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SENATE

ENVIRONMENT AND COMMUNICATIONS
LEGISLATION COMMITTEE

Estimates

THURSDAY, 16 JUNE 2011

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SENATE

ENVIRONMENT AND COMMUNICATIONS LEGISLATION COMMITTEE

Thursday, 16 June 2011

Senators in attendance: Senators Abetz, Birmingham, Cameron, Fisher, Ludlam, Macdonald, McEwen, Troeth and Wortley.

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

Senator Conroy, Minister for Broadband, Communications and the Digital Economy,
Deputy Leader in the Senate, Minister Assisting the Prime Minister on Digital Productivity

Department of Broadband, Communications and the Digital Economy

Mr Peter Harris, Secretary

Australian Communications and Media Authority

Mr Chris Chapman, Chair

Mr Richard Bean, Deputy Chair

Mr Chris Cheah, Member

Ms Andree Wright, Acting General Manager, Digital Economy Division

Mr Giles Tanner, General Manager, Digital Transition Division

Ms Maureen Cahill, General Manager, Communications Infrastructure Division

Mr Patrick Emery, Acting Executive Manager, Infrastructure Regulation Branch

Mr Nevio Marinelli, Acting Executive Manager, Spectrum Infrastructure Branch

Ms Jennifer McNeill, Acting General Manager, Content, Consumer and Citizen Division

Ms Jonquil Ritter, Executive Manager, Citizen and Community Branch

Ms Kathleen Silleri, Executive Manager, Content and Consumer Branch

Mr Brendan Byrne, General Manager, Legal Services Division

Ms Clare O'Reilly, Executive Manager, Public Inquiry—Reconnecting the Customer

Ms Dianne Carlos, General Manager, Corporate Services and Coordination Division

Dr Derek Ambrose, Chief Financial Officer and Executive Manager, Finance and Facilities
Branch

Mr Stuart Wise, Project Offer, Finance and Facilities Branch

NBN Co. Ltd

Mr Mike Quigley, Chief Executive Officer

Committee met at 16:01

CHAIR (Senator Cameron): I declare open this public hearing of the Senate Environment and Communications Legislation Committee. Today the committee continues its examination of the Broadband, Communications and the Digital Economy portfolio. The Senate has referred to the committee the particulars of proposed expenditure for 2011-12 for the portfolio of Broadband, Communications and the Digital Economy and other related documents. The committee has set Friday, 29 July 2011 as the date by which answers to questions on notice related to today's hearings have to be returned. Understanding order 26, the committee must take all evidence in public session. This includes answers to questions on notice. Officers and senators are familiar with the rules of the Senate giving estimates hearings. If anyone needs assistance, the Secretariat has copies of the rules. I typically draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by

which a claim of public interest immunity should be raised. That order will be incorporated in *Hansard*.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(Extract, Senate Standing Orders, pp 124-125)

CHAIR: I welcome the Minister for Broadband, Communications and the Digital Economy and portfolio officers. Minister, would you like to make an opening statement?

Senator Conroy: No, thank you.

Australian Communications and Media Authority

[16:03]

CHAIR: Mr Chapman, would you like to make an opening statement?

Mr Chapman: No thank you, Chair. I do want to introduce the Deputy Chair, Mr Richard Bean, who has not had the opportunity to sit through Senate estimates before.

CHAIR: He will be looking forward to this with great delight, then.

Mr Chapman: He told me the same thing! I have also joined by a number of my general managers at the table who will introduce themselves in due course—senators have met many of them before—and also we have a number of my executive managers here. I only say this because we have a very broad remit in the ACMA and I thought I would indicate upfront that, depending on the extent of the enquiries today, we may call on some of the officers behind us.

Senator FISHER: Do you have your chief finance officer in the ranks, just out of curiosity?

Mr Chapman: We have.

Senator FISHER: Thank you.

Mr Chapman: Thank you for putting us on notice.

Senator FISHER: Maybe, maybe not. I have questions about digital TV and radio. Can you update us on progress made providing digital radio to regional and rural Australia, and the spectrum issues.

Mr Chapman: Related to digital radio, or digital generally?

Senator FISHER: Are you convinced that there is sufficient spectrum for those services?

Mr Chapman: We established the digital transition division, which Mr Tanner oversees, and I will ask him to respond specifically to your questions.

Mr Tanner: The situation is that there is a framework in the legislation for the introduction of digital radio which offers DAB+ multiplexes to national broadcasters and consortia of commercial and community broadcasters in areas. I am sure you are aware that we have seen those multiplexes roll out in the five largest cities. There is a mechanism in the law for that to be extended into regional Australia but that mechanism is brought to life, if you like, by the determination of dates, by the minister, by which certain things have to occur. At this stage those dates have not yet occurred.

However, we do have a number of things to go on with in advance of any dates. We know that the radio industry's very strong preference is to make use of VHF band 3 spectrum, and in

particular some of the spectrum that is freed up by the digital dividend process in the range channel 6 through to channel 12, and that is going to become progressively available as analog TV services turn off over the next period to 2013. The minister last year directed the ACMA to hold back in metropolitan areas two television channels, or 14 megahertz of that spectrum, to create space for a regional rollout of digital radio. The ACMA has done that. In fact, the ACMA has also determined that that spectrum will be in the channels that are currently used by channel 9 and 9A. So we have assigned that band. The band is by and large not yet available because it is still being used by analog television channels. We are doing some work with the department on technical options for what digital radio rollout might look like using that amount of spectrum, but in terms of going any further I make the point that nothing happens under law until dates are determined by the minister, and that has not occurred.

Senator FISHER: In terms of that part of the spectrum that will be vacated in due course, once that happens are you convinced that there is sufficient to meet rural and regional radio requirements?

Mr Tanner: Let us define our terms a little bit here. The scheme in legislation envisages that the DAB+ multiplexes would provide services in an area which is roughly equivalent to existing commercial radio licence areas around the country. Unlike existing radio, DAB+ requires large groups of radio services to operate on a single transmitter using a multiplex. If you look at the legislation, the geographical unit for the rollout is commercial licence areas. There are quite a few of those; there is over 100 Australia-wide. It is a major challenge planning the quite large number of multiplexes that would entail. However, there are a number of technical options that we have been examining. We expect as the government requires it, our engineers will be providing advice on what those options are.

Senator FISHER: What are the sorts of assumptions you will make in terms of those options? What process will you use to decide, and what assumptions will you make?

Mr Tanner: You have got to draw a distinction between the policy process and the legal process. We are a creature of law, so the only assumptions I can point to at the moment are the assumptions in the present legislation. Under the present legislation we would see two multiplexes go into every regional commercial radio market. The government of course has much great flexibility. It can think outside that box, it can propose changes to legislation to parliament, and it has a lot of options that we do not have. That is why I mention that our role as an advisor on technical issues is also quite important.

Senator FISHER: But, if you considered that there was not sufficient spectrum or that there was a risk that there might not be sufficient spectrum, it would be part of your role to inform the government of that, wouldn't it?

Mr Tanner: Yes.

Senator FISHER: Have you done that?

Mr Tanner: We have certainly indicated that 14 megahertz, two multiplexes in every market, would be tight and would involve a lot of compromises compared to what you might call traditional planning approaches, but we have not gone much further than that.

Senator FISHER: How long ago did you provide that advice, and has the government responded to it?

Mr Tanner: I am not sure when that advice was provided. I would have to take that on notice. The government is currently considering submissions to a review of technological options that is mandated in legislation. That is where I understand the government is at.

Senator FISHER: What about spectrum for mobile broadband services? Once spectrum is reformed, if you call it that, again, do you think there will be sufficient to provide for those services up to 2020?

Mr Chapman: Senator, you have moved from the digital radio to mobile broadband, and wireless spectrum generally—

Senator FISHER: Sorry; so that is no longer Mr Tanner.

Mr Chapman: That is correct. In that particular regard, very recently we issued a discussion paper which is the start of what I think will be a very long and thoughtful process indicating the necessity to identify about 300 megahertz of new spectrum, reformed spectrum—that is the usual terminology—between now and, say, 2020. We have broken it up into two tranches of five years. If you would like detail about where that might come from then Ms Cahill could take you through that.

Senator FISHER: Yes, please. I did want to ask about the spectrum held by state rail authorities and I presume that will be covered.

Ms Cahill: As our chairman indicated, we released in May a paper, mobile broadband spectrum 2020. The process involved in that was to indicate where we identified the need for spectrum moving out to 2020 and how we felt that the ACMA, in its planning process, could meet that need. As part of that process of identifying the spectrum requirements we looked at detailed work, in association with carriers and with industry generally, in relation to what the mobile demand traffic statistics were. We also worked very closely with industry in relation to what technical efficiencies could be promoted and rolled out in terms of network efficiency. We have identified, as the chairman has indicated, that 300 additional megahertz would be required by 2020.

We then looked at what was in the market, or available for use, in Australia currently, what we were planning in terms of what was going to be in the market in relation to the 700 megahertz—the digital dividend—and what was going to be in the market as a result of our decisions around planning for the 2.5 gigahertz. Our mobile broadband paper then proposes a range of other bands that we felt would meet needs in the short, medium and longer term.

In relation to the medium term, post the 700 and the 2.5 processes, we identified spectrum in the 900 megahertz band. We also foreshadowed that the next tranche of our planning work would involve spectrum in the 1.5 gigahertz band. Based on our statistics and the work we have done in terms of what is currently in the market, what we propose to put in the market to meet short-term mobile spectrum needs and what we feel are longer term needs, we are confident that we can deliver the 300 megahertz required by 2020.

Senator FISHER: That is good. My final question on this point, and I will come back to this later, is about what I understand is the 1,800 megahertz frequency that is currently held by state rail authorities and will expire in 2013. Is there any plan to auction that off or make that available for this purpose?

Ms Cahill: As you are aware, Senator, and as you have noted, the licences do expire in the next few years. There is a process currently being undertaken by the department to provide

some level of certainty and assurance around expiring spectrum licences. That process kicked off after the minister's announcement last year that services that were providing primarily services in the mobile sector to people in terms of mobile carriage were going to be considered in the initial consideration. In terms of generally expiring spectrum licences, the act has a presumption that they would go to market unless there were special circumstances, in terms of being reissued the same licence, or the minister providing a determination that there were special circumstances and that it was in the public interest for the ACMA to exercise its discretion to reissue.

Senator FISHER: I am with you so far.

Ms Cahill: In relation to rail authorities, the process is wider, as you would appreciate. The Railway Association has been working with both the department and the ACMA over approximately the last 18 months in relation to the 1,800 spectrum that they currently hold, their requirements moving forward and how their requirements might be met. Those discussions are ongoing.

Senator FISHER: So it is under consideration and we do not know at this stage.

Ms Cahill: There are ongoing discussions on the needs of the Railway Association moving forward.

Senator TROETH: I would like to ask some questions on the convergence review. What resources is ACMA assigning to the convergence review and how much is the spend?

Senator Conroy: It is being run by the department.

Mr Chapman: The review is being run by the department but the ACMA has a strong interest in the review, has met already with the members of the review committee, has already had correspondence with the review secretariat and will be making multiple submissions and contributions, including research contributions, over the coming months. That is essentially the framework.

Senator TROETH: So there are some resources in terms of person hours being devoted to it?

Mr Chapman: Yes there are, but I could not, sitting here this afternoon, hazard a guess as to the number on that.

Senator TROETH: How would you define ACMA's role—that of being a submitter to the review and taking an active role with the department?

Mr Chapman: It is a little deeper than that, with respect. We live with convergence every day so I could probably quote you half a dozen living examples where—

Senator Conroy: You are a converged regulator.

Mr Chapman: We were set up as a converged regulator; thank you, Minister. We seek to operate on a converged basis wherever possible. We restructured the ACMA 15 months ago on a converged basis to give us a better handle on dealing with cross-platform issues, investigations and the like. We deal with the reality of convergence every day. For example, we have recently completed the issuing of four progressive discussion papers on the numbering plan. It is a terrific example of the impact of convergence in the telecommunications space. We are responsible for the administration and the evolution of the numbering plan and we see every day examples of the numbering plan being under increasing

pressure as a result of the phenomenon of convergence. I quote that as one of many, many examples.

Our normal day job is to be responsible for the planning, licensing, licence issuing, fee collection, compliance and enforcement in terms of broadcasting licences; for the planning, licensing, fee collection, enforcement and compliance in terms of telecommunications licences; and for the planning and issuing of licences in the radio communications—that is, spectrum—space. In the compliance and enforcement space we raise nearly a billion dollars each year in taxes and revenue.

Apart from that day job, we have the day job of working with a number of converging issues. So we are living with that. Over and above that, we think we have, by being at the coalface each day, the relevant expertise to contribute to the convergence review. My view for the last four years, and it is on the record, has been that, at some stage, it will no longer be feasible for the sector-specific pieces of legislation to continue to operate in the way they have historically done. We use the term—pejoratively, admittedly—'broken concepts'. It is simply our way of giving profile to a number of issues right across the Broadcasting Services Act, the two telecommunications acts that are relevant and the Radiocommunications Act. We see that at the coalface, we deal with it, and we are feeling the cold of the winds sweeping across convergence in terms of regulation. That is one of probably half a dozen papers we have contributed or will be contributing to the convergence review over the next several months.

Senator TROETH: I note that you are speaking on the convergence review at an event coming up shortly. Do you think it is important for the converged media review to be finalised in time for the spectrum auctions so that new owners will have clarity on the regulations covering their services?

Mr Chapman: I did indeed speak at the CAMLA event last Monday week, which I think is the speech you are alluding to. That speech, which I put a lot of time into and is available on our website, is I think a thoughtful, layered series of observations about the reality of convergence, the pressures for change that are bearing down upon us and the need to identify what are the underlying solutions that sit behind those 'broken concepts'. It proffers some observations about where the review committee might look to harmonising and providing solutions to some of those issues.

Specifically on your question, I have never been of the view that that convergence review needs to be completed by the time of the auction program in the 702.5 space, which is intended to be towards the end of 2012. I do not see a connection; nor do I see the need for the convergence review to be completed for the government to take that on board in making decisions and developing policy. I do not see a correlation between the two.

Senator TROETH: So you think there will be sufficient information available in the marketplace for new owners to know what they are going into?

Mr Chapman: Most definitely. One of our great tests in 2012 for the ACMA will be to develop a marketing program, a marketing plan, which sets out with great certainty the rights, entitlements and obligations, if any, that will sit on those spectrum licences when they are reissued as a result of the price based allocation towards the end of next year.

Senator TROETH: Do you think that the current regulatory environment encourages innovation and creativity in this space?

Mr Chapman: That is a very hard question.

Senator TROETH: When you talk about broken concepts, I am assuming that you think there are new things to be explored and new areas to be covered by regulation or legislation.

Mr Chapman: I think that the minister's intent, and the minister can speak for himself, clearly, in putting the convergence review together is to start that dialogue because it stands to reason that we need a sector-specific approach going into the future. For example, at my CAMLA speech the other night, I talked about some of the implications of digital, of IP addressing and of the virtualisation beyond 2025. So it is a very broad question against an even broader backdrop. Australian industries in broadcasting, telecommunications, radiocommunications have historically been extraordinarily innovative. I think the Australian broadcasting industry stands as a beacon, considering the population, for the quality of both its broadcasting and its content. The innovation that has been demonstrated in the telecommunications industry has been extraordinary. One of the things that we were most interested in getting behind in our recent Reconnecting the Customer public inquiry was the divergences in views between accepting that there is extraordinary depth and width of products and services in the telco space in Australia and the view about customer care and complaint handling that does not live up to that same quality of products and services. I think in the telecommunications space the products and services have been very innovative. In the spectrum space Australians have been historically extremely innovative in this space and are continuing to be so.

I am not for one minute suggesting that I think there has been a halt to that innovation. The re-weighting and the added emphasis on the digital economy in the years to come will cause a massive reassessment of the framework and that is what we as a regulator are most interested in.

Senator TROETH: As the regulator what do you see as the primary impediments to regulating effectively in a digital environment?

Mr Chapman: I think at its essence what we call the silos of the current pieces of legislation are having their elasticity tested. The ability, as a result of digitalisation and IP addressing, of people to create a piece of content to be cut, sliced, diced and distributed across multiple platforms and received on multiple smart devices is a great example of the need for harmonisation across platforms. That is the one that is most often cited and I think it is a very good example. One of the challenges of the review committee will be to get behind the implications of that observation, if they accept that as a valid observation, and to start to provide solutions for calibrated responses to different pieces of content and services of data across different platforms. These are not easy matters, convergence is a truly unique phenomena, and it will take a great deal of intellectual thought and outworkings before the policy settings become right. That is just an example.

Senator TROETH: I would now like to move on to digital switchover. Could you tell me what resources are allocated to managing digital switchover issues and what areas does that cover?

Mr Chapman: Again, Mr Tanner has responsibility for digital switchover, the digital dividend, the auction program and all matters digital, so I will let Mr Tanner run with that.

Mr Tanner: The most visible part to the public of the digital dividend process is very much the switching off of analog television and ensuring that all Australians have access to high-quality digital services. The view the ACMA takes given our role is that we see a holistic process of refarming spectrum that is inefficiently planned for analog services which are very spectrum hungry. We are trying to move to a state of affairs where spectrum is efficiently planned for a great many more digital services, both excellent broadcasting and excellent advanced mobile telecommunication services, most likely. There will potentially be other beneficiaries too. So we see several streams of work going into that. I might just parse out which ones are ours and which belong to other people.

Senator TROETH: Yes, that would be helpful.

Mr Tanner: The first one, the one that tends to attract media attention, is digitisation itself. Digital television is rolled out so that it is simulcast with analog and then the analog is progressively turned off. In terms of the second tranche of work, we now have a honeycomb of remaining digital television channels, if you like. Instead of all the channels between 6, 7 and 12 being filled, only the digital ones remain. So the next process is what we call restack, and that is a process of retuning television services so that they take up a smaller amount—in fact, the amount that they need to provide the services going forward that the government has directed us to provide for.

The third part of the process, which will proceed in parallel with the other two, is reallocation, where the large chunks of spectrum that are freed up are progressively reallocated. We talked about a small one before—the reallocation of spectrum for digital radio. There is obviously a much larger one. We are looking at making available a very large digital dividend in the 700 megahertz band, most likely for advanced mobile telecommunications.

I will just run through what our roles are. In relation to the digitisation, very much the largest role is being played by the department itself and its digital switchover team, because it has a very big job of ensuring everybody gets digital television and the switchover proceeds. But we provide a great many contributory and ancillary roles behind that. We are, firstly, the spectrum planner, which means that we have planned the channels that are required for digital television. We are also planning the channels required for any retransmissions or infill, whether provided by broadcasters or provided by local government. We have a series of roles in relation to the conditional access scheme, which regulates access to the vast satellite backup service, which ensures that the outer 2½ or three per cent of viewers, in terms of their location, can get services.

Also in relation to digitisation, we have a large program of investigations into coverage. We have only a certain state of knowledge about what is actually going on in the community, because the way television has worked traditionally is that the government gives out channels, broadcasters provide the transmitters and they sell advertising to advertisers. All the other things that happen—retailers selling TVs, antenna installers putting antennas on houses—occur without them being put into a giant database which is within the government's control. So what we have seen in the last 10 years has been a tremendous process of getting on top of

that whole matrix, understanding it and influencing it so as to try and deliver, as smoothly as possible, a digitisation process.

Our coverage evaluation program is a critical plank in that. I think to date we have taken more than 88,000 field measurements around the country as part of a process of giving the digital switchover team a much more granular understanding of where the signal deficiency problems are and what coverage is actually like at the outer range of coverage in particular. We also provide a number of other support services. That has been provided in confidence as advice to the department in the past. As of the last month we have begun publishing our reports, so they are now publicly available—but I should say they are mainly curiosities. I would not be directing your constituents to go and look at the reports because, based on all the information we have provided about coverage, this mySwitch website has been developed. You can just key in your address and you get this very accurate snapshot of what your coverage situation is probably like.

Senator TROETH: In your particular area?

Mr Tanner: In your particular area. That is based on the ACMA's data, in the end. So we are putting a very big program of work together, in the background and ancillary to the digital switchover team, but it is really important in giving as good an understanding as we can, short of sending someone out to visit all 8.8 million premises, which is just not achievable. That is what we are doing in the digitisation space. There is still a lot of work going on there even now. We are doing a great deal of planning for retransmissions. We are in consultation, as is the department, with local government about potential conversion of analog transmitters, where communities do not want to move to the satellite or where broadcasters are not coming in and taking over. We are doing a lot of planning at the moment to ensure that there is a speedy equalisation process in the states that have not traditionally had the full range of services available in the cities. That is now being addressed for the first time, and we are planning the channels in negotiation with the broadcasters. That is our digitisation role.

On the restack role, the broadcasters get to implement that but we once again do the channel planning. We are quite well advanced in that work. Without much public fanfare, we have been consulting closely with industry through a process which we call the RPAG—restack planning advisory group—and we have recently made some decisions which have allowed us to begin the development of a timetable and an initial high-powered channel plan for the rollout of the restack. That work is very pressing as we are keen to finish the job and have that spectrum freed up for advanced services by the end of 2014. That is a major piece of planning work for which we are fully funded but which we do without much public fanfare. In the third strand of work you will see a lot more public fanfare—the reallocation.

Senator TROETH: Is that the same thing as the auction?

Mr Tanner: The auction is a subset of the reallocation. I guess the auction is the item that everybody is going to focus on, but bear in mind that before that auction we need to prepare what Chris has already talked about, the marketing plan, which is basically the prospectus that the government puts out into the market. An enormous amount of information and detail has to go into that, and it has to be right. Proceeding in parallel, we will be working with the industry to deliver the restack so that at the time the licences finally come into effect the spectrum will be vacated.

Ms Cahill has already mentioned that we are also taking some action in relation to the 2.5 gigahertz band—in fact, we have recently decided that we are going to auction the 700 megahertz and 2.5 gigahertz bands together in a single auction. It will be 230 megahertz of spectrum probably for advanced mobile telecommunications; we will let the market decide the use. That is an enormous amount of spectrum relative to what is currently in use for practically anything. So I think it is a very big microeconomic reform in total, if we could carry this off in a timely fashion.

You asked about the resourcing. It is entirely funded out of a series of specific NPP grants. I could take on notice the exact sum.

Senator TROETH: Yes, if you could.

Mr Tanner: To give you an indication, there is additional staff and expenditure of resources in several divisions, not just in my own. Certainly Ms Cahill is doing some work. Our lawyers are doing extra work. We are doing extra economic analyses. My own division probably has something like 70 staff funded through this NPP process. So it is a very big deal for the ACMA.

Senator TROETH: You have just about answered my next four questions, so thank you for that. That was a very good explanation. What regulation will new owners of the spectrum be subject to?

Mr Tanner: It depends on what the owners are doing with it. When we talk about digital radio, for example, they are probably relatively heavily regulated because we have the Broadcasting Services Act which recognises that broadcasting services, particularly free-to-air ones like radio and TV, have a lot of influence in the community. The rules are broadly the same for digital and analog; they are not meant to be technology specific. They will be subject to those.

With the 700 megahertz digital dividend, it depends on what the services are for. We have already consulted extensively and I think there is a very strong and widespread expectation, even perhaps an overwhelming one, that the highest bidders for that spectrum are going to be people wishing to provide advanced telecommunications, such as mobile broadband services of various kinds. They would be governed by the usual laws that govern mobile telecommunications in the country. I think we are most concerned with the carriage here rather than the content. This should not be seen as something totally new. This type of process of refarming is a kind of microeconomic reform that I think is thrust onto government periodically by steady technological innovation and market developments in spectrum use.

Senator TROETH: Thank you very much. I would now like to move on to complaints. How many people are employed to handle broadcasting complaints?

Ms McNeill: I can give you a sense of the teams that comprise my division, because some are more closely involved in complaint handling than others.

Senator TROETH: That would be helpful.

Ms McNeill: When you ask about complaints, I am not sure whether you are talking about people who conduct investigations and write reports and things of that nature.

Senator TROETH: That is right, yes.

Ms McNeill: In what I will call the 'vanilla' broadcasting area, the total number of staff involved is 10.39, which, as you understand, reflects the fact that some of the team work on a part-time basis. They are the ones that are involved in commercial broadcasting investigations. Community investigations are conducted in another area.

Senator TROETH: Is that of community radio?

Ms McNeill: That is community broadcasting—television and radio—but it is not an area where there are a lot of complaints made, to be honest. I can give you a sense of the size of the team. Those team members do work on dealing with complaints but predominantly on engaging with the people involved in the community broadcasting sector to foster compliance with the relevant codes. Separately we have a content classification section. The team members in that predominantly deal with online issues but they contribute their expertise also to classification issues raised in a broadcasting context. In general terms, the number is probably something in the order of 15.

Senator TROETH: You may need to take this on notice, but what percentage of the regulator's time and operational costs are taken up by that role of handling complaints?

Ms McNeill: That is something I would need to take on notice.

Senator TROETH: Can you also give me a ballpark figure for total costs and their percentage of the overall ACMA budget?

Ms McNeill: We will take that on notice.

Senator TROETH: When you talk about complaints, does that mean complaints under standards, the code and the act altogether? You deal with each of those, I take it.

Ms McNeill: We do deal with each of those. The vast majority of complaints that we deal with are complaints that are made in respect of code breaches.

Senator TROETH: How do the costs of broadcasting complaint handling compare to the costs incurred for administering complaints about other platforms, such as online complaints?

Mr Chapman: One window on answering that is that a typical investigation into a broadcasting classification matter might take, on average, about two months. A typical investigation into a non-classification matter—that is, a code breach matter—might take, on average, about four months. So you can sort of double the resource implication, although it is not quite like that. So the average investigation for classification matters in this financial year is about two months and the average period taken for a code breach is about four months. They are, I might add—and I say this with a good deal of satisfaction—significantly improved KPIs for us when compared with what existed several years ago. We put an enormous amount of effort into streamlining our services, systems and complaint handling. We are starting to get the benefit from having multiskilled staff across a number of investigation areas. I will not go into that.

Online investigations under schedule 5, part 7 of the Broadcasting Services Act probably take—I am happy to be corrected here—in the order of a week. They often have to be, through necessity, dealt with far more swiftly. Indeed, with respect to the most obnoxious material, we deal with that within a day or two and we religiously stick to that. Again, you are getting a feel for the scale. I should indicate that the resource intensity of the online investigations has gone up by about 300 per cent over the last 18 months.

Senator TROETH: Do you expect that rate of acceleration to continue?

Mr Chapman: The trend line is certainly there at the moment, so I would be silly to suggest otherwise. That is entirely logical given the way in which the world is moving. I can only give you those comparative figures at the moment. We are happy to drill down further, but I thought that might be helpful.

Senator TROETH: Yes, it is, thank you. Are you obliged to investigate all complaints?

Ms McNeill: Certainly in the broadcasting sphere, we are obliged to deal with all complaints that meet the definition of a code complaint. I am drawing a distinction there between code complaints and preliminary inquiries or complaints where viewers ring up and say, 'Last night on television, I was scandalised when I saw content X.' In those cases we have to say: 'Under the legislation, you must first raise your concerns with the licensee involved. Then, if the licensee does not respond to you in a way which satisfies you, you come back to us.'

Senator TROETH: So the initial complaint is being made to somebody else?

Ms McNeill: We are not, in fact, not entitled to entertain the initial complaint because the co-regulatory framework contemplates that the licensee will have an opportunity to address the concerns of viewers and listeners.

Senator TROETH: So the number of complaints you actually deal with may not reflect the total number of complaints being made from the community?

Ms McNeill: The number of contacts with people who have concerns is greater than the number of complaints which we action and investigate.

Senator TROETH: Do you have any discretion over the number you can investigate or not investigate? I suppose that if, as you say, you investigate all complaints that come to you, that says that you have no discretion.

Ms McNeill: Certainly in the broadcasting sphere we have no discretion save where we form the view that the complaint is frivolous or vexatious.

Senator TROETH: How does that compare with other regulators, such as ACCC?

Ms McNeill: The ACCC is in a very different category insofar as it receives tens, sometimes hundreds, of thousands of telephone calls a year. It has no obligation to investigate those but is able to prioritise and deal with them in accordance with its own enforcement and compliance priorities.

