telecommunications network. You are lucky to get more infill transmitters as well as that main big banger, and it is in the installation of those infill transmitters that we anticipate some problems with some of the channels. In quite a few areas we think we can rectify that with a bit of planning, and that is one of the issues we have to work out how best to interleave into our planning process. As I said, I have heard a lot of stories about what this is about. You will find, I think, a pretty clear account of it in the document that we went out to Australia with in the first half of the year. I think the issue for us now is how we approach it in the context of an auction where we are responding to the indications that there is demand to use these channels for mobile.

**Senator CONROY**—Do you think there might be any need for legislation to clarify the narrowcasting after the discussion paper?

**Mr Chapman**—You suggest ‘after the discussion paper’; that is suggesting a sequence that will perhaps not pass. We anticipate a discussion paper with guidelines on narrowcasting to be sensibly coincidental with the discussion paper on allocated spectrum so that people can digest them as a package.

**Senator CONROY**—In terms of the definition, there may be a need for a change in definition.

**Mr Chapman**—With respect to narrowcasting?

**Senator CONROY**—Yes.

**Mr Chapman**—That is not our current contemplation. We have indicated previously that there is the ability to provide section 19 guidance but equally, as you are aware, there is the ability to provide binding opinions under section 21. If you take both of those into account, and in addition to that the guidance that we would be providing, we are not currently contemplating from our perspective—ultimately it is a matter of policy for government—that there would be any legislation required. The minister has pointed out to me—and I was not conscious of saying this—that there will be guidelines with respect to narrowcasting. I may have inadvertently said a discussion paper, and I apologise for that.

**Senator CONROY**—No. The point I was trying to get to was that the guidelines could be broad, they could be narrow, they could be within the existing definitions, they could encroach outside the existing definition, which could likely lead to legislation being needed to change. That was what I was trying to get to, Mr Chapman. So you are not envisaging any need for any legislative change at all?

**Mr Chapman**—From ACMA’s perspective, no.

**Senator CONROY**—Going back to (b), does it matter what standard is used for mobile TV? Does it matter if it is not DVB-H but another standard?

**Mr Tanner**—I believe not. At this stage there are only a few standards for mobile TV. It is possible that other standards will emerge but certainly all we expect is that it be as compatible as DVB-H is with the DVB-T channels that are all around it. We are certainly perfectly happy

to see MediaFLO or other candidate technologies being considered. Our sole concern will be ensuring there is no interference to the adjacent and other channels sharing the bands.

**Senator CONROY**—In the *Australian* last week, a former member of the ABA, Ian Robertson, said that it took four months to plan and sell a spectrum used for commercial FM licences. Would it take that long for channels A and B?

**Mr Tanner**—I should say it will almost certainly take a bit longer than that. I read those comments and I thought to myself: let us think about an FM channel. You already have a price based allocation system sitting there on the shelf. You have done the planning in your licence area plan. You are just taking it off the shelf. In fact, it takes five to six months, but perhaps Ian was thinking of the period up till the auction. People often do. I like to add the extra six weeks or so while we wait for the full amount of money to be stumped up. Unfortunately, it will be a while before we get to the point where we have our process sitting there on the shelf. This is custom-built for these two jobs. There is an enormously larger job: the creation of the instruments around the channel. Instead of one or two transmitters, as you were talking about with an FM licence, we are talking several hundred around Australia and each one of those probably is going to have to be defined in a way that we can drop through.

While intending to signal that it would take a while, Ian Robertson suggested it was probably a little bit rosy. Having said that, we are looking at options to do this as quickly as we can. We are very mindful that the minister has said that she wants these allocated as early as possible in 2007 and you can be assured we will be going to the authority to canvas how quickly we can do this.

**Senator CONROY**—Realistically, that sounds like the middle of the year.

**Mr Tanner**—I am reluctant to be drawn too far on timing precisely, because I have not taken the options and issues to my authority, Senator. Certainly, once I have, provided we do go out with an initial paper, we will be canvassing those sorts of issues in a bit more detail.

**Senator CONROY**—I am not being pejorative when I say that. I am accepting the point you make.

**Mr Tanner**—Yes.

**Senator CONROY**—You have to get those choices made. That will go to Mr Chapman and friends in December, you said, and you will get some answers, hopefully, over the Christmas period and then you are saying four months is probably a little generous of Mr Robertson. I am not being pejorative. I expected a complex answer with a lot of detail but it sounds realistically like it is about a six-month process into next year, without wanting to hold you to an exact date.

**Mr Tanner**—As I say, I am reluctant to be drawn, in advance to going to my authority, into what the options and issues are. We have done a fair bit of work on that, but it is the authority that makes these decisions. We can only canvass the issues for them.

**Senator CONROY**—But from your own earlier testimony, four to six months is not an outrageous suggestion?

**Mr Tanner**—I think Mr Robertson spoke about—

**Senator CONROY**—A simple FM licence.



**Mr Tanner**—Yes.

**Senator CONROY**—You are saying this is more complex.

**Mr Tanner**—I would rather keep my powder dry until I can go to my authority on what his options are. Certainly, there is a set of issues around the sequence in which we should do things and what you have to do before the actual allocation, which I would like to put before my authority before I speculate about that.

**Senator CONROY**—You cannot afford to rush it though, can you? If the process is not done properly, the consequences for consumers and broadcasters in terms of interference are quite significant, so you cannot afford to rush it.

**Mr Tanner**—We would be managing interference pretty well regardless of how we allocate it. You need to design price allocation processes very carefully. We have, in fairly recent history, seen what happens when they fail. We will certainly be designing these as well as we can.

