



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

ENVIRONMENT, COMMUNICATION, INFORMATION
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

Consideration of Additional Estimates

MONDAY, 10 FEBRUARY 2003

CANBERRA

BY AUTHORITY OF THE SENATE

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **<http://www.aph.gov.au/hansard>**

To search the parliamentary database, go to: **<http://search.aph.gov.au>**

SENATE

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

Monday, 10 February 2003

Members: Senator Eggleston (*Chair*), Senator Mackay (*Deputy Chair*), Senators Bartlett, Lundy, Tchen and Tierney

Senators in attendance: Senators Allison, Conroy, Eggleston, Lundy, Mackay, Santoro and Tchen

Committee met at 9.10 a.m.

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

In Attendance

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

Department of Communications, Information Technology and the Arts

Executive

Ms Helen Williams AO, Portfolio Secretary

Ms Fay Holthuyzen, Executive Director, Communications

Dr Alan Stretton, Executive Director, Arts and Sport

Telecommunications Division

Mr Chris Cheah, Chief General Manager, Telecommunications

Mr Col Lyons, General Manager, Telecommunications Competition and Consumer Branch

Mr Brenton Thomas, General Manager, Enterprise, Infrastructure and
Radiocommunications Branch

Mr Simon Bryant, General Manager, Regional Communications Policy Branch

Mr James Barr, General Manager, Networking the Nation Branch

Mr Richard Thwaites, General Manager, International Branch

B&IP Division

Mr James Cameron, Chief General Manager, Broadcasting and Intellectual Property

Ms Kylie Browne, General Manager, Intellectual Property

Mr Gordon Neil, General Manager, Licensed Broadcasting

Mr Rohan Buettel, General Manager, Public Broadcasting

Ms Trish Barnes, Acting General Manager, Digital Broadcasting

Arts and Sport Division

Ms Karen Gosling, General Manager, Collections and Governance Branch

Mr Peter Young, Acting General Manager, Arts and Regional Branch

Ms Megan Morris, General Manager, Sport and Private Sector Support Branch

Ms Caroline Greenway, Acting General Manager, Film and Digital Content Branch

Mr Kevin Isaacs, General Manager, M2006 Taskforce

ICT Industry Division

Dr Beverly Hart, Chief General Manager, ICT Industry Division

Mr Philip Allnutt, General Manager, ICT Industry Development Branch

Mr Michael Sutton, General Manager, ICT Innovation Branch
Dr Simon Pelling, General Manager, Framework for the Future Task Force

Corporate and Business Division

Mr Craddock Morton, Chief General Manager
Ms Jennifer Gale, Chief Finance Officer
Mr Frank Nicholas, Acting General Manager, Knowledge and Information Services

National Office for the Information Economy

Mr John Rimmer, CEO
Dr Rod Badger, DCEO
Mr Patrick Callioni, CGM, Strategy and Programs Group
Mr Keith Besgrove, CGM, Regulatory and Analysis Group
Mr John Grant, CGM, Government Services and Information Economy Group
Ms Ann Steward, Principal Adviser, Government Services and Information Economy Group
Ms Michelle Kinnane, General Manager, Channel Development Branch
Ms Anne-Marie Lansdown, General Manager, Access Branch
Mr David Kennedy, General Manager, Analysis Branch
Mr Ashley Cross, General Manager, eBusiness Branch
Mr Tom Dale, General Manager, Regulatory Branch
Ms Robyn Fleming, General Manager, Information Framework Branch
Mr Steve Alford, General Manager, Business Strategies Branch
Ms Paul Malone, Acting General Manager, Corporate and Governance Branch
Ms Kylie Carrett, Manager, Finance
Mr Tony Judge, Manager, Budget and Performance
Mr Tim Field, General Manager

Telstra

Mr Bill Scales AO, GMD, Corporate and Human Relations
Mr John Stanhope, Director, Finance
Dr Paul Paterson, Director, Regulatory
Mr Anthony Rix, Head of Service Advantage
Mr Darian Stirzaker, Chief, Consumer Sales
Mr Don Pinel, Regional Managing Director, Country Wide Queensland

Australian Broadcasting Corporation

Mr Russell Balding, Managing Director
Ms Sue Howard, Director, ABC Radio
Ms Sandra Levy, Director, ABC Television
Mr Colin Knowles, Director, Technology and Distribution
Mr David Pendleton, Director, Finance and Support Services
Ms Lynley Marshall, Director, New Media and Digital Services

Australian Broadcasting Authority

Professor David Flint, Chairman
Mr Giles Tanner, General Manager
Ms Andree Wright, Industry Performance and Review
Ms Jonquil Ritter, Director, Planning and Licensing
Mr Fred Gengaroli, Director, Engineering and Technology

Australian Communications Authority (ACA)

Mr Tony Shaw, Chair
Dr Bob Horton, Deputy Chairman
Dr Ros Kelleher, Senior Executive Manager, Telecommunications
Mr Geoff Luther, Senior Executive Manager, Radiocommunications
Mr John Haydon, Executive Manager, Universal Services Obligations Group
Mr John Grant, Executive Manager, Spectrum Marketing Group
Mr John Neil, Executive Manager, Consumer Affairs Group
Ms Linda Wiese, Acting Manager, Customer Services Coordination, Customer Services Group
Mr Darren Hooper, Chief Finance Officer, Corporate Management Group
Ms Anita Tapper, Assistant Manager, Finance

Australia Post

Mr Michael McCloskey, Corporate Secretary
Mr Peter Meehan, Chief Finance Officer
Mr Gary Lee, Group Manager, Letters
Mr Stephen Walter, Group Manager, Corporate Public Affairs
Mr Mel Jackson, Group Manager, Retail
Mr Chris Grosser, Group Manager, International
Mr Terry Sinclair, Manager, National Logistics

Australia Council

Ms Jennifer Bott, Chief Executive Officer
Ms Karilyn Brown, Executive Director, Audience and Market Development
Ms Cathy Craigie, Director, Aboriginal and Torres Strait Islander Arts Board
Mr Ben Strout, Executive Director, Arts Development
Mr John Wicks, Executive Director, Finance and Administration