Senator TROETH: How many lawyers does ACMA employ?

Mr Chapman: It is of the order of 26 or 27 lawyers—indicatively that number.

Senator TROETH: How many of those are involved in complaints-handling work?

Ms McNeill: More than half of those regularly contribute to the work of my division. They do not conduct the investigations, but they work closely with the investigative staff to ensure that legislative requirements are met and to ensure that the reports are appropriately drafted. We work as a team. We often consult our legal colleagues.

Senator TROETH: Does ACMA investigate, or feel obliged to investigate, broadcasting complaints made from outside Australia?

Ms Wright: Where material is complained about by a person outside of Australia, if this material is sufficiently serious—for example, if it goes to child sexual abuse material—the ACMA would have the ability to action an investigation of its own volition, although it cannot then name the overseas source as the complainant.

Senator TROETH: No, I understand that.

Ms Wright: In practice, however, most of the material that is complained about is hosted overseas.

Senator TROETH: To what extent does ACMA investigate broadcasting complaints related to criminal offences under state and federal legislation, like the listening devices legislation, something like that?

Ms McNeill: The legislation is sometimes considered by us, but it is generally in what I will call a secondary context. For example, a code investigation might involve considering whether privacy had been breached or something of that nature. It may be that footage was obtained or recordings were made, which may raise issues under interception and listening devices legislation, but usually those are second-order issues and we are focused on the code matters.

Senator TROETH: Do you investigate complaints under the Commercial Television Industry Code of Practice that are the subject of legal proceedings?

Ms McNeill: From time to time we do, yes, because we have no discretion over whether or not to investigate.

Senator TROETH: Is that consistent with other broadcasting codes, like the ABC Code of Practice?

Ms McNeill: I think it is, yes. There is a point in proceedings when we are investigating a code matter, where we form a view on whether or not that has been a breach. People who may be adversely affected by the publication of the investigation report are given an opportunity to comment on it. So, if there were legal proceedings which meant that there were legitimate concerns, we would take those into account at that publication stage, rather than at the stage when we are deciding to investigate or not investigate.

Senator TROETH: Is a requirement to take reasonable steps to ensure that murder or accident victims are not identified directly—or, where practicable, indirectly—before their immediate families are notified by the authorities? Is that consistent across all broadcast codes?

Ms McNeill: Broadly, yes.

Senator TROETH: And across the media generally?

Ms McNeill: Broadly, yes.

Senator TROETH: How many people are working on the monitoring of free-to-air electronic program guides?

Mr Chapman: I might switch back to Mr Tanner, because our work in that area has been very technically based. The EPG, the electronic programming guide, is one area where we have had great success in working cooperatively—we have many successes in working cooperatively with the industry—but the EPG principles were the ones we worked up together, and Mr Tanner has led that, so I do not want to steal his thunder.

Mr Tanner: The numbers are certainly nothing like the sorts of numbers we have been talking about for complaints, but, as the chairman foreshadowed, a couple of years ago the ACMA was very concerned at the inconsistent and often quite low quality of EPG data that was on offer. Although it does actually have quite wide formal regulatory powers over many aspects of digital television—which it has been given in light of the digital dividend task—the approach that was taken was to promulgate, after some consultation with the television industry, a set of completely informal guidelines about what the ACMA believe should be the minimum quality of EPG offerings. The types of things that were picked up were: the requirement to have seven days worth of programs rather than simply the next couple of programs that are on, as we saw in some cases; the requirement to have the accurate classification of information; and the requirement that it be accurate—not in every respect because it is not practicable for broadcasters to promise what is going to happen in seven days time, but there is a present and following field in EPGs which explains what program is now on and what program will be starting. We mandated that that should be fully accurate.

I think it is fair to acknowledge at this point that the free-to-air broadcasting industry itself over the same period has also seen the desirability of and the opportunity for having a better and more consistent EPG offering. We have seen some quite interesting initiatives in this space from Freeview, which represents both the national and the commercial broadcasters. What occurred in the period up until March this year is that the ACMA began to regularly monitor and to publish quarterly reports on EPG accuracy, not only publicly—which is of some interest to an online community of people interested in EPGs and to the media—but also take up the problems that were being discovered with the broadcasters. That work received a lot of impetus when, over the same period, we were directed by the minister to mandate the parental lock standard, which we have done. The parental lock standard only works if there is accurate EPG data for it to work off—for example, accurate classification data around programs and those present-following transitions occur on time. Otherwise your parental lock does not operate at the same time or in the way it should.

What has happened over that period is that the broadcasters have invested a great deal in superior technology sitting behind their program feeds. In the period up until early April this year we have seen every network in the country get to a point where it is able reliably to meet the benchmark criteria that were set out by the ACMA two years ago. A subset of that is essential for the operation of parental lock. During that time I doubt that we had a full-time officer working on it, but we did an extensive amount of monitoring in three sites using several part-time workers. Once we reached the situation where all networks were compliant, and we had seen evidence that the systems that were being put in place did have the potential to comply, we drew back and moved to a more spot-audit-type approach. We have continued to take up any problems we become aware of with broadcasters and to investigate complaints. I am hopeful that we will have something else to say about the EPG issue in the next weeks. I am preparing a report for the authorities, so I might not pre-empt that, but I can tell you that so far our ongoing monitoring, which is now less intensive and more random, is showing we now have a situation where all networks have demonstrated stable capacity to comply with the original benchmarks that we promulgated.

Senator TROETH: Chair, I will pass to Senator Fisher as I am due on chair duty in the chamber.

Senator FISHER: I understand that ACMA has decided to reinterpret the relevant provisions of the Broadcasting Services Act and that you are requesting, by way of audit, from individual licensees their individual profit and loss statements and balance sheets whereas before, if there were a consolidated group of licensees and accounts, ACMA was satisfied with the consolidated set of data.

Ms Carlos: That is correct. We issued advice to broadcasters I think some 18 months ago that we had had a review of the way we collect the information in order to undertake the broadcasting licensing fee process and that we were advised from a legal point of view that we should be collecting that information at a licence level not at the consolidated level. We advised broadcasters of that and provided them with the opportunity I think in last year's assessments to provide the information in either format. We had a number of broadcasters who chose to provide that information in the new format and a number that provided it in the previous format. We have continued that process for this year's broadcasting licence fee assessment with a view and advice to the industry that next year we will be requiring that information down at the licence level.

Senator FISHER: So the either/or choice will die next year?

Ms Carlos: At this stage—

Mr Chapman: Having said that, we are a very reasonable organisation and it is clear that some licensees have contested this and they have provided contrary legal advice. We encourage them to provide that advice. We are considering that advice and we will work through that in the usual measured way that we do things. You say the either/or choice will disappear, but to agree with that would be pre-empting where we are going.

Senator FISHER: Good. No doubt some individual licensees will be pleased to hear that. Ms Carlos, you indicated that ACMA has legal advice that triggered this change of interpretation.

Ms Carlos: Internally, yes.

Senator FISHER: So it is legal advice from your internally employed solicitors, is it?

Ms Carlos: That is correct.

Senator FISHER: What led to this awakening?

Ms Carlos: It was part of a general review and refinement of all of our processes. We undertake internal reviews of our processes on a continual basis, and this was one such review internally.

Senator FISHER: For how many years had you been operating where you were happy to get a consolidated set?

Ms Carlos: I do not have that information with me. I am happy to provide it to you on notice.

Senator FISHER: Two years, five years or 10 years?

Mr Chapman: We will take that on notice, suffice to say that clearly we traditionally operated on that approach and this represents a change of approach.

Senator FISHER: Indeed. Disregarding the legal advice for the moment, was the previous approach inadequate for ACMA's purposes?

Mr Chapman: I would put it differently. It was one of the things that came up in our internal audits. We have a rolling program of anywhere from 10 to 15 reviews internally that occur over the course of a year. There is a matter where there is continuous improvement and better and more refined assessments. It was in that vein that we moved consistent with the legal advice that was provided to us.

Senator FISHER: Had a well-intentioned no doubt internal solicitor had a brainwave and decided: 'We have been doing it wrong before, now we have to do it this way'?

Mr Chapman: With respect, Senator, that is a very simplistic way of putting it. It is not that a lawyer had a brainwave. We have, as I indicated earlier, about 27 lawyers. We have a very sophisticated practice within ACMA. These are lawyers I am very proud of. We have a system of vetting and peer review of advices. They are not just thrown over the fence by a lawyer who gets up one morning and has a brainwave. This was an issue that was raised by the internal auditors in the interests of continuous improvement with respect to our very important revenue assurance role, bearing in mind the amount of revenue we raise for the Commonwealth with respect to broadcasting licence fees. Having been put on notice that there was a different interpretation, we acted on that. We have put that to the industry, we have had discussions with them, we have given them the opportunity to put a contrary view, they have put a contrary view supported by a QC's opinion, and we will take that on board and sit down with the industry again as we do in our usual way.

Senator FISHER: How many contrary views have you had in that process—just one?

Mr Chapman: One.

Senator FISHER: Would that be advice from Tony Meagher SC?

Mr Chapman: Yes.

Senator FISHER: You have, in your words, 27 sophisticated lawyers. It does become relevant for how long these 27 sophisticated lawyers have been operating under a misunderstanding, it would appear on the strength of your internal legal advice, of how ACMA should be implementing its legislative charter.

Mr Chapman: With respect, again, that is a long bow. The lawyers are not there to provide revenue assurance. Ms Carlos is the general manager responsible for Corporate. She is responsible, along with the chairman of our audit committee, for a very comprehensive internal audit program. We pick over about 10 to 15 matters internally in a year. It is a matter of continuous improvement. When the matter was brought to our attention through the internal audit we then referred it to our lawyers, who gave an opinion. That is the way advice is normally provided, consistent with what happens in a mature practice.

Senator FISHER: So for how long have your internal auditors allowed this misinterpretation, because you were saying before it was a misinterpretation, of your legislative charter to work?

Mr Chapman: I have previously indicated that we were operating on a different interpretation for some years. You asked whether it was two or five. I said I could not be that clear. I will have to take on notice how long we have had an internal audit program that has not addressed that. I cannot provide that to you at this time.

Ms Carlos: And noting, Senator, that we have a very broad organisation with a very wide range of activities, and the internal audit program is undertaken on a rolling basis. We would not have an internal audit of a particular item every single year. As with all organisations, there are resource constraints in terms of how much resourcing is put into the audit function, so we have a rolling program. As to whether that particular area was looked at previously, we would have to take that on notice and get back to you.

Mr Chapman: The other matter I would observe is that this interpretation was inherited from the Australian Broadcasting Authority by the ACMA when it came into effect on 1 July 2005.

Senator FISHER: When you say 'this interpretation', you mean the one under which you have operated up until you started to change it?

Mr Chapman: That is correct.

Senator FISHER: If ACMA were to proceed in this way for everybody, do you accept that it would place an extra administrative burden on those licensees who now have to do this at an individual level as opposed to previously when they might have been able to do it at a consolidated level? Do you accept that they have to deal with an extra administrative and regulatory burden in complying with your new interpretation?

Ms Carlos: We are aware that the industry has raised that with us in our consultations with them. They were in the process of providing us with additional information about what the impost might be. I think we are still waiting for any further advice from industry in respect of that.

Senator FISHER: If a particular entity has six different arms and previously the entity was able to comply with a requirement by providing one set of information from up here and it is now required, for example, to provide six different sets of information then it would seem to be common sense that that is going to place some sort of extra burden on the complying organisation or organisations, wouldn't it?

Ms Carlos: I think that really relies on how the individual organisations keep their records. I will note that at the moment we have about 50 per cent of the broadcasters complying with the new regime. Obviously, those 50 per cent are happy to comply with that. It depends on how they collect their information and keep their records.

Senator FISHER: Indeed, and do you have any data as to whether the 50 per cent that are complying have had to change what they did in the past? It may well be that a significant number of them only operated at an individual level in any case.

Ms Carlos: I am not aware of that information being available to us.

Senator FISHER: But it could be the case, couldn't it?

Ms Carlos: It could possibly be.

Senator FISHER: Is there no reason for this proposed change to approach other than identification with the rolling internal audit and then internal legal advice that ACMA is compelled to do this under the Broadcasting Services Act.

Mr Chapman: I am not sure what your question is, Senator. If you are asking—

Senator FISHER: Why are you doing this?

Mr Chapman: Because it is consistent with the advice that we received with respect to our responsibilities under the Broadcasting Services Act with respect to appropriate revenue insurance in this day and age. If the question was to suggest any other motive, I would reject that.

Senator FISHER: No, I am going to ask you whether there is any other reason or motive.

Mr Chapman: I just indicated there is not.

Senator FISHER: Good. Then that being the case, what is the point of this?

Mr Chapman: The point of it is that we are a statutory body charged under legislation with appropriate revenue assurance and revenue collection under the Broadcasting Services Act. I intend to chair an authority that acts consistent with legal advice on what our obligations are. It is that simple.

Senator FISHER: Okay. What purpose will the additional information serve? Will you be able to use it? How will it help you fulfil your role? That is what I am getting at. If the organisations concerned are saying, 'This is hamstringing us with red tape and bureaucracy—

Mr Chapman: We are interested in collecting broadcasting licences for this under the act consistent with the formula set out in the act.

Senator FISHER: But you thought you were doing okay until the internal audit said, 'Hey, maybe we can ask for this,' and then your lawyers said, 'Yes, you can.' You thought you were doing okay until now, didn't you, with discharging that responsibility?

Mr Chapman: But life and improvement in organisations is all about continuous improvement.

Senator FISHER: Provided that it improves the data that you get—

Mr Chapman: Provided that it is consistent with our obligations. If it transpires that we have a discretion of interpretation—

Senator FISHER: That is what I was going to get to, Mr Chapman.

Mr Chapman: If it transpires that we have a discretion then we clearly take into account, as one of the considerations in the exercise of that discretion, the impost on industry. In fact, the act requires us to take that into account.

Senator FISHER: Good. So you envisage doing that as you continue through this process, do you?

Mr Chapman: I have not got to the bottom of it yet as to whether we have that discretion. I said, and the transcript will reflect the fact, that if we end up having a discretion as to the way in which we interpret it, the choice of interpretation would in part be influenced by the financial impost on industry.

Senator FISHER: So have you sought legal advice as to whether you have a discretion?

Mr Chapman: Our advice is to date that we should be collecting revenue under the Broadcasting Services Act consistent with the approach that we have put to industry.

Senator FISHER: So have you sought advice as to whether or not you have the discretion as to how you apply that new approach?

Mr Chapman: It follows from my answer that the advice is that that is the way we should be doing it. I have not been advised that we have a discretion. I will—

Senator FISHER: Have you asked whether you have got one?

CHAIR: Senator Fisher, please allow Mr Chapman to finish his responses, then we may get an answer more quickly than if there is continual interjection.

Mr Chapman: I have not gone out of my way to put the question as to whether we have a discretion. My strong recollection of the advice is that this was a mandated way to approach it consistent with our obligations under the Broadcasting Services Act. My take-out from that advice, as I read at that time, as we shared at the authority through the authority discussions, was that this was the advice we had to pursue. I cannot imagine the Australian National Audit Office would be delighted with me exercising a discretion that derogated from discharging my responsibilities under the act. I am primarily solely concerned with discharging our obligations under the Broadcasting Services Act. We sat down with industry. Industry in part was unhappy with this approach. They provided the SC's advice that you mentioned. We are considering that advice and we will have further discussions with the industry. If it transpires that their advice provides a new light on that interpretation then, if we have a discretion, we will take financial impost on the industry into account.

Senator FISHER: And, presumably, any other factors the industry may raise that might be relevant to the exercise of the discretion if it so be that you have one.

Mr Chapman: That would follow, absolutely.

Senator FISHER: I hear you saying you are focused on discharging your responsibilities under the act. Of course, but if it transpires that you are able to do so whilst exercising discretion then it would make sense that you also do that. So when will you seek legal advice as to whether or not you have discretion when you discharge these particular obligations under the act?

Mr Chapman: That advice was forwarded to us about two or three weeks ago. It is not as if it has been hanging around for months. That advice has been very slow in coming to the ACMA and that advice is under consideration at the moment. Beyond that, I do not have anything further to add on this point at the moment.

Senator FISHER: So will you seek legal advice as to whether the authority has discretion in implementing this aspect of the legislation?

Mr Chapman: I think as a result of this afternoon's discussion I can confirm that that is a matter of inquiry I will be looking at.

Senator FISHER: Okay, good. Thank you. Do you know whether any other authority or body requires this level of detail from the organisations, the licensees, from whom you will be requiring it—for example, ASIC, the ATO?

Ms Carlos: I think that is beyond our remit. That would be under their legislation and their regulatory functions, not ours.

Senator FISHER: My information is that they do not. That, of course, can always be proven wrong, but my information is that they do not. If that is the case then, if you do seek legal advice as to whether or not you have discretion and the legal advice is that you do have discretion, I would have thought it would be relevant to the extent to which your new interpretation places a burden on licensees that we do not have to do this for any other organisation or body—for example, ASIC, the ATO—when we comply with their regulatory

stuff. So I would have thought there was room for that comparison to be part of any discretion you might find you have.

Mr Chapman: On the face of it, that seems to have some logic to it, but I suspect it will depend on the specific wording of the revenue collection and the revenue assurance obligations in their specific pieces of legislation.

Senator FISHER: But then surely the final factor, or one of the further factors, that ACMA may then—if you find that if you ask whether you have a discretion and then you find you have, would it not also be relevant to the exercise of your discretion whether or not this new approach actually helps you in your revenue assurance role?

Mr Chapman: I am sorry, I do not follow your question.

Senator FISHER: If this new way of giving information does not help you in your revenue assurance role, which is what you have been at pains, if I understand you correctly, to say you have been trying to do the whole way along, if getting this new information and getting it in a different way does not help you in your revenue assurance role, then surely it would be relevant for you to have the discretion to decide, 'Thanks for the legal advice, but we are going to exercise our discretion and revert to previous practice'?

Ms Carlos: That might be the case, but I have to say that, based on the percentage of the industry that has provided information in the new format, the quality of the information that has been provided has been higher than it was before. Industry has worked with us and it is found it to be useful in areas to have that higher level of detail as well. Our experience with those that have moved to the new regime, under a voluntary arrangement, has been that it has assisted us with our revenue assurance and the quality of data that we have been collecting.

Senator FISHER: Okay. Perhaps on notice, can you, Ms Carlos, provide the committee with information as to which sectors of industry, without necessarily identifying individuals, have said that this new way is useful to them and how; and secondly—

Mr Chapman: Sorry, if I could just clarify: when you say 'the sectors of the industry', what does that mean?

Senator FISHER: You tell me the easiest way—let me swing it back to you—

Mr Chapman: What information are you seeking to elicit? Is it whether it is regional and metropolitan, TV or radio, Western Australian or South Australian? You are not asking, presumably, for the specific identity of those who have been providing information.

Senator FISHER: No, I said other than doing that. I am not asking for that. Find a way to carve it up, please, to substantiate and illustrate Ms Carlos's claim, which I am sure is based on the 50 per cent of organisations that Ms Carlos earlier said have been doing it the new way. Find a way in which to carve them up, in a purely empirical sense, that substantiates the claim that they have found this new process useful to them, which I understand Ms Carlos to have said they did. Ms Carlos went on to say, I thought, that it has also been useful to ACMA, so I will ask on notice that you provide that same substantiation: how has that new information been useful to ACMA?

CHAIR: I do not know how ACMA are going, but I am totally confused.

Senator FISHER: I am very clear, and I will go again if you like. Can Ms Carlos respond?

CHAIR: Senator Fisher, I am talking, please. I think the questions you asking are extremely long, extremely detailed and quite complex, it seems to me.

Senator FISHER: So?

CHAIR: It might be that Mr Chapman might want to take some of them on notice so he can go through it in detail.

Senator FISHER: I am suggesting these be taken on notice, if you had been listening fully instead of emailing the minister.

CHAIR: You have to make your questions intelligible if you are to get an answer. That is all the point I am making.

Senator FISHER: I have placed those two questions on notice. I think they are quite intelligible.

CHAIR: Good luck!

Senator FISHER: Ms Carlos, are you happy with the questions now?

Ms Carlos: Yes. We can take them on notice.

Senator FISHER: Thank you. My final question on that aspect, and I will put this on notice as well, is: of the I think you said 50 per cent of organisations that are now doing it this new way, can you on notice tell me the extent to which you are able to substantiate how many of those which are doing it the same way as they did before.

Ms Carlos: I am not quite clear on that.

Senator FISHER: For those who have only ever operated as a sole entity as opposed to a consolidated group, there is no difference, is there?

Ms Carlos: I see your point. We can take that on notice.

Senator FISHER: Thank you.

CHAIR: Senator Fisher, you have five minutes and then we are moving on. Is that a problem?

Senator FISHER: You are the chair.

CHAIR: That is right.

Senator FISHER: In terms of local content, I understand that ACMA is investigating licensees who are playing in excess of the 12½ minute local news content requirement in more than five bulletins a day. Isn't playing more than the minimum local content requirements a good thing and, if so, what is the purpose of the investigation?

Ms McNeill: I think you are referring to an audit program that we have undertaken where we are checking a sample period of broadcast of particular licensees to see whether they are complying with the legislative requirements. I can offer a personal opinion on whether I think it is a good thing or a bad thing that they may be playing more news than they once did, but the question for us is whether they are broadcasting local news in accordance with the requirements of the legislation. Those requirements are quite specific and detailed around how many broadcasts they need to make and so forth.

Senator FISHER: To a local community, does it matter really how the minimum requirements are broken up? Surely what matters to the local community is that, however the

local broadcaster decides to divvy it up in terms of programming, they get as much local content as possible?

Ms McNeill: I do not know whether I am in a position to respond on what local communities do or do not want. We see this as an exercise in ascertaining whether there is a good understanding of the legislative requirements and whether there is compliance with the legislative requirements. The investigations are ongoing and where we find that there is non-compliance we will be working to educate the licensees involved.

Senator FISHER: You do not think this could be interpreted by some operators as an unnecessary intrusion into their programming rights?

Ms McNeill: That question is really a question about whether the legislation is an unwarranted intrusion into their programming rights, which is not really a question for the ACMA.

Senator FISHER: Yes, that may be so. Can I ask about codes of practice and the reference in codes of practice to official ratings surveys that are used to determine audience and demographic characteristics. What do you mean by official ratings surveys?

Mr Chapman: I am struggling a bit with the question. I am sorry but I do not quite—

Senator FISHER: In code 1 of the commercial radio codes of practice.

Ms McNeill: So we are talking about the commercial radio code of practice?

Senator FISHER: Yes, and that you use a survey, as I understand it, to work out audience and demographic characteristics for specific programs.

Mr Chapman: We may or may not on occasion. I am still not sure of the context of the question.

Senator FISHER: Has ACMA started seeking data from licensees to collect information about audience and demographic characteristics of their programs? I am getting a head nod from the back.

Ms McNeill: The answer is that where the code breach that is being considered by the ACMA requires us to take into account the demographics of the audience—I think that only occurs in the radio sphere; it does not occur in relation to television—the licensees invariably make available to us information about their listener profile and the demographics who tune in.

Senator FISHER: As far as you are aware, what is used by way of official ratings surveys? What demographic data is used? What official ratings surveys are used to determine the demographic data of the relevant audiences?

Ms McNeill: My understanding is that it is the commercial ratings services that do that. Predominantly they are breaking down listeners by reference to age, gender and so forth.

Senator FISHER: What if the commercial radio stations were, in that process, to go beyond what they had used in the past? For example, if in the past they had used a Nielsen survey, which is reasonably generic, and had decided to use information gained from confidential internal surveys, such as information about listeners' occupations, marital status and employment status, would ACMA have any role in that or any role in addressing concerns about that being excessive or an unjustified intrusion into personal information?

Ms McNeill: I think that the only way in which the ACMA would become aware of that information is if licensees submitted it to us and urged us to have regard to it in the context of a code investigation. So far as I am aware, that has not occurred.

Senator WORTLEY: Mr Chapman, I understand that the ACMA recently released its *Reconnecting the customer* report. I understand it was the result of a review of the practices of telecommunications companies. I know one of the other senators touched on that a little bit earlier. Are you able to outline for the committee the process that was undertaken in conducting that review?

Mr Chapman: Thank you for your question about our recent draft inquiry report—

CHAIR: Can I just congratulate you on it. It is a good report.

Mr Chapman: Thank you, Chair. Over a year ago we signalled our intention to get behind some of the war stories, the urban myths, and to try and understand this. I referred earlier, I think in answer to one of Senator Fisher's questions, to the difference in approach between Australian telecommunication products and services, which are well regarded, and telecommunication providers' approach to customer care and complaints handling on the other hand. The TIO statistics in the last several years have been trending very poorly year on year. Depending on whether we are talking about billing services, customer care or complaints handling, complaints had been going up in some cases over 100 per cent per year. In 2008 I think we had an aberration, on a related note, with respect to mobile premium services where the trend line had become totally unacceptable.

That unacceptability in the telecommunications providers' approach to complaints handling and customer care is coupled with the reality that products and services in the telecommunications space are getting more complex, not less complex, and the choice is becoming more complex. That is going to be exacerbated in the next generation environment. I think it will probably be turbocharged by NBN enablement.

The ACMA drew a line in the sand just over a year ago. We indicated that we wanted to get behind the war stories. We wanted to understand what was giving rise to those urban myths. We wanted to understand the systemic issues at play in the business that gave rise to those very unflattering consumer responses, which were giving rise to enormous consumer detriment. So we put a number of initiatives together under the banner of reconnecting the customer, because that is what the customer needed to do—they needed to be reconnected to their telecommunications provider. The three principal initiatives were the public inquiry, the terms of reference for which we released last July. The Telecommunications Consumer Protection code, the TCP code, which was due for a review, which had historically dealt with a number of aspects of either complaint handling or aspects of customer care but in a reasonably disparate way. We are also very conscious of a telecommunications playing field environment framework which was not only confusing to average consumers and Australian citizens but, frankly, was a little confusing to some of the regulators and major players in the space—and we talked about the 'ABC', the alphabet soup, of regulators in that space. So we set out with a view to trying to get behind that, to understand what are the systemic problems and to find solutions.

The draft report we released last week was essentially a strong corroboration of the instincts we had just over a year ago. We found that, on a number of measures, consumer

detriment had been rife with respect to poor customer care and unacceptable complaints handling performance. We sought to find those areas where we could find the most immediate and pragmatic relief. The drivers behind that were extraordinary complexity in the business becoming more complex; and a lack of transparency, and therefore a market failure in the ability of customers to compare one telecommunications service provider's performance against another. We sought to operationalise that in a report. And I am very pleased that Ms O'Reilly is with us. Ms O'Reilly acted as the project director for the project over the last 12 months, and I will let her add to this in a moment.

But what we did was we went through each touch point of the life cycle of a product and service, whether it be an initial contact between a consumer and a telecommunications provider, in terms of their advertising and their marketing practices; whether it be vital information that is required immediately pre-contract and at the time of contract; whether it be information that can be provided to allow a consumer to assess how their telecommunications provider is performing compared to others; transparency and a framework that allows some comparison to try and offset that market failure, to adequately fill that space; a much better framework and standard for complaints handling; and then the ability to escalate that to an external disputes resolution. So there were about six touch points in the life cycle of a product that we went through. We were respectful to the existing framework, namely the ability of the industry to own their own code, to own their industry. Frankly, we looked at those aspects where we thought that we had some reservations about the industry's ability to deliver on a much-enhanced performance.

So the draft inquiry report is extremely thorough, and I think it has been a well-regarded report—and I appreciate the comments you have made this afternoon. We intend to close that report out in August, having received commentary on it in July. The industry is working assiduously on the Telecommunications Consumer Protection Code. We know it has made considerable progress, but we have set the bar afresh. We have mandated outcomes in this report that are, from the ACMA's perspective, non-negotiable.

Senator WORTLEY: Can you tell us a bit about those outcomes, or the recommendations from the report?

Mr Chapman: I would be delighted if Ms O'Reilly is happy to run with that, because she has lived and breathed it for 12 months and it is a great reflection on the work she has put in.

Senator WORTLEY: I understand.