**Senator CONROY**—Mr Chapman made reference to a register of controlled media groups for the purpose of administering the voices test. How complex is that task? There has been a suggestion ACMA would not be ready before April. Would that be accurate?

**Mr Chapman**—Senator, Ms O’Loughlin has responsibility for that component. I will ask her to take us through some of the subcomponents of that. Again, as an overarching observation, I would say that we are quietly confident that we will be doing it sooner rather than later compared to the sort of timetable you indicated. We have experience in it. We are already on the case in terms of building up the technical specifications. Again, that speculation has run ahead of itself a little bit. I will ask Ms O’Loughlin to drill down to the specifics.

**Ms O’Loughlin**—Firstly, I would say that it is very clear and ACMA has a very clear view of what is required under the register, because the legislation itself is quite specific. It has extensive discussion about process. It has quite precise legislative time frames for things to be delivered in, so we do very well understand what is required under the legislation. In terms of the process going forward, we have to deliver a register as soon as practicable after 1 February. The main aspect of our work is to gather the information from commercial television and radio licensees and also associated newspapers. We already gather information for television and radio, so the associated newspapers is a new task for us, but that is a process that will start very soon by writing to all the people that we need to get information from and making sure that they are ready to provide the information to us in good time. There are also provisions in the legislation where they are required to provide that information to us by 6 February next year. Our main task will be to gather that information and put it in the register.

**Senator CONROY**—Minister, you have linked the start of the new services to the proclamation of the new ownership laws. Can you confirm that that is the case: the proclamation of the ownership laws will not take place till the auction takes place?

**Senator Coonan**—No, I cannot confirm that.

**Senator CONROY**—Was that misreported?

**Senator Coonan**—Yes.

**Senator CONROY**—Thanks.

**Senator Coonan**—I have only ever said that it would probably be aligned to the opportunity for new services to emerge. There are a lot of sequences in this matter and I have not made any decision as to what it would be linked to. It will certainly be linked to the opportunity for the emergence of new services, but I have never definitively said that it had to be linked to the auction.

**Senator CONROY**—In the 2006-07 budget, ACMA was allocated \$200,000 to look at the long-term psychological impact of the media on children, families and society. Could you briefly outline the nature of this project?

**Mr Chapman**—That is one of a series of research projects that fits within our strategy, analysis and coordination. Mr James Shaw will take you through the specifics of your question.

**Mr Shaw**—The study is looking at children's use of electronic media in Australian homes and the way that parents mediate that use. It will include assessing media such as television, computers, console and online games, web based communications, chat rooms and the like, iPods and mobile phones. The project itself comprises two parts. One is literature research, a literature review. The other part is a survey of children and their parents in the home. The study itself, we think, will contribute some pretty important knowledge about the ongoing community discussion about how children and families use new and traditional media. We are in the procurement process for the project itself. We have put an RFT out for the research component and that is currently being assessed. We are shortly to go to the market for the literature review component.

**Senator CONROY**—It sounds very interesting. Was this issue identified as a priority for ACMA?

**Mr Shaw**—The project itself supports some of the other work that is going on within the organisation, including our review of the children's television standards, so it has synergies with that particular activity.

**Senator CONROY**—Was it in your forward work plan?

**Mr Shaw**—No, it was not.

**Senator CONROY**—Just going back to that previous question, it was not identified by ACMA as a priority? If you had not put it into your work plan, I presume it was not a priority.

**Mr Shaw**—The issue of the children's television standards and research around that was something that had been identified by the authority.

**Senator CONROY**—Sure, but this is a very specific project. Did you ask for it in your budget submission or was it a budget night surprise?

**Mr Shaw**—No, we had discussions with the department about this work.

**Senator CONROY**—Was it in your budget submission?

**Mr Shaw**—I cannot answer that question. All this took place before I joined the organisation, so I would have to take that on notice.

**Senator CONROY**—Anyone else?

**Mr Chapman**—We will take it on notice, Senator.

**Senator CONROY**—Do you know whose idea it was?

**Mr Shaw**—No, I do not.

**Senator CONROY**—Did the department discuss it with you?

**Mr Shaw**—Yes.

**Senator CONROY**—Before the budget night?

**Mr Shaw**—Yes.

**Senator CONROY**—So they told you you were getting this money?

**Mr Shaw**—They discussed the project with us.

**Senator CONROY**—You did not discuss it with them? They raised it with you?

**Mr Shaw**—They raised it with us, yes.

**Senator CONROY**—So the department put the suggestion to you?

**Mr Shaw**—I think the discussion was about whether we were capable of undertaking the work.

**Senator CONROY**—So the department raised the issue with you first?

**Mr Shaw**—Yes.

**Senator CONROY**—Ms Williams?

**Ms Williams**—I will have to take that on notice to get a sequence. It was discussed in a budget context.

**Senator CONROY**—Has ACMA sought clarification of the project from the department subsequent to the budget?

**Mr Shaw**—I do not believe so. We developed the project plan internally, discussed it at our executive level and just proceeded. I would like to check that fact.

**Senator CONROY**—Please do, given the department gave you this money without you asking for it—very unusual. That must have come as quite a surprise, Mr Shaw.

**Mr Shaw**—I think the department was of the view that ACMA was well placed to undertake this work, given that the former ABA in 1996, I believe, took on similar sort of work.

**Senator CONROY**—I have no doubt you are the appropriate people to do it, but you must have felt like it was Christmas.

**Mr Shaw**—Given that the project has some synergy with our current work around the children's television standard and our desire to build up longer term knowledge about the use of traditional media and new media, it fitted with our research program and our work program generally.