Australian Film Commission

Mr Kim Dalton, Chief Executive Officer

Australian Film Finance Corporation Ltd

Mr Chris Oliver, Acting Chief Executive Officer

National Archives of Australia

Mr Steve Stuckey, Acting Director-General
Mr Peter Meadley, Acting Assistant Director-General, Corporate

National Gallery of Australia

Dr Brian Kennedy, Director
Mr Alan Froud, Deputy Director

National Library of Australia

Ms Jan Fullerton, Director-General
Mr David Toll, Deputy Director-General
Mr Gerry Linehan, Asst Director-General, Corporate Services

National Museum of Australia

Ms Dawn Casey, Director
Ms Freda Hanley, General Manager, Content, Collections and Technology
Mr Darryl McIntyre, General Manager, Children's Programs and Content Services
Mr Adrian Brocklehurst, Finance Manager

National Science and Technology Centre

Ms Linda Staite, Acting Director

Ms Ann Landrigan, Deputy Director, Business Service

Australian Sports Commission

Mr Mark Peters, Chief Executive Officer

Mr Michael Scott, Director, Australian Institute of Sport

Mr Brent Espeland, General Manager, Sport Performance and Development

Ms Lois Fordham, General Manager, Business Operations

CHAIR—I declare open this public hearing of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee, which is considering the 2002-03 additional estimates. On 11 December 2002, the Senate referred to the committee particulars of proposed additional expenditure in respect of the year ending 30 June 2003 and related documentation for the two portfolios of Communications, Information Technology and the Arts, and Environment and Heritage. We will examine the Communications, Information Technology and the Arts portfolio today. We will continue with the arts and sports programs tomorrow morning, and we will commence the Environment and Heritage portfolio after the lunch break tomorrow.

The committee is required to report to the Senate on 19 March 2003, and it has determined that the deadline for answers to questions placed on notice at the hearings today and tomorrow will be the close of business on 27 March 2003. I welcome the Minister for Communications, Information Technology and the Arts, Senator Alston, and officers from his portfolio. Minister, would you like to make an opening statement?

Senator Alston—No, Mr Chairman.

CHAIR—Before we move to questions, I remind officers that the Senate has resolved that, in connection with the expenditure of public funds, there are no areas where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I also remind officers that they will not be asked to express an opinion on matters of policy and shall be given reasonable opportunity to refer questions asked of them to superior officers or to a minister. Witnesses are reminded that the evidence given to the committee is protected by parliamentary privilege. I also remind them that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. I call the representatives of Telstra and will hand over to Senator Conroy to begin the questions on behalf of the opposition.

[9.13 a.m.]

Telstra

Senator CONROY—Minister, what is the government's current policy on the further sale of Telstra? Could you clarify?

Senator Alston—Yes. We do things sequentially, and our immediate challenge is to respond to the Estens committee inquiry into the adequacy of telecommunications services in Australia. It has identified a couple of threshold requirements, including the mandating of a licence condition on Telstra to inquire into making 19.2 kilobits available nationally—which they already do, but this would lock it in. The second thing is to ensure that Telstra has a plan for addressing problems associated with poorly performing exchange service areas. In addition to those threshold requirements, there are a number of other findings and recommendations. A number of those relate to the concept of future proofing. There are some

recommendations that the government is addressing, particularly the need for a bandwidth incentive scheme. Once we have addressed those issues, we can look to the future.

Senator CONROY—I note that, on 29 November last year, the Treasurer said that the government intends to put Telstra sale legislation before the parliament in the first part of this year. Is that still correct?

Senator Alston—We will determine the timetable as we look at our response to Estens, but in principle the government remains committed to good public policy. There is no reason why we would not want to move ahead as quickly as we can.

Senator CONROY—So if assume the first part of the year is pre-June 30, is that reasonable? There will be legislation before the parliament before 30 June?

Senator Alston—I am not going to rule in time frames—

Senator CONROY—The Treasurer has given us a time, and I was hoping you could confirm it.

Senator Alston—Presumably that is the Treasurer's best estimate, or maybe even his desirable aspiration. It really depends on what cabinet ultimately decides in relation to our response and what might flow from that. But, again, in principle our policy commitment is there. We are not deferring that. We simply want to make sure that we do things in the proper order.

Senator CONROY—So that is the Treasurer's aspiration?

Senator Alston—I take his words as they are expressed.

Senator CONROY—The poor bloke has a lot of unfulfilled aspirations at the moment.

Senator Alston—I am sure that he has an identical view to the government on this issue, and certainly I think he has been fully committed to a policy which we have taken to the last three elections successfully. It is just a shame that others do not seem to recognise the concept of mandates.

Senator CONROY—So this aspiration was not dependent on the Prime Minister's 64th birthday?

Senator Alston—I think when we first embarked on this, in 1995—

Senator CONROY—The Prime Minister was a young man—

Senator Alston—even the Prime Minister was not thinking about the possibility of ever retiring.

Senator CONROY—You mentioned a couple of criteria in your opening remarks. Could you run through them again and expand? The government has previously stated it will not sell Telstra until regional services are up to scratch, I think.

Senator Alston—That is the colloquial translation of adequacy.

Senator CONROY—What are all the current preconditions for the government before it will consider selling Telstra? You mentioned a few. Could you catalogue what you believe are the absolute minimum preconditions?

Senator Alston—I think it is more a matter of responding to Estens, rather than having a separate and distinct view. The purpose of the Estens inquiry was to determine whether service levels in regional Australia, which is non-metropolitan for these purposes, are adequate or up to scratch. What Estens did was to make a number of findings in various areas. Some of those would be less important findings than others. In regard to something close to

Senator Lundy's heart, like pair gains, they want them to clarify the situation a bit more. New technology may start to overtake some of the those difficulties, in any event. Estens says that if you address the two key issues that I mentioned, then service levels would be up to scratch. Those two issues relate to data speeds, that is the 19.2 kilobits. At the moment Telstra has no obligation to provide any particular level of speed other than to satisfy the universal service obligation, which means they have to provide a standard telephone service. That means that voice calls ought to be able to be made wherever you are in Australia, wherever you live and work.

The 19.2 arose out of the Besley inquiry. Since that time Telstra has committed to providing an effective 19.2, so that in some areas compression technologies get them over the line. But by and large 19.2 is seen as a minimum threshold for giving you reasonable access to the Internet—to web browsing, chat and email, which are the three most popular services.