Ms O'Reilly: As the chairman just announced, we had six outcomes and we have tried to target those to where the greatest consumer detriment was. The two areas we found to be most problematic were in relation to the quality of information that is available for consumers. You have heard some references to this report being called the 'confusopoly report', because that is certainly one part of the industry that came through very strongly in the inquiry. The second issue was bill shock. As you would know, that is a major issue for many consumers, not just the vulnerable and disadvantaged consumers. In targeting the areas, as the chairman mentioned, we found that the advertising practices within the industry were relatively poor. We wanted to improve the ability for consumers to compare products that are available. So we have asked industry to consider a number of measures in relation to advertising. One is to restrict the use of terms that are known to be confusing such as 'cap', which generally refers to the minimum amount rather than the maximum amount unless it is in fact a product where

you cannot exceed that amount. To ensure that representations are able to be substantiated, in that area we are looking at broadband speeds and coverage. Then we want to provide a reasonable basis for comparison—something along the lines of unit pricing or another way to say to consumers, 'This is what this product actually offers you in real terms,' rather than them having to go through and work out whether the costs are on a 30-second basis or a 60-second basis or whether flag fall is included et cetera. We think that will do a lot to assist consumers at the presale point.

We have also said that we would like to see improved product disclosure. That is really about better quality information, not more information. It is asking the service providers to give their customers a summary of the critical information about their product. One of the things we found is that very few consumers have a good understanding about their product when they enter into their contract. So we have asked industry to consider coming up with a consistent way of providing that information, which again we hope will assist consumers to be able to compare and choose the products that are suitable.

Senator WORTLEY: Is that at the point of sale?

Ms O'Reilly: Yes, that is right. It is an opt-out process, so it must be given to a consumer unless they say, 'No, I understand the product and I do not need it.' We also found that there is very little transparency about how providers are in fact performing in relation to customer care. So we have proposed that there be a way of providing more transparency. One measure is about performance reporting. The other is to encourage industry to consider customer service charters which will set out their commitments to their customers.

In relation to the performance reporting framework, we identified one area which many consumers said to us was problematic and that if providers improved on that then their level of dissatisfaction would go down quite significantly. That was in relation to the timely resolution of matters, whether it be complaints or just contact. So we have asked the providers to consider a way in which they can report on how well they are dealing with their customers inquiries and resolving those issues.

To deal with bill shock, we have proposed that providers offer their customers effective spend management tools. That would be a tool that is pushed out to the consumers, so they would receive an SMS alert for their mobile phone or an email for their internet access which tells them that they are at a certain point along their billing cycle—we suggested 80 per cent—so consumers know when they are getting to their limit and to tell them what the consequences are if they exceed their capped amount. Again, we found that one of the key causes of bill shock is that consumers cannot really measure how their costs are accumulating in that billing period. So what we have tried to design is a way in which consumers can get that information. Then they can either draw back or they can go over the amount but knowing that they will incur additional costs.

We wanted to improve the internal complaints-handling standards across the industry as a whole. In part, that is because we found that the TIO is still dealing with too many simple and straightforward matters that should be resolved by the service provider. What we have asked is that industry consider an agreed approach to complaints-handling standards that meet the Australian standard in complaints handling. That is a standard that is adopted in other industries. Certainly in the financial services industry that has been around for almost 10

years. We think it is about time that those internal complaints-handling procedures met the Australian standard in the telco sector.

Finally, we have recommended that the TIO itself consider some changes. We found that on the whole consumers are actually really happy with the way the TIO deals with their matters, but we think the TIO could change some aspects, including its governance, to ensure that it meets best practice going forward. We think that will become more important as there is greater convergence and the regulatory frameworks begin to bump up against each other.

Senator WORTLEY: Ms O'Reilly, you seem to have a lot of good recommendations there. Some, I am sure, will be very effective. How are those recommendations going to be implemented?

Ms O'Reilly: That is a good question. Under our act, as the chairman explained, we are required to ask industry in the first instance to look at the issue and see whether they can deal with it through their code process. The timing of this is very important and partly the announcement of the inquiry was to coincide with the review of the telecommunications consumer protection code. We have invited industry to consider our objectives and the proposals we have put forward in that process. At the moment they are considering that and they have certainly been very supportive of taking these recommendations seriously.

As the chairman said, they are areas which we appreciate—it is a very big industry now with over 1,100 providers of retail consumer products—with such a big industry, it can sometimes be difficult to get consensus on some of these issues. So we have said to industry that, if it cannot be agreed within the code process, we would be prepared to move to an industry standard. We have also suggested to government that we may need a broader power to make service provider rules for matters such as complaints handling. If it is not dealt with by the code, we are prepared and ready to move to the next stage.

Senator WORTLEY: This is about self-regulation.

Ms O'Reilly: That is right.

Senator WORTLEY: And the industry understands that. When will the ACMA step in if its recommendations are not met by industry?

Ms O'Reilly: The important thing to note about our report is that we have already made the findings that, for those areas currently dealt with in a code, the code is deficient, which means that we can move to an industry standard if the TCP code does not deliver on the outcomes we are seeking. Given a six-week period of consultation, during that period we will be working closely with industry members as well as consumer representatives to make sure that the proposals we have developed are the most effective way to deliver the outcomes we are seeking. At the end of that process, we will then deliver our final report, which at this stage we expect will be in August. At that time we will be ready to move directly to an industry standard if the code does not deliver on these outcomes.

Senator WORTLEY: I understand many consumers purchase their devices over the internet and they may not come with plans. Is there anything to address that issue? You spoke earlier about the point of sale.

Ms O'Reilly: We have suggested that service providers take more responsibility for providing that information to their customers. Whether it be over the telephone or the internet,

there is still a process you must go through before you enter into your contract—whether it be on a plan or just to get the product.

For those matters we would expect that there would be a similar level of disclosure. So a product disclosure statement or what we are calling a critical information disclosure summary should be provided through the means by which you are buying your product. We would be expecting the same level of improved disclosure. We are hoping that the proposed changes to advertising laws improve some of that information.

Senator WORTLEY: Looking at cybersafety—it is an ongoing interest of mine, as you are aware—can you tell me about the It's Your Life and You're In Control campaign?

Ms Wright: This is the poster campaign?

Senator WORTLEY: Yes, the posters on the bus stop.

Ms Wright: With part of our cybersafety work we have an online counselling service via our Cybersmart website. We also host the cybersafety reporting button for people who want help. We have been interested to engage young people, particularly teenagers, with those help mechanisms. We did some work with the youth advisory group on how we could engage young people and students. From those discussions, we decided to pilot a poster program where those posters would be provided in student hubs. I think at the moment we have those posters in place in about 250 bus shelters in Sydney and other student areas. When we were developing those posters, again, we engaged with the youth advisory group to test our strategy of having a layered poster, if you like, where we would take terms that are commonly available on the internet—LOL is one, although we use it in a different context—

Senator WORTLEY: Yes, I think I have seen that.

Ms Wright: In this case, because we think that sometimes you may be standing at the bus stand for a little time and so we wanted to have quite a bit more going on in the poster. That sits over more detailed text and stories which engage with particular strands of cyber safety. Again, we were interested when we tested that engagement with students what they would think of the posters, and the feedback we got was that they like the layered effect. Quite interestingly, they also liked to engage with the stories and they thought that it did increase the possibility that if they had problems they would seek help through one of the online mechanisms on our website.

Senator WORTLEY: Can I stop you there for a moment. I have had a look at the areas. You have got cyberbullying, sexting, protecting your digital image and geolocaters. Can you tell us a little bit more about the geolocator section of it. I understand that this is more recent and that it is important that young people are actually aware of this particular area.

Ms Wright: This is a very interesting area for young people. For example, when they go out and they are at a dance venue or a bar, they will often check themselves in on their Facebook site to say this is where they are and this is what they are doing. We want to give advice to them so that they are aware of the implications of those types of activities, that in fact they can be tracked for where they actually are. For example, we might be advising that you might check yourself in just as you are leaving as opposed to at the beginning. So we want young people to be aware that, while there is a fun side to using geolocation, there are other aspects to it where people that you do not know and you do not wish to have them know where you are can in fact locate where you are and that their motives may not be benign. It is

something that we have been focusing on as young people have been engaging increasingly with social media.

Senator WORTLEY: Have parents taken up the geolocator?

Ms Wright: Again, I think—

Senator WORTLEY: I was joking.

Ms Wright: They might be tracking each other or their spouses. We hadn't thought of it like that.

Senator CAMERON: I am sure there will be a TV show about that!

Senator WORTLEY: I understand that you recently had a group visit from the Hong Kong Education Bureau.

Ms Wright: That is correct. During Cyber Security Week was a very busy week for us because we launched a new cyber security program in schools called NetBasics. When the delegation referred to had heard that we would be undertaking a number of activities, which I can speak more about, they asked if they could come and participate. So they engaged with the NetBasics launch. They engaged with the product and they saw how it worked—how it took a fictitious family and their online engagement and the types of problems they might have, for example, with online shopping. They were also very interested in the research that we launched in that week, which had been a study of international cyber security education programs and what was working and what was not and whether they were being evaluated as a matter of course and how the learnings were being captured. Again, they were interested in that study so they could take the learnings back with them to their country. They were also interested in the fact that we did eight live interactive events through our Cybersmart Detectives programs in schools, and again they were very interested to see how that program directly engages student. Excitingly for us that was the week when the number of individual visits to our website, which has been in place since July 2009, reached one million. So a lot was going on. We also endeavoured to give them access to other events. They were able to sit in on things that arose in an ad hoc fashion. For example, we have been developing a video for teens that deals with cyberbullying, your digital reputation and sexting. We have developed a short film that is almost 20 minutes in length. It is in the near to final cut. Of course, it has lesson plans that go with it. We were trialling this with a local school, again to get feedback before we finalised that.

Again, they were very interested to see if they might do something similar. They commented to us that they were interested that the students said it was the best ever teen DVD they had had exposure to because it has Aussie accents for a start—probably that is not going to be much help in Japan, but perhaps there is a steer as to what they might do there. The students were so excited by it that they asked if we were making a sequel or a series because they wanted to see what happened to the characters and the students and how they continue to work their problems out. So it was a very good week for them to join us and have exposure to our raft of programs.

Senator WORTLEY: When you met with them were they experiencing the same issues we are experiencing here?

Ms Wright: Yes, very similar. I think when they had seen the program we were undertaking for the week and the work through our Cybersmart website they felt we could share information and both benefit from talking with each other.

Senator WORTLEY: You may have to take this notice. Are you able to tell us about any online surveys around the world that involve students or young people completing them and filing them for research?

Ms Wright: I am happy to take that on notice.

Senator Conroy: There is a comment by somebody about ACMA that I feel is worth putting into *Hansard*, given that there are many brickbats thrown at our regulators. Mr Grahame Lynch, who runs the *Communications Day* magazine, wrote after the recent RadComms conference under the title 'ACMA keeps Australia in the global telecom hunt':

If there was a global award for the best telecommunications regulator and I was a judge, I feel sure that I would be awarding it to the Australian Communications and Media Authority.

I keep a watching brief on what regulators are up to across Asia, Europe and North America and it is hard to identify a regulator that is more progressive and in-touch on the future of spectrum policy than the ACMA.

Last week's RadComms conference in Sydney was an excellent example of the ACMA's credentials. The regulators and the regulated came together for a candid and frank two-day talk fest where the ACMA's forward-looking plans were canvassed for instant feedback. This degree of consultation and communication simply does not occur in most countries. Not only did we get concrete plans for spectrum allocations and overhauls over the next few years but we were also again exposed to the regulator's ahead of the curve thinking on future opportunities in areas such as cognitive radio and spectrum sharing as well as a healthy dose of self-criticism on current modes of spectrum allocation and demarcation.

Of course the ACMA doesn't always get it right, and it does have its fair share of critics.

There is one minor reflection there. He goes on to say:

But I find it hard to identify a counterpart anywhere in the world possessing such a degree of thought leadership and open consultation in matters pertaining to spectrum. Only the FCC comes close ...

He then goes on to bag me for a while and then says:

... the ACMA is to be congratulated for sticking to its charter and placing the issue of very real market-driven need for significant allocations of spectrum on top of the policy agenda.

.....

... the ACMA is, admirably, getting things done that will be of great and demonstrable value to the nation's future.

I thought that was worth putting on the record. Regulators do not often get that sort of praise, particularly from the media. I thought it was worthwhile noting. They should be congratulated.

CHAIR: Thank you, Senator Conroy, for that bright note to finish with. I indicate that this will be the last hearing that both Senator Troeth and Senator Wortley will be appearing at. I know Senator Wortley wants to say something. She has been on this committee for some time.

Senator WORTLEY: I have been on this committee for six years. I have appreciated ACMA's ability to respond and provide the information that we actually need. It has always been very useful. I congratulate you on the work you are doing. Thank you.

Mr Chapman: Senator Wortley, you have been very active in your engagement, particularly on the cybersafety and cybersecurity work. You have been a source of great encouragement to us. We have appreciated the feedback you have provided. We were very grateful for the recent hosting role you so successfully played in Adelaide. I am sorry to hear that this is your last appearance. I did not realise. I want to reciprocate and tell you how much we have appreciated your encouragement over the last five or six years.

Proceedings suspended from 18:01 to 19:03

NBN Co. Ltd

CHAIR: Welcome. Mr Quigley, would you like to make an opening statement?

Mr Quigley: I would.

Senator FISHER: Before that happens, I would like to raise a procedural issue. Minister, you told us at estimates last time, when Mr Harris was here but Mr Quigley was not—with the understanding of the committee at that time—that you would raise with Mr Quigley the committee's interest in talking with Mr Beaufret and that you would see if he were available. Did you raise it with Mr Quigley and is Mr Beaufret available?

Senator Conroy: I confess that both Mr Quigley and I have been overseas and that I failed to do that. My apologies—I was overseas and it slipped my mind.

Senator FISHER: Mr Quigley, were you aware that this committee wished to talk to Mr Beaufret at this hearing?

Senator Conroy: These are not procedural questions at all; they are just questions.

Senator FISHER: I will resume after the opening statement.

Senator ABETZ: Can we ask: is he available?

Senator Conroy: Sorry?

Senator FISHER: The procedural question is: is Mr Beaufret available?

Mr Quigley: As you are probably aware, there are some very important things going on just at the moment. We have a board meeting tomorrow. I suspect Mr Beaufret is still at the office preparing a rather large number of board papers. So tonight he is certainly hard at work.

CHAIR: Mr Quigley, you indicated that you had an opening statement. Would you like to proceed with that?

Mr Quigley: I would, yes. I would first of all like to thank the committee for agreeing to postpone the hearing date for NBN Co. and arranging for me to attend today in lieu of the hearing on 26 May. As you know, I do my very best to personally attend all the hearings of not only this committee but also the Joint Committee on the National Broadband Network and others. However, I had a long planned holiday, a family trip, which was organised prior to the estimates date being set. Rather than sending other executives, I felt it was my duty to attend these hearings, as I have done in the past and will continue to do so.

We at NBN Co. recognise this project represents an enormous opportunity to transform Australia's telecommunications industry not only through the sheer size and scale of the

infrastructure project but also through the industry restructure that it represents and the social, economic and productivity benefits it will enable for decades to come. It is a privilege to be part of it.

The Australian public, through the government, has placed its trust in us at NBN Co. to deliver the project, with all its challenges and opportunities. It is a responsibility of which I and my colleagues are very conscious. That is why anything that is said that potentially affects that trust is a real concern to us and we take it very seriously. That is why before answering your questions I would like to address again the speculation and comment about my time at Alcatel-Lucent and the incidents of bribery and corruption which have recently been settled by Alcatel-Lucent and the US authorities. In doing so, I say that I accept completely that these are areas of legitimate interest and enquiry. I would like, though, to put these matters into some context.

It occurs to me that the debate about the NBN has passed through a number of phases in recent times. There was debate about whether such a project was necessary at all, despite the many studies around the world which show the economic and social benefits of investing in broadband networks. Then there was the technology debate. Was fibre the right choice? A variety of myths emerged about wireless and other technologies that might be just around the corner, despite the fact that these technologies are constrained by physics to be inferior to fibre for many high-bandwidth applications. I will not even go into the breathless claims about laser beam transmission trumping fibre. More recently, there was the debate about fibre to the node versus fibre to the premises. Does FTTN work? Of course it does, but it will not efficiently provide the nation with a step change in capacity and capability that all of the evidence suggests is needed.

At NBN Co. we have entered these debates because we want to provide factual information to inform the discussion and because we are passionate about the project we have been tasked to deliver. We contribute to the debate reluctantly on occasions because we know what a political football the project has become. Nevertheless, we feel we have a responsibility to inform the discussion and we accept our accountability to the community as a government enterprise. However, we are not politicians and we have no desire to be. That is why it is disappointing to find that as we successfully deal, one by one, with the technical questions and the myths spread about the project it feels like some who do not support national broadband prefer to play the man. For example, it is disappointing to discover that an anonymously authored document has been passed around the press gallery and elsewhere regarding the Alcatel-Lucent matter. It can only be described as a personal attack on me and my colleague Jean-Pascal Beaufret. If it were a legitimate contribution to the discussion, whoever wrote it would surely have put their name on it. However, I understand that people expect a full explanation of the Alcatel-Lucent matter and I beg the indulgence of the committee in this as it will take some time. But I know that given the number of questions that have been raised, you will agree it is important that I set the record straight. I start by readily admitting I underestimated the level of media interest in these issues. When it was raised in the news over the Christmas break, I responded on the basis of my recollection and what turned out to be incorrect information I received verbally. I should have done a comprehensive document review. As a result, I made some factual errors in my responses, and for those mistakes I apologise sincerely and I do take full responsibility.

It is well-known that my previous job was at Alcatel—now called Alcatel-Lucent. I had a number of senior roles until I left in 2007. I was Executive Vice-President of Alcatel and President of Alcatel Americas from March 2001 until the end of December 2002. From January 2003 to early 2005 I was President of Alcatel North America and President of the Fixed Communications Group. From around April 2005 I was President and Chief Operating Officer and then, after the merger with Lucent, I was President of Science, Technology and Strategy until I left the company after the merger, in August 2007.

From 1 December 2006, Alcatel became Alcatel-Lucent after the two companies merged. Jean-Pascal Beaufret joined Alcatel as Deputy Chief Financial Officer in late 1999 and became Chief Financial Officer in 2002, a position he held until November 2007 when he left the company, a year after the merger. He joined NBN Co. in September 2009 and I joined, as the first employee, two months before, in July 2009. At Alcatel we were both members of the executive committee—Jean-Pascal from 2002 to 2007 and I from 2001 to 2007.

Alcatel was and is a global company operating in more than 130 countries. The first five years of the last decade saw very difficult times for companies in telecommunications. The senior management of the company was working to survive the tech wreck. The USA—the area I was managing—took the brunt of that impact. From a workforce of 112,000 in 2001, the effect of the tech wreck saw the headcount at Alcatel reduce by the end of 2005 to 58,000. In the US we had to virtually halve the size of the company over a period of 18 months to two years. Overall, the Alcatel workforce was halved in four years. I paint this picture, by the way, not as an excuse for what happened at Alcatel but to illustrate the environment in which we were working during those years.

About 11 years ago there began a chapter in Alcatel's history which culminated on 1 June this year with the confirmation that the company would pay \$137 million in fines and penalties to the US justice system for bribery in four countries, including Costa Rica and Honduras, and irregularities in a number of other countries. The fines and penalties were the results of agreements reached with the Securities and Exchange Commission, the SEC, and the Department of Justice, the DoJ, after a detailed investigation spanning about five years, from October 2004. No-one should be in any doubt about the thoroughness of the SEC-DoJ investigative process and their determination and their record to hold not just corporations but also, where warranted, individuals responsible for corrupt conduct. Their approach was summarised last year by one of the Deputy Assistant Attorneys-General of the Department of Justice, who said:

The Department has made the prosecution of individuals a critical part of its FCPA enforcement strategy. We understand well that this is an important and effective deterrent. Paying large criminal penalties cannot be viewed, and is not, simply "the cost of doing business." Corporate prosecutions and resolutions do not and cannot provide a safe haven for corporate officials, and every agreement resolving a corporate FCPA investigation explicitly states that it provides no protection against prosecution for individuals.

Since 2009, the Department has charged over 50 individuals with FCPA—that is, Foreign Corrupt Practices Act—violations.

One thing on which all those involved in the public commentary in Australia are in total agreement on is that nobody has alleged that I—and that is extended to Mr Beaufret—was

personally involved or knew about the payment of any bribes. Mr Turnbull and the media reporters who have been closely following this issue are always at pains to point this out, for which I thank them. Just to repeat that point: nobody has ever alleged that I was personally involved or knew about the payments of any bribes. I was not and I did not. It is also a matter of public record that I was not named in any findings by the SEC or the DoJ, and that has been concluded to the satisfaction of the US justice system. It is publicly known now that about 330 interviews were conducted and two million documents form part of the investigations. It was very thorough. It is the SEC and DoJ practice to work together on investigations and also to enlist the company they are investigating to do its own investigation in close cooperation with them and share all the detailed findings.

The company investigations at Alcatel were conducted by two leading firms: the first, Proskauer Rose, from 2004 to 2006 and then another firm called Wilkie Farr & Gallagher from 2006 to the close of the investigations. The investigations by both firms were led by former DoJ lawyers. Individuals of interest to the investigation were interviewed by that law firms and/or by the authorities. Neither Mr Beaufret nor I were interviewed by either of the law firms, the SEC or the Department of Justice. How can I be so sure? I checked with Wilkie Farr & Gallagher, the law firm which investigated the matter in close coordination with the SEC and DoJ, who confirmed my recollection.

Over the course of the investigation corrupt conduct was found in a number of countries in which Alcatel operated. As I have also said, incidents of corruption were uncovered in Latin America for which I had ultimate oversight from March 2001 to the end of 2002, including Costa Rica and Honduras. Publicity about the corrupt conduct in Costa Rica, itself the subject of a 12-month trial in which I was not involved, was the incident that triggered the 2004 five-year effort to uncover what was happening in a number of other countries.

I have been criticised for not disclosing to NBN Co. the Alcatel matters during my recruitment process. With the benefit of hindsight I should have done so. I left Alcatel in 2007 not having been interviewed by the authorities or the legal teams which investigated the matter, but having been part of the senior management team which put in place a series of concrete steps, including the appointment of a chief compliance officer, to improve and address the ethical framework and compliance culture of the company. At the time of my recruitment to NBN Co. in June and July 2009, two years after I had left Alcatel-Lucent, the corruption issues had been well aired in the international media.

I expected, as they had been the subject of investigation and action by the company and the authorities since 2004, that by mid-2009 they had been effectively settled. That was not correct. Alcatel announced that negotiations to resolve the case were progressing in July 2009, but the in-principle settlement was not reached until December 2009. The final settlement was not formally approved until 1 June this year. In hindsight, I can see that I should have specifically mentioned this matter even though, as I said earlier, nobody has alleged that I was personally involved or knew about any of the illegal conduct.

As I have already acknowledged, I should not have made the mistake about my responsibility for Costa Rica at the relevant times. For context, Costa Rica was one of many countries I oversaw as the head of Alcatel Americas. Between about 2000 and 2003, I had four job titles and the company underwent two structural and geographical restructures. To complicate things, Latin America moved its reporting line to Alcatel Americas and then

moved it back to Spain. That might help explain, but it does not excuse, why I got it wrong. I have apologised for this error and I do so again tonight. I relied on the recollection of a former colleague and I should not have done so.

As I have also said, neither I nor our CFO, Mr Beaufret, was interviewed by the US authorities or anyone else during that five-year investigation, nor were there any findings made about us. The two law firms, Proskauer Rose and Wilkie Farr & Gallagher, have confirmed that we were not interviewed by them because there was no evidence to suggest that we may have been involved in or aware of any wrongdoing. The SEC and DoJ also interviewed a number of individuals, but did not interview us. I have already referred you to the DoJ's approach to prosecuting individuals. Separate to the DoJ and SEC proceedings is a civil case seeking damages brought in the US by the Costa Rican electricity and telecommunications authority, which is known as ICE. ICE claims it was a victim of the bribes in that country and has been trying to establish a reason for the case to be heard in the USA, where it can potentially get larger compensation than it can in Costa Rica, where, by the way, the vast majority of ICE's potential witnesses are located. The ICE documents name US based Alcatel executives as part of its bid to establish that connection. The ICE compensation claim was dismissed by the US authorities in January this year and its objection to the DoJ settlement was dismissed on 1 June this year.

ICE is nonetheless persisting. Several of ICE's executives are in jail for soliciting and accepting bribes. Eleven people were charged in Costa Rica over these incidents; however, ICE's civil case, in particular, has left a large file of documents, which are untested in court I might add. Those inclined to keep these issues simmering are trawling through all of those documents now for references to me and to other US executives.

Before ICE's claims were dismissed, ICE filed a declaration given by a man named Edgar Valverde Acosta. Mr Acosta is a former Alcatel manager, who has been jailed for 15 years for paying bribes. As you may have read in recent newspaper articles, Mr Acosta, from his cell in Costa Rica, names me in his declaration. Mr Acosta has form, not only in bribery but also in embezzlement. The DoJ documents tell us that he and his family received some \$4.7 million in kickbacks. Senators may be surprised to learn that the corrupt Mr Acosta's untested declaration has been cited as a credible source by some who wish to damage me, and in so doing damage the national broadband project. Some journalists have been persuaded to give Mr Acosta credence. Mr Acosta does not even claim I did anything wrong, but he does claim that I approved certain memorandum requesting authorisation to engage consultants in Costa Rica during that period. This claim is incorrect. As president of Alcatel Americas I never approved any such memorandum. Again, this is a fact I have verified with the firm that conducted the investigation.

To sum up, the whole of Alcatel-Lucent has expressed its regret and has taken responsibility for the illegal conduct over those years. Naturally, I share that regret and responsibility. A heavy price has been paid, many lessons have been learnt and many improvements have been made. I hope that these remarks have helped clear the air on this matter, and my response to it. I stress again I can understand why there is a level of interest in it, but I hope by these statements I have set the record straight. I understand also that I cannot expect this issue to entirely disappear, as I expect there are motivations in some quarters to continue running with it. There may even be some who will try to recreate the five-year

investigation in full here before this committee or before other committees. The legacy of tens of thousands of legal documents and the ongoing attempts by ICE to get compensation will no doubt provide more news hooks.

I have tried to deal with all of this comprehensively and in detail. All I can now ask is for fair minded people to acknowledge that in five years of thorough investigation the US authorities found no allegation or adverse finding against me or NBN's CFO. Unlike Alcatel-Lucent, NBN Co. is not a global company that operates across many countries, some emerging countries and in many languages, but, nevertheless, we have fostered and continue to foster an ethical culture at NBN Co. We have many measures in place to create a system and culture where integrity matters. We are working on a project that matters to Australia and we work each day to deliver and to continue to earn the trust of the community that is depending on us.

I now turn to what we are delivering at NBN Co. As commentators who are correctly reporting are saying, the National Broadband Network is becoming a reality. I will first talk a little about the company's growth. In March, following an extensive procurement process that started in February 2010, we announced a three-year, and approximately \$200 million contract, to appoint IBM as the prime systems integrator of our operational business support systems—this is the OSS/BSS. These are complex, mission critical systems that run the network. They allow our customers, the retail service providers, to order new servers, report faults or perform service qualification checks via our business to business interfaces and portals, which are designed to allow transparency and flexibility of the management of their own services. Of course, they also provide for our billing systems, which is obviously an important aspect of these systems.

With the growth of the business also comes a natural hunger for more information about the rollout. Where is NBN going next and will I get fibre or wireless or satellite? To assist in answering all of these questions, we announced in April the establishment of a public call centre based in Melbourne. This centre will handle all inbound calls and queries about the NBN and will be one of the key ways in which we will offer information to the public in addition to our community consultation processes, forums, speaking opportunities, advertisements, websites and media releases.

Of course, in parallel with the growth of the company's systems and processes we are steadily progressing with the planning, testing and first stages of the rollout in order to test our products, systems and services in preparation for volume rollout. On 18 May we officially launched first services on mainland Australia, in Armidale. As you are aware, construction in our second release sites has been set back somewhat whilst we finalise the Telstra deal, as we would prefer to maximise wherever possible the use of existing underground infrastructure rather than install overhead cables. We have taken the view that the deal with Telstra would provide a better outcome for communities and for taxpayers, so it is worth waiting a little longer for.