**Senator CONROY**—When is the work expected to be completed?

**Mr Shaw**—By the end of this financial year.

**Senator CONROY**—What will the end product be?

**Mr Shaw**—It will be a report.

**Senator CONROY**—What will it be titled?

**Mr Shaw**—Presumably ‘Media and society’. I have not really turned my mind to that, to be quite honest.

**Senator CONROY**—Surely ‘families’ is going to have to get a guernsey in there somewhere? It is about the psychological impact of the media on children, families and society.

**Mr Shaw**—That is the descriptor, yes.

**Senator CONROY**—Yes, so families is going to have to be sitting in there somewhere.

**Mr Shaw**—I would not want to prejudge what the authority might choose to title the report.

**Senator CONROY**—I am happy to pass that one over at this point. I fear for the department getting any sleep tonight.

**Senator IAN MACDONALD**—Senator Conroy was inquiring about the channel B licence and your preparations for auction. Can you explain to me, because I have never quite understood this, what the conditions of the sale are going to be? I mean the conditions in that someone else beside the actual successful bidder will have access to the B channel. Is that a fair question for ACMA, or is that for you, Minister?

**Senator Coonan**—That is something that we currently have under consideration. Obviously, the department has the framework that I want and I am expecting some advice as to the conditions that would be imposed. It will also include some consultation and input from the ACCC. You will recall, I think, from the discussion, certainly the Senate inquiry, that we had decided that there would be an access arrangement, for instance, and various other conditions; so that is currently under development.

**Senator IAN MACDONALD**—It is not fair for me to take it any further with ACMA at this stage.

**Senator Coonan**—What I think was earlier said—you may not have been here, Senator Macdonald—was that ACMA has in mind preparing a consultation paper on issues associated with how this licence will be marketed, what preconditions will be attached to it and to bidders, and the process. All of these things are currently under development or under consideration. The thinking is that it will be a consultation paper that will put it out for some discussion, so it will not be a closely held secret. It will be something that will be made available when we are able to do so.

**Senator IAN MACDONALD**—I was really going to try and get the technocrats, if I may call them that, to explain to me what could be done on the basis of what you said in the Senate chamber but perhaps it is not fair.

**Senator Coonan**—It is a very fair question; it is just a tad premature because we are currently doing that.

**Senator IAN MACDONALD**—You will keep us all informed?

**Senator Coonan**—Yes.

**Senator IAN MACDONALD**—I preface this by raising the question of whether the question is to ACMA or to you, Minister: the review of regional radio and local content. Did it end up as regional radio or all radio?

**Senator Coonan**—Regional radio.

**Senator IAN MACDONALD**—What is the state of the timetable? Where are we with that inquiry? When is it likely to be?

**Senator Coonan**—I issued an instruction a day or so ago—it may have even been yesterday—in which we have now created the review and the time frame for the review and I will have to get the time frame for you.

**Senator IAN MACDONALD**—While you are doing that, Minister, can I just move on to my other question in the interests of time and come back to that? This is one for ACMA because you were dobbed in earlier on today. I am told that the reason *NewsRadio* does not operate in Townsville was because ACMA was trying to sort out some spectrum arrangements, which I found hard to believe. Who can tell me about that?

**Mr Chapman**—Mr Tanner will address that because it is a spectrum planning issue that falls within his jurisdiction.

**Senator IAN MACDONALD**—Excellent. We have got the man.

**Mr Tanner**—Yes. It is an onerous role. Townsville is indeed one of the sites where we have had a consultant over the course of this year looking at spectrum availability for the news network expansion. As of October, the consultant had reported to us and we are in the fairly early stages of discussions of the implications of that report with the ABC. We will be taking issues up in the report with DCITA shortly. The long and the short of it is that Townsville is not an area with a lot of remaining vacant spectrum and, while a consultant has identified a potential channel for use at the sorts of very high power the ABC typically uses, there are some significant issues around its use that we are going to have to discuss further with the ABC and DCITA before a recommendation would go up from DCITA to the minister on whether to reserve—

**Senator IAN MACDONALD**—You might as well start speaking in double-dutch now because you have lost me. Without wasting too much time of the Senate going through lessons on spectrum 101—is that what it is called? Is spectrum 97.8, 97.9, 98, and so on, through to 107; and 530, 640, 730 on the AM band? Is that the spectrum, for simple people?

**Mr Tanner**—Those are the names of frequencies in the MF-AM and the FM bands. Another way of thinking about it is channels. FM uses about a 120-kilohertz-wide channel and we usually name that by the central frequency, so 96.9 FM means a channel which is based with the middle being 96.9 megahertz. We space them about 400—

**Senator IAN MACDONALD**—Okay. Would that cover from 95.8 through to 98.3 or something? Is that what you are telling me?

**Mr Tanner**—It is about 120 kilohertz wide, from memory, so it would go up—96.9, what would that be? You are not dealing with an engineer, unfortunately. The point is that in any given place you then have to have a gap so the next frequency can operate and radio receivers

can tell the two apart and work. That is where the shortages come in. You have a wide range of numbers but—

**Senator IAN MACDONALD**—Townsville has 2½ AM channels and perhaps five, six or even seven FM channels. Is TV on the same thing?

**Mr Tanner**—TV does overlap in Townsville.

**Senator IAN MACDONALD**—There is a maximum of four TV channels. Comparing that with Canberra which has a dozen radio stations, Sydney which would have three dozen radio stations of various sorts, how is it such a problem in Townsville and it is not in Canberra or Sydney or Brisbane?

**Mr Tanner**—You have to go back to the early and mid nineties to the way the FM bands were planned, and the television bands. When the government and then the ABA were planning the television bands, they came up with a plan that more or less evenly distributed the number of channels between areas. You have to deal them out because if you satisfy all the needs in Sydney you leave nothing for hundreds of kilometres around, so you have to come up with a basis for sharing them out.