That does not mean, of course, that people will not want other services. Indeed, technically, broadband services are available on satellite across the country right now. There is potentially a price difficulty, and I think Estens quite rightly says that, at the end of the day, competition is the key driver. We accept that absolutely and we are committed to reviewing the system regularly to ensure that competition is functioning as effectively as possible in regional areas. We have parity schemes, for example, to ensure that regions benefit from lower local call charges that become available in metropolitan areas as a result of competition but do not automatically flow on to regional areas because they do not have the same degree of competition.

There are some fairly blunt regulatory interventions that have been necessary to ensure that the benefits of competition flow through, but essentially we do not want to intervene in the market to dictate how the players operate, so it is a matter of getting the regulatory regime right. So 19.2 is the minimum guaranteed threshold; over and above that, you want people to be able to access whatever levels of speed they might want. That is one of the issues that Estens also canvasses under the heading of future-proofing.

I think you could probably say that there are—we found this in the Broadband Advisory Group report—three levels of broadband. The first generation is really 64-128 kilobit ISDN-like services, which Telstra is already required to provide under the digital data service obligation. Ninety-six per cent of people will get that ISDN through fixed services; the other four per cent will get it through asymmetric satellite services. The next level is probably anything between 400 kilobits up to about one or two megabits. Beyond that you can go to third generation—10 megabits to 100 megabits.

Those are all issues that you need to address in the context of future-proofing, because you want to ensure that the services are both available and affordable. We overwhelmingly take the view that it is a matter for the market in traditional areas of service to consumers. There does not seem to be any public policy interest in providing entertainment services to the masses. Similarly with corporations, probably large and small, they will take up broadband services as it suits them, as it makes sense for their business case. In other, more traditional areas of government responsibility, like health, education, national security, international connectivity and high-end research generally, there is a need for the government to be more focused on its own responsibilities. Those are all issues that arise out of Estens under the heading of future-proofing.

The poorly performing local exchange areas are addressed in part by the network reliably framework. Again there were different levels identified by the ACA in the wake of the Boulding case to ensure that there is regular monitoring of Telstra's performance at each of

those regional and local levels. Those are the two preconditions; over and beyond that there is the ongoing commitment to ensure that the bush does not fall behind, that the bush has access into the foreseeable future and that we are able to ensure that people will not ever miss out on these services. We are confident that all of those matters can be addressed.

Senator CONROY—Thank you for that comprehensive answer. Has the government decided on a minimum share price that it would consider acceptable before selling Telstra? I saw some commentary from the Prime Minister, I think—or it may have been you—saying, ‘You wouldn’t want to sell now, the share price is too low.’ What is a reasonable share price?

Senator Alston—I do not think we have a fixed view on that. I think both the Prime Minister and the Treasurer have simply been stating the obvious that, if you were to sell at today’s prices, it would not be a great deal. Where you draw the line is not something you can ever predict in advance. In fact, there is likely to be a fairly significant lag between your ability to go to market and actually getting there. Of course, you never know from one day to another what the share market price might be on the date of a new issue. I can remember a few days out from T1 or T2 that the Democrats were squealing that we ought to call the whole thing off because we were going to get too low a price. You simply cannot predict market outcomes and, once you put a process in train, in some respects you are beholden to ultimate market outcomes. There is always going to be a level of discretion involved in this.

Senator CONROY—Was it you or the Prime Minister who made the comment about the share price being too low?

Senator Alston—Both the Treasurer and—

Senator CONROY—Both the Treasurer and the Prime Minister?

Senator Alston—I think we all had a go. In strict order, I think that the Treasurer—

Senator CONROY—You weren’t trying to put a floor under the share price, were you?

Senator Alston—I think it was a statement of the obvious. The Treasurer made some comments, the Prime Minister made a more formal statement and then it was taken that that was a whole-of-government position, and that has been our view since. Does that tell you what is the right price? No, it does not, because you cannot predict these things.

Senator CONROY—Given the comments that have been made, that it is too low, you obviously think the price needs to be a bit higher before you can do it.

Senator Alston—Again, since those remarks were made, I do not think Telstra share prices have gone north to any significant extent. It is probably around the same or worse. It is still on a PE of about 16, which is probably a bit above the market average; it is probably a bit above PEs for international telcos. You would not want to make any assumptions that it is going to go up any time soon. We are not in the business of offering advice to investors. That was just a passing observation, and I think that is all that the Prime Minister and the Treasurer were doing. There is a point at which the crossover between the amounts you get in terms of proceeds and therefore the ability to service public debt interest can actually be less than the dividend stream. That is probably the key concern that would operate in their mind.

Senator CONROY—The general economic theory laws of supply and demand are reasonably well held by most people. If you increase the supply of a good the price goes down. Do you think putting a whole heap more Telstra shares onto the market will defy economic theory?

Senator Alston—Talking at the level of the theoretical, people have always said, for example, ahead of privatisations that, if they do not like them, the market will not be able to

absorb a particular level. I first looked at this issue back in the late eighties, and I remember the French were doing a fair bit of privatising at that time. You found that the level of capital available multiplied by about four times because people saw these offerings as very attractive. So there is no limit to the amount of funds that investors will stump up if they think that they will get value for money. There is no limit on how much people are prepared to invest, in one sense—not that you would advocate people going into debt or buying on margin. Again, if a price is overwhelmingly attractive, you should not assume that somehow there is a point of satiation beyond which people will say, ‘I am sorry, even though it is irresistibly attractive I don’t want to buy.’ They will buy with their ears pinned back.

Senator CONROY—So you think demand will outstrip the increase in supply.

Senator Alston—It is a value proposition. It is not dependent upon how much you make available, it is whether people think that it is a good investment opportunity. It may crowd out buying in other areas, for example, but it is all dependent upon getting the balance right. That has always been the challenge—an example is the British with BT, as far back as 1984. On the one hand, you must not sell the public short but, on the other hand, if you put the price so high that investors are not interested, you have defeated the purpose of the exercise. As always, it is a judgment call and if the price is right then people will buy almost unlimited quantities of a good investment.

Senator CONROY—You mentioned that you have looked at this area. Do you think that if Telstra shares were sold just to Australians you would reach that maximum constraint or do you think that only by offering it more broadly do you avoid the constraint that you have referred to? I am talking theoretically.