But there has been some important progress on a number of fronts as part of the rollout. Following suspension of our major construction tender in April we entered into discussions with a single construction company, Silcar Pty Ltd, in an effort to secure better value for money for the taxpayer in the build of the network. This was, as you know, the result of our initial tender process not delivering the expected price outcome we had forecast in our

corporate plan. Following eight weeks of intensive negotiations, we have now reached agreement with Silcar on commercial terms covering the award of a two-year design and construction service contract valued at approximately \$380 million, covering approximately 480,000 premises across New South Wales, Queensland and the ACT. There is the potential for two one-year extensions after this. I am pleased to say that the design and construction pricing is now in line with NBN Co.'s original assumptions underlying the corporate plan.

NBN Co. is also now in further discussions with other construction companies around the offer of further work packages in Australia. There is a keen willingness from many construction companies to opt in to a competitive process to be awarded this work. Finalisation of these other negotiations over coming months will enable NBN Co. to speed up the rollout.

Passive network construction in the first five mainland locations is now complete. Following the successful signing of more than 15 retail service providers, of varying sizes, to deliver services on the mainland, we are moving initially to end user trials in these locations with four retail service providers. They are: iiNet, Internode, iPrimus and Telstra. The first end user trials commenced in Armidale last month with a handful of users and will increase across these first release sites in the coming months.

Whilst the first mainland sites are starting to get connected, we have announced construction in the next phase of the Tasmanian rollout. The seven Tasmanian locations of Deloraine, George Town, Kingston Beach, Sorell, South Hobart, St Helens and Triabunna will have construction work undertaken over the next six months. This is an area covering approximately 11,150 homes and businesses within that fibre footprint. Make-ready work is already underway and construction is being undertaken by Connect Infrastructure. Several successful community information sessions have been held in each of Triabunna and Sorell involving over 300 people, and more of these sessions will follow in the lead-up to construction commencing in these and other sites. At the end of May, approximately 600 premises were active in the three stage 1 sites in Tasmania, with over 740 services ordered. Of those services, it is pleasing to note that nearly 40 per cent take up 50/20 or 100/40 megabits per second products, and as a trial we believe these are very positive outcomes. We have also received some very useful learnings from the early sites, including our approach to community consultation and education, construction, safety issues, product quality and supply chain management. Actual billing of our customers, the RSPs, in Tasmania is expected to commence from 1 August this year.

Whilst rollout of the fibre network to 93 per cent of premises is progressing, there have also been some important milestones and the rollout of our two other product sets—the wireless products and the satellite products. Following the announcement of our spectrum acquisition earlier this year, NBN is now moving to provide a much better broadband service to the remaining 7 per cent of premises, many of which fall within more remote areas of Australia. In May we announced the successful completion of contracts with Optus and IPSTAR to provide our interim satellite services from 1 July, for rural and regional Australians. This service represents a transition from the existing Australian broadband guarantee, the ABG program, to NBN Co.'s long-term satellite solution, which will be able to deliver a 12 megabits per second wholesale service from 2015. This improved interim solution is capable of taking download speeds of up to six megabits per second and will be an

important first step towards reducing the digital divide for rural and regional Australians. Two retail service providers are on board with a total of 200 end-users to trial the new interim satellite service. We have issued an invitation to wholesale customers to express an interest in becoming NBN customers for the new service. The first commercial service of this service is tailored for launch on 1 July this year.

The final satellite solution project is also progressing well and after an initial procurement process we are now moving into the final request for tender stage with suppliers. We remain on track to launch the first of these two new Ka-band satellites by early 2015. We have also recently announced a contract with Ericsson for a 4G fixed wireless network to provide wholesale speeds of 12 megabits per second. Design of the fixed wireless network is already under way, with locations of initial rollout sites to be announced in the coming months. Full roll-out will occur over the next four years, with the services available from next year. NBN Co. will continue to seek spectrum for this service in Western Australia and the Northern Territory, and the company continues to work with the ACMA and existing spectrum holders to finalise the securing of appropriate spectrum to support our wireless and satellite products.

As we move forward in the network rollout using these three technologies, fibre, wireless and satellite, it is important to remember that we are aiming to make our products as similar as possible. Ubiquity and standardisation are important across the company so that people can connect from the same point of interconnect, using the same BSS processes and interfaces, at the same prices and with the same product constructs as far as is possible across all three technology products.

I turn now to greenfields. As you know, from 1 January NBN Co. has been required to install fibre infrastructure in new estates of greater than 100 lots. This is a significant task when obviously you still do not have a network roll-out, which we do not in NBN Co. We started a tender process in December 2010 to establish the best way to move forward with this and meet their obligations. This culminated in Fujitsu Australia Ltd being appointed as our prime alliance partner to deliver the fibre solution into new developments. On the testing front, our national operations and testing facility in Docklands in Melbourne is now fully occupied by 350 of our operational team and our test equipment is also now available to allow us to test the end-to-end functionality of the network. This was in use for the Armidale mainland switch-on, and the RSP on-boarding process, which is continuing, now also makes use of the facility. We clearly also have ongoing and emerging interest from individuals and communities outside the fibre footprint in being connected, so we are working on a set of guidelines around possible network extensions and will be trialling this as part of the roll-out of the next seven Tasmanian sites. This will result in an approach that will allow a possible extension of the fibre footprint where those outside pay the additional incremental cost. We have continued the consultation and engagement with industry. We have released the *Multicast, product, technology & pricing overview* paper seeking feedback from retail service providers. We have commenced a second public consultation process on the company's Wholesale Broadband Agreement, which forms part of our special access undertaking, including deep dive session with all the access seekers who responded to version 1 of the agreement.

There has been commentary around NBN pricing in the last couple of months. We continue to consult with service providers on our product and pricing constructs, as they develop their

business cases and their retail offers for the NBN. The overall product and pricing construct continues to be well received, with the majority of service providers confident that they can build attractive and innovative offerings based on NBN products. We continue to spend time with service providers, particularly around feedback relating to the CVC pricing and how they can transition onto the NBN.

Obviously those discussions continuing with the RSPs include many important subjects, such as: usage growth, how the continued growth in year on year internet usage will impact service provider business models; the NBN rollout plan, which is a key input for the investment decisions and marketing plans of service providers; and growth opportunities, what the emerging internet business models are and how service providers can prepare for those. There has been an explosion in North America in over-the-top video and in discussions about applications requiring cloud computing and the like. The recently announced NBN Connect product suite by Nextgen is an example of the things that are now happening to support the new types of applications which will be built on the NBN.

In conclusion, there is still much public commentary about the need for a national broadband network and the degree to which Australians will require such capacity. I would like to bring to the committee's attention the recent Cisco Visual Networking Index, the Cisco VNI, which estimates that in Asia-Pacific IP traffic will grow fourfold from 2010 to 2015, which is a compound annual growth rate of 35 per cent. In 2015, the gigabyte equivalent of all movies ever made will cross Asia-Pacific IP networks every 15 minutes. In Asia-Pacific, average IP traffic will reach 74 terabits per second in 2015. That is the equivalent of over 61 million people streaming internet high-definition video simultaneously all day, every day.

To contextualise how much the IP traffic will travel in 2015 in the Asia-Pacific—and these are Cisco predictions—fixed and wired connections will make up 44 per cent of that traffic. Fixed connections using WiFi, which I reiterate is a device that goes on the end of fixed infrastructure, will make up 49 per cent. Mobile will make up eight per cent. So, with more than 90 per cent of traffic on the fixed and WiFi networks, we believe NBN's network will be well used. We stay focused on resolving the many challenges faced in what is a very significant engineering task. We believe we are making good progress.

I would like to thank you for your time and attention. I welcome questions on the company, our network planning and our rollout.

Senator BIRMINGHAM: Thank you for your detailed statement. I acknowledge that you said in your statement that you realise the matters that have been discussed around your time at Alcatel are areas of legitimate interest and that you welcome the opportunity to set the record straight. You would recognise that, were it not for some of the scrutiny applied in this place and outside of this place, some of the comments you have made to set the record straight would not have had the opportunity to have been recorded and reflected in a more accurate way.

Mr Quigley: Yes.

Senator BIRMINGHAM: In relation to the statement, firstly, did the minister see a copy of this statement prior to its finalisation and delivery tonight?

Mr Quigley: I am not sure; I was working on the statement right to the last minute.

Senator Conroy: I did not see the final one.

Senator BIRMINGHAM: When were you provided with a draft?

Senator Conroy: I think after question time.

Senator BIRMINGHAM: Did you propose any alterations?

Senator Conroy: No, apart from a spelling mistake I think I found.

Senator BIRMINGHAM: Very diligent of you, Minister!

Senator Conroy: Not normally my strength, I have to say.

Mr Quigley: Not mine either.

Senator BIRMINGHAM: Was Mr Beaufret provided with a copy of the statement?

Mr Quigley: I do not believe so.

Senator BIRMINGHAM: So he has not had—

Mr Quigley: He is in Sydney today, working, as I mentioned, on some rather important things. He may have seen it by now. I simply do not know.

Senator BIRMINGHAM: But he did not have input into the content of the statement?

Mr Quigley: I do not believe so, no.

Senator BIRMINGHAM: You do not believe so?

Mr Quigley: I have obviously had discussions with Mr Beaufret and he has obviously supplied the team who have been checking very carefully all of the data now with information and he has been answering questions. So, in that sense, certainly some information that is in the statement may have come from Mr Beaufret. He may have been consulted on certain things. He may have been provided with some documents. I do not know.

Senator BIRMINGHAM: Who is the team that has been compiling all of the information?

Mr Quigley: Obviously, given that certain people in the media are spending all day almost every day trawling through all of these documents and I need to make sure that, with any statement I make, I do not rely just on my memory, I have it checked. I think it is, frankly, not a good use of my time to be trawling through pages and pages of DoJ and SEC documents, so clearly I have somebody checking that very carefully. And somebody needs to interface with the legal firms who were involved in the investigation. As you have rightly said, I need to take this very seriously and I need to make sure every statement in detail is accurate, which I am trying to make sure I do by cross-checking my recollection of events.

Senator BIRMINGHAM: Who was involved in the preparation of tonight's statement?

Mr Quigley: A number of people.

Senator BIRMINGHAM: Were parties external to NBN Co. involved in the preparation of tonight's statement?

Mr Quigley: Quite possibly, yes.

Senator ABETZ: What do you mean 'quite possibly'? You must know.

Mr Quigley: The company, as you know, employs various outside firms. For example, we are negotiating some very large transactions; we use some outside legal firms. The company uses a number of outside legal firms for different transactions for different reasons.

Senator BIRMINGHAM: Let us try to take this in a slightly different way, because it seems that you are not certain of all of the people who were consulted or involved. Who was the particular person in charge of preparing this statement this evening?

Mr Quigley: If you had to say who was in charge of preparing this statement, I was. It is my statement, so obviously I am not going to deliver a statement that I do not believe is accurate. Were there certain people checking certain parts of it? Yes, of course. I wanted to be sure of that. But, in terms of the statement, it is my statement.

Senator BIRMINGHAM: Did you delegate parts of the preparation of this statement to officers within NBN Co.?

Mr Quigley: Yes, I did. For example, I asked somebody to check for me on the exact details of the Cisco VNI data that I gave you at the end. I did not go looking through the Cisco data myself. I asked somebody to go do that. The person I asked to do that was the person who tends to look at market data.

Senator BIRMINGHAM: I assume the copy I have is roughly the same as the copy you have. From paragraph 38 onwards it relates to NBN Co. business operations. Prior to that, barring a few introductory comments, the paragraphs up to 37 relate to the Alcatel-Lucent matters.

Mr Quigley: Yes.

Senator BIRMINGHAM: Did you delegate the preparation of any of the paragraphs—

Senator Conroy: Can I save time? Do you want to know whether a particular individual was involved? Can I help you along here?

Senator BIRMINGHAM: Thanks, Minister. I will—

Senator Conroy: I am just trying to save you time.

Senator BIRMINGHAM: Let us let Mr Quigley answer the questions and we will see where they go. Mr Quigley, did you delegate to anybody in NBN Co. the preparation of details or information contained in the paragraphs leading up to and including paragraph 37?

Mr Quigley: I certainly asked some of legal team, as I have referenced in there, to check with the legal companies in the US the data. I wanted to be sure because as the senior executive at Alcatel I signed a very, very large number of documents. I thought it was possible I could have signed a memorandum. I had no recollection of it. I wanted to be sure of that. I wanted that checked. So I asked our legal team to check that.

Senator Conroy: Would you like Mr Quigley to take it on notice and get a list.

Senator BIRMINGHAM: I am happy for him to do that at a later stage and that may well be fine, but I am trying to get to the bottom of whether there were people who provided significant input to the content of the statement and these parts of the statement up to paragraph 37. You have said you got the lawyers at NBN Co. to check some of the facts and that type of activity.

Mr Quigley: Yes.

Senator BIRMINGHAM: In terms of the drafting of the words used in the statement, were they your words or were they words that were drafted originally—and we all do this; I give speeches that are drafted by somebody else as does Minister Conroy—

Senator Conroy: Are those Malcolm Turnbull's words you are reading at the moment?

Senator BIRMINGHAM: They are certainly not. You are welcome to come and look at anything in front of me to see that is not the case.

Senator Conroy: What is his pseudonym on the email? What pseudonym is he using? Is it an email from Godwin?

Senator BIRMINGHAM: Minister, Mr Quigley is attempting to approach these matters in a serious way and you do him no service by intervening.

Senator Conroy: You do yourself no service.

Mr Quigley: There is no simple answer to that question because it is not a case where I said to somebody, 'Go off and write my opening statement to Senate estimates.' What I would say to some of our internal people is, 'I have to address once again this issue.' It is a pity because it is taking a lot of the company's time and your time. It is something which I understand is important to do because it is a serious matter. You have every right to know about this. I said, 'I have to address this and in so addressing I believe we need to cover these issues.' People would then prepare an outline using what I have told them I want to try and cover. I would then work on it and it would pass back and forth. That is the way it works. Then we would say: 'This isn't expressed correctly. Are we absolutely sure of this piece of detail? Go check.'

Senator BIRMINGHAM: We will go to a person, Minister, because it will at least get a detailed answer on one point. Did Mr Kaiser assist in the preparation of the statement?

Mr Quigley: Yes, Mr Kaiser was involved in helping me prepare this statement, as were a number of people in NBN Co. He is in charge of all our media relations. I was answering allegations which are largely based in the media, so of course Mr Kaiser, as the head of our media, communications and government relations, would be involved in the preparation.

Senator BIRMINGHAM: Would it be fair to say he helped you to coordinate the preparation of those parts of the statement?

Mr Quigley: Certainly he worked on it along with others in the team at NBN Co. I do regret that it is taking time out the company's activities. It is a pity, but that is the way it is.

Senator BIRMINGHAM: Did Mr Kaiser liaise with the lawyers and others in the preparation of some of the detail?

Mr Quigley: He was certainly involved in discussions when I had lawyers in my office.

Senator BIRMINGHAM: And would have liaised also with those lawyers when not in your office?

Mr Quigley: Probably.

Senator ABETZ: Were those lawyers NBN lawyers?

Mr Quigley: NBN lawyers and probably outside lawyers as well.

Senator ABETZ: Probably? You must know if they were in your office whether or not they were NBN lawyers or not.

Senator Conroy: We have told you we can take it on notice to make sure we give you the exact answers if you like.

Mr Quigley: The company, NBN Co., in areas such as this where you are going to interface with US lawyers, I can almost be certain that we had outside lawyers involved in assisting in this area.

Senator ABETZ: Who paid for those outside lawyers?

Mr Quigley: The company did. Before any outside lawyers were involved in these discussions I sought counsel from the board of NBN Co. about that very issue.

Senator ABETZ: If you can take on notice the total cost of that, please.

Senator Conroy: It would be perfectly normal corporate behaviour. Boards normally authorise this in a whole range of private sector companies and government companies. When there is a political smear campaign like you have been engaged—not you personally, but Malcolm Turnbull—it is perfectly normal for companies to authorise legal defence of executives.

Senator BIRMINGHAM: Can I turn to paragraph 26?

Senator Conroy: You are just waiting for those emails to come through from Malcolm's office. Let me know when they come through. You can hear them go 'bing' on your computer; you have not turned it down. It is the little button on the side.

Senator BIRMINGHAM: In paragraph 26 you state that the two law firms confirmed that we were not interviewed by them. To whom and in what manner did they confirm that?

Mr Quigley: They confirmed that to our legal people.

Senator BIRMINGHAM: In writing, in conversation? How were the exchanges between the lawyers of NBN Co. and these people undertaken?

Mr Quigley: I will have to check how they did that.

Senator BIRMINGHAM: We will come back to Mr Beaufret and to other issues. There is the issue here, which is a more generic one, Mr Quigley, of having officers available to actually provide answers. We do not expect you to know all of the answers to things. We appreciate your attendance at these committees but NBN Co is now a large entity and I would expect that in future, especially for the main budget estimates, it may be necessary for you to refer questions to your executives to get detailed answers on the spot which assists the committee rather than continually taking matters on notice.

Senator Conroy: Different entities take different approaches. You have Mr Quigley here, so fire away.

Senator BIRMINGHAM: Mr Quigley, can I be quite clear then as to when you first became aware of the allegations of corruption relating to Alcatel?

Mr Quigley: When I first became aware of them? When I was in Alcatel in 2004.

Senator BIRMINGHAM: I just wanted to make sure that that was on the record in relation to some of the discussions that we are having here tonight. Mr Quigley, you wrote in the *Australian* on 5 May that:

... we are being maligned for events in which we played no part, for which we were never investigated, questioned or even contacted, but that we were subsequently instrumental in helping to resolve to the satisfaction of the legal and regulatory authorities.

That is an accurate statement of your words?

Mr Quigley: If you are reading it there, it must be.

Senator Conroy: I would not necessarily. I would not just automatically assume.

Senator BIRMINGHAM: Mr Quigley chose to provide an opinion piece to the *Australian*, Chair. It is not their fault, but he wrote it. Can you briefly explain exactly how you and Mr Beaufret helped to resolve, to the satisfaction of the regulatory authorities, these matters?

Mr Quigley: There was a law firm, Proskauer Rose, that was appointed by the company, Alcatel, in 2004 when this issue first arose. That law firm, as I mentioned, has former Department of Justice lawyers in it. The law firm was doing an internal investigation liaising, I understand, with the Department of Justice. The management committee of the company, Alcatel, was obviously following that. I cannot exactly remember the time frame, but certainly there was a heavy emphasis on the implementation of Sarbanes-Oxley throughout the company. Mr Beaufret was personally involved in pushing the implementation of that, as you would expect as the CFO of the company, and I of course was supporting that along with other executives in the company.

Senator BIRMINGHAM: The US Securities and Exchange Commission have said of Alcatel that 'there were many years of stalling mechanisms after the allegations were exposed in 2004 in relation to Costa Rica.' Do you dispute that statement?

Mr Quigley: If the Department of Justice has made it I am not going to dispute it.

Senator BIRMINGHAM: Can you explain it then?

Mr Quigley: What I can tell you is that the company assigned a US law firm who are liaising with the US Department of Justice. The reports I recall were that progress was being made and investigations were ongoing; we are doing what we thought was the right thing and we were implementing Sarbanes-Oxley. If I can just remind you of the context, we were, at the time, in the midst of the tech wreck and struggling with existential questions of bringing the company numbers down by half. So, of course, there were things going on as well. So the company took this matter very seriously but it was simultaneously in a very difficult environment.

Senator ABETZ: But surely the legal firm would have been acting on instructions, not on a frolic of their own, to come to the conclusion that the Department of Justice Department did?

Mr Quigley: I cannot answer for the legal firm Proskauer Rose or the Department of Justice. They carried out a very thorough investigation over a long period of time.

Senator BIRMINGHAM: As I understand it, and I am no expert in space, the use of a legal firm is common practice in relation to some of those types of DoJ—

Mr Quigley: Absolutely. I understand that that is the case.

Senator BIRMINGHAM: They get the company initiating, in a sense, an investigation, all of which is provided to the DoJ?

Mr Quigley: Yes. I understand that the process is that the legal firm does the investigation and supplies information regularly to the Department of Justice and that there is a feedback mechanism that goes on. That is, as I understand it, the process that was running.

Senator BIRMINGHAM: The Department of Justice went on to say that not only were there these stalling mechanisms after 2004 and up to 2006 but also that there continued to be bribes paid in various jurisdictions—and they are certainly outlined in the statements filed in the courts by the SEC. Is that your understanding of the events?

Mr Quigley: That is my understanding of the report from the Department of Justice and I have absolutely no reason to doubt it.

Senator BIRMINGHAM: You stated tonight that you were at Alcatel between 2004 and 2006. For the bulk of that time—from April 2005 right up until 2007—you were the president and chief operating officer of Alcatel.

Mr Quigley: Yes, from April 2005 until the merger took place at the end of 2006. I think it was 1 December 2006. From April 2005 until December 2006 I was president and chief operating officer of the company.

Senator BIRMINGHAM: And for the entirety of that time Mr Beaufret was your chief financial officer?

Mr Quigley: That is correct.

Senator Conroy: From what dates, Senator Birmingham?

Senator BIRMINGHAM: From 2004 to 2006. During this period you both had very senior roles in Alcatel. What role did you and Mr Beaufret play in either advancing progress on this matter or obstructing progress on resolving this matter?

Mr Quigley: We certainly did not obstruct progress on this matter. Mr Beaufret, I would have to say, took the lead in, as I said, implementing Sarbanes-Oxley. Anybody who has belonged to a big multinational company knows how difficult that task is. It involves an enormous amount of work, and that was undertaken and pushed very hard by Mr Beaufret. I, of course, supported all the activity that was going on in that to try and make sure all the people were putting in place all of the processes which were necessary for that.

Senator BIRMINGHAM: In relation to bringing the activities to a halt at that stage, given that, according to the DoJ, they continued for two years after they were first identified and these investigations began, what steps were you and Mr Beaufret taking to bring these activities to a halt?

Mr Quigley: Tightening processes and, for example, appointing a chief compliance officer. Appointing a chief compliance officer was obviously the responsibility of the CEO of the company and the board. Various structures were put in place, I believe, by the board and the CEO. I will not claim that I put in place a chief compliance officer—that would be a misstatement. It was in the end a decision of the chief executive officer and the board.

Senator BIRMINGHAM: I would like to ask some questions about the NBN. Could you tell us what you are hoping will happen tomorrow? Mainly I base my questions on press reporting that things are very close to a tie-up with Telstra. Obviously that will be big news when it happens. To the extent you are able, can you tell us where things are at?

Mr Quigley: We have now been negotiating for quite some time. It is the best part of the year, I guess, since the financial heads of agreement were signed. It has been a very complex job. As you would expect of a transaction of this sort, there has been a large amount of documentation produced to document such a transaction. The board of NBN Co. has been

considering this transaction for some time. The management have been keeping the board abreast of progress and of issues. Tomorrow we have another board meeting at which our board will again consider the transaction.

Senator BIRMINGHAM: Is your understanding that Telstra's board will be doing much the same thing at much the same time?

Mr Quigley: I am not sure of the exact dates, but they must—

Senator Conroy: We should not speculate. You probably need to refer that to Telstra.

Senator BIRMINGHAM: Telstra said, I believe at a media briefing today, that they would not be commenting.

Senator Conroy: It is their board and they are responsible for their board.

Senator BIRMINGHAM: Mr Quigley, it is your expectation that NBN Co.'s board will sign off tomorrow on the package as far as you concerned?

Mr Quigley: I cannot speak for the board. All I can say is that I have been working for quite some time, personally working quite hard on this transaction. Certainly we will be putting a case before the board. What the board decides I simply cannot pre-empt.

Senator BIRMINGHAM: Can you tell us where to from here if agreement has been reached and that package is suitable to both NBN Co.'s board and Telstra's board? They have shareholders to deal with. You have your shareholder ministers and the ACCC to deal with. Can you tell us how you see the process rolling out and how long it is expected to take from here?

Mr Quigley: If you are looking through the critical path, through the timeframe until the transaction is approved—if it is approved—it then has a period in which certain conditions precedent have to be met, two of which are a sign-off by the shareholders of NBN Co., shareholder ministers, and of course Telstra has a similar activity with their shareholders. That will require a large meeting, the timing of which is in their hands. It is up to Telstra to decide when that timing would be.

Senator BIRMINGHAM: Tell us exactly where the ACCC fits in because they have to approve—

Mr Harris: As you know there are a couple of draft instruments out at the moment offering guidance to the ACCC for public comment. Those are to be finalised by the minister next week. Telstra will then have to submit a structural separation undertaking and NBN Co. will submit a special access undertaking to the ACCC for its consideration. The ACCC will run a process of investigation of both those documents. The structural separation undertaking is managed by legislation that has previously passed both houses of parliament and the special access undertaking similarly has a structure behind it. Any other arrangements that are also entered into by NBN Co. which have similar purposes potentially also have to go to the ACCC. The primary ones are the special access undertaking and the structural separation undertaking. They will go through a period with the ACCC ultimately to determine the timing. The shareholder approvals will follow on after the ACCC outcome emerges from that consideration of structural separation undertaking. I do not want to talk about the conditions precedent because that is a matter for Mr Quigley to talk about. But obviously, just in a logical legal sequence, that ACCC issue will have to be handled before the shareholders

finalise their views. The nature of major company processes for consulting shareholders means that a fair amount of time goes into such a process for consultation. The Corporations Act requires a period before shareholders can actually vote on an issue like this. Overall, there are a few months of process yet to go here.

Senator LUDLAM: But ideally this could all be tied off by the end of the year?

Mr Harris: I am not aware of anyone having tied themselves to a specific time frame. I have seen plenty of media comments on time frames, but I am not aware of anybody having tied themselves to a specific one. My advice to all the parties, including to NBN Co. and Telstra, has been that if you tie yourself to a date, you are almost certain to be precisely wrong. You may be roughly right, but you will probably end up being precisely wrong.

Senator LUDLAM: Are you aware of the claims of some of the smaller communications carriers about the interim arrangements they have been left with for access to Telstra's equipment while the transition is underway?

Senator Conroy: To be fair, Mr Harris only just returned from overseas last night, I believe.

Senator LUDLAM: Hands up if you have not been overseas.

Senator Conroy: No, I cannot even do that. While I am sure Mr Harris has followed these issues diligently every day from the walking tracks of Italy, where he was getting a well-deserved break—

Senator LUDLAM: Can I put that one to you, then, Minister?

Senator Conroy: Yes, I am aware of them. As part of our public consultation process, I am aware of the views of a variety of companies, including Telstra, on this. That is why we put out a discussion paper—to seek people's views. Now we are considering the input.

Senator LUDLAM: Are you aware of any proposed solutions that might set to rest some of the concerns of some of those smaller parties? Do you feel that issue is going to be resolved? It was predicted during the debate on the CCS bill. There were claims, or allegations if you will, that some of those worst fears have come to pass.

Senator Conroy: There are claims in all directions on this issue. It is one of those situations where you are in the middle—one side of the debate claims one thing; the other side claims the other. Sometimes people think that is a good place to be. I am more interested in dealing with each claim on its merits.

Senator LUDLAM: Do you anticipate that you will have a final statement on that by next week? Is that what Mr Harris was saying?

Senator Conroy: I think that is the timing. To ensure that we speed it along, providing all else is happening, we will be considering our position. I think that is the time line we have discussed.

Senator LUDLAM: Mr Quigley, there were delays in parliament and there were delays with the restart of the tender process for your major contractor. How far behind your business plan do you reckon you are at this stage in mid-2011?

Mr Quigley: I believe the biggest factor that has influenced how quickly we can go has been the Telstra deal. In our corporate plan, we had anticipated that the deal would be done—by that I mean all conditions precedent filled so that we could get on with the job—by the

middle of the year, by June. That clearly did not happen. I cannot answer that question directly other than to say that the delays, obviously, have had an impact. But meanwhile, we have been continuing work in some areas, such as our on OSS/BSS, which are not impacted by that. It has shifted, certainly, the critical path through the project. We will be doing analysis. If we were to conclude the Telstra deal, the company would then obviously be looking at planning. There is obviously, in the use of Telstra infrastructure, a dependency on Telstra. There are still some discussions to be had about the detail of that.