With radio, rather than coming up with an even amount, the principle that was adopted—the ABA inherited it with a few modifications from the department—was that there would be indicatively eight FM channels per site. An exception was made for the major cities, the big five cities. They were given 16, but to achieve that very high number there has to be a cost, and the cost was that a kind of a hollowing-out occurred around those big cities, and you will find that if you go around Sydney or Brisbane that there are quite small numbers of frequencies available in adjacent areas. Anyway, Townsville started out with an indicative target of eight.

**Senator IAN MACDONALD**—The nearest radio frequencies to Townsville are one radio station in Innisfail about 300 or 400 kilometres north, two in Mackay 400 kilometres south and one in Charters Towers 150 kilometres west; and that is it.

**Mr Tanner**—Congestion is not limited to the bigger cities. There are some areas that look pretty isolated but are actually suffering from congestion of channels. Cairns is one. Townsville is another. There are some local limitations I am aware of that have contributed to that. I understand that in Townsville you have a hill in the middle of the town so a lot of the services are operating on two frequencies rather than one. That chews up spectrum. I also understand that television is operating on channel 3. That means that all the FM spectrum below 92 megahertz is in use for television and not available for radio. Put those two things together and you will find the story, as in many other parts of regional Australia, was that during the nineties the ABA came and found what remaining vacant frequencies were easily available and basically put them to the market, allocated them to community broadcasting or reserved them for nationals. What we are left with now is that Townsville is unfortunately, and perhaps counterintuitively, one of a number of areas where we are in a congestion situation and it is not as easy as just finding a frequency that still works at high power.

**Senator IAN MACDONALD**—I have explained to you I am an absolute dill when it comes to this, but Canberra has Red Hill and the other hill over here and different hills around. The only thing you have said that makes any sense to me is that there are parts of

inner-city Townsville that are right in close to Castle Hill that do have to have a different transmitter. What you are saying to me is that whilst that may tend to be 102.3, which is the major commercial channel, that channel underneath the hill will also have 103.4. Is that what you are saying, and that is where the spectrum has gone?

**Mr Tanner**—I recall that is one of the reasons the spectrum is fairly congested in Townsville. Another observation about Canberra is that the twist that the early ABA back in 1993-94 put on that inherited plan of 16 for the big five—eight for all other areas of Australia—was that it came up with an approach by which a small group of very large regional cities were to be planned for up to 12. Canberra was one of those, so Canberra was given a higher target than smaller provincial cities. I heard your questions to the ABC, but I have not been able to get more information than my general knowledge and my recollection of the issues in Townsville. You need to understand that at the time when the ABA was going through and doing that analog planning, it was doing it on the basis that it was putting the remaining spectrum to work, and that in fairly big provincial centres like Townsville there was substantial demand to absorb that spectrum. There are all sorts of ways in which we lock in the spectrum supply. It is a bit of a science.

**Senator IAN MACDONALD**—Mr Tanner, there are not many radio stations in Townsville and there are not many for 500 kilometres. That might have an effect on AM which does go 500 kilometres, but it certainly does not with FM. I told you a lie. There is an FM channel in the town where I live, which is about 100 kilometres south of Townsville, and I assume there is one in the north but it is lower on the 90s scale. Townsville has a hill in the middle of it. It also has a very big mountain where all the transmitters are, mind you, that beam over most of Castle Hill. My simple mind does not understand how five radio stations are a problem but in Sydney you have hundreds of radio stations and it is not a problem.

**Mr Tanner**—They pay quite a high price for that, as I say.

**Senator IAN MACDONALD**—But isn't spectrum here in the air?

**Mr Tanner**—No, there is a science to this. If you can colocate all your radio services in one place, you can get more services because you can space them more closely without causing interference, but you also increase the cost that radio operators face because there will only be one site that they can go to. What you will frequently find in regional centres is that services are not colocated, which reduces spectrum productivity but it also reduces the cost of operators starting up services. That kind of trade-off is the way that we get some services into regional centres.

In a place like Sydney, we force collocation. That means it is very expensive to get a tower site but it also means we can stack up quite large numbers of services. If you go to Townsville, I guess what you will find is a surprising number of low- and medium-powered services in the vicinity or in the actual area, all of which are having some effect on the availability of channels. My understanding is that one of the problems that we are going to have to work through with the channel that has been identified is retuning some existing services. When you operate in radio, you know that that is quite an upheaval. Radio tends to build brands around its channel-identifying frequency, and I understand that that is one of the issues that will have to be confronted in working out if there is an option in Townsville.

**Mr Chapman**—Equally I am interested in Townsville spectrum planning 101, and we might do a better job if we take that offline and come back to you.

**Senator IAN MACDONALD**—I was just going to say that perhaps you should find your best communicator—someone who could reach a grade 1 about spectrum—and send them around to see me, please.

**Mr Tanner**—We could certainly do that, Senator.

**Senator IAN MACDONALD**—I remember asking about news radio when the previous government was in power, and I always wanted my constituents to hear my dulcet tones on the parliamentary news radio broadcast. I remember back in those days the then minister—I think it was the late lamented Senator Collins—used to say, ‘Well, we’re coming to Townsville very soon,’ and here we are 12 years later and, ‘We’re still coming to Townsville very soon.’

**Mr Tanner**—We are coming back to Townsville.

**Senator IAN MACDONALD**—I think we have gone everywhere else, haven’t we?

**Mr Tanner**—No, we have been to Townsville. Townsville got new services out of the ABA’s planning—there is no question about it.