Senator Alston—Theoretically and historically, if you look at T1 and T2 you find that there were prescriptive upper limits of 35 per cent on the level of foreign investment. In total, no individual foreigner could purchase more than five per cent. It was deliberately designed that way because back in those heady days we all thought that every telco around the world would be breaking their necks to come here and compete against Telstra. We did not want someone like AT&T, who were then fairly solvent and cashed up, as opposed to being—

Senator CONROY—They are bankrupt now.

Senator Alston—stark naked; coming in, taking a stake in Telstra, sitting around the board table and then having a conflict of interest because they had other interests in the region and did not want Telstra to go in and compete against them. So we were concerned to ensure that there was not that level of conflict. Having set that limit of 35 per cent, I think it is still only around 12 per cent—it might even be a bit lower. That tells you that in T1 and T2, the Australian public were very keen to get as much script as they could. As a result, we came nowhere near the foreign ownership limit.

Senator CONROY—So you would be confident that if we threw everything onto the market—if you were successful in passing it through the Senate—it could all be taken up in Australia?

Senator Alston—I am not making forward predictions; I am simply telling you what has happened in the past and what the experience, internationally as well as domestically, tells you. Privatisation is not a new and risky leap in the dark. This is something that other countries around the world have been doing—and not just developed countries. You have heard me talk about all this before. Cuba has privatised their telco and sold half of it off to Mexico at the same time and virtually every country in the world except North Korea and Albania—and maybe Albania has come on board since I last ran this one—thinks it is good

enough. The reality is that virtually every country in the world now has a very different view, which is that governments are not normally very successful in running businesses unless there is a key national interest that justifies somehow giving it that protection. You do what the Labor Party did in government with the Commonwealth Bank, Qantas and virtually everything else that moved—and that was to say, ‘We’ll set the regulatory regime; we’ll protect consumers. We accept that there are limits on competition.’ The other day, in the OECD’s assessment of structural separation, they said that where you have bottleneck control over local assess arrangements you will need a much higher level of intervention than in other areas where there is full competition.

All I am saying is that privatisation is a very old game, and one that can be embarked upon whilst at the same time absolutely protecting consumers’ interests. I have never for a moment detected any sign of weakening on the part of other parties in the Australian parliament towards protecting consumer interests; therefore, not only users of the services but also potential investors know what the rules of the game are likely to look like, and they would not be much different from what they are now.

Senator CONROY—I appreciate that you have just given a very comprehensive answer about the Estens inquiry and the issues that you are responding to, but I do not think I heard you say a date that you intend to respond formally to the individual recommendations of Estens.

Senator Alston—No, I did not, because that is still a matter to be determined. In some respects, the current international challenges probably mean that everyone is focused on other priorities, but we certainly understand the need to progress the domestic agenda. We will be formulating our response as quickly as we can.

Senator CONROY—Do you have a rough indication, given the deadline that the Treasurer is aspiring to?

Senator Alston—No, there is no drop-dead deadline on these things, just that we want to move ahead as quickly as we can. The world will not come to an end if we do not do something by a particular date, and we would rather get it right. They are not straightforward issues, because there are always challenges in the way technology evolves and the way the competitive regime responds. That is why we put through a third package of pro-competitive initiatives. Last year it was the accounting separation regime. You always have to take account of those sorts of changes as well as what the experts tell you.

Senator CONROY—So you conceive that it is slipping a little? As you said, 30 June is not a drop-dead deadline, so you can conceive that it may slip?

Senator Alston—No, I would not make any assumption that we are not going to meet a particular date.

Senator CONROY—I am talking about the introduction of the legislation and a government response to Estens; I am not talking about whether it gets through the parliament or what the dates would be if you were successful. I am really just talking about what the government is doing. I was hoping that you would have a bit of a better fix.

Senator Alston—We are on the case, and we will get there as soon as we can. Does that mean in the next few weeks? Probably not. You need people to be able to spend some dedicated time focusing on this issue whereas, at the present time, I think it is fair to say that most people are focusing on issues like Iraq and North Korea—quite understandably. They obviously have much more fundamental significance than Telstra, dear and all that it might be to some of our hearts.

Senator CONROY—Hopefully you are not too involved in the national Defence subcommittee or the national security subcommittee. You are not on that, are you? You can walk and chew gum?

Senator Alston—I am perfectly able to progress my multiple agendas, but I do need to have all of my colleagues—

Senator CONROY—Paying attention?

Senator Alston—tuned in before we can have a whole-of-government response. I do not think they are yet at the stage where they are happy for me to unilaterally make decisions that would normally be made by cabinet.

Senator CONROY—I know how you feel.

Senator Alston—Much and all as one might privately disagree, I think that is probably the political reality.

Senator CONROY—That is fair. You are not on the Defence subcommittee or the national security subcommittee? You are not personally being distracted?

Senator Alston—Only on a coopted basis in my area of national critical infrastructure.

Senator CONROY—Has the government reached a view on Estens recommendation 2.7 regarding improving phone services affected by 6/16 and similar pair gain systems? I know you mentioned that you were hoping technology will resolve this.

Senator Alston—Senator Lundy's issue?

Senator CONROY—I know you did make reference to it in your comments earlier.

Senator Alston—Estens recommendation 2.7 states:

Telstra should promptly confirm to the Government that it has an effective strategy for improving as soon as possible the quality of telephone services affected by the use of 6/16 and similar pair gain systems. Telstra should give a formal undertaking to the Government, including providing timeframes, in relation to any actions required to implement such a strategy. Progress in meeting this strategy should be monitored by the Australian Communications Authority and reported on publicly.

To my knowledge, Telstra do not have any difficulty with that recommendation. We would be expecting them to confirm it promptly, if they have not already done so.

Senator CONROY—Mr Scales, have you fixed it promptly, as the minister has suggested?

Mr Scales—Clearly, the response to Estens is one for the government. As the minister said, that particular recommendation does not give us any concern. As you know and as we have spoken about a number of times in this forum, we have tried to make sure that we use the appropriate technology for the service that our customers require and, to the extent that that particular form of technology suits the needs of our customers, we will do it and do it in the best possible way with all of the services that are demanded of us.

Senator CONROY—It just sounds like the minimum you can get away with from where I am sitting.