Senator LUDLAM: Is there not quite a bit already going on? You have explained to us in the past that you are already working quite closely with Telstra's engineers, for example.

Mr Quigley: Certainly, there has been. You could not even conduct this transaction without a lot of detailed discussions and cooperation.

Senator LUDLAM: I would like to pull you up on something that I think you said last time we had you in front of the committee, which was that you were partially choosing where you would go on the basis of labour costs. You mentioned something—I do not have a citation for you—along the lines of: in areas of very high labour costs, you would probably arrive later. They were not the places—

Senator Conroy: You do not have the *Hansard*?

Senator LUDLAM: No, I am afraid I do not. I can track it down in the break if it is important or if Mr Quigley does not remember making the comment.

Mr Quigley: I think the comment was in response to a question: if there were, for example, very high labour costs in certain areas, such as in mining areas—

Senator LUDLAM: That is right.

Mr Quigley: then we would have a choice to make. One of the choices was to, if there were very high costs and we considered there would be very high costs for another year or two, or whatever, we may choose to postpone going to those areas, doing other areas first and waiting until we got a more sensible outcome on labour costs. We would only know that when we had more discussions with construction companies as we moved forward.

Senator LUDLAM: But you are not having those now?

Mr Quigley: We are having those discussions now—yes.

Senator LUDLAM: The Treasury Secretary says there is another 10 years at least left in the boom, whether you believe him or not. My concerns as a representative of WA, I suppose, is that, if you are ever going to get around the north-west, sooner or later you are going to need to bite the bullet—

Mr Quigley: And we absolutely will.

Senator LUDLAM: to get the infrastructure in there.

Mr Quigley: We are also looking at training programs and the ways in which we can skill people up to do the jobs we need done. We are certainly talking to construction companies about that and we also have some initiatives of our own about that, which we will be working on and probably talking about over the next few months.

Senator LUDLAM: I will leave it there and maybe come back a little bit later.

Senator BIRMINGHAM: Mr Quigley, I go to your knowledge of a gentleman referred to in some of the core documents that you alluded to in your opening statement—a Mr Redondo. Do you know who Mr Redondo is?

Mr Quigley: Yes, of course I know who Mr Redondo is.

Senator BIRMINGHAM: Could you, for the benefit of all of us and the *Hansard*, please tell us who he is?

Mr Quigley: Mr Redondo was an executive in Alcatel—the title at that time was Area President. He looked after the Latin American area. He was headquartered in Miami for a period of time.

Senator BIRMINGHAM: To whom did he report?

Mr Quigley: He reported to me.

Senator BIRMINGHAM: Did you meet with him on a regular basis?

Mr Quigley: I met with him, yes, on a reasonably regular basis.

Senator Conroy: What is your definition of 'regular', Senator Birmingham, just so we are clear?

Senator BIRMINGHAM: How frequently did he meet with you, Mr Quigley?

Mr Quigley: I might have met him every month or so, mostly in Dallas. I believe I went to Miami, where the area headquarters was for Latin America, on one occasion.

Senator BIRMINGHAM: You are aware of the complaints filed by the SEC and DoJ in the Miami US District Court on 27 December 2010? I am assuming—

Senator Conroy: I think it was filed by ICE in Miami.

Senator BIRMINGHAM: Statements were filed.

Mr Quigley: We need to be very clear because these are two very different—

Senator BIRMINGHAM: It does come under the heading of 'Complaint'. It may be a US legal thing to call it a 'complaint'.

Mr Quigley: Was this registered by ICE or by the Department of Justice?

Senator Conroy: There are two different court cases.

Senator BIRMINGHAM: This is by the SEC, listed as 'Plaintiff versus Alcatel-Lucent'.

Senator Conroy: What is the date of it?

Senator BIRMINGHAM: It is 27 December 2010.

Senator Conroy: That is the plea deal, if I could use that phrase?

Senator BIRMINGHAM: That probably is.

Senator Conroy: And it was filed in Miami?

Senator BIRMINGHAM: That is correct: the United States District Court for the Southern District of Florida.

Senator Conroy: Thanks. We were just establishing which document you were talking about.

Senator BIRMINGHAM: Mr Quigley, you are aware of the document?

Mr Quigley: Yes. I have not read the document, but I am aware it exists. You have it in front of you.

Senator BIRMINGHAM: Your lawyers have presumably read it.

Mr Quigley: I presume so—yes.

Senator BIRMINGHAM: Very good. In the document there is an executive referred to as the president of area 1. Is that Mr Redondo?

Mr Quigley: I believe it probably is. I cannot recall. It is possible that it was area 1. I cannot remember the number. It is some time ago but, yes, area 1 sounds right.

Senator BIRMINGHAM: Area 1 which was, I think you said before, the president or head of Latin America.

Mr Quigley: Latin America.

Senator BIRMINGHAM: The president of Latin America, is that the title Mr Redondo had from your recollection reporting to you as president of the Americas?

Mr Quigley: That is correct.

Senator BIRMINGHAM: If you met on an approximately monthly basis with Mr Redondo, who was the president of Latin America, how did you not recall that Costa Rica was part of his and therefore your jurisdiction?

Mr Quigley: The reason I did not meet with Mr Redondo more often is because we were going through a very very difficult time in the US. We had a large company in the US and over a very short period of time I had to reduce the company by half.

Senator Conroy: I think Mr Quigley has also stated now on a number of occasions that, because he was aware that Costa Rica moved in and out of that particular area, he sought some information from an officer at Alcatel and unfortunately was given the wrong information which he then repeated. He was made aware that that information was incorrect when he further checked. As I think he has explained on a number of occasions, Costa Rica was moved in and out of—let's say it was region 1, I might be getting that description wrong—Latin American control during the period that he worked at Alcatel. So he sought to get the correct information, was unfortunately given incorrect information and then, when he was aware it was incorrect, he corrected the record.

Mr Quigley: As I said in my opening statement they were moves going on in Alcatel at that time due to all of the reasons. It was not a question that I did not know which countries were in the region for which I was responsible but at this point in time I was looking after the Americas in terms of aggregating income statements and revenues for that period from the various countries. My main focus, of course, at that time, given what was going on, was the US.

Senator BIRMINGHAM: Thank you. In terms of the investigation that was initiated close to 2004 and the engagement of the two law firms that we canvassed in your opening statement, what role did Mr Redondo have in that investigation?

Mr Quigley: Do you mean in initiating anything?

Senator BIRMINGHAM: Indeed, did he have any oversight role?

Mr Quigley: I cannot answer that question here and now.

Senator Conroy: We can take it on notice.

Mr Quigley: Just to be clear, the two firms were sequential. They were not appointed at the same time. Proskauer Rose was for a period and then Willkie Farr after that.

Senator BIRMINGHAM: Thank you. Do you know who was in charge of the relationship, in a sense, the initiation between Alcatel and those two firms?

Mr Quigley: I would have to check, but I would imagine that would be the legal department of Alcatel under the auspices, of course, of the CEO and the board. I would believe that the frontrunning would be done by the legal department.

Senator BIRMINGHAM: Did Mr Redondo as far as you are aware have any—

Mr Quigley: Mr Redondo was a sales executive. He was not a legal person.

Senator Conroy: Could I just seek a clarification?—Are the activities of other individuals at Alcatel relevant to Senate estimates?

Senator BIRMINGHAM: I think we have established with Mr Quigley that Mr Redondo was a direct report to Mr Quigley.

Senator ABETZ: The taxpayer was paying for—

Senator Conroy: The taxpayer was not paying for Mr Redondo and I am just asking why Mr Quigley should know whether or not Mr Redondo was involved with the legal firm at Alcatel. What Mr Redondo did with the lawyers during that investigative period is not anything to do with Mr Quigley's activities.

Senator BIRMINGHAM: Minister, I think you will find that Mr Redondo directly reported to Mr Quigley and in fact there was one step between Mr Redondo and some of those individuals who have been jailed, as you pointed out. So there is a very clear linkage there of Mr Quigley and Mr Redondo—

Senator Conroy: There is no clear linkage at all. You should be glad that you are under parliamentary privilege because the last time someone tried this it was Senator Abetz and he ended up not being able to go out in public for a month.

Senator BIRMINGHAM: No, there is a clear issue here in regards to these court documents that have cited Mr Redondo and have spoken—

Senator Conroy: When Malcolm's office sends you out on these errands, remember what happened to Senator Abetz. I am pleased to see that Senator Abetz will not touch this today, but you should be experienced enough now to know why he will not touch it.

CHAIR: Order! We are getting to a stage where I think we are starting to try Mr Quigley in a de facto way here. I am getting to a stage where I think this stuff is not relevant. It is rapidly getting to a position where it is not relevant.

Senator Conroy: If you want to try Mr Redondo, get on a plane.

Senator ABETZ: I just indicate to you, Chair, that Mr Quigley himself in his opening statement clearly indicated that these matters are of legitimate interest and concern—

Senator Conroy: No, Mr Redondo's interactions with a legal firm are not relevant. You should stop trying to smear him.

Senator ABETZ: and that they are appropriate to be canvassed. He of course spent half of his opening statement dealing with it.

CHAIR: I appreciate your help, Senator Abetz. I say to you that what is being done is highly unusual. I have not been here as long as some of you, but in the three years that I have been here—

Senator Conroy: No, Senator Abetz has tried it before. It did not work out, but he has tried it before.

CHAIR: I understand that the whole approach in estimates is about the operations or financial positions of the departments or agencies. We are straying way out of that. This is not about the operation of NBN Co. and it is not about the financial—

Senator ABETZ: Yes, it is.

CHAIR: It is not.

Senator ABETZ: Taxpayers' dollars are being spent or have been spent in substantial quantities on in-house lawyers, on Mr Kaiser and, indeed, on briefings from outside lawyers. These were at taxpayers' expense to deal with the matters canvassed by Mr Quigley. There is clearly a taxpayer dollar issue involved with these matters that Senator Birmingham—

CHAIR: I put it to you, Senator Abetz, that you have to look at the Liberal Party for the reason a lot of that is being done.

Senator ABETZ: You are the Chair. Be very careful.

CHAIR: Yes, I am the Chair and that is why I am looking at exactly what we should be doing here. You cannot run a trial of Mr Quigley during the estimates on issues that are not directly related to NBN Co.

Senator ABETZ: But he has apologised for putting incorrect information on the public record. You allowed him to do that in a statement as part of the estimates process.

CHAIR: He has corrected that.

Senator ABETZ: We question the statement that it is not allowed to be part of the process. You have to be consistent, Chair.

Senator Conroy: But now you are seeking to ask Mr Quigley about the activities of another officer at Alcatel. That is exactly what you just did.

Mr Quigley: I want to address Senator Abetz's comment about spending public money. I deeply regret that public money has to be spent on this activity.

Senator ABETZ: Well, it does not.

Mr Quigley: I really have no choice but to employ people if we are going to have a retrial of the five-year investigation of the Department of Justice and the SEC which found no wrongdoing on my part. Yes, I openly admitted I made some factual errors because I underestimated the importance of checking every fact. I do not want to go through that again, so I have no choice but to now check every fact. To do that, you have to go through all of the documents. I regret that I have to do it.

Senator IAN MACDONALD: Why don't you do what I do when that happens to me and people sue me? I have to pay for it myself.

Senator Conroy: The board made the decision, like every other corporate board.

Senator IAN MACDONALD: So we should be attacking the board, should we? This is your board, Minister.

Senator Conroy: The board made the decision and I support it.

Senator ABETZ: And Mr Mike Kaiser just happens to be there to help them along.

Senator Conroy: If you have a problem, take it up with me.

Senator IAN MACDONALD: Can you justify how taxpayers' money can be spent on that part of the statement which deals solely with Mr Quigley's own personal situation some time ago?

Senator Conroy: This is your disgraceful smearing.

Senator IAN MACDONALD: What happened here in relation to NBN—that part of the statement?

Senator Conroy: Well, to be fair, it is not your's, Macca; it is Malcolm Turnbull doing a Godwin Grech again.

Senator IAN MACDONALD: It is not legitimate that Mr Quigley should be using NBN lawyers—outside players—at NBN's cost—

Senator Conroy: It is absolutely legitimate.

Senator IAN MACDONALD: to go through these things that relate to him personally.

CHAIR: Senator Macdonald—

Senator IAN MACDONALD: I am responding to the minister. You do not stop the minister.

CHAIR: I do stop the minister. You should listen. I do stop the minister. We have to keep on an estimates program. If this is about a trial of Mr Quigley, de facto, by the coalition senators, then I do not see that that is consistent with the estimates process.

Senator Conroy: The hypocrisy of sitting there saying, 'We're going to ask detailed questions about this court case of Mr Quigley,' and then saying that he is not supposed to prepare a detailed response is just—

Senator McEWEN: Farcical.

Senator Conroy: farcical—that is exactly right, Senator McEwen. It is farcical. He is not being sued. He is not being pursued by the American justice department or anybody else. He is not incurring costs in a personal defamation or a personal legal action. He is preparing answers for you.

Senator IAN MACDONALD: Mr Quigley, in retrospect, do you regret having appointed Mr Kaiser in a very unusual way without any tendering or advertising for the position? On the recommendation of the minister, you have appointed a self-confessed rorter. Do you regret, in view of what is happening now—

Senator McEWEN: That is appalling!

Senator Conroy: You are a disgrace!

Senator IAN MACDONALD: Do you regret having appointed Mr Kaiser?

Senator McEWEN: You are such a grub.

Senator ABETZ: Mike Kaiser resigned because he rorted the Queensland electoral roll. We know that.

Senator Conroy: You are a disgrace!

Senator IAN MACDONALD: It is on the record.

Senator Conroy: In '86 he made a youthful indiscretion.

Senator IAN MACDONALD: It is on the record—how he rorted the electoral role.

Senator Conroy: He paid the price.

Senator IAN MACDONALD: I am asking Mr Quigley—

Senator ABETZ: He has paid the price all right—very handsomely!

Senator IAN MACDONALD: In view of this background, does he now regret having—

Senator McEWEN: He feels better—

CHAIR: Order! Senator Macdonald, order! And Senator McEwen, order! Mr Quigley, would you like to answer that question, then we can move on?

Mr Quigley: I believe I answered that question the first time.

Senator Conroy: The first time, the second time and the third time!

Mr Quigley: I do not regret employing Mr Kaiser. Mr Kaiser is a very talented and very hard-working individual.

CHAIR: Senator Birmingham, do you want to continue, or is Senator Macdonald seeking the call?

Senator IAN MACDONALD: No. Senator Birmingham is doing a very good job.

Senator BIRMINGHAM: Thank you. You have identified that Mr Redondo, as far as you believe, is the president of area 1, who, in this document—

Mr Quigley: He is certainly the president of Alcatel Latin America; whether it was area 1 or area 2 I cannot recall. But it is very much likely that it was area 1.

Senator Conroy: We will happily take that on notice, Senator Birmingham, to make sure that we are accurate. And we may even have to employ some resources to find out for you—but then do not complain about it later.

Senator BIRMINGHAM: Thank you, Minister. The SEC filed documents; we ascertained what they were just a few minutes ago. In those, it says that the president of area 1 repeatedly stated he could go to jail if the US or French authorities learned of the business practices he was approving.

Senator Conroy: Should Mr Quigley be aware of this statement?

Mr Quigley: Sorry—is that the Department of Justice speaking, or is that the affidavit from Mr Valverde Acosta? Could you please let me know which it is?

Senator Conroy: Please clarify. We are actually being serious, trying to make sure we understand which document you are reading from.

Senator BIRMINGHAM: Yes, certainly. This has come from the various files, and identifies president of area 1—

Senator Conroy: But which is it? Is it Mr Valverde Acosta's statement? Just so that we are clear: the December case was filed as the ICE case. So, again, we are just trying to make sure we do not cut across the wrong documents, Senator Birmingham. We are being quite genuine here; it is important to make sure we are on the right document.

Senator BIRMINGHAM: Indeed. I believe this is the 27 December 2010 SEC filed document. It identifies the president of area 1. You have taken on notice the question of who that is, but the statement there from the SEC in their findings is that he could go to jail if US or French authorities learned of the business practices he was approving.

Senator Conroy: I am trying to get the context of it.

CHAIR: Senator Conroy, can I just indicate that I am rapidly getting to the stage where I am going to rule a lot of these questions out of order. I do not mind, and I think it is appropriate, that questions are directed to NBN Co. in relation to their expenditure and their operations. But we are getting to a trial of Mr Quigley, and I do not think it is appropriate. I am not going to let it continue.

Senator ABETZ: I indicate to you that in paragraph 14 Mr Quigley himself says, 'However, I understand that people expect a full explanation of the Alcatel-Lucent matter.' You allowed that—

Senator Conroy: And his involvement in it.

Senator ABETZ: Can I finish, Minister. You allowed that in the opening statement. This purports to be a full explanation. It is therefore appropriate for senators to question, quiz and probe to ascertain whether this is the full explanation that people quite rightly expect to have.

Senator Conroy: What are Malcolm's instructions, Simon?

CHAIR: Senator Conroy, can I indicate that I do not know—

Senator Conroy: Can you clarify which document and could you read the statement more fully—not just one sentence?

Senator BIRMINGHAM: Unfortunately, it is not a searchable document. Regrettably, I did not reference the paragraph. I am trying to find the exact paragraph, so that I can read it quite fully for you. We will happily ask some other questions to make sure. I do not want to have anybody respond to something that is out of context.

Senator McEWEN: I would like to ask some questions about the rollout of the NBN. I thought that was what we were here for. It is difficult to tell what the opposition's position is on broadband for the future of the country but I think their latest incarnation is for an FTTN network, which they say will cost half as much as a fibre-to-the-home network. But, Mr Quigley, in broad terms, what are the main differences between fibre to the node and fibre to the home?

Mr Quigley: A fibre-to-the-node network uses the last several hundred metres of the copper network. You place cabinets out in the field—a bit like the RIM cabinets that we hear a lot about. These cabinets are normally fed with fibre and from there the tails of copper go out to the various homes. This is a step that large incumbent operators who own big copper networks have taken in the past to deploy high-speed broadband. It is a technique that tries to squeeze the very last piece out of the copper network to get the higher speeds. Almost all players now—telcos—who are making investments in new networks are tending to go fibre to the home or fibre to the premise because it is the right long-term solution. If you were a telco that wanted to reduce its spending to the minimum and squeeze the last bit of speed out of its copper network, you might deploy fibre to the node. It is quite sophisticated technology and it is subject to various impairments such as what is called 'crosstalk between lines'. It depends

on the quality of the copper you have got. Some estimates I have seen from companies say that if you deploy a fibre-to-the-node network, and ultimately you are going to have to upgrade it to fibre to the premise, a good 50 per cent of the investment you made in a fibre-to-the-node network will be little value to you. It will have to be scrapped. Most telcos these days will recognise that if you are doing a job, such as the NBN, you will build it with the right long-term technology which is fibre to the premise.

Senator McEWEN: Not a sort of hybrid halfway solution?

Mr Quigley: Hybrid solution—yes.

Senator McEWEN: In the case of Australia, are the copper bits you are talking about owned by Telstra?

Mr Quigley: Yes, owned completely by Telstra.

Senator McEWEN: What leverage does that give you in the future then if that was—

Mr Quigley: If you had a fibre-to-the-node network, while, in principle, it could be unbundled, that is quite a difficult job. I am not aware of too many countries around the world that have tried to tackle that. It is much simpler, if you are going to build a wholesale network, to build a fibre-to-the-premise network. Obviously, there are complications. I can just imagine how complex the transaction would be with Telstra trying to build a hybrid network based on their copper. We would probably still be at it for another year or two.

Senator McEWEN: What would be the 'relative costs' cost of building a fibre-to-the-node network in Australia compared to a fibre-to-the-home network?

Mr Quigley: There are various degrees of estimates of that which have been done around the world. It really would depend largely on a very, very large unknown, which is: what would be the cost of the copper part? There would clearly have to be a completely different deal done with Telstra than we have done. It is very hard for me to estimate what that cost would be. There are obviously very large costs in building the fibre network but, in Australia, there would also be the additional costs of the negotiation, with Telstra, of that remaining copper plant as well.

Mr Harris: The ACCC, in commenting on this government's original proposition of fibre to the node—and the previous government's proposition, I think, of potentially investing in fibre to the node—pointed out, quite strongly, that an investment in fibre to the node, whilst leaving control of the last mile of copper in the hands of a single firm, was substantially investment in that firm. So, effectively, it gave that firm a singular advantage. I am putting words in the mouth of the ACCC but these documents are on public record and quoted by the Auditor-General, for example, in its assessment of the government's previous tender process, which was put in place prior to the NBN concept being developed by the government. In fibre to the node one would not only take into account cost comparisons but also strategic corporate benefit, and strategic corporate benefit would clearly favour the entity which held the last mile—or the last half-mile or quarter-mile or whatever else it is—of copper beyond the node. It is a particularly significant issue to take into account in considering such a policy proposition—not without its solutions but certainly significant.

Senator McEWEN: You would effectively have to compensate it—in Australia's case, Telstra—to use the copper.

Mr Harris: Yes, of course.

Senator McEWEN: You have to add that to the cost of building the rest of the fibre to the node, to get the full cost.

Mr Harris: The actual equipment, yes.

Senator McEWEN: So if you did combine those two figures, whatever you had to compensate Telstra and whatever you had to pay for the construction of the fibre-to-the-node bit, do we know how much that would cost?

Mr Harris: No, I am not—

Senator Conroy: There have been various estimates. I think then chairman Mr McGauchie of Telstra once commented that building fibre to the node would be \$25 billion and I think that was a little bit of an overestimate. Most of the rest of the industry felt that it was probably closer to \$15 to \$20 billion and we are going back four or five years now. The industry, media and legal speculation about the possible costs of compensation to Telstra were in the vicinity, again, of \$15 to \$20 billion. You could pick up newspapers at the time and see those were the sorts of estimates that Telstra and others were kicking around. Nobody put a definitive figure on it—lawyers are always particularly cautious about that—but that is the sort of information that was being debated and tossed around in public.

Senator McEWEN: So it is just plain wrong, basically, to say that you could build a fibre-to-the-network broadband that is half the price of fibre to the node.

Senator Conroy: You could physically build the actual infrastructure to the network but, unfortunately, Telstra own the existing copper network to the home and you would have a compensation question, which would have to come into play, unless you were paying directly. If you did not want to cut the copper, so to speak, you would still have to pay Telstra for access to it.

Senator McEWEN: Yes.

Senator Conroy: So it would not be accurate at all to try and suggest that you could build a fibre-to-the-node network for \$15 billion or \$20 billion, or 50 per cent, as Mr Turnbull has been doing, because the compensation of Telstra for the monopoly on the copper last mile has to be dealt with.

Senator McEWEN: Thanks for that. There is that aspect of the relative cost of the two different systems, but what about the comparison of the service that each delivers to the customers that we are obviously building this for?

Mr Quigley: It is a fibre-to-the-node service, but you really do not know what the performance of the service will be until you actually get to test. It depends really on the quality of the copper link that you have there and the placement, where you put that, compared to the distances out. So it is certainly not like fibre to the premise, where, when we say we can deliver, for example, a 100 megabits per second service and 40 megabits back up, you can be sure you are going to get that to everybody in the fibre footprint. You just cannot do that with fibre to the node.

It is clearly also the case that you could not build just a fibre-to-the-node network; you would have to have a hybrid of some parts fibre to the premise and some parts fibre to the node. It would be a bit more of a hotchpotch of a network. It has clearly less upstream

capacity, which is going to become more and more important, I think, as we see applications, particularly small business applications, develop. It is just much more of a gamble, and you certainly do not have anything like the coverage that you can get—because you can go much greater distances, obviously—with fibre to the premise. You are making a trade-off there. If you are an incumbent operator who owns that copper, you are making a trade-off between saving money in a short-term investment against the longer term solution. But, for a company such as NBN Co., building a wholesale-only network, where the wholesale aspect is very important—the ability to offer, over the same link, multiple retail service providers—that is much more difficult to do in a fibre-to-the-node network.

Senator McEWEN: Okay. So, if you build a quality system that takes out the vagaries of copper and fibre to the node, then you are liable to get more competition in terms of wholesalers wanting to access that to on-sell?

Mr Quigley: Yes. And the ability for end users to make rapid decisions if they want to change service providers. They can do that relatively easily on a network such as we are building. They can also have different services from different service providers. They could have video from one and voice from another and internet from another.

Senator McEWEN: So it increases competition both at the wholesale and at the retail level?

Mr Quigley: Yes.

Senator McEWEN: Thank you for that. Mr Quigley, also you mentioned earlier in one of your answers to one of my questions international experience in building the two different systems. Where does Australia stand internationally? Are people looking to us as leaders in this, and what is best practice in the rest of the equivalent developed world?

Mr Quigley: Certainly it is fair to say that the world sees what is going on in Australia as a visionary project. There are many officials from countries whom I have spoken to who have said they wish they were in a position to make this kind of investment and provide an infrastructure for the next decades. They see it as the right long-term solution. They are not all in a position to do that. So, yes, I would say we are certainly at world's best practice, once we get this network built. We are in fact some ways behind broadband penetration and broadband speeds on a worldwide basis today. When this network is built we will be at the other end of the spectrum. We will have one of the world's most modern and capable broadband infrastructures.

Proceedings suspended from 20:44 to 21:00

Senator ABETZ: If I may turn to your statement from this evening, Mr Quigley, in paragraph 21 you told us you were not interviewed by either of the law firms and you know this because you checked with one of the law firms. I make the observation that, if I was interviewed in relation to a matter of this magnitude, chances are I would have had a personal recollection of that without the need to go to a legal firm. Was it only Wilkie Farr & Gallagher that confirmed this to you?

CHAIR: Before we go to that, Mr Quigley, would you table your statement?

Senator ABETZ: I thought he had.

CHAIR: I do not think so. All of the senators have a copy, but it has not been formally tabled yet.

Senator ABETZ: Just don't ask me how I got it!

Senator Conroy: So you think you have the full document?

Senator ABETZ: I was going through it as Mr Quigley was reading it and it is pretty much identical—a few words difference here and there.

Senator Conroy: How many paragraphs are there in your copy?

Senator ABETZ: Sixty two.

Senator BIRMINGHAM: If I could assist, Chair, I believe this is a document that perhaps we could say was anonymously distributed in the press gallery late this afternoon.

Senator Conroy: The one that Mr Turnbull and his staff distributed was called 'NBN Co. and l'affaire Alcatel—Conroy must act'. That was the one that was anonymously circulated by hand by Mr Turnbull and his staff.

Senator BIRMINGHAM: This one was also circulated in the press gallery.

CHAIR: Let's cut to the chase. Is there any chance of having that tabled?

Senator Conroy: There is no great drama. I think Mr Quigley might have made a couple of changes.

Senator ABETZ: I referred to paragraph 21 in the document.

CHAIR: Senator Abetz, some senators do not have the document.

Senator BIRMINGHAM: I am happy to table the document; I think I have a spare of the version that I have, which is what we are quoting from.

Senator Conroy: Mr Quigley did read it out in full.

Senator ABETZ: I know. That is why I would have thought there is not much—

CHAIR: We will get copies for the senators—thanks, Senator Birmingham.

Senator ABETZ: So I ask Mr Quigley: was it just the firm of Wilkie Farr & Gallagher that you approached?

Mr Quigley: First of all, let me say that my absolute recollection was that I was never questioned by any law firm in the US, by the SEC or by the Department of Justice. That was my absolute recollection. But I wanted to make sure there was no possible chance of any misunderstanding—and remember we are talking about quite some time ago. I wanted to be absolutely clear, so I had it checked because, as I am told, literally two million documents have formed part of this investigation. I wanted to be sure of the facts. I wanted to make sure my recollection was accurate, which it turned out to be. I was never questioned by either of the law firms.

Senator ABETZ: Either of the law firms?

Mr Quigley: Either of the law firms.

Senator Conroy: What paragraph are you talking about?

Senator ABETZ: Twenty one. Did you have it checked or did you personally check?

Mr Quigley: I had it checked.

Senator ABETZ: You said: 'How can I be so sure? Well, I have checked.'