**Senator IAN MACDONALD**—Did we?

**Mr Tanner**—Yes, you did.

**Senator IAN MACDONALD**—New FM channels or something?

**Mr Tanner**—Yes.

**Senator IAN MACDONALD**—We did not get news radio. They blamed you, so perhaps you should blame them.

**Mr Tanner**—One of the issues during that planning process in the nineties was whether or not it was a good idea to reserve capacity for every possible national service in every regional market. The conclusion reached at the time, in consultation between previous boards to which I reported and previous governments to which they reported, was that there was relatively so little FM capacity and such a large number of potential ABC services that, in fact, reservations should only be made for foreseeable demand. The result was that we did not hoard our channels back in the nineties and the price now is that, when you wish to go beyond what was foreseen in the nineties, in some areas of congestion there are choices pushed onto you. There are risks you have to manage.

**Senator IAN MACDONALD**—Let us stop there. I am wasting everyone’s time, including my own. We are both on the case of Townsville, so if someone could draw me a diagram with aeriels sticking up out of the—

**Mr Tanner**—We could do that.

**Senator IAN MACDONALD**—Good, thank you.

**Senator Coonan**—Senator Macdonald, just to go back to the previous question, last week I issued an instruction to ACMA which has two aspects to it. The first aspect is that I had said that we would have a look at the trigger provisions for control. That is not so labour intensive



as the one relating to local content and will be completed by 31 March next year. The second aspect, which is looking at the 4½ hours of local content—that also can have a component of 12½ minutes of news or whatever that figure was—will be completed by 30 June 2007. It will involve consultation and an opportunity for affected radio proprietors to bring their views to the regulator and to inform how we confirm it, move it up, move it down or exempt it, as the case may be.

**Senator IAN MACDONALD**—That would be good. If they get the opportunity to put their case—

**Senator Coonan**—Yes, they will.

**Senator IAN MACDONALD**—ACMA or someone will be able to perhaps adjust it to local situations.

**Senator Coonan**—Yes.

**Senator IAN MACDONALD**—Is the 12½ minutes mandatory? I was not quite sure how the legislation finished up. Perhaps I should not ask this question.

**Senator Coonan**—It is going to be looked at in the context of this 4½ hours.

**Senator IAN MACDONALD**—Good.

**Senator Coonan**—There certainly is a mandatory component in the trigger, which is the other part of the inquiry, but that is also being looked at in the context of whether there are any unintended consequences.

**Senator IAN MACDONALD**—Can I put this thought in your head and perhaps in ACMA's head, without unduly influencing them: in the last few weeks I have been out in the bush. Individual announcers think it is a good idea because it means job creation for them, but those who have to produce the news—and I will not name names—in one instance said to me, 'There's no way in the world we could find 12½ minutes worth of news in this locality for several bulletins a day, unless you get every politician in the area to say something,' which of course is very attractive to politicians but not very attractive to listeners.

**Mr Chapman**—The authority discussed this at its meeting last Thursday and is very keen to take the authority to a number of regional centres to get first hand these types of observations and these different perspectives. I thought it might be appropriate to let you know, from the seven members of the authority, that we are seeing this as an opportunity to take the authority to a number of regional centres.

**Senator IAN MACDONALD**—Thanks for that. Again, you will make your own decisions. As a Queenslander, of course I would be urging you to look at places like Cairns, Innisfail—where there is one radio station—perhaps out west to Mount Isa and Longreach and perhaps around Emerald. They would be good opportunities, depending on your travel budget. It would be great if you could get out there. It may be that I am quite wrong on these things, but I think it is important to have a look around and see what the results are.

**CHAIR**—Senator Conroy, what would you like to do?

**Senator CONROY**—I would like to finish my questions, thanks. Community radio station The Fresh 895 FM, which I think is operating from the Goldfields Community Radio

Cooperative around Bendigo, have had their licence revoked for failing to get their paperwork in on time. Is that right?

**Mr Tanner**—Yes, broadly.

**Mr Chapman**—That is correct.

**Senator CONROY**—What are the circumstances surrounding that at this stage?

**Senator Coonan**—We think you might have the wrong station, Senator Conroy. Let us see if we can get the right one. It is 3CCC.

**Senator CONROY**—It was previously known as 3CCC Bendigo. It now operates as The Fresh 895 FM. That was to be in the *Bendigo Advertiser* today.

**Mr Chapman**—In making its application for renewal, it was regrettably well past the application date and we had no discretion other than to take the action we did.

**Senator CONROY**—What remedies are available to fix the problem?

**Mr Chapman**—I will ask Mr Tanner to take you through that next tier, because it does involve the potentiality of some trial broadcasting.

**Mr Tanner**—Basically, the community broadcasting licence will have a situation where we have a planned but unallocated community licence, and that frequency would be available for temporary community broadcasting licences. I would expect that, if Fresh or 3CCC were interested and capable of continuing, they would apply for a temporary community broadcasting licence from ACMA.

**Senator CONROY**—Does the minister have discretion on this matter? You indicated, Mr Chapman, that you do not.

**Mr Chapman**—That is correct. We do not. We have no discretion.

**Senator CONROY**—Is this under the legislation?

**Mr Tanner**—Referring to the Bendigo newspaper article, perhaps I should add one thing: the station has told the media that it did get its application in. It has just disappeared and no one—

**Senator CONROY**—No, the article does not indicate that. I think the article confesses that they accept that they posted it to you one day after the deadline.