Mr Scales—No, I am sorry if I gave you that impression. I did not mean to give you that impression. It is quite the reverse. What we try and do is match our customers' needs with the appropriate technology that would suit those needs.

Senator CONROY—I will not press on that issue. I understand that my colleagues will have one or two questions on that a bit later, and it is way beyond my technical competence.

Does the government intend to extend the scope of its satellite phone subsidy scheme as per Estens recommendation 3.2?

Senator Alston—Yes, we will certainly consider extending it.

Senator CONROY—I am sure you would consider flying to the moon too, but—

Senator Alston—We are being asked to consider it; that is the recommendation, so we will do that.

Senator CONROY—Will you do it?

Senator Alston—Yes, we will consider it.

Senator CONROY—Will you consider it or will you do it?

Senator Alston—I am not giving you any in-principle objection. I am just saying that, on the face of it, it is fairly easy to respond to that recommendation, isn't it? As for the satellite phone subsidy scheme, I forget the take-up numbers, but I think that when I last saw them before Christmas the take-up was about 700-odd. So it seems to be going reasonably well. From memory, \$2.1 million is set aside to accommodate demand, so that should meet it for the foreseeable future. But, if Estens is really saying that it needs to be available on an open-ended basis, I suppose we will have to look at what that might mean.

Senator CONROY—Did Estens give a potential cost on that? I am asking you because of your encyclopaedic knowledge of the report.

Senator Alston—I cannot recall offhand, but I would be surprised, because how do you predict the level of take-up?

Senator CONROY—You have to make some estimate. That is what I am saying. You must be doing some work if you are considering that.

Senator Alston—We can make a ballpark figure. Telstra and all those people give you amazing predictions about what take-up rates will be over a three- to five-year period.

Senator CONROY—But you are the expert. Your department must be doing some work on it. If you are considering it, you would have to be—

Senator Alston—We have our own view, but it is not a scientific view in many respects; it is our best guess.

Senator CONROY—I know you mentioned this individually, but will you be implementing Estens recommendation 4.1, guaranteeing a minimum dial-up Internet speed of 19.2-kilobits per second?

Senator Alston—Yes.

Senator CONROY—I think you made mention of that earlier.

Senator Alston—We have already required it of Telstra post-Besley. This is really saying 'Lock it in by a licence condition'. I suppose the options would be to legislate it or have a contract under seal or something, so having licence conditions seems a reasonable way to go. It is a quick and effective means of imposing an obligation. You do it sparingly in some senses because you do not want to be just telling the company how to run its business. But, again, I think they accept in principle the importance of ensuring that everyone gets that minimum data speed, and this just guarantees effectively that there can be no slippage. If there is, then you would take a quick and dim view, and you would be in a better position to deal with it if it is a licence condition rather than simply a solemn promise given which some people might say is no longer operative because of a change in circumstances. If it is a licence condition,

there is no excuse. That is why I think it gives you the level of certainty that Estens believes is necessary to ensure that people get those adequate service levels.

Senator CONROY—Many of the submissions to the Estens inquiry complained of Internet line drop out and the expense incurred by consumers in having to reconnect at the cost of a local call every time their Internet drops out. The Estens inquiry did not include a specific recommendation on how to remedy this problem. Will you be considering this issue and putting forward a solution?

Senator Alston—You cannot impose perfection if the technology is not up to scratch. In other words, people in regional areas often say that mobile phones drop out, and the answer is usually, ‘They drop out in the city as well.’ What that tells you is that you should be vigilant to ensure that carriers in general, or Telstra in particular, are not slack in their response but if the solution to the occasional drop out is putting in another half-million dollar base station, or even a \$60,000 microcell, that may be a very unreasonable commercial requirement. It is a function of the technology rather than a regulatory regime if you get drop outs, by and large. But, for example, if you thought Telstra’s ADSL problems seemed to be much greater in Australia than anywhere else and there was no technological explanation for that, you might conclude that perhaps Telstra was running dead on ADSL and you would take a dim view. I have not seen any signs of that to date, but they are always on notice that we expect them to perform to the limits of technology and commercial reality. I think that is largely why Estens acknowledged that some people complain about services. But, on the other hand, you cannot be expected to provide miracle cures. It is a bit like fortuitous television coverage—you cannot be expected to guarantee perfect pictures. I suppose we could move to digital.

Senator CONROY—Mr Scales, I was just looking at your title. It says ‘GMD’ on the witness list. What does that stand for?

Mr Scales—Group Managing Director.

Senator CONROY—Do you have a base station?

Mr Scales—No, I do not.

Senator CONROY—Do you, Mr Stanhope?

Mr Stanhope—No.

Senator CONROY—Do you, Mr Rix?

Mr Rix—No, I do not.

Senator CONROY—Don’t they deserve one, Minister? Aren’t they high enough up the scale? They are all directors.

Senator Alston—If you are talking about microcells, they do not just service one particular individual; they provide limited-range coverage and they are essentially an infill technology. I imagine Telstra use them sparingly if they are not using them fully commercially. But as I have said previously, I think if there is one person in the company who—

Senator CONROY—Deserves one?

Senator Alston—is entitled to have high priority access at all times, it has to be the guy who runs the show.

Senator CONROY—Mr Scales is a very senior individual; doesn’t he deserve one?

Senator Alston—I have no idea whether he has asked for one or whether he has poor quality service. In most suburbs mobile phone coverage is pretty good—apart from my own,

even though I would have two base stations within half a kilometre of the house. It just happens that there are some areas where it is not.

Senator CONROY—Are they able to improve the service at your place by having these base stations nearby?

Senator Alston—They probably could have.

Senator CONROY—Are you able to feed off them?

Senator Alston—In principle, if—

Senator CONROY—You are saying they do not just service one house.

Senator Alston—Yes; in principle.

Senator CONROY—In principle you could be a beneficiary of that at home, as well?

Senator Alston—I suppose anyone could approach Telstra and ask to buy a microcell.

Senator CONROY—No, I am talking about the existing ones that are near your house.

Senator Alston—They are normal base stations.

Senator CONROY—What about the one that the CEO has, Dr Switkowski?

Senator Alston—That is a microcell.

Senator CONROY—Sorry, I am getting confused with the technology.

Senator Alston—It is a mini base station, if you like.