Mr Quigley: I have checked. In other words, as I said earlier—

Senator Conroy: He had it checked. Do you think he phoned them himself?

Senator ABETZ: That is what I am trying to get at. In the way it is written—I have checked—that is the impression that one is left with.

Senator Conroy: Does it make a difference to you?

Senator ABETZ: It might do if there is something incorrect in the statement. Did you have the authority of Mr Beaufret to do this as well?

Mr Quigley: Can I be clear: is that kind of statement very important? It is clear I am going to have to be very careful about every single word I use now. If that is the level of detail you are concerned about, I just need to know—

Senator ABETZ: With the money you earn, Mr Quigley, I think we can expect that.

Senator Conroy: Which he gave to charity.

Mr Quigley: Every cent.

Senator ABETZ: So you did not personally check it; you got someone else to check it. You wrote that you have checked so did you see a letter from this legal firm to confirm that your statement is correct?

Mr Quigley: As I said, the legal folk I am working with through NBN Co. are interfacing with the legal people in these firms to check data.

Senator ABETZ: So it would be more accurate to say, 'I have been told,' because you have not seen a document or anything. Is that right?

Mr Quigley: When a legal company here tells me they have checked something, I believe them.

Senator ABETZ: This was the outsourced legal company?

Mr Quigley: I do not know whether it was our own internal people or the outsourcer or both of them together.

Senator ABETZ: So you were only told verbally by a lawyer?

Mr Quigley: Yes.

Senator ABETZ: So you have seen no written document confirming this?

Mr Quigley: I personally have seen no written document.

Senator Conroy: You are not suggesting a lawyer is misleading Mr Quigley, are you?

Senator ABETZ: Can you then tell us whether it was from an outside lawyer or an internal NBN lawyer?

Mr Quigley: No, I cannot. I would have to take that on notice because I do not know who did the actual physical interfacing with the US law firm.

Senator ABETZ: And you have not, I suggest, personally written paragraph 21 of this statement.

Senator Conroy: What was that?

Senator ABETZ: Mr Quigley has not personally written paragraph 21 of this statement.

Senator Conroy: You mean personally get a pen out and write it down himself?

Senator ABETZ: I think that is pretty obvious, is it not—either that or on a keyboard, whether he personally wrote the document and in particular paragraph 21 or whether somebody else has written it for him?

Senator Conroy: I think Mr Quigley has already indicated that iterated backwards and forwards, Senator Abetz. I am not sure what it is you are trying to draw from this.

Senator ABETZ: I am just asking questions. Do not worry about what I may or may not be drawing from them.

Senator Conroy: It was iterated backwards and forwards. Mr Quigley made that clear earlier.

Senator ABETZ: All right. Whose was the first iteration?

Mr Quigley: I do not recall.

Senator ABETZ: Was it yours?

Senator Conroy: We will happily take it on notice.

Senator ABETZ: Was it yours, Mr Quigley?

Senator Conroy: We will take it on notice.

Senator ABETZ: Mr Quigley must know whether the first iteration was his or not?

CHAIR: Senator Abetz, you know as well as I do that when the minister says it will be taken on notice, then it will be taken notice.

Senator ABETZ: Why does it have to be taken on notice, given that Mr Quigley sitting right next to you—

Senator Conroy: Because he has already told you he does not recall.

Senator ABETZ: and must have personal knowledge as to whether the first iteration was provided to him or written by him?

Mr Quigley: The first iteration of what—every paragraph?

Senator ABETZ: Of this statement.

Mr Quigley: I thought I explained, Senator, that what I did was sketched in an outline what I wanted to cover and asked various people to go away and provide parts. It came together. It is my statement. I take responsibility for this statement.

Senator ABETZ: I know that but, if we are not going to get an answer, we will move on.

Senator CONROY: You just got an answer.

Senator ABETZ: Mr Quigley, did you ever make a statement about the matter?

Mr Quigley: I am not sure I understand the question.

Senator Conroy: To the SEC, do you mean?

Senator ABETZ: Yes.

Senator Conroy: Or to the lawyers?

Senator ABETZ: Yes.

Mr Quigley: No.

Senator ABETZ: About the matter?

Mr Quigley: No.

Senator ABETZ: Did you ever provide correspondence to the SEC, DoJ, Proskauer Rose or Wilkie Farr and Gallagher?

Mr Quigley: Not that I recall, but I will take it on notice and I will check.

Senator Conroy: And we will incur a more costs to answer your question and we trust you will not complain about it.

Senator ABETZ: Costs should not be incurred by the taxpayer buyer on this.

Senator Conroy: They should absolutely.

Senator ABETZ: In relation to paragraph 25—

Senator Birmingham interjecting—

Senator Conroy: Senator Birmingham, you have not been using your taxpayer-funded staff to prepare questions to trawl the documents in the US, or has Mr Turnbull used his own money to trawl the documents in the US? I do not have a problem if he has, but I would just like to know the answer.

Senator ABETZ: Turning to paragraph 25, you indicated in the last line, 'I relied on the recollection of a former colleague and should not have done so.' Are you able to name that former colleague?

Mr Quigley: I am not able to name that former colleague.

Senator ABETZ: Why not?

Mr Quigley: Because I certainly do not want to name a former colleague, to bring him into this discussion.

Senator ABETZ: So what you are doing is blaming somebody anonymously—

Mr Quigley: I am not blaming anybody. I have already said that it was my error.

Senator ABETZ: But you are trying to exculpate yourself on the basis of relying on somebody else—

Mr Quigley: I am saying that it was my error.

Senator Conroy: Are you suggesting that Mr Quigley is misleading the committee?

Senator ABETZ: That is now on the record.

Senator Conroy: Is that what you are trying to suggest?

Senator ABETZ: Can I take you to the last sentence of paragraph 30. Again, this is a fact I have verified with the firm who conducted the investigation. I assume from your previous answers that you did not do so personally.

Mr Quigley: I assured myself that that was the fact.

Senator ABETZ: How did you do that?

Mr Quigley: I did it by having faith in the people who are interfacing with the US legal firms.

Senator ABETZ: Can you then tell us on notice who those people were—the in-house lawyers and the external lawyers who were brought in—and how that was verified to you.

You must, I suggest, have knowledge as to how that was verified to you. Was it in a letter that was put in front of you saying, 'Because of that evidence you can now sign off on paragraph 30'? Or were you just told verbally?

Mr Quigley: I do not know in what form that information was conveyed to our legal people, but I will be sure to take it on notice.

Senator Conroy: They will find out for you.

Senator ABETZ: Mr Quigley, that is very clever but I did not ask that. I asked, 'How was it conveyed to you so that you could sign—

Mr Quigley: It was conveyed to me verbally.

Senator ABETZ: Verbally—thank you.

Mr Quigley: I got an assurance from—

Senator ABETZ: Thank you. So it was conveyed to you verbally by a lawyer, we think, but we are not sure whether it was an in-house lawyer or—

Mr Quigley: It was by a lawyer. I do not think it was a lawyer; it was a lawyer.

Senator ABETZ: Yes, but you are not sure whether it was an in-house lawyer or an external lawyer.

Senator Conroy: We said we would take it on notice to make sure that we give you absolutely accurate information. We will get you those details.

CHAIR: Senator Abetz, the minister has indicated that it will be taken on notice and you will get a response, so can you move on, please.

Senator Conroy: You have so little to throw at Mr Quigley that you want to waste an hour on who typed and drafted a document.

CHAIR: Order, Senator Conroy! Senator Abetz has the call.

Senator Conroy: You want to know whether he drafted each word himself. You are pathetic.

Senator ABETZ: Chair, clearly that ought to be withdrawn. It is a reflection in any language. It should be withdrawn, and he should be called to order.

CHAIR: I have called Senator Conroy to order. Senator Abetz, you have the call.

Senator ABETZ: Is he going to withdraw or not?

Senator Conroy: Since you are such a sensitive soul, Senator Abetz, I happily withdraw.

Senator ABETZ: It is a pity the chair could not bring himself to do that.

Senator Conroy: That was a reflection on a chair which you should withdraw, Senator Abetz.

Senator ABETZ: I am just making an observation.

Senator Conroy: It is a reflection on the chair which you should withdraw, Senator Abetz.

Senator IAN MACDONALD: This could perhaps be taken on notice but Mr Harris or Mr Quigley, whoever is responsible, could you give us details on the amount expended by NBN Co. on the external lawyers and can you give us the names of the external lawyers. Assuming that your processes are such that you internally cost your own internal lawyers legal work for

whatever, can you also give me on notice the cost of the internal lawyers for the preparation of this statement.

Senator Conroy: So you would like to know the cost of preparing the answers for Senate estimates?

Senator IAN MACDONALD: I would like to know—

Senator Conroy: I just want to make sure that we know what you are asking for.

Senator IAN MACDONALD: in relation to this statement, the legal costs—

Senator Conroy: The information provided to—

Senator ABETZ: Chair, are you going to control this minister or not? It is turning into a farce.

Senator Conroy: What is a farce is your questions. It has been two hours and all you have—

CHAIR: Senator Conroy, order! Senator Abetz, I have to say that there has been a bit of give and take here. You have played the game yourself, so do not get so high and mighty. When you are calling the minister to order, you cast aspersions on me. I will let it go through to the wicket keeper. Just get on and ask your questions and do not be so high and mighty.

Senator ABETZ: I am not asking questions.

Senator IAN MACDONALD: I am halfway through and I am asking Mr Quigley, who the minister pointed out was the right person to ask, but the minister keeps interrupting. What I am wanting is the legal bill that the external lawyers will send NBN Co. for the work the lawyers have done in relation to this statement and any other work they have done in relation to your time with Alcatel. Could I get the name of the external lawyers involved please and also if you do cost your internal lawyers costs, which I assume you would, could I also get their bill which they will render to themselves, I guess, or to the company.

Senator Conroy: That would probably be in the category of absurd.

Senator IAN MACDONALD: What would be absurd?

Senator Conroy: That they would render a bill to themselves. If you do not think that is absurd, that is okay.

Senator IAN MACDONALD: They internally cost their work, Minister. You are in charge of the biggest business—

Senator Conroy: They are not a legal firm.

Senator IAN MACDONALD: and you have got no idea—

Senator Conroy: They are sitting there billing themselves.

Senator IAN MACDONALD: absolutely no idea—

CHAIR: Senator Macdonald, do you have a question?

Senator Conroy: You are a moron.

CHAIR: Senator Conroy! If it keeps going like this, I am going to adjourn the hearing.

Senator IAN MACDONALD: Do not tell me, Chair, tell him.

CHAIR: I am telling you.

Senator IAN MACDONALD: I am asking a question and he keeps interrupting, and so what do you do?

CHAIR: I am suspending the proceedings.

Proceedings suspended from 21:16 to 21:21

CHAIR: I say to everyone that there has to be some order in relation to how we deal with this estimates committee. We cannot keep going the way we are going. If I am being ignored by both the minister and other senators, I have absolutely no control. I am not prepared to continue on like that, so there is an obligation on all senators, including the minister, to try and get through this with some order.

Senator IAN MACDONALD: I think Mr Quigley has my question on notice. It was the only question I wanted to ask tonight and I am going to leave you to it now. Can I just clarify that you understand the question I asked?

Mr Quigley: Yes. I am not sure I will be able to satisfy the latter part of your question. I have not put a system in place where people in the company account for each hour of the day to specific areas.

Senator IAN MACDONALD: You do not internalise your costings.

Mr Quigley: No. That would be an overhead which, frankly, would be a cost we do not need to incur.

Senator IAN MACDONALD: Can you just tell me how many internal lawyers you have?

Mr Quigley: I have to take that on notice.

Senator IAN MACDONALD: Take that on notice. But is it a lot, or one or two?

Mr Quigley: I will have to take that on notice.

Senator IAN MACDONALD: Is it more than one or two?

Mr Quigley: I have to take that on notice.

Senator IAN MACDONALD: Okay. Tell me who your lawyers are. If you could give me the range of their salaries, that might be sufficient—no names mentioned, of course, but just that there are five lawyers and three are paid \$100,000 a year and two are paid \$500,000 a year, or whatever it is. Then there is the external staff. If you can give me that, I would be very appreciative.

Senator ABETZ: Chair, if I may, I just want to be absolutely sure in relation to that which I was asking Mr Quigley about before. Mr Quigley, can you confirm that you at no stage were interviewed at all about the Alcatel matter?

Mr Quigley: Yes, I can confirm that. I had our legal people check with the US legal people, who have advised me that at no time was I interviewed by any of the firms, and that completely fits and is consistent with my recollection.

Senator ABETZ: Can you confirm that you at no stage provided a statement to any authority about the Alcatel matter?

Mr Quigley: I have no recollection of making any statement to any authority on that matter, but I will have that checked with the records.

Senator ABETZ: Thank you. Can you confirm that you at no stage wrote a letter or a memorandum or provided a document of any nature in relation to this Alcatel matter to any relevant authority?

Senator Conroy: An internal document or external? I am just trying to seek clarification.

Senator ABETZ: To any relevant authority, as in the SEC, the DoJ or those two law firms.

Mr Quigley: I have no recollection of writing any document on this matter to any of those bodies, but I will take it on notice and double-check that.

Senator ABETZ: Thank you. In relation to those questions that I have just asked, are we able to take them on notice and obtain Mr Beaufret's answers to them, please?

Mr Quigley: Yes.

Senator ABETZ: Thank you.

Senator BIRMINGHAM: Can I table four documents, officially? I do not expect that we will refer to all of them, but then they will all be on the record and available in case anybody wants to. They are the deposition of Christian Sapsizian of 30 November 2010, the affidavit or declaration of Edgar Valverde Acosta of 1 December 2010, the Securities and Exchange Commission complaint filed against Alcatel-Lucent of 27 December 2010 and the Department of Justice press release relating to that SEC complaint, also of 27 December 2010.

Senator Conroy: To clarify—and, hopefully, I will be handed those in a moment—those are statements by two convicted criminals, a press release from the Department of Justice, and what was the third document?

Senator BIRMINGHAM: The third document is the only one of the four documents to which we have referred tonight.

Senator Conroy: How did you describe it?

Senator BIRMINGHAM: That is, let me make sure I read from the—

Senator Conroy: Until we accept it being tabled, I cannot get a copy in front of me. Can we quickly deal with tabling it?

CHAIR: Yes. There being no objection, it is so ordered.

Senator Conroy: What did you describe it as?

Senator BIRMINGHAM: This is: the 'United States District Court for the Southern District of Florida: Securities and Exchange Commission, Plaintiff, v. Alcatel-Lucent S.A., Defendant. Complaint'—the statement made by the SEC in the settlement.

Senator FISHER: It is a complaint made by and on behalf of the SEC—

Senator Conroy: It is a complaint file. I am not a lawyer and I think you might be, tragically, so I want to make sure I understand—

Senator FISHER: by their counsel Robert K. Levenson.

Senator Conroy: I am seeking clarification from Senator Birmingham.

Senator FISHER: We are one and the same.

Senator Conroy: I want to understand what a statement of complaint is. Is that a final legal document—as in, is that a settled legal document or an agreed legal document? I am seeking your clarification because I am not a lawyer.

Senator BIRMINGHAM: No, and nor actually—

Senator Conroy: Did you say no, it is not an agreed document, or no it is not a—

Senator BIRMINGHAM: Minister, do not take anything I said to be commenting on the document itself.

Senator Conroy: That is why I am asking.

Senator BIRMINGHAM: I was about to say that neither am I a lawyer.

Senator Conroy: My apologies for defaming you so sadly.

Senator BIRMINGHAM: I do not treat it as defaming me by any means.

Senator Conroy: I would have taken you seriously.

Senator BIRMINGHAM: This was the final statement of the facts of the matter as agreed between the SEC and Alcatel. This was the basis on which the penalties of more than \$137 million were paid, as I understand it.

Mr Quigley: Are you sure of the last statement you made?

Senator Conroy: A complaint is not a statement of facts. They are two different things.

Senator BIRMINGHAM: This is the basis on which the penalties of more than \$137 million were made.

Senator Conroy: No, I think that they are two different legal things; I do not think they are the same. I am doing this for your edification.

Senator IAN MACDONALD: The documents are being tabled so there does not need to be any description of them by Senator Birmingham or anyone else. They will be tabled—

Senator Conroy: Genuinely, we are trying to establish what the document is.

Senator BIRMINGHAM: I have described what the document is. It is tabled. Mr Quigley, you appear to have a different understanding of what the document is.

Senator Conroy: I have the piece of paper from what you have tabled here.

Senator BIRMINGHAM: We are referring to the third dot point.

Senator Conroy: It says: 'Complaint filed against'. That is not an agreed statement of fact. They are two different legal concepts.

Senator BIRMINGHAM: Okay. If you look at the accompanying media release of the same date:

Alcatel-Lucent S.A. and three of its subsidiaries have agreed to pay a combined \$92 million penalty to resolve a Foreign Corrupt Practices Act (FCPA) investigation into the worldwide sales practices of Alcatel S.A. ...

Then in the second paragraph:

As part of the agreed resolution, that department today filed a criminal information in the U.S. District Court for the Southern District of Florida charging Alcatel-Lucent with one count of violating the internal control divisions of the FCPA, and one count of violating the books and records provisions of

the FCPA. The department and Alcatel-Lucent agreed to resolve the charges by entering into a deferred prosecution agreement for a term of three years.

As I understand it, in this matter Alcatel did not dispute the complaint and the matter was settled.

Senator Conroy: I have only just got this and I am sure Mr Quigley has not read it either, so I am not in a position to let you put words in my mouth, Senator Birmingham. I am not disputing what you are saying, but I have not had a chance to read the document. But if you would like to quote from it—

Senator BIRMINGHAM: The 27 December 2010 document, the complaint made by the SEC against Alcatel-Lucent, paragraph 30, which contains the quote to which I was referring earlier:

The President of Area 1, which encompassed Latin America, worked in Alcatel's Miami office between 2000 and 2003 (and directly reported to a member of Alcatel's executive committee). This individual approved the payments to the Costa Rican consultants, despite their high amounts. On several occasions, this individual stated that he could go to jail if authorities in France or the United States uncovered where these payments were actually going.

Senator Conroy: Out of interest, and given that they have been uncovered, why has he not been jailed or charged?

Senator BIRMINGHAM: Minister, I am afraid I cannot answer for the SEC as to what decisions they have made, the decisions they made as to settling this matter or the decisions in that settlement as to whether individuals were or were not pursued as part of that. I understand a very limited number of individuals were pursued in the settlement, but obviously that was a matter of judgment for the US authorities.

Senator Conroy: Or a matter of evidence, that might also come into it at some stage.

Senator BIRMINGHAM: Evidence and judgment: I am sure all of the above played a role, as they always would.

Senator Conroy: So is Mr Quigley mentioned in this document? As I said, I have had no chance to read it. Is he referred to?

CHAIR: The minister just asked questions.

Senator Conroy: I think it is germane.

Senator BIRMINGHAM: If we can come to paragraph 30, we discussed previously the executive who reported to Mr Quigley, who was the President of Latin America during that period of time.

Senator Conroy: But we have agreed that the person we are talking about here is not Mr Quigley, that is right?

Senator BIRMINGHAM: Mr Redondo.

Senator Conroy: And he is not Mr Quigley.

Senator BIRMINGHAM: No, the President of Area 1 was not, as I understand it, Mr Quigley.

Senator Conroy: That is right. We are agreed that it is not Mr Quigley being referred to here.

Senator BIRMINGHAM: Thank you, Minister.

Senator Conroy: I just wanted to make sure we were on the same page.

Senator BIRMINGHAM: No, no. If you actually allowed the questions to proceed, because you wanted the full context, so we have tabled the entire document—

Senator Conroy: I am just making sure I have got the full context.

Senator BIRMINGHAM: I have quoted the entire paragraph. Now if we can go back to who Mr Redondo was and whether he was the President of Latin America, as Mr Quigley stated earlier, and reported directly to Mr Quigley.

Mr Quigley: Yes, that is correct.

Senator BIRMINGHAM: That is correct. Thank you, Mr Quigley. Did you ever hear Mr Redondo make statements like this?

Mr Quigley: No. I think not. By the way—

Senator Conroy: Was it a stamp on a document that said this is a bribe, please sign?

Mr Quigley: my understanding in talking to the people who have been through all of these documents is that there is an SEC complaint. They may be based on affidavits or declarations from the said Mr Sapsizion or Mr Acosta. I think there is another. I will have to check on this—I do not know, I will take it on notice and check—but there is a question whether or not this is what has been agreed in the settlement or whether this is the complaint document. I do not know the legal distinction there, but I will check.

Senator BIRMINGHAM: It is the complaint document. Section V of the document by the SEC, entitled 'Facts', then part A of part V, which is entitled the 'Costa Rica bribery scheme', and paragraph 30 is found within that section, under that heading of 'Facts'. Certainly, Mr Quigley, by all means check as to whether those facts were disputed by Alcatel in the final settlement. I have read from the accompanying media release.

Senator Conroy: So we have unambiguously established that Mr Redondo is the person being referred to in paragraph 30.

Senator BIRMINGHAM: Thank you.

Senator Conroy: And we have unambiguously established that that is not Mr Quigley.

Senator BIRMINGHAM: And that Mr Redondo reported directly to Mr Quigley.

Senator Conroy: Yes, we have established that.

Senator BIRMINGHAM: And we have established that—excellent. If I can turn you back to paragraph 3 of this document, which comes underneath a list of the findings of where bribes were paid. Paragraph 3 states:

All of these payments were undocumented or improperly recorded as consulting fees in the books of Alcatel's subsidiaries, and then consolidated into Alcatel's financial statements. A lax corporate control environment aided Alcatel's improper conduct. Alcatel failed to detect or investigate numerous red flags suggesting that its business consultants were likely making illicit payments and gifts to government officials in these countries at the direction of certain Alcatel employees. The respective heads of several Alcatel subsidiaries and geographical regions, some of whom reported directly to Alcatel's executive committee, authorized extremely high commission payments under circumstances in which they failed to determine whether such payments were, in part, to be funneled to government officials in violation of

the FCPA. These high-level employees therefore knew, or were severely reckless in not knowing, that Alcatel paid bribes to foreign government officials.

Mr Quigley, you have stated all along, and you have highlighted the fact, that you did not know that this activity was occurring. We respect your statements in that regard. But what I am seeking a response from you on is: as a senior executive directly in the line of management above these activities, how do you respond to these allegations, these statements, about the lax corporate control environment and the activities that were being undertaken?

Mr Quigley: Clearly, it is regrettable. It is not acceptable that such practices, such events, have occurred. I do not think there was anybody on the Alcatel management committee who was not extremely disappointed that such events could happen. As I have said, it is not an easy job. These things are easy in hindsight; it is a different question when you are actually trying to manage them. That is no excuse; it is just a very difficult thing to do. That is why many companies have been through this process. That is no excuse; there is no excuse for the fact that the controls were not tight enough in Alcatel. If they had been tight enough, clearly we would not have had any of these issues. But progressively, year after year, those controls were improved—including, as I have said, a big effort in the company to implement Sarbanes-Oxley requirements.

Senator BIRMINGHAM: Mr Quigley, as a senior executive, are you now aware, with that benefit of hindsight and the investigations that have occurred, whether you knowingly or unknowingly—and certainly the understanding is that it was unknowingly—

Senator Conroy: The fact is that it was unknowingly.

Senator BIRMINGHAM: approved any document proposing or approving a business strategy, commercial arrangement, contract or transaction that was later found to be a party to these payments?

Mr Quigley: I have no recollection of approving any such document and, as I said before, I think, in response to Senator Abetz's question, I have checked—I stand corrected, I should say that I had had it checked with the legal firms who know these documents intimately, that my signature is not on any of them.

Senator BIRMINGHAM: You have no recollection of ever having done so and you are saying now, just to be clear—

Senator Conroy: And we sought clarification.

Senator BIRMINGHAM: that, with the benefit of hindsight, you did not, at some stage, unknowingly, approve or sign off in any way?

Mr Quigley: Yes, as you would be aware, in a position such as this, where you are responsible for US \$8 billion and tens of thousands of people, you sign lots of documents throughout the course of many years. I do not remember every document I signed. That is why I checked. I had no recollection of signing such a document for any of these countries that are raised in any of these reports. But I had it checked.

Senator BIRMINGHAM: And it has never been brought to your attention by any of the investigating authorities, lawyers or otherwise that you had inadvertently approved any such strategy?

Senator Conroy: I think Mr Quigley has made it clear on a number of occasions that he was not interviewed or spoken to by the lawyers, the SEC or the Department of Justice.

Senator BIRMINGHAM: Mr Quigley has been very specific in talking about having signed any documents, though.

Senator Conroy: No, he said he has never been interviewed. Did they phone you?

Mr Quigley: They did not.

Senator Conroy: Did they contact you?

Senator BIRMINGHAM: That was a different area of questioning, Minister. I think Senator Abetz covered those conversations that did not occur and Mr Quigley has undertaken to check on documents and other things to make sure that there were never any. We will await those responses on notice. Mr Quigley has addressed those issues, Minister.

Mr Quigley: Senator, just to be clear, you said 'those conversations that did not occur', but there were no conversations.

Senator BIRMINGHAM: Yes, that is a fair point, Mr Quigley. I am trying to go now to the actual business practices at the time, acknowledging that you did not knowingly approve any strategies but asking whether you have since become aware that you unknowingly approved strategies that authorised—

Senator Conroy: Unknowingly? How can you know that you have 'unknowingly approved' something?

Senator BIRMINGHAM: 'With the benefit of hindsight', Minister—that is exactly what I said. Do not just pick two words out of the question and jump all over those.

Senator Conroy: Mr Quigley has already answered that question. He has no recollection and he is—

Senator BIRMINGHAM: Mr Quigley has said that he has never signed off on those things and he has checked on that. I am seeking to know whether he ever approved—

Senator Conroy: I am sure Mr Geoff Dixon, 'with the benefit of hindsight', would not have been excited about finding out that there was price fixing going on at Qantas.

Senator BIRMINGHAM: I do not want us to get back to where we were before.

CHAIR: Senator Birmingham.

Senator BIRMINGHAM: It is simple. Aside from documents that you have signed—and you have had those checked to make sure that there were no documents you signed approving any of these business strategies or activities; you have checked that, so far as anybody can verify in these investigations, there were no documents that were signed by you—are you aware, with the benefit of hindsight, whether there are any strategies that may have been approved in meetings or discussions that you participated in et cetera that led to these activities unknowingly being approved at the time by you?

Mr Quigley: Board discussions of bribery, Senator? Is that what you are asking me? You are asking me about board discussions of bribery?

Senator Conroy: Are you actually asking that as a serious question?

Senator BIRMINGHAM: No, I am not asking whether there were board discussions of bribery at all—

Senator Conroy: No, you are just asking whether Mike was involved in any of discussions about organising bribery.

Senator BIRMINGHAM: I am talking about the allegations as they are laid out here, and we can go to them if you want, which Mr Quigley denied specifically in his opening statement—that there were consultant fees signed off on and that these were draft things. You denied that in your opening statement, Mr Quigley. That is correct, isn't it?

Mr Quigley: Sorry. Denied what, Senator? You have lost me.

Senator BIRMINGHAM: That there were these consultant arrangements that were signed off on.

Senator Conroy: I think he said that he had never signed off on them and that he has checked with the lawyers.

Senator BIRMINGHAM: That is right.

Senator Conroy: That is what he said—that he never signed off on them.

Senator BIRMINGHAM: That is right and that is in the statement. That is clear. I am now trying to ascertain, with regard to strategies that may have been approved—

Senator Conroy: Whether he sat down and had a conversation about how to organise it—a strategy to pay a bribe? Is that what you are actually asking?

Senator BIRMINGHAM: No. We accept that anything that occurred was clearly not known to be leading to bribery at that time. We accept that. That is what Mr Quigley has said emphatically. I accept that. That is there on the record. I am not saying that Mr Quigley sat in a strategy meeting talking about bribery or that the board sat there talking about bribery. We are trying to get to the bottom of lax business practices—the things that have been identified as problems here—and whether in fact strategies that those who have been found to be guilty submitted for approval may not have been picked up at the time.

Senator Conroy: I am sure Geoff Dixon, at Qantas, when he looked and found out that there was price fixing going on, realised—

Senator IAN MACDONALD: Chair, you have got to stop this.