**Mr Tanner**—Sorry, yes. If there were some simple issue of it going astray, then that is something that we would have to look at. But really the information I have is that the station has been the subject of repeated correspondence and, indeed, warnings over a very long period. As I say, if there is some indication that this is what actually occurred—one day late—and there is some satisfying evidence of that then that is something we can look at. But we do not have that, and certainly that would put a somewhat different light on things if it were an issue of a clerical mistake or a loss or something like that. But we just do not have any convincing proof. I have a chronology which suggests a number of increasingly pointed attempts to engage the station with getting something in and certainly clear signals after that one day after, in which it was made clear not only that nothing had been received but that there were potentially very serious consequences if nothing was received. As I say, in the end

the decision was taken on the basis that we found that we had no legal discretion so late in the piece.

**Senator CONROY**—As I said, they are not trying to suggest in this article that they did get it in on time: no pretence from them that they have been alert to any of your approaches to try and get them to get it in on time. I make no suggestion, and I do not think that they have—at least in this article—suggested that. Is it applying for a temporary licence? Is that right?

**Mr Tanner**—Yes.

**Senator CONROY**—Is it likely to be granted? This has been 25 years of ongoing radio.

**Mr Tanner**—Temporary licences are really designed for aspirants that are at the start of the process of hopefully getting to a permanent licence. We really need to make some decisions, which the authority has not yet made, about the longer term future of that frequency and whether to proceed, and when, to a permanent allocation.

**Senator CONROY**—Given that they have 25 years of broadcasting experience and have not failed any other test than a paperwork test, what can be done to facilitate them getting back their full licence?

**Mr Tanner**—I would not want to put it quite that way. I think that, until the current renewal procedures were put in place, it is true that renewal was a formality really. There was very little discretion to change that. But that is not the case now. In fact, the reason that this very tough requirement was put in place was precisely to permit the timely investigation of the real claims of a station to renewal, and the effect of putting in an extremely late application, even if it were legal, is to deprive the authority, and I guess through the authority the community, the opportunity to scrutinise the performance of that station. I do certainly acknowledge that this is a very old station.

**Senator CONROY**—Other than their administration, do you have other concerns about their content or their conduct?

**Mr Tanner**—The fundamental problem we have is that, in the circumstance where we have only now received an application, it is very difficult for us to form a fair appraisal of their performance in the remaining two or three weeks before their licence expires. The fact is that the TCBL—the temporary community broadcasting licensing regime—means that there is a path by which they can remain on air. What will then follow will depend on decisions that the authority has yet to take about that service.

**Senator RONALDSON**—Is this the group that is operating out of Castlemaine as well, or is that another one?

**Mr Tanner**—No, it is a different one. The word ‘goldfields’ has caused confusion at every turn. This is 3CCC. It is a very old community station. I think it is the original community station in Bendigo, from memory.

**Senator CONROY**—Minister, is there any suggestion that you can make? It just seems a little harsh, even if they have failed to get their paperwork in on time?

**Senator Coonan**—Senator Conroy, I have absolutely no role and no discretion, but I can tell you that the act provides that, at the latest, they must lodge 26 weeks prior to the licence expiry—section 91A(a)—unless notified to lodge it earlier. My advice is that on 4 October

2005 the authority's staff requested 3CCC's renewal application by 13 November 2005, 12 months before the licence expired. On 11 April 2006, staff notified 3CCC in writing to lodge an application by 13 May 2006. After numerous reminders and explanations of the consequences of nonlodgment, 3CCC lodged its renewal application apparently—so they say—on 13 October 2006, and then they claimed that it was lodged in April but there is nothing to support that claim. There was a further reminder letter sent in July 2006, which received no response. Given that the act is very plain, I have no discretion. It is going to be a matter, I think, of seeing whether or not their earlier claim is made out.

**Senator CONROY**—That may or may not be possible. But could I urge you to consider encouraging ACMA to expedite the reissuing of a licence. This is a 25-year-old station, that sounds as though it is having a few administrative difficulties, at a minimum.

**Senator Coonan**—Senator Conroy, that is a matter for the regulator. That is why we have a regulator. I have no role in this, but I have satisfied myself that the act has been properly applied, and I am quite confident that the regulator is capable and, if there is some basis for looking at this favourably, it would be disposed to do so. That is as far as I can take it.

**Mr Chapman**—Senator, just to add to that, it is not a decision we took lightly. I think I expressed regret in the media release that accompanied it. We seriously looked at the way in which we could accommodate this circumstance, but the unqualified legal advice was that we could not. We had no option other than to move in that way. I should say by way of some general empathy, that the members of the authority are very actively disposed to the benefits of community broadcasting, and the management of the agency is well aware of that strength of conviction amongst authority members as to the vibrancy and the important role that community broadcasting plays. From my observations over the last eight months, the staff of the agency always go the extra mile in trying to, firstly, accommodate and, secondly, get to the nub of what you are getting at, to try and help community broadcasters to get back on track, so to speak. I would think that this would be no exception.

**Senator CONROY**—I appreciate the intent of your words there, Mr Chapman. I am in no way reflecting on ACMA for fulfilling its obligations under the law.

**Mr Chapman**—No, I did not take it that way. I just wanted to give you the—

**Senator CONROY**—I will pass on to the local member Mr Gibbons and the Fresh group your sentiments and draw them to the statements of both you and the minister this evening. Thank you for that. This is my last question but I have some others which I will put on notice. In February it was reported that ACMA was investigating the control of five commercial licences owned by ELME Investments. What is the background to this investigation?

**Mr Chapman**—That is a longstanding investigation.

**Senator CONROY**—How long?

**Mr Chapman**—When I say 'longstanding', we commenced the investigation in February. I am reluctant to say anything about it in terms of the detail, but the investigation is ongoing, although it is coming to a close. It has been and is an extremely complicated investigation, for reasons that are best not gone into, but it involves both financial and operational considerations. For that reason it is perhaps unique in terms of the control provisions to date. I am hopeful that we can expedite a conclusion but that is the current status.