Senator CONROY—A mini base station. Okay, I will put the word ‘mini’ in there. Are you a beneficiary because you live nearby? I know you have moved.

Senator Alston—No, I have not moved; he has moved.

Senator CONROY—He has moved. I knew someone had moved.

Senator Alston—The place was not big enough for both of us. He went down-market to Toorak—

Senator CONROY—He has moved down-market!

Senator Alston—and it seems that he had ended up with just as bad mobile service as he had previously—until he got his microcell.

Senator CONROY—So would Mr Scales be entitled to one? Is he deserving enough?

Senator Alston—It is entirely a matter for Telstra. As I said, the first question is—

Senator CONROY—You said Mr Switkowski was deserving enough. Is Mr Scales deserving enough?

Senator Alston—He happened to live in an area where there was poor quality service. For a start, I do not know whether any other senior executives are unfortunate enough to live in Toorak and Kew. So there may be no problem at all. Even if they had a problem, that would be a matter of judgment for Telstra. If they had a lot of customers complaining in a fairly dense geographic location, it may make perfect commercial sense for Telstra to provide that microcell. So it is, overwhelmingly, a commercial decision.

Senator CONROY—Do you live in Toorak or Kew, Mr Scales?

Mr Scales—No, but I can add to the answer. It is a question of where we believe the mobile coverage requires that technology. We use microcells right around Australia, in a range of locations. We try to use them in a way which, as the minister has said, fills in for those

parts of the network where there is clearly poor coverage for a particular time. Another reason we sometimes use them is that, as you would be aware, we often have to negotiate with local councils about putting up those various towers. That obviously creates some difficulty for us when we are trying to give coverage right around the country. So we use this sort of technology as a means by which we can ameliorate that until such time as we are able to negotiate with lots of those local councils and shires.

Senator CONROY—Thank you, Mr Scales. I would like to move on to the regulatory accounting framework. How is the government proceeding with the preparation and publication of Telstra's internal accounts—or, as it is referred to, the accounting separation of Telstra—with particular regard to the relevant provisions of the Telecommunications Competition Bill 2002 that was passed last year?

Senator Alston—I am not even sure whether it has been proclaimed. I suppose it has. It went through in November but obviously it is very early days. It imposes the primary obligation on the ACCC so I think you would really have to ask them. They have had plenty of notice because we have been discussing issues around accounting separation for many, many months.

Mr Scales—I might be able to help you there, and I might ask Paul Paterson to give a bit more detail on it. But the minister is correct that it is primarily an issue for the ACCC now that this effectively has become the law. We have had extensive negotiations and discussions with the ACCC on this issue. As you would be aware I am sure, it is not a simple issue to try and arrive at the right accounting measures here and so there are quite extensive negotiations going on. But I will ask Dr Paterson to give a more detailed answer, if you wish.

Senator Alston—Perhaps I could just add before that that there is an obligation in the bill on the government to produce a publicly available draft directional statement and we are in the process of putting that together right now.

Senator CONROY—When do you think that will be available?

Senator Alston—Fairly soon.

Senator CONROY—Is that an aspiration or—

Senator Alston—I think it is a high-level policy aspiration that is likely to be achieved in the not too distant future.

Mr Scales—Senator Conroy, do you need any other information on this point? I do not want to provide you with more than you need.

Senator CONROY—You could get yourself into a lot of trouble if you set that trend, Mr Scales. No, I am not going to the heart of the actual detail of it; I only have a couple more questions. These are more for the minister, I am sure. Unfortunately, there may be more questions for you guys directly on that.

Senator LUNDY—I might just indicate at this point that we will be coming back to a number of the issues that Senator Conroy has canvassed this morning in more specific terms a little later.

Senator CONROY—We do not expect the minister to have the whole comprehensive—

Senator MACKAY—It is just that it is also convenient to ask him and then we can come back with more detailed questions for Telstra later so the minister doesn't have to hang around.

Senator CONROY—Minister, you gave a general aspirational date, but when do you expect the accounting separation provisions of the bill to be fully operational?

Senator Alston—I think by 30 June. The statutory obligation is to produce the draft direction by 30 June, but we expect to have it out before then. It is really then a matter of the ACCC responding, and I think we have indicated that we expect them to be able to respond fully by the end of this calendar year. It is a complex area. The Brits have had many years experience with it and we have had a number of discussions with them and with the ACCC. So, whilst everyone is committed to moving forward, there are still a number of difficult accounting issues that need to be addressed.

Mr Stanhope—We have had many discussions with the ACCC and they are progressing quite well. It is complex and both Telstra and the ACCC are trying to move as fast as we can.

Senator CONROY—Have we completed all the court cases between the ACCC and yourselves?

Mr Stanhope—Yes. At the hub of this is—

Senator Alston—I hope there are not any in relation to accounting separation.

Mr Stanhope—No, there is none in relation to accounting separation. At the core of this is what the rules are for current cost, establishing current costs and the debate around what the current cost of assets is and so on. It is quite complex. But it is a very cooperative framework that is taking place.

Senator CONROY—Minister, does the government expect that these new provisions will ensure that competitors to Telstra receive nondiscriminatory access to Telstra's wholesale network?

Senator Alston—That is the aim of the game. It is all about—

Senator CONROY—You are the major shareholder; you could tell them.

Senator Alston—Tell who?

Senator CONROY—Tell Telstra. It is not just the aim of the game; you actually want them to do it.

Senator Alston—But I thought you were asking whether this is going to enable—

Senator CONROY—On receiving nondiscriminatory access, I am just saying that you are able to make it more than the name of the game; you can tell them that they have to do it.

Senator Alston—Again, that is not quite as simple as it sounds. Accounting separation is about endeavouring to ensure that you can reconstruct wholesale costs in such a way that third parties will have confidence that they are getting roughly equivalent treatment. It is not just a matter of putting some numbers on the table and saying, 'Are we both getting the same?' because overwhelmingly third parties buy different services from Telstra at retail level than Telstra Retail does from Telstra Wholesale. For example, Telstra Retail would buy a complete network services offering. That is what it provides to the public. Another carrier will want bits and pieces—they might have their own terminating facilities but need access to the basic network. So the cost to them is not a cost that Telstra would normally pay, because Telstra Retail does not just buy a part of the network; it buys the whole.