Senator Conroy: that full processes had not been followed. And I am sure John Hartigan, when he discovered what was going on at Melbourne Storm, felt exactly the same way. But what is the point of your question? I do not understand your question, and questions that are asked of me. So could you clarify your question?

CHAIR: I think Senator Conroy is entitled to ask what the point of the question is.

Senator BIRMINGHAM: Well, it is a very long way of getting to it.

Senator Conroy: I will try and be briefer. Could you try and explain your question a little bit more, Senator Birmingham, because I do not understand it.

Senator BIRMINGHAM: Right. In a non-signed-off manner, has Mr Quigley—and I was attempting to go a different way, but I think the original question actually was the easiest one—ever approved, unknowingly, or been part of—

Senator Conroy: How can you approve 'unknowingly'?

Mr Quigley: In a 'non-signed-off manner'?

Senator BIRMINGHAM: I said 'with the benefit of hindsight', because we know there have been extensive investigations since that time. Quite clearly, there were activities happening on Mr Quigley's watch that he did not know about.

Senator Conroy: Yes, absolutely. That is what fraud is. People actually deceive the people they work for; that is the way it works.

Mr Quigley: If I can be clear, I have never engaged in a discussion of illegal activity—never. And I take exception to the question.

Senator BIRMINGHAM: Thank you, Mr Quigley. That was not the question, but your statement is accepted.

Senator McEWEN: That's generous of you!

Senator BIRMINGHAM: The question is: in all the investigations that have been undertaken since then, has it been brought to light—are you aware of whether you unknowingly, at that time, approved a strategy or a business practice that had since been found to have enabled these activities to occur?

Mr Quigley: I really have no idea what that question means, Senator, with respect. I do not know what you are asking me.

Senator IAN MACDONALD: In the investigations you have done since, has it been brought to your notice, subsequent to the event, that something you might have done at the time—

Mr Quigley: What, Senator?

Senator IAN MACDONALD: I do not know.

Senator BIRMINGHAM: If you signed a minute or approved a—

Senator Conroy: I agree with Mr Quigley. It is so broad it is almost impossible to answer, Senator Birmingham, which is why I am inviting you try to narrow it down a little bit.

Senator BIRMINGHAM: For example, if you approved business strategies for the engagement of consultants in these countries without knowing that those consultants were—

Senator Conroy: Without knowing that someone was defrauding and deceiving him?

Mr Quigley: I have no recollection of such an event, but I will go and do another double-check if you like.

Senator Conroy: So we will hire some more lawyers and we will see if there is corporate strategy, which is what I think you are referring to.

Senator BIRMINGHAM: Just as Mr Quigley is saying, he never signed off on strategies as described in these documents. I am just checking and asking to make sure that he also never approved them. None of them are suggesting that the person was misappropriating the funds.

Senator Conroy: So you want to know whether he approved of a strategy that he did not know he was being deceived with? Is that what you are asking?

Senator BIRMINGHAM: Mr Quigley has taken the example on notice. That will suffice.

Senator Conroy: I just want this to be very clear, because you are asking very broad questions, and I know you are not trying to ask broad questions. I just want to make sure we

understand what your question is. I will borrow your use of 'consultants'. Has Mr Quigley approved of a strategy that set up consultants? Is that what you are actually trying to ask?

Senator BIRMINGHAM: That was basically the question that was asked, or the example that was given.

Senator Conroy: That was not 'basically the question'. It has taken five minutes. Did Mr Quigley approve of the strategy, as in sign a document that said, 'We should employ consultants to do X,' and then suddenly discover a few years later that X was not what they were actually doing? I just need to understand: is that what you are asking?

Senator BIRMINGHAM: Hallelujah, Minister. Thank you for the example—that is, unwittingly, unintentionally, unknowingly, at the time—

Mr Quigley: I will take that on notice. I have no recollection of that. It certainly has not been brought to my attention, but I will check.

Senator BIRMINGHAM: Thank you, Mr Quigley. It was purely because of your very specific language around signing that I was trying to get to other forms of approvals and strategies.

Senator Conroy: So was he at the meeting—a strategy meeting—that decided to go down the path of consultancies? I am just trying to understand your question so we can give you a straightforward answer. A five-year investigation by the American authorities found that Mr Quigley was not involved in any of these things.

Senator BIRMINGHAM: With all due respect to you, Minister, and to Mr Quigley, paragraph 30 of this SEC document, which you read out before, does not name Mr Quigley by name.

Senator Conroy: It does not name him at all.

Senator BIRMINGHAM: But it speaks of 'the president of area 1, which encompassed Latin America,' who directly reported to a member of Alcatel's executive committee, and we have established that that member of Alcatel's executive committee was Mr Quigley. So there was a direct reporting relationship by somebody named in these documents directly to Mr Quigley. And these documents talk about the lax reporting environment in Alcatel at the time and the lax financial arrangements in Alcatel at the time.

CHAIR: Mr Quigley, just to clarify this one: have you ever had—and I think that you have answered this before—any of the legal authorities in the US or Costa Rica ask you about this paragraph?

Mr Quigley: No.

Senator BIRMINGHAM: Mr Quigley, did you ever approval of the appointment of any consultants to assist with marketing in the countries under your jurisdiction? You can take it on notice or, if you are able to answer now, even better.

Mr Quigley: Did I ever approve it?

Senator BIRMINGHAM: In particular, Costa Rica.

Mr Quigley: Are you asking whether I have ever signed a document that said—

Senator Conroy: Signed a document or had been at a meeting where—

Senator BIRMINGHAM: Let us make it specific to Costa Rica.

Senator Conroy: Are we talking about signing a document or having been at a meeting where the strategy was discussed—

Senator BIRMINGHAM: We have already dealt with that, Minister. Let us not revisit the question Mr Quigley previously took on notice. Did you ever approve the appointment of consultants in Costa Rica to assist with marketing?

Mr Quigley: I have no recollection but I will take it on notice. I will go back and get it checked again.

Senator Conroy: We will go away and we will ask. We will spend a lot of taxpayers' money to find out that information for you. There was a five-year American legal investigation which found that Mr Quigley was not involved in any way and they made no suggestion he was. They did not even interview him.

Mr Quigley: They did not even question me.

Senator Conroy: But feel free to keep trying to relitigate the American court case.

Senator BIRMINGHAM: Thank you, Minister. If I can go back to paragraph 3 and the numerous red flags, the lax corporate controlled environment—and Mr Quigley talked about the disappointment of that in response to that statement—did Mr Quigley hire the chief financial officer from Alcatel at the time to be the chief financial officer of NBN Co.?

Mr Quigley: I have known Mr Beaufret for quite a number of years. I have worked with him closely. I know Mr Beaufret to be a man of the highest integrity. He is a very capable man. He has done a terrific job for NBN Co. and, frankly, I feel privileged to work with him.

I also know that he put an enormous amount of work into strengthening Alcatel's policies year after year in a very, very difficult environment including driving the implementation throughout Alcatel of the Sarbanes-Oxley requirements. I have every confidence in Mr Beaufret and I continue to have every confidence in Mr Beaufret, Senator.

Senator BIRMINGHAM: Was Mr Beaufret the only candidate for CFO?

Mr Quigley: I do not believe so. That was a question for the search firm who asked me what I was looking for in a CFO. I told them. They said to me that they would probably need to go overseas. They asked whether there was anybody I knew. I said, 'Yes, there is a person I know.' They did the search.

Senator BIRMINGHAM: How many people were interviewed?

Senator ABETZ: You just happened to know somebody.

Mr Quigley: They had a discussion with Mr Beaufret and suggested I call him. Mr Beaufret was also interviewed by one of our board members.

Senator BIRMINGHAM: Did you interview anybody else?

Mr Quigley: I did not personally interview anybody else. I do not know whether the search firm interviewed other people.

Senator BIRMINGHAM: Did anybody on the NBN board interview anybody else?

Mr Quigley: Not that I am aware of. I believe the search firm recommended Mr Beaufret after doing a search.

Senator BIRMINGHAM: But you had suggested Mr Beaufret.

Mr Quigley: They asked me whether there was anybody I knew, because their advice to me was that they would probably have to go overseas to find the appropriate candidate.

Senator ABETZ: And you specifically mentioned Mr Beaufret's name to them?

Mr Quigley: They asked me the question: did I know anybody?

Senator BIRMINGHAM: Was his appointment approved by the board or was it your call?

Mr Quigley: As I said, a board member of NBN Co. interviewed Mr Beaufret.

Senator BIRMINGHAM: The decision to appoint was made by the board or the CEO?

Mr Quigley: These are the people who report to the CEO for the final decision to be made, but, clearly, I was not going to appoint a CFO when, after an interview by a board member it was said that they did not think he was the right man.

Senator IAN MACDONALD: Can you tell us who the board member was?

Mr Quigley: Perhaps on notice, yes.

Senator BIRMINGHAM: Was the board member who interviewed Mr Beaufret aware of the issues relating to Alcatel?

Mr Quigley: I do not know.

Senator BIRMINGHAM: Was the consulting firm aware?

Mr Quigley: I presume they were. They are a research firm. All of this has been in the public domain since 2004.

Senator BIRMINGHAM: Who were the search firm?

Mr Quigley: Egon Zehnder.

Senator Conroy: You smeared them at the last estimates.

Senator BIRMINGHAM: We know that they did not raise any of these matters with Mr Quigley in his appointment or with you, Minister, in the recommendations.

Senator Conroy: You just keep smearing them. We are up to two people now plus a reputable international search firm, but you just keep going. Just keep topping them up—smear, smear, smear.

Senator BIRMINGHAM: Was there even a short list presented to you by the search firm, Mr Quigley?

Mr Quigley: I will have to check. I cannot recall.

Senator BIRMINGHAM: Did they present any other names to you besides Mr Beaufret?

Mr Quigley: I will take it on notice. I do not believe so, but I will check.

Senator BIRMINGHAM: Was a briefing or anything provided to the entire NBN board on Mr Beaufret? Were any details or recommendations provided to the entire NBN board related to Mr Beaufret's appointment or was it just the single board member?

Mr Quigley: I will check on that.

Senator BIRMINGHAM: Obviously, you were aware of the background relating to Alcatel when Mr Beaufret was appointed?

Mr Quigley: I had worked there for a very long time—

Senator BIRMINGHAM: You would have been aware for a long time—

Senator Conroy: I think that is the first thing we have agreed on tonight.

Senator BIRMINGHAM: We are quite confident on that. Mr Quigley, given Mr Beaufret's financial oversight of Alcatel, you were confident that as, first, the deputy financial officer and then the CFO of Alcatel throughout 2001 to 2006, he did not bear any responsibility for the lax controls that were in place?

Mr Quigley: As I said, Senator, the entire management team of Alcatel feels a responsibility for what took place. Of course we do. What went on was not proper. I know for certain that Mr Beaufret was very disappointed in what had happened, as were the rest of the management team, and he worked hard to progressively tighten and improve the controls across this very large company that spanned 130 countries in a time when the company was in a survival mode. It was a very difficult environment. I know personally that Mr Beaufret did a very good job of that.

Senator BIRMINGHAM: He had oversight of internal financial controls and prevention of such fraud measures as ultimately ended up occurring—that is the normal responsibility of a CFO. Is that correct?

Mr Quigley: I would not say that it was all on the shoulders of Mr Beaufret. Clearly, the entire management and the board of Alcatel has a responsibility.

Senator BIRMINGHAM: Did you ask Mr Beaufret whether he had been interviewed by any of the investigating authorities or lawyers prior to his appointment?

Mr Quigley: I believe that I probably knew at that time that Mr Beaufret had not been interviewed.

Senator BIRMINGHAM: How did you know that, Mr Quigley?

Senator Conroy: He might have mentioned that he had been interviewed by SEC at some stage. It is a bit like Senator Abetz said: you would have a vague recollection of that. We have already checked that but—

Senator BIRMINGHAM: Did you discuss the matters at all with Mr Beaufret during his appointment?

Mr Quigley: Which matters?

Senator BIRMINGHAM: The matters relating to Alcatel—

Mr Quigley: No I did not. I was very interested in whether Mr Beaufret was available to do the job and we talked about the project—what needed to be done. That is what the discussion with Mr Beaufret was about.

Senator BIRMINGHAM: When did you and Mr Beaufret cease working together? Was it in 2006?

Mr Quigley: It was when I left the company.

Senator BIRMINGHAM: Was that in 2006?

Mr Quigley: I believe it was in August 2007.

Senator BIRMINGHAM: Mr Beaufret left in November 2007, so you ceased working together in August 2007. Have you stayed in close contact since then?

Mr Quigley: Yes, obviously—I have worked with colleagues over many years, and I have stayed in contact with people I have worked with for years.

Senator BIRMINGHAM: How often would you and Mr Beaufret have spoken?

Mr Quigley: In that period, you mean?

Senator BIRMINGHAM: Yes—how regularly?

Mr Quigley: Possibly every six months or every year.

Senator BIRMINGHAM: If you are only speaking every six months or every year, how could you have been so confident at the time of his appointment that Mr Beaufret had not been interviewed by any of the authorities or law firms investigating these matters?

Mr Quigley: Because my understanding, as I have said before, was that these interviews had proceeded over a lengthy period of time. We are now talking about 2007—and actually it was 2009—and it is not a question I put to Mr Beaufret.

Senator BIRMINGHAM: I know it is not a question you put to Mr Beaufret, but you said you—

Mr Quigley: But as it has turned out, Senator, Mr Beaufret has not been questioned. The point is really moot, isn't it? He has not been questioned; we have established that.

Senator BIRMINGHAM: Just to be sure, can I make sure that Senator Abetz's question was about the provision of documents, statements et cetera; I cannot remember whether Senator Abetz asked those of Mr Beaufret as well as of you, Mr Quigley—

Mr Quigley: He did.

Senator BIRMINGHAM: He did—okay, excellent. That was just so that we can make sure that all of those matters are cleared up. Thank you, Mr Quigley.

Senator ABETZ: Did you speak to Mr Beaufret prior to him applying for the job or being approached by the headhunting firm or whatever it was that was engaged—

Mr Quigley: No; the headhunting firm—the search firm—asked me to call Mr Beaufret.

Senator ABETZ: So you called him before the firm made contact with him or he made contact with the firm?

Mr Quigley: No; I believe the firm made contact with him, had a discussion and then the firm asked me to call him. I believe they also set up for a board member to speak with him too.

Senator ABETZ: But did you talk to Mr Beaufret about the possibility of this job prior to the agency contacting Mr Beaufret?

Mr Quigley: No.

Senator Conroy: So have we found a document with Mr Quigley's name on it yet?

Senator ABETZ: Sorry?

Senator Conroy: Do we have a document with Mr Quigley's name on it implicating him, after three hours? No? Was that a no? There is no evidence at all to contradict Mr Quigley that he was not involved?

CHAIR: Mr Quigley, an article appeared in the *Australian Financial Review* on 16 June 2011 headed 'Australia a 'petrie dish' under NBN'. It goes on to talk about IBM launching a

global research and development centre in the University of Melbourne that will create 150 research jobs over five years, and it links that back to the building of the NBN.

Mr Harris: I have it here.

CHAIR: That was quick!

Senator Conroy: We are efficient over here.

CHAIR: It was actually today.

Mr Harris: I always bring a newspaper to estimates—I find it helps.

CHAIR: That is good. Are you aware of these jobs that are being created in the University of Melbourne?

Mr Quigley: I was not aware, but I know that we are doing work with the University of Melbourne.

CHAIR: What are the opportunities for research jobs arising from the NBN build?

Mr Quigley: We believe there is a real potential, as we talked about before in relation to Senator McEwen's questions, that when this network is established, and even as it is being established, there will be companies around the world who will see this as a first-class piece of broadband infrastructure and a place where high-bandwidth applications can be used in scale. It is quite possible that there will be considerable interest in application development and research. I would expect that external companies—large and international companies—may take that into account when they think about where they are going to do their R&D.

Mr Harris: The other thing that is probably going to be relevant here is the ubiquitous nature of broadband to the home. If you get an entire society that effectively is wired up for very high-speed service delivery into homes, different kinds of services will emerge. It was mentioned—not necessarily in that article today but in one of the other articles that are floating around—that the department has non-binding memorandums of understanding with a number of major international developers of technologies that are potentially likely to use high-speed broadband in the future, aimed at them potentially developing with us their kinds of businesses that might operate in Australia in the future. These are necessarily experimental in nature, but they are designed for those companies which otherwise might not come to Australia to come to Australia simply because here they can testbed technology activities that can deliver services to the home. Whilst you can do it in particular communities overseas—there are some very heavily wired communities—we are going to be putting together a nation to run together that kind of service in the future. These kinds of corporations—the Intels and Ciscos of this world—are interested, I think, in setting themselves up here to take advantage of the NBN when it is finally in place. I think the other thing that attracts them to Melbourne is that the Institute for a Broadband-Enabled Society lives at the University of Melbourne; it is a research institute in its own right and has quite a good work relationship with a wide variety of firms. Again, depending on the future development of the NBN, they see themselves as offering that kind of partnership research responsibility with some of these major firms.

CHAIR: I also understand there is an NBN-specific qualification that has been endorsed. Can anyone tell me about that? It is between NBN Co., and the industry training bodies and construction companies.

Mr Quigley: Yes, certainly we are talking to various training organisations, and that work will in fact continue over the next months to look at specific qualifications for various pieces of work on the NBN.

Senator ABETZ: We have been through Mr Quigley's career in Alcatel. What did you before Alcatel?

CHAIR: Oh, dear!

Mr Quigley: I went to school.

Senator ABETZ: So there was nothing between school and working for Alcatel?

Mr Quigley: That is correct. I joined what was STC, which was then ultimately acquired by Alcatel, as a cadet, so I went through my university—

Senator ABETZ: In Australia?

Mr Quigley: In Australia. I left Australia at the end of 1999.

Senator ABETZ: Thank you. That was just general interest. Is there a security vetting process for people such as you, the chief financial officer and possibly even board members?

Mr Harris: There is a security vetting process, certainly at CEO level, for access to government documentation.

Senator ABETZ: So that is at Mr Quigley's level?

Mr Harris: That is Mr Quigley's level.

Senator ABETZ: What about the board and other top management people?

Mr Harris: I cannot answer that off the top of my head. I can tell you on notice how far the security checking process goes, but I would not be able to tell you right now.

Senator ABETZ: That is fine; take it on notice, and then whether that is required and whether they have actually been undertaken and the appropriate security clearances then given. Can you take all that on notice.

Mr Harris: I am happy to do that.

Senator ABETZ: I dare say that from time to time NBN would be in the business of having to charter the odd aeroplane to get people from A to B.

Mr Harris: I am not aware of you having chartered an aeroplane.

Mr Quigley: I am not aware of us having chartered an aeroplane either.

Mr Harris: I would probably raise an eyebrow.

Senator ABETZ: Have you ever or not?

Mr Quigley: No, we have never.

Senator ABETZ: What about the board?

Mr Harris: I would again have thought it very unlikely.

Mr Quigley: I am absolutely not aware of the board ever chartering an aeroplane.

Senator ABETZ: Any member of the board?

Mr Quigley: Or any member of the board chartering an aeroplane.

Senator ABETZ: Or the executives? Just take that on notice for us if you would, please.

CHAIR: I think the only big charter recently has been out to Nauru.

Mr Harris: I do not think that is anything to do with us either.

CHAIR: Maybe that is where you got mixed up, Senator Abetz.

Senator ABETZ: If you want to talk about Malaysia, be my guest. That is a disgraceful solution and you would agree with me on that.

Senator Conroy: I have absolutely got to get me a plane for my image! Shareholders should have their own plane!

Senator ABETZ: What were the cash flow implications of not commencing the rollout in capital cities where larger returns may have been garnered more quickly? I understand we did a bit of a start in Armidale, did we not?

Mr Quigley: Yes, Armidale was the first mainland release site.

Senator Conroy: You perhaps have not been part of this conversation before, Senator Abetz. So to recap, because we have had this type of conversation previously, if you look at the rollout and where it is currently already announced you will see that a majority of the places that were already being rolled out were in regional Australia. The balance has changed a little.

Senator ABETZ: It has, and that is what I want to get to. How much did the national launch function in Armidale cost NBN Co.?

Mr Quigley: I think it was around \$140,000.

Senator ABETZ: That launch function connected how many houses?

Mr Quigley: The launch function was not about connecting houses. It was launching the first mainland site.

Senator ABETZ: Weren't any houses or properties connected on that occasion?

Mr Quigley: Yes, there were houses where it was connected. They were connected prior to that.

Senator ABETZ: How many?

Mr Quigley: It was a small number of houses.

Senator ABETZ: How many?

Mr Quigley: I will have to take that one on notice. I will double-check that. Probably six or seven.

Senator ABETZ: If I were to suggest a number less than 10, would I be right?

Mr Quigley: You would be right.

Senator Conroy: It is around seven. I do not think there is any argument.

Senator ABETZ: On what date was it decided that the first mainland city to be delivered the National Broadband Network would be Armidale?

Senator Conroy: When Townsville got wiped out by the cyclone.

Mr Quigley: Yes, that is right. When it became apparent that—

Senator ABETZ: When? What was the date?

Mr Quigley: Straight after the Townsville cyclone.

Senator Conroy: Townsville was on track to be first. The cyclone hit it. Armidale was the next in line.

Senator ABETZ: Can you give us the date on that, Mr Quigley, on notice?

Mr Quigley: Certainly; I will look at the date the cyclone took place.

Senator Conroy: Yes, it is very important.

Senator ABETZ: Did the national rollout schedule have to be reorganised because of Armidale? You now say Armidale only came into the picture first because of Townsville—is that correct?

Mr Quigley: We had five sites, which were all progressing. At different times of the construction it looked like one or other of them was going to finish first. Then a few different events happened, one of which was the cyclone in Townsville. At the time the cyclone in Townsville took place we thought Townsville would be finished first; that would be the first place we would turn customers on. It turned out there was the cyclone. Armidale was then the most progressed. It became the logical place to connect first customers.

Senator ABETZ: You told us that 'other events' took place.

Senator Conroy: A cyclone.

Senator ABETZ: So 'other event', as in a cyclone at Townsville was the only event, albeit a significant event—

Senator Conroy: Townsville was leading in the race.

Senator ABETZ: I accept it was a significant event, and that is what then switched us to Armidale?

Mr Quigley: Yes.

Senator ABETZ: And Armidale had always been No. 2 on the list?

Mr Quigley: I cannot say that for certain because different events—

Senator Conroy: I think he indicated they were all moving at different paces at different points. But at the point when Townsville was expected to be completed first and it got knocked out, Armidale was the next.

Senator ABETZ: It was just serendipity that it happened to be in Mr Windsor's electorate?

Senator Conroy: Armidale was selected at least eight or nine months before the election was called, so unless we knew eight or nine months beforehand that Mr Windsor would hold the balance of power—and I think even you would agree that eight or nine months beforehand the polling would have suggested we were going to win a majority in our own right—we were unbelievably prescient. In fact, I should take up clairvoyancy!

Senator ABETZ: The chances are you would be better at that than being a minister, I would agree with you on that.

CHAIR: Senator Abetz, you cannot ask everyone else to behave when you are behaving badly yourself.

Senator ABETZ: It just shows yet again the difficulties that we have in this committee. So you are saying that there was a predetermined list with Townsville at one and Armidale at two?

Mr Quigley: No. There were five sites.

Senator ABETZ: What were those five sites?

Senator Conroy: Brunswick, Willunga and Kiama Downs were the other three.

Senator ABETZ: It was just fortuitous that we had fewer than 10 properties to be turned on at Armidale. It was that far developed. We had fewer than 10, but there were a number to be turned on in Armidale.

Senator Conroy: I am stealing Mr Quigley's thunder, but I think in Brunswick we had some remediation issues with asbestos in ducts which slowed the progress down in Brunswick.

Mr Quigley: In Kiama we hit hard rock.

Senator Conroy: There is a lot of rock down there that is hard and I think in the eastern areas around Sydney Harbour Bridge.

Senator ABETZ: Mr Quigley, you will recall that I asked whether there were other events because you had referred to 'events' in the plural and I was then told, 'No, it was just the Townsville cyclone.' I then asked again and now we are getting all the other events that I actually asked for beforehand—

Senator Conroy: No, that is not correct. I am not going to let you verbal Mr Quigley.

Senator ABETZ: Can I just finish the question?

Senator Conroy: No, the premise of your question is false.

Senator ABETZ: Can I ask my question, Minister?

Senator Conroy: You can ask a question, but if the premise is false I will point it out to you.

Senator ABETZ: The five first release sites had been predetermined in order—

Mr Quigley: No, not in order. They were all started at a time. They all advanced in construction. Early on in the piece it was not obvious which one would be finished first. We did not know until we had progressed the construction. At one point in time, Townsville looked like it would be ahead. Clearly when the cyclone hit it put them behind, which meant that Armidale was the next one. Maybe earlier on in the piece, for example, Kiama Downs might have looked like it was ahead, but we hit very hard volcanic rock and we also had to put some backhaul through a swamp area that ended up being environmentally sensitive. That held Kiama Downs up. As I said, at any point in time the projection of which site would be finished first moved as the construction on all five sites proceeded.

Senator ABETZ: So it was only Armidale that then did not have any issues and allowed it to become the first?

Mr Quigley: It was the first one finished.

Senator Conroy: It was about how fast you were able to progress. Or do you think we sent an order to Willunga, 'Slow down, we want Armidale first'?

Senator McEWEN: Oh, is that what happened?

Senator Conroy: They caught us!

Senator ABETZ: This is just so immature that you ought to restrain yourself.

Senator Conroy: No, what is immature are your continual attempts to make the suggestions that you are, and when you get pinged for it you whine.

Senator ABETZ: No, I asked a serious question about Townsville and I was told that other events had led to Armidale. I then asked about the other events—plural—that led to Armidale and I was told of only one event, the cyclone. It was then, when I pursued it further, we were told that the other events—the hard volcanic rock and other matters—

Senator Conroy: No, you are ignoring a number of other statements.

Senator ABETZ: I accept that your overdefensiveness would indicate a difficulty.

Senator Conroy: No, I am following it very closely. Simon is ready; he has his new orders from Malcolm.

Senator ABETZ: What deals have been done with the workforce in relation to wage increases?

Senator Conroy: NBN Co.'s own workforce or the contractor workforce?

Senator ABETZ: With NBN Co.'s workforce.

Senator Conroy: There are four EBAs and they have been read out at previous estimates.

Senator ABETZ: Do those require wage increases of four per cent plus four per cent plus four per cent?

Mr Quigley: I will check on each of those EBAs. I can supply the information on the details of each of those EBAs.

Senator ABETZ: And is the NBN aware of a CEPU NBN forum?

Mr Quigley: I am aware a forum took place.

Senator ABETZ: And was NBN represented at that forum?

Mr Quigley: I do not believe so.

Senator ABETZ: And was a draft document—

Senator Conroy: It was not an NBN document and NBN were not present.

Senator ABETZ: Were not?

Mr Quigley: That was what I just said. I believe we were not present.

Senator Conroy: I clarified as well because I could not quite understand what was said.

Senator ABETZ: Sorry, I thought you had said they were present.

Mr Quigley: No, they were not present.

Senator Conroy: I clarified that as well just a moment ago for the same reason.

Senator ABETZ: So you are aware that there was a forum that the CEPU held, but NBN officials were not present.

Mr Quigley: I will confirm that but I believe there they were not.

Senator ABETZ: Prior to that forum had CEPU officials met with NBN officials about a draft document detailing the draft framework agreement?

Mr Quigley: I know that our head of HR has met with some union officials. I will have to check whether that was the CEPU and I will have to check whether that document which you have referenced was discussed.

Senator ABETZ: Because the draft framework agreement with its many conditions—

Senator Conroy: The word 'draft' would tend to imply it is not agreed. Is that your understanding of the word 'draft'?

Senator ABETZ: That was in February for that forum. There was a draft.

Senator Conroy: And has it ever been touted as an agreed agreement or has it still been touted as a draft agreement every day since then?

Senator ABETZ: When you are finished I will ask my question. Did the NBN discuss with the CEPU the conditions that might be part of a framework agreement?

Mr Quigley: I do not believe so, but I will check for you.