**Senator CONROY**—What is the definition of ‘associate’?

**Senator Coonan**—It is in the act.

**Senator CONROY**—I am just asking in general.

**Mr Chapman**—I will ask Mr Bezzi to take us through that.

**Mr Bezzi**—I am not sure that you want me to read out the definition of ‘associate’ from the act. That is not really the intent of your question, I assume?

**Senator CONROY**—I was just wondering if it includes the words ‘legal and operational’ in it—or ‘financial’, I think Mr Chapman said, and operational—and if it draws a distinction between financial and operational? Those were your words, Mr Chapman?

**Mr Chapman**—I said it involves both aspects and considerations with respect to financial matters and with respect to operational matters.

**Senator CONROY**—Moving into the more generic question of what is the definition of an associate, does it draw a distinction between financial and operational matters?

**Mr Bezzi**—Perhaps I can clarify where you are heading, Senator. Is this a question in the context of the Omni investigation?

**Senator CONROY**—No, this is a question of what is the legal definition of ‘associate’ under the act and whether it draws a distinguishing line between financial considerations and operational considerations. I am intrigued by the concept that they are separate.

**Senator Coonan**—Wasn’t Mr Chapman referring to some evidentiary types of matters rather than a definition? It may resonate with a definition.

**Senator CONROY**—That is why I am trying to get a clarification of the definition. Unfortunately, you are at least three steps ahead of me, Mr Bezzi. This was my last question, but you may have intrigued me into asking more.

**Senator Coonan**—The definition is in the act.

**Mr Bezzi**—I think the place to begin is schedule 1 of the act. There is an essay on control, which talks about circumstances in which control can be found. That is really the place to begin. I am sure you do not need me to take you through the act. The point of any investigation into control is to figure out whether a person is in a position to control and whether there is a restraint over a substantial issue affecting the company or the licence. I think Mr Chapman, when he was referring to financial matters, was referring to restraints that might arise in a financial sense or operational restraints that might arise. Perhaps that clarifies things for you, Senator.

**Senator CONROY**—Not really, but I am conscious that Mr Chapman does not want to say a lot on it, so I will not press him further.

**Mr Chapman**—Thank you, Senator.

**Senator CONROY**—I have some questions that I will happily put on notice, but I had one more quick one. I have a number of questions about ACMA’s role in the transition from CDMA to 3G. Page 27 of ACMA’s annual report provides that the 3G working group, comprising DCITA, ACMA and Telstra, has met only three times. Why has this committee

seen it necessary to meet on so few occasions? I do not get a sense of urgency in only three meetings.

**Mr Chapman**—Mr Tanner has responsibility for the oversighting of our technical audit in this matter and I will ask him to take you through that.

**Mr Tanner**—I have only relatively recently become involved in the work of the committee and I have yet to attend a meeting, although other people from ACMA have. My understanding is that the committee is operating at a fairly plenary level. There has been a subcommittee which has been meeting separately on issues that progress the ACMA independent audit of the respective coverages: CDMA and the Next Gen services. I expect that that explains the relatively small number of meetings.

**Senator CONROY**—I would like to refer you to a comment made by the minister in a media release on 6 October 2006. In this release the minister stated:

ACMA is currently conducting a coverage audit of the CDMA network and will audit the coverage offered by the new Next G network next year.

Is that accurate?

**Mr Tanner**—We currently have a request for tender out. I think that closes about the 13th. We expect to have a consultant on board to work with us from the beginning of December, from memory. We are hopeful we will be on the road by late December but before that we will have to do a bit of work with the consultant to ensure that their approach is methodologically sound as far as we are concerned. We will be working with the consultant on the survey.

**Senator CONROY**—So ACMA is not currently undertaking a coverage audit of Telstra's CDMA network?

**Mr Chapman**—We have responsibility for it. We are on the case.

**Senator CONROY**—Do not obfuscate. I asked if ACMA was currently undertaking a coverage audit.

**Mr Chapman**—There are some semantics in that. We have a responsibility for it.

**Senator CONROY**—The only semantics are those that you are trying to create right now, Mr Chapman.

**Mr Chapman**—Senator, there are two parts to the audit and we have been working on this for some time. We have an RFT out for consultants to assist us with—

**Senator CONROY**—You have a request for a tender out? How can you be doing one if you have not even tendered yet?

**Mr Chapman**—We are not currently doing the field survey component. That is accurate to say that, Senator.

**Senator CONROY**—So you are not currently conducting a coverage audit?

**Mr Chapman**—From our perspective, we are working to a work program and we are comfortable with the progress of it.

**Senator CONROY**—That is fine but I am just trying to establish whether it is factually correct that you are currently, or as at 6 October, conducting a coverage audit of the CDMA network. The answer is no, you are not in the field.

**Mr Chapman**—We are not in the field at the moment, Senator. That is correct.

**Senator CONROY**—Given the minister's desired urgency—she thinks one is going on at the moment—why are you moving so slowly with this audit?

**Mr Tanner**—I do not think it is fair to say we are moving slowly with the audit. We are moving with appropriate speed and will continue to do so. I think it is fair to say that the settlement of the request for tender has taken somewhat longer than we expected, but I do not anticipate any further delays with the audit and we are certainly going to get the first leg done pretty promptly. There is really no issue with any delay with the audit. It is going to do the forensic tasks that it has to do in good time. There is no issue of it perhaps being possible to have done it faster if we had got that RFT ready earlier.