So it is difficult to compare like with like other than on a constructive basis, and that is where these accounting complexities arise. It is not only calculating the cost of the service or the replacement cost—not normally the historical cost—but it is also the imputed transfer pricing that creates the difficulties: making a judgment about what it is really costing Telstra,

how that stacks up against what the competitors are being charged and whether there are any margin squeezers. The aim is to get as much transparency as possible into the process to provide as much information as possible to other carriers. To the extent that these things are commercial-in-confidence, you may provide aggregate data or you may provide confidential data on a one-off basis. These are all matters that the ACCC can take into account in trying to meet the aspiration I referred to earlier: doing your level best to provide the maximum degree of confidence to third parties that they are getting an equivalence of treatment.

Senator MACKAY—I want to go back to the issue of questions on notice. The deadline for answers to questions on notice in the last estimates round, held in November, was 13 December. You are aware of that, aren't you, Mr Scales?

Mr Scales—Yes, we are aware of that.

Senator MACKAY—As of that date, we had only received two answers to questions on notice. I am keen to try to track what has happened here, given that this is the worst instance of Telstra's being out of time—or it may not be Telstra, which is what I am trying to ascertain. Can you indicate how many answers to questions on notice—responses to questions from the three senators here, if not others—you had sent to the minister's office by that date?

Mr Scales—By that particular date? I cannot give you the exact answer to that. In a general sense, I am sure you are aware that there were not only something like, I think, 50 questions that came directly to us but also a whole bunch of subquestions. When we put them together and realised the extent of it, I think there were over 130 questions which we had to respond to. You will remember that many of those were incredibly detailed questions around the network, around the service and so on. From memory, I think we had about 35 people working on your questions throughout that period. You would also be aware that there was an inquiry around the network itself, which you were involved in, that we were responding to at the same time. You are probably also aware that, at that stage anyway, we were also responding to another inquiry in regard to structural separation. We would have liked to have got the answers in a lot earlier but, with the pressure of all of these things and the extensive nature of the questions, it did take us a bit longer than we expected.

Senator MACKAY—Could you confirm that Telstra had only completed answers to two of our questions on notice by 13 December?

Mr Scales—I cannot tell you whether that was on the 13th, but we will take that on notice and get back to you.

Senator MACKAY—That is the difficulty! I appreciate Telstra's workload. I have to say, though, that 130 questions is not a lot compared to the number of questions on notice put by some of our colleagues. I am trying to ascertain where the difficulty lies. Is it with Telstra or is there a clearing house difficulty at the government end?

Mr Scales—The point that I am trying to address regards the particular date that you just asked about—13 December. That is the point I am focusing on. You asked me whether I can get an answer for you today as to the exact number of responses that were sent by 13 December, and I simply cannot. Even if I were to ask people here now, I doubt that I could get you that answer. But I will get you that answer and get back to you on it.

Senator MACKAY—As at a week ago today—that is, 3 February—only half of the answers had been received. What is the reason for that?

Mr Scales—All the answers, from a Telstra perspective, have been sent to the department.

Senator MACKAY—When were they sent to the department?

Mr Scales—As you may be aware, we send the answers as they become available to us through our own system—after we get the details and make sure the details are absolutely correct. So I cannot give you an answer about exactly when each one of those responses was sent to the department.

Senator MACKAY—I know that, but can you give an indication of when the bulk of the responses were forwarded to the department? Was it a week ago?

Mr Scales—The bulk of the answers were sent around the middle of January. I think the last of the answers were sent to the department around a week ago. One or two may have been sent more recently—even a few days ago.

Senator MACKAY—According to the table that we have just received, there are still three outstanding questions from the estimates in November. Has Telstra expunged all its responsibilities?

Mr Scales—We have sent all our responses to the department.

Senator MACKAY—That is interesting. Deadlines set by the Senate are a Senate decision rather than an individual committee decision. Did Telstra attempt to contact the secretariat with respect to that 13 December deadline?

Mr Scales—I understand that we let the department know where we were going with those questions. We advised them of the extensive nature of the questions, as I mentioned earlier, but we did not talk to the Senate at all.

Senator MACKAY—Fair enough. So you advised the department about where you were at. Ms Williams, can you tell us when Telstra advised the department?

Ms Williams—No, but I will find out. I think I have some people here who can answer that, and I may be able to come back to you quite quickly. There was obviously a range of dates. Questions came at different times. In some cases, if we think that the answer is not complete we go back to Telstra, ask a question and forward that. But I can find out in particular when they advised the department that they would be late. I am sure that there were ongoing discussions with Telstra, because we were aware that they were one of the areas that were late. I know we were talking to them on an ongoing basis, and Telstra had a number of other issues that it was following up. So there were problems.

Senator MACKAY—I understand that, but Telstra is contending that it has sent the answers to the department; in fact, the bulk went in January.

Ms Williams—They go through the department and we do look at them on the way through.

Senator MACKAY—Do they then go to the minister's office?

Senator Alston—They may have been provided in a form that was not acceptable to the department.

Senator MACKAY—I understand that. As you would appreciate, Minister, when we set a deadline of 13 December, irrespective of who is in government, who is the minister or whatever, we do expect it to be adhered to, or at least a courtesy paid to the committee to say, 'This is why we cannot get the answers to you at a particular time.' Minister, I do not know whether you are aware of it, but we have a situation where a week ago today only half the responses had been received. This is when the deadline was 13 December. I am not sure where the hold-up is. I understand everybody is busy but, if you were in opposition, I suspect you would not regard that as an excuse. Basically, I want to know when Telstra provided the department with answers to particular questions and when the department then provided them

to the minister's office. We want to try and see where this backlog is occurring. Ms Williams, are you aware of whether the department contacted the secretariat on 13 December to provide a status report?

Ms Williams—I am not aware but I will find out. I know there were some discussions with the committee, because in another area there was a particular reason why some answers would not get there on time. So I know there were some discussions. But I am not sure exactly what was discussed with the committee. I will see if I can find out for you.

CHAIR—I think we should try to adhere to dates but obviously at times there are difficulties, and I suppose we need to bear that in mind. But the committee would prefer questions on notice to be answered by the agreed date, if that is possible.