Senator ABETZ: I ask you to take on notice whether the NBN at any stage—

Senator Conroy: Agreed to government.

Senator ABETZ: Just stop it, Minister. Was there any draft framework agreement provided to the NBN by the CEPU?

Senator Conroy: I would be shocked if they did not hand it over.

Mr Quigley: What I can say is that NBN Co. has not endorsed or been involved in the development of any form of framework workplace agreement.

Senator BIRMINGHAM: I have just two quick points for clarification on a couple of different issues. Firstly, I refer Mr Quigley to paragraph 29 of your opening statement and the Mr Acosta to whom you refer there. Have you ever met him?

Senator Conroy: Has he met an employee of his? Is that the question?

Mr Quigley: It is possible. I have no recollection. I would not recognise Mr Acosta if I saw him now. My recollection is that I went once to Miami. I met a large number of people in a room. The purpose of that meeting was to tell them they were about to be hit by a train wreck, which was the tech wreck, and to warn them they had better be prepared for it. It is quite possible that Mr Acosta was in the room at that time.

Senator BIRMINGHAM: To the best of your recollection, that is as much face-to-face contact as you recall happening?

Mr Quigley: It is possible that during the break—

Senator Conroy: During the coffee break he might have had a cup of coffee and not realised he was standing next to him.

Mr Quigley: I might have had a chat with Mr Acosta as I would have with anyone. I would not recognise Mr Acosta now if I saw him.

Senator BIRMINGHAM: Did you have regular conversations with him?

Mr Quigley: With Mr Acosta? No. And did I ever have a conversation with a Mr Acosta? Maybe.

Senator Conroy: It is possible.

Senator BIRMINGHAM: You are aware of the Alcatel Standard subsidiary, or related entity, of Alcatel?

Mr Quigley: Yes.

Senator BIRMINGHAM: Did Mr Beaufret serve on the board of Alcatel Standard?

Mr Quigley: I believe he did.

Senator BIRMINGHAM: Do you know what years he served on the board?

Mr Quigley: I will have to check on that for you.

Senator BIRMINGHAM: If you could, that would be appreciated. In the SEC document, paragraphs 16 through—

Senator Conroy: The opening statement or—

Senator BIRMINGHAM: No, the SEC document. Paragraphs 16 and 17 reference Alcatel Standard as being the body that hired the consultants that led to the fraudulent practices—or the body that was ultimately responsible for approval of the hiring of the consultants, not—

Mr Quigley: Sorry, just to be clear there, you said 'hired'.

Senator BIRMINGHAM: Yes, and I came back to correct it to 'ultimately responsible for approval' of the strategy.

Mr Quigley: I believe what Alcatel Standard did, and we will check on this, is that they carried out due diligence.

Senator BIRMINGHAM: I was about to quote:

Alcatel used Alcatel Standard to conduct very limited due diligence on the business consultants.

That is highlighted here on my copy. It continues:

The country senior officer then prepared a cursory description of the services the business consultants would perform and the compensation they would receive. Based on the limited information provided to them, the heads of Alcatel Standard, of the subsidiary with the customer contract ... and of various geographical regions all approved the retention of the consultants.

So Alcatel Standard approved the retention of the consultants.

Senator Conroy: That was their function, I think. Is that right?

Mr Quigley: Yes.

Senator Conroy: Are we agreeing that was their function?

Senator BIRMINGHAM: That was their function. Once again, in regards to Mr Beaufret as a board member of Alcatel Standard, do you have concerns at these suggestions of the very limited due diligence that was undertaken?

Mr Quigley: Say again?

Senator BIRMINGHAM: Do you have concerns at these statements of the very limited due diligence that was undertaken by Alcatel Standard?

Senator Conroy: Just before Mr Quigley answers that, can I say again that, because we are dealing in American legal concepts here, I am still unsure as to the status of this. I am asking about your understanding, not mine, because I do not quite understand. Is it your

understanding that this is an agreed document that Alcatel have agreed, or is this a statement that the SEC put into record but Alcatel have not agreed or disagreed?

Senator BIRMINGHAM: This is the statement of the SEC facts.

Senator Conroy: I am just asking for your understanding of this.

Senator BIRMINGHAM: Yes. I understand that this is the statement of the SEC.

Senator FISHER: It is our agreement to the statement of claims.

Senator Conroy: That is slightly different. That is what I am worried about—that is what I am trying to make sure we understand.

Senator BIRMINGHAM: At that same time, Alcatel-Lucent agreed to pay a range of penalties.

Senator Conroy: But did Alcatel-Lucent say that, as part of that settlement, they agreed with what was stated? I am trying to understand what the legal process is.

Senator BIRMINGHAM: Yes. My understanding is that the disagreements, if any, were minor, but I think that Mr Quigley has indicated in response to a previous answer here that he would check the fact on something else, so I am quoting from this document. I am being quite transparent about what the document is.

Senator Conroy: No, I appreciate that. I am trying to understand what you believe the legal status of the document to be.

Senator BIRMINGHAM: I have said it is the SEC's statement of claim.

Senator Conroy: Does that mean it is an agreed statement of fact? I am just asking because I do not know.

Senator BIRMINGHAM: I do not believe it is a comprehensive agreed statement of fact. It is obviously the facts as the SEC saw them after many, many years of investigation.

Senator Conroy: Five years. Thank you for clarifying that.

Senator BIRMINGHAM: So it is the facts—under the very large heading of 'Facts'—as the SEC saw them after those many years of investigation. Let's be quite clear there. Again, the question was in relation to Mr Beaufret, the CFO of NBN Co., who was the CFO of Alcatel and served on the board of Alcatel Standard, which, this document states, conducted very limited due diligence on business consultants. Mr Quigley, do you have concerns about those failings, and Mr Beaufret's role in those failings, of the Alcatel Standard subsidiary of Alcatel?

Mr Quigley: Do I have concerns? Of course I have concerns. It is of great concern to all of the management team and the board of Alcatel that these illegal activities were not caught. Clearly, the due diligence that Alcatel Standard carried out on some of these consultants, particularly in Costa Rica and one or two other countries, was inadequate. If it had been completely adequate, they would have caught the crooks. They did not, so we cannot be satisfied with it.

Senator Conroy: I want to clarify that there is no suggestion in this document that Mr Beaufret was involved. You have accepted that Mr Quigley was not involved. I think you have said that previously. Do you accept that Mr Beaufret was not involved?

Senator BIRMINGHAM: Minister, this is not a joint question-and-answer exercise here.

Senator Conroy: I just want to understand.

Senator BIRMINGHAM: You might be surprised to know, Minister, that I was about to move off this topic even.

Senator Conroy: I just wanted to clarify. You said publicly last time that you accept that Mr Quigley was not involved in any corruption. I just want double-check that you accept that Mr Beaufret was not.

Senator BIRMINGHAM: Mr Quigley has made statements on Mr Beaufret's behalf and I accept Mr Quigley's word.

Senator Conroy: No, but in terms of these documents here or any other documents you have got—

Senator BIRMINGHAM: Minister, I cannot remember either every word in this document, so I am not about to give an answer on that.

Senator Conroy: Okay. I accept that.

Senator BIRMINGHAM: Thank you. I want to finish off on something Senator Abetz was pursuing. What was the total cost of the Armidale launch?

Mr Quigley: I will have to supply you with information on that.

Senator Conroy: I think we took that on notice.

Senator ABETZ: I think you indicated something over 100; didn't you?

Senator Conroy: \$120,000 or \$130,000.

Mr Quigley: Are you talking about the cost of the construction or the launch?

Senator BIRMINGHAM: The launch.

Mr Quigley: I think it is approximately \$140,000. I will give you the exact figure on notice.

Senator BIRMINGHAM: Thank you.

Senator FISHER: And you have taken on notice the cost of the actual rollout in Armidale, have you?

Mr Quigley: I do not believe I was asked—

Senator Conroy: We have not been asked that.

Senator FISHER: I am about to, but I thought I heard Mr Quigley say something just then. Can you please inform us how much the rollout in Armidale cost for 105 kilometres of fibre, 763 pits, 28 kilometres of pipe and 32 distribution hubs?

Mr Quigley: I will have to take that on notice. I do not know the exact figure.

Senator FISHER: Do you know the total amount expended in the Armidale rollout?

Senator Conroy: He just said he would take it on notice.

Senator FISHER: Thank you. Can you take on notice the costs of the rollout for any of the first release sites to the extent that they have been proceeded with thus far?

Mr Quigley: Do you want them completed or where they are up to if they have not been completed?

Senator FISHER: Completed, which will narrow it down somewhat. In terms of the RSPs involved in the Armidale rollout, my understanding is that there were 13 who signed up.

Senator Conroy: There are 17 or 15 now I think.

Mr Quigley: Yes, I think so. That is for on-boarding. Are you asking which RSPs were—

Senator FISHER: Can I ask the question?

Mr Quigley: Certainly.

Senator FISHER: Thank you, Mr Quigley. At the outset there were some 13 or so RSPs who indicated interest in being involved in the rollout trials.

Senator Conroy: Can I just clarify something. A couple of them self-identified later that they were not going to be RSPs but the description of the on-boarding was to sign up as a RSP. I think some of them said they were just going to be wholesale aggregators rather than a RSP who retailed to the consumer.

Senator FISHER: Thank you, Minister. My question is about RSPs—that is, retail services to consumers. In Armidale how many RSPs are involved?

Mr Quigley: I believe there are four involved.

Senator FISHER: So that is quite less than the 13 or thereabouts that initially indicated their interest.

Mr Quigley: They are two separate issues.

Senator Conroy: It is a different process. On-boarding is not the same as being a retail—

Mr Quigley: Also they can be in the process for on-boarding, which is they link their systems with ours—they go through that process—but is a different process to say they want to sell services at this point in time in Armidale.

Senator FISHER: So at any stage have you sought interest in advance from those who want to sell services in any of the rollout sites?

Mr Quigley: Yes. We are having ongoing discussions with retail service providers and, as you would understand, as these are first release sites, they are trials, there is limited capacity to connect large numbers of customers at this point in time, which is part of the plan.

Senator Conroy: Because it is a trial. Can I give you an analogy?

Senator FISHER: Minister, can I ask Mr Quigley—

Senator Conroy: No—

Senator FISHER: I am happy with Mr Quigley—

Senator Conroy: At the table, I am entitled to supplement any answer. It is like CityLink in Melbourne—it is a tollway. When they first turned it on and opened the road there was about a month when nobody was charged while they tested and trialled all of the electronics of the system. Lots of cars used it but nobody was charged. It was a trial period of a month during which they turned it on to make sure the technology worked. If you go back to when Transurban did the main tollway in Melbourne, it took them some considerable months because the technology did not work. So people used it at length without actually being customers of it. That is just to give you some perspective on trialling electronic equipment, Senator Fisher.

Senator FISHER: Thank you, I am happy. Mr Quigley, who are the four involved in Armidale?

Mr Quigley: The four, I believe, are iiNet, Internode, iPrimus and Telstra. But I will check if that is correct.

Senator FISHER: They would be kind of the big four?

Senator Conroy: No. Vodafone is the biggest telecommunications company in the world. They have announced they are going to be a retail service provider. It depends on what you mean by the big four.

Senator FISHER: Mr Quigley, would you describe any of those as a smaller RSP?

Mr Quigley: I would call Internode and iiNet a mid-sized RSP.

Senator Conroy: Can I just clarify. iiNet is now considered to be the second biggest fixed-line provider. It depends whether you are referring to mobile phone customer connections or fixed-line customer connections.

Senator FISHER: Mr Quigley, on 26 May I asked some questions about indemnities being sought by NBN Co. directors and I want to revisit those questions. At that time, we covered indemnities being sought in respect of the Telstra agreement. The minister said, 'There is a sensitive commercial negotiation taking place, and we are not in a position to reveal that.' He also said, 'When the deal is announced I am happy to discuss it at length but I cannot possibly do that now.' Minister, that was in the context of indemnities being sought in respect of that sensitive commercial negotiation. Are you in a position to—

Senator Conroy: The board meets tomorrow, so I have nothing to add at this stage.

Senator FISHER: It has still not been announced?

Senator Conroy: It has not been announced and the board meets tomorrow.

Senator FISHER: Okay. Mr Quigley, has there been any discussion or suggestion about any other indemnity beyond the Telstra deal, beyond the one in prospect to which the minister referred on 26 May—before the NBN Co. deal?

Mr Quigley: Indemnity?

Senator FISHER: Sorry. About any other indemnity for the directors of NBN Co. I am sure Mr Quigley can answer this on his own, Minister.

Mr Quigley: Sorry Senator, I did not hear the question.

Senator Conroy: Were there any others? We have referred to Telstra and there was one other which we would not have referred to because it was sensitive commercial information.

Senator FISHER: Mr Quigley, beyond those two, have the directors of NBN made any suggestions about any further indemnities to be provided to them in respect of their directorship of NBN Co?

Mr Quigley: I will take that on notice, if I can, because I would like to check the answer to that question with the chairman.

Senator FISHER: Do you think you know what the answer is?

Mr Quigley: I think I need to check with the chairman of the board before I answer any questions relating to what the board has or has not asked the shareholders. I am the CEO; I

report to the board and the board is responsible to the shareholders. It is not up to me to answer questions on behalf of the board.

Senator FISHER: Minister, given that you are the government and a shareholder, has the shareholder been asked for any further indemnities by the NBN board?

Senator Conroy: The board has not finalised anything that we are aware of. But if the board is seeking any we will consider them on a case-by-case basis.

Senator FISHER: The board has not finalised anything that you are aware of. Has the board tentatively suggested anything?

Senator Conroy: I have not been to a board meeting for a long time and I do not get the minutes. However, if there is any information that I can share with you on that, I am happy to take it on notice and see if there is any information available.

Senator FISHER: Thank you. The IBM contract on 26—

CHAIR: Last question, Senator Fisher.

Senator FISHER: Does that mean that the government is going to take the next 20 minutes?

CHAIR: I have got questions to ask.

Senator FISHER: You have got 20 minutes worth of questions that you are suddenly announcing at this stage.

CHAIR: I have got questions to ask. This is your last question.

Senator FISHER: You are the chair—for now. Mr Quigley, has the contract with IBM—which you referred to in your opening statement as being worth in excess of \$200 million over three years but the minister, I think, talked about being worth \$220 million over the next three years—been assigned for anything beyond three years; and, if so, what is the value of that?

Mr Quigley: I will have to check, Senator. I believe it is a three-year contract. It is possible that we may have negotiated an ongoing maintenance deal; I will have to check on that and come back to you.

Senator FISHER: And, if you have, what is the anticipated cost of that ongoing segment?

Mr Quigley: I can get back to you on that one.

CHAIR: Thanks, Mr Quigley—

Senator FISHER: I have plenty of further questions but it appears that I am not able to ask them.

Senator BIRMINGHAM: Chair, can I just make one point?

CHAIR: Yes.

Senator BIRMINGHAM: Fifteen minutes of questions is not necessarily unreasonable, but I know that Senator Fisher asked you—

Senator FISHER: Try 10.

Senator BIRMINGHAM: on multiple occasions today about the timing for tonight—

Senator FISHER: Actually, it might be 15.

Senator BIRMINGHAM: and if you had actually said to her—

Senator Conroy: You have asked almost all the questions.

Senator BIRMINGHAM: 'I would like the last X period of time'—

Senator Conroy: You have asked almost all the questions. What are you complaining about?

Senator BIRMINGHAM: Yes, yes—I was about to say, if you had said to her, 'I would like the last X period of time,' Senator Fisher might well have come to me and said, 'Senator Birmingham, I would like X amount of time that you're doing.'

Senator Conroy: You can sort out your own times.

CHAIR: Senator Birmingham, the opposition have been asking questions all night. There has hardly been a government position put—

Senator FISHER: This is Senator Cameron's definition of a fair go!

CHAIR: and I am going to ask questions. If you want to continue wasting time, that is okay, but I am going to ask questions now.

Senator BIRMINGHAM: Senator Cameron, I am only saying that I know full well that Senator Fisher tried to approach you and actually get an understanding of time.

Senator Conroy: You have taken all of her time. You hypocrite; you have taken all of her time. You have asked 85 per cent of the questions tonight. You have.

Senator Fisher interjecting—

CHAIR: Order!

Senator Conroy: And I have asked the other 15!

Senator BIRMINGHAM: And I do not dispute that.

CHAIR: Order! Mr Quigley, I have some questions. I want to come back to the issue of fibre to the node versus fibre to the premises. There has been some publicity recently that said that if you went to fibre to the node you could build the NBN at half the price. Can you just explain that argument; does it have any validity?

Mr Quigley: It is certainly the case that, if you are an incumbent telco with ownership of all the copper, you can deploy a fibre-to-the-node solution more cheaply than you can provide a fibre-to-the-premises solution. If you do not own the copper, then it is a much more complicated question because you need to not only deploy the equipment but also gain access to the copper to provide the service. So, in a sense, if you are a large telco and you own the copper, yes, it is cheaper to deploy fibre to the node; but, if you do not own the copper, it is a much more complex question to answer. There is no clear answer to that.

CHAIR: The argument has been that we should maintain the copper network. In hearings of the Parliamentary Joint Committee on the NBN, Telstra indicated that the value of the copper network was, I think, somewhere between \$17 billion and \$20 billion—I can check that—and the maintenance bill annually was in the billions of dollars. Is that your understanding?

Mr Quigley: I would not like to try and place a value on the copper itself. It is not an exercise I have tried to do. I know, certainly, that for a large copper network the ongoing maintenance costs are high, and they continue as the copper ages and degrades. I think it is quite clear now from the experience overseas that the ongoing maintenance costs—not just

the upfront capital costs but the ongoing maintenance costs—of a fibre-to-the-node network are considerably higher than those of a fibre-to-the-premises network. That is because you have to maintain copper services, which are carrying current; and they are metal, which means they are subject to moisture ingress and all sorts of things. You do not have those problems with fibre. A new fibre-to-the-premise network is clearly going to have considerably lower maintenance costs than a fibre-to-the-node network. That has been the experience overseas.

CHAIR: There was a report in the *Sydney Morning Herald* about a company called NextGen. Are you aware of them?

Mr Quigley: Yes, I am.

CHAIR: They were hedging their bets in terms of the success or otherwise of the NBN and were providing their services over copper wire. There was a report that they were putting DSLAMs in at Willunga. Are you aware of that development?

Mr Quigley: No. I saw a notice from NextGen about what they called an NBN connect product. I was not aware of the Willunga deployment of DSLAMs. Almost certainly—and we have had this discussion with the retail service providers—over the next while potentially, they will continue to put in DSLAMs in areas because the return on DSLAMs is relatively short, but the period—

Senator Conroy: I think what has happened is that they have stuck some DSLAMs into exchanges along the RBBP route to expand it.

Mr Quigley: Okay. That is logical, sensible.

CHAIR: There was another article that said that Telstra's announcement to go to 4G would make the NBN unviable. In the same article it said that President Obama was making 4G the priority. It was an argument against the NBN. Can you explain what that argument is?

Mr Quigley: Yes. It is basically an argument that wireless, mobile, will be able to supply all of the broadband needs in the future. Telstra themselves, including Telstra's previous CTO, Dr Hugh Bradlow, have commented publicly on that case—that you need both technologies. LTE is a radio based technology. LTE and 4G, by the way, are synonymous. The assertion is by some people that you can supply all broadband needs with LTE or 4G. Almost everybody in the industry now accepts that that is simply not the case. There are the statistics I quoted from Cisco earlier, by the way. They said: 'Yes, mobile devices are growing. The majority of the traffic of those devices—such as iPad and iPhones—will be on wi-fi, which is a small radio device on the end of a fixed-line connection, either ADSL2+ today or fibre in the future. Cisco predict that almost all IP traffic will be carried across fixed-line access infrastructure. A small amount will be on mobile, on LTE. LTE is a shared radio spectrum. Spectrum is extremely scarce and it just does not have the capacity to carry the kind of traffic that almost all telecommunications experts are expecting over the next five to 10 years.

Senator WORTLEY: How difficult is it to simply upgrade the fibre-to-the-node network to fibre-to-the-home?

Mr Quigley: They are really quite different architectures. With fibre-to-the-node, you put a very large cabinet on the street, on the curb, or wherever you can find a place to put it—they are like the big wooden boxes that you see today. They have to be powered and they have environmental equipment in them. There are a lot of active electronics in those devices,

including the shelter as well. They are quite expensive. If you are doing an upgrade to fibre-to-the-premise, all of those cabinets become redundant. You do not need them.

Senator Conroy: So the actual equipment inside them is useless?

Mr Quigley: You simply do not use it. So the benefit of fibre-to-the-premise is that you go from a FAN site or an exchange building all the way to the premise, because the distance that you can go with fibre is much greater. I do not think it would be a rational thing to do to start installing at this time fibre-to-the-node with the anticipation that you were going to start upgrading it to fibre-to-the-premise. You would be wasting a lot of money.

Senator WORTLEY: Do you think the fibre-to-the-node network will deliver the same sorts of advantages to people in regional Australia as in metropolitan areas?

Mr Quigley: No, I do not think so, because one of the issues that you have in regional Australia is that the distance between properties is certainly larger. When you are going to use a fibre-to-the-node the whole idea is that you put these cabinets relatively close to end-premises so that you have very short copper runs. You have to have very short copper runs because you cannot have high-speed over long distances of copper. So, in rural Australia I do not think it would make much sense to start trying to deploy lots of fibre to the node. It certainly would not be a good solution for rural Australia.

Senator Conroy: BDSL has been mentioned recently. How far can you go from a node on copper with BDSL before the degrading starts?

Mr Quigley: BDSL is a technology that can give you higher speeds over much shorter distances. Here we are talking about less than a kilometre. BDSL degrades down to ADSL not very far out from an exchange.

Senator ABETZ: Stop talking to yourself, Minister! You have told us time and time again the questions should be directed to the minister. So you have been asking questions of yourself!

Senator Conroy: You have got me!

Senator WORTLEY: I was just looking at the statement I have from you here. You say that fixed wire would be 44 per cent, fixed wire fibre would be 49 per cent and mobile would be eight per cent. You then say that with more than 90 per cent of the traffic on the fixed and Wi-Fi networks NBN networks will be well used. Are you able to tell us the company's forecast for the data transfer in relation to that? Is the NBN well placed to accommodate this increased demand?

Mr Quigley: With almost any other technology you deploy you would be making a bet that data growth would be limited. And speeds will be limited. The big advantage with fibre to the premises is that the medium you are putting in is almost unlimited. The only limitation is really the electronics on either end—in the exchange and in the home.

Senator WORTLEY: So, a wireless network would not be able to meet these forecast amounts?

Mr Quigley: No. No sane telecommunications authority will now say that wireless networks could meet the types of traffic growth and data growth that is given, for example, in the Cisco projections. There is no doubt we are having very rapid growth of portable devices: iPhones and iPads, and that is just the beginning of it. But the vast amount of data that is

going to end up on those devices is going to travel over fixed line networks terminated with Wi-Fi. A small percentage of it, in Cisco's estimates—some eight per cent—will go over mobile networks. But the vast majority will go over fixed-line networks.

There has been an evolution in thinking over the last little while. All the evidence we are finding now is that telcos around the world are getting increasingly concerned about the capacity of their mobile networks, even 4G networks, to carry the traffic, simply because spectrum is limited and therefore the data amount you can pump through is limited.

Senator FISHER: Regarding the number of employees of NBN Co. who either were employed by or engaged perhaps as consultants by Alcatel-Lucent at any point in time, I asked about this on 26 May and the minister said he thought about 15 former Alcatel and Alcatel-Lucent employees were currently employed full time by NBN Co. Can you confirm or otherwise that figure in terms of the number of—

Mr Quigley: Are you talking currently, or at any other particular time?

Senator FISHER: The number of full-time NBN Co. employees at the moment who have at any stage worked for Alcatel or Alcatel-Lucent?

Mr Quigley: You mean at any time in their career?

Senator FISHER: Yes.

Mr Quigley: This will require a lot of work. What we have got to check is every CV of every person in the company, not just where was the last place they worked, but at any time in their career. Is that what you want?

Senator Conroy: And does that include employees who are no longer with the company?

Senator FISHER: Mr Kevin Brown would probably know the answer to that question off the top of his head.

Mr Quigley: No, he certainly wouldn't.

Senator Conroy: He doesn't.

Mr Quigley: He certainly wouldn't know that.

Mr Harris: Presumably, Senator, you are talking about senior executives or something like that; you are not asking Mr Quigley for the numbers—

Senator FISHER: NBN Co. has some 700 employees. I am asking about those 700 employees.

Mr Quigley: You want us to find out at any time have they ever worked for Alcatel Lucent?

Senator FISHER: Yes.

Mr Harris: The norm, before Mr Quigley takes this on notice, is that we should assess the resources required to answer a question like that.

Senator FISHER: I would like to hear Mr Brown's answer to that question.

Mr Quigley: We work on behalf of the company. Mr Brown reports to me. If you are asking me to take on that question—

Senator FISHER: I am.

Mr Quigley: Okay, I will check the resources required.

Mr Harris: It is normal for us to, nevertheless, assess the resources required.

Senator FISHER: Thank you. The minister must have had some basis on which he said, 'I think it is around 15.'

Senator Conroy: As much information as was available to the committee as was able to be established. Your question is so broad—

Senator FISHER: It is the same question I asked you last time, and you said, 'I think it is around 15.'

Senator Conroy: No, I think the answer was, 'about 15' to the best of the capacity of the organisation to find out.

Senator FISHER: I have *Hansard* here. It says: 'Senator Conroy: I think it is around 15.'

Senator Conroy: I believe that to be correct. It is 'around' because it is an estimate. To be absolutely correct so we could not be accused of misleading the committee, the level of information that you are seeking is just not feasible to provide.

Senator FISHER: That is begging the question as to what basis you felt—

Senator Conroy: Unless you would like us to hire a company to go through them all person by person. Unless you would like NBN Co. to incur a significant cost to establish an absurd fact which is just not relevant.

Senator ABETZ: How did you find out that the figure was 15—just plucked it out of the air? It was never discussed before—just assumed it?

Senator Conroy: It was an estimate.

Senator FISHER: What progress has been made on a joint-venture with the Tasmanian government?

Senator Conroy: I think it was announced some considerable months ago that discussions had terminated.

Senator FISHER: So what has happened to Tas NBN Co.?

Senator Conroy: It is a viable, ongoing entity.

Senator FISHER: Does the board of it meet?

Senator Conroy: Yes.

Senator FISHER: How often?

Senator Conroy: I would have to take that on notice.

Senator FISHER: What fees and are the directors paid?

Senator Conroy: I am happy to take that on notice, but I think that is on the public record.

Senator FISHER: What do the directors of Tas NBN Co. actually do?

Senator Conroy: Sorry, I have just got some further information for you. There was a question on notice answer that it was 15 according to available documents between 2001 and 2006. That is where I got it from, I am fairly certain. It was actually a question on notice answer.

Senator ABETZ: So not too many resources.

Senator Conroy: No, it was a best estimate. If you want anything more than that, it is just not possible. It was an answer to a question on notice.

Senator FISHER: Doug Campbell, obviously, has retired as chairman of Tas NBN Co. Is there any intent to replace him?

Senator Conroy: I think there is an acting at the moment.

Senator FISHER: Is there any intent to replace him with a permanent chairman?

Senator Conroy: Certainly I think there will need to be a permanent chair, but have we made a replacement at this stage, no, it is under active consideration and if we have something to announce we will let you know.

Senator FISHER: Does Tas NBN Co. have any separate financial standing from NBN Co. itself?

Senator Conroy: I am happy to take that one on notice. I am not aware of the individual transactions of Tas NBN Co.—question No. 290, I understand.

CHAIR: That concludes the committee's examination of the Broadband, Communications and the Digital Economy portfolio. I indicate that this is both Senator Troeth's and Senator Wortley's last estimates. They have been on the committee for some time and I am sure that you would all join with me in thanking them for the work they have done over the period and their contribution to this committee. Thank you.

I also indicate that senators are reminded that written questions on notice should be provided to the secretariat by close of business Tuesday next week, and I thank the secretariat and the officers for being here tonight. Thanks also to Hansard and Broadcasting.

Committee adjourned at 23:01