**Senator CONROY**—That is for both the Telstra CDMA and the WCDMA networks?

**Mr Tanner**—That is right. For the CDMA, we just need to do a benchmark while it is on. It is not really material whether we do that benchmark in October, November, December or January for that matter. We then do the second benchmark at the earliest date that is practicable, given that we want the Telstra Next Gen network to be up. There is no point doing it ahead of that time.

**Senator CONROY**—Didn't they just launch it? I thought the minister and I both attended a launch of it.

**Mr Tanner**—There is no doubt that they are very well advanced with the rollout but the issue is whether it is rolled out at the extremities to the point where Telstra would be happy to say, 'That's finished and we've met our boast of more than matching coverage of CDMA.' That is the point when it is appropriate to do the comparison, obviously.

**Senator CONROY**—I just got a sense from listening to the speeches that both the minister and I gave, and Telstra's own contributions at the same function, that they seem pretty upbeat about what they were delivering right now—today.

**Mr Tanner**—Yes, and they have made quite clear that they have rolled that out a lot faster than planned. What is unclear and what we would need a clear indication of is when the network is so far rolled out, including at its extremities, that it is ready for a comparison between the two.

**Senator CONROY**—They are running six months ahead of their own schedule, which has left you running about three years behind yours, from what I can work out.

**Mr Tanner**—Until quite recently my staff were planning on the basis—and this was a well-informed position—that the fourth quarter of next year was the appropriate time to do the second benchmark. We have no information as to exactly how far forward, if at all, that might have moved at this stage.

**Senator CONROY**—I am interested that you say 'fourth quarter'. I understood it was the case that ACMA was currently intending to perform its audit of Telstra's 3G network in quarter 2, 2007-08. That would make it December—

**Mr Tanner**—That is the fourth quarter of 2007. That is right.

**Senator CONROY**—In other words, any issues arising from this audit will not be identified until after the election.

**Mr Tanner**—What I have just said is that we, at this stage, do not know what date will be appropriate to do that measure. The indications appear to be certainly that it will be ready for the measure sooner. We do not know how much sooner yet. Obviously, our aim would be to do the measure absolutely as soon as the network is ready for comparison.

**Senator CONROY**—Telstra are saying that their network is currently fully operational.

**Mr Tanner**—I think that is different from saying that they have rolled it out to the extent that it is now a fair measure; that they have finished their roll-out of the extremities. I do not have any information on how far, if at all, forward that date has come. That is all I am saying.

**Senator CONROY**—It must have come forward. They are six months ahead of schedule.

**Mr Tanner**—We are building into our RFT the flexibility to do this as soon as it is appropriate. That is what we will do.

**Senator CONROY**—So you are not talking to Telstra at all?

**Mr Tanner**—We will at an appropriate time, Senator.

**Senator CONROY**—They have announced that they are up and running. Senator Coonan and I have both spoken at a launch of it. I am just wondering if you had noticed.

**Mr Tanner**—We certainly have. The best information that I have from Telstra directly to ACMA is that they are working well ahead of schedule, but we have not obtained from them an alternative date to fourth quarter 2007 at this stage.

**Senator CONROY**—Have you asked for one?

**Mr Tanner**—What we have done is made quite clear in our information around the request for tender that we want flexibility in the successful tender to be able to do it as early as is appropriate.

**CHAIR**—Senator Conroy, we have reached our scheduled closing time. Would you like to put your questions on notice: those remaining for ACMA and for the department.

**Senator CONROY**—It is entirely unsatisfactory—it is no reflection on that side of the table—that we are in a situation where the department is not going to be asked any questions. I have many questions. I have attempted to be brief. I have put quite a lot on notice along the way and it is entirely unsatisfactory that we are in a situation where there is at least an hour or two of departmental questions to come—I am sure that your own senators have some as well—and we are being shunted like this.

**CHAIR**—The committee has agreed on a time frame for this estimates, Senator Conroy. How the time is used is a matter for the senators. It is a matter of discipline in terms of questions asked, and these are supplementary estimates.

**Senator CONROY**—The point I am making, though, is that I do not think anyone who is at the table at the moment falls into the category of being undisciplined. We spent four hours on SBS.



**CHAIR**—That is the way estimates go. It is a matter of how senators choose to use their time, as you well know, Senator Conroy.

**Senator IAN MACDONALD**—I kept urging you to hurry up on your questions.

**Senator CONROY**—I know you had your tongue firmly in your cheek at that moment as you said that, Senator Macdonald.

**Senator IAN MACDONALD**—I am still wanting to know how, when SBS has breaks, it is going to bring the government down. One day you have to explain that to me.

**Senator CONROY**—You are doing as good a job as anybody.

**Senator IAN MACDONALD**—Absolutely. I am getting somewhere in half the time that you are.

**Senator CONROY**—You are bringing the government down yourself. It is okay. But how is that Italy appointment coming along for you? Just keep annoying them a bit longer, Macca. I just wanted to put on the record, before Hansard goes, that it is entirely unsatisfactory that major components of the portfolio are not getting any questions whatsoever.

**CHAIR**—So be it, Senator Conroy. I am afraid that is the way estimates go. I do agree with you that it is unfortunate for the department, and I apologise to the officers who have been kept here so long without being asked questions. Questions can be put on notice and I trust they will be. The committee has now concluded today's program. The committee's examination of the sports and arts areas of the Communications, Information, Technology and the Arts portfolio will commence tomorrow morning at 9 am. I remind senators to submit questions on notice by the end of the hearings tomorrow, Tuesday. I conclude today's hearing and thank everybody for attending.

**Committee adjourned at 11.05 pm**