Senator MACKAY—That is right. It is not even really a preference. I think it is bluntly rude if the department does not advise the committee secretariat about the status report by a deadline that has actually been set by the Senate. I do not think anybody would tolerate that.

Ms Williams—I will have to find out for you, Senator.

Senator MACKAY—I know everybody has been busy, but then's the breaks. A large number of questions were taken on notice on Friday, 6 December at the Telstra references hearing in Canberra with the inquiry that we have been having into the state of the network. We have not got any answers yet to those—not a single one. You may not know this, Mr Scales, because you were not there. I suspect that, if you had been, we would have had some indication of when we were going to get them, but we have not received a single answer. This is, from our perspective, an important inquiry—into the state of the network—something which will obviously advise people in respect of a critical decision that is forthcoming, and we have not received a single answer. I do not know where they have gone. They may have all been answered and been sent to the department.

Mr Scales—We are working on those answers, as you would imagine. We intend to provide them to you as soon as we can. They just happen to be being answered by a lot of the same people who are also providing the answers to the questions you put to us in November. So there is a discrete group of people who are trying to put all of this information together. Given that a lot of questions that you asked us in November were around the network—and you also have the inquiry into the network—it does require those people to spend a fair amount of time just working through them. There has been a question as to which priority they should focus on. But I will certainly try to get you, as soon as I can, some understanding about when you will get those.

Senator MACKAY—How does Telstra organise the responses to questions on notice? Take me through that.

Mr Scales—I was going to mention this. First of all, we need to get some clarity around the questions. While the date of 13 December was the set date, I do not think we got a detailed understanding of all of the questions on notice until late November. It is an issue for the Senate itself, I think, and for the committee to make sure that we get an understanding of what you want us to refer to. So that is one point in the chain of the way these things are addressed.

What we then do is use our own people to look at those questions. We have to decide which is the most appropriate group that will respond to those questions. They then do the research associated with any particular question that might come from the Senate. We then look at that to make sure that it comes back into Telstra itself and that it has been adequately covered. If it has not been covered adequately to suit the Senate, we send it back to make sure that these things are adequately covered. Once we have been through and done the vetting to ensure that

it is appropriate we provide it to the department. Then it is in the hands of the department about the process from there on.

Senator MACKAY—What management group within Telstra is responsible for this? What is the name of it?

Mr Scales—There is no one particular group because the questions are often extensive and they go right across the company. If it is a technology issue, it will be handled by our technologies group. If it is a service issue, the putting together of that question will be handled by our services team. If it is an issue around finance and administration, Mr Stanhope's team would be involved in doing it. Then we aggregate that through our government relations team to make sure that we keep the department informed about where we are with any particular question. So there is both a coordinating role through our government relations team and a specific responsibility within each of the parts of our business.

Senator MACKAY—We always adhere to the deadline that we are given by the committee to submit questions, so it is not a case of our being desultory in our attitude to that. If there are issues of clarity—that is, of what precisely we want—that is a different matter, but we are required to adhere to a deadline, and we do.

Mr Scales—I was not suggesting a criticism; I was just trying to give you a sense of what you were asking.

Senator MACKAY—You said there was something the Senate needed to address on this.

Mr Scales—I understand that we did not get the details we wanted about the totality of the questions on notice until late November, and I was relating that to the point that the deadline for submitting the answers was 13 December. I was suggesting that we had a relatively short period of time to respond. But even if we wanted to—even if we could afford unlimited resources—I doubt that we would have been able to respond in due course.

Senator MACKAY—The secretariat has just made the point that the *Hansard* transcript is available after 24 hours and, when Telstra takes a question on notice at a hearing, it is not the secretariat's responsibility to then trawl through *Hansard*. The point the secretariat is making—which I think is absolutely valid—is that, when you take questions on notice at an estimates hearing, it is then your responsibility to follow them up.

Mr Scales—My understanding is that we also get other questions that are not in *Hansard*.

Senator MACKAY—Yes, that is correct.

Mr Scales—That is the issue I am referring to. We often find after these hearings that matters that are not even referred to at the hearings come to us as questions on notice.

Senator MACKAY—That is right. That is normal procedure.

Mr Scales—That is what I am referring to. Often it is quite a separate question to those on the transcript.

Senator MACKAY—That is right but, as you would well understand, the process is that we ask questions during estimates and then we have a certain period of time—it might have been two or three days after the Telstra section of these estimates—to put our questions in. If we do not get them in, that is our tough luck—we miss out—and we have to put them through the Senate process, for which the minister is accountable. The difficulty is that I cannot pin the minister down in the chamber because Telstra has not responded, although we are looking at that in terms of a change to standing orders. The point I am trying to make is that I understand that Telstra has been very busy, but 35 people is not an inconsiderable number. It

is substantially more than we have to prepare the questions. Looking at the structural separation inquiry—which is now not to be—what resources did that take?

Mr Scales—I cannot give you the exact amount of resources it took, but the resources that were taken up in responding to and preparing our submission for that inquiry would certainly have been the equivalent of that again.

Senator MACKAY—How many officers were working on it?

Mr Scales—From time to time there would have been at least the 30 that I mentioned earlier.

Senator MACKAY—Working on that particular inquiry only?

Mr Scales—Yes—at least that many.

Senator MACKAY—That is a lot. Telstra was given a letter in relation to Senate privilege from the Senate Environment, Communications, Information Technology and the Arts References Committee. Are you aware of that, Mr Scales? Can you explain to me your understanding of what Senate privilege is?

Mr Scales—I am aware of the letter and, as you would be aware, we have responded to the committee. Our understanding of privilege is that any individual is able to appear before a Senate inquiry and is not, under any condition, to be prejudiced—and I use that word very broadly—as a result of appearing before that committee. That is the first element of our understanding of privilege. The second is that any individual who appears before the committee, any individual who decides to give evidence, should not be in any way harassed as a result of giving any evidence before that committee.

Senator MACKAY—I am just getting a copy of the response that you sent, and I might come back to that. What action has Telstra taken in respect of that letter sent by the Senate?

Mr Scales—We replied to the letter. We indicated in the letter that we tried to answer the suggestions that were put in the letter that our people were somehow discouraged from presenting to the inquiry. We indicated in the letter that we had no evidence that that was the case. We also indicated that, if that were the case, as a management team we would be very concerned about that and we have processes in place to address such issues. So that was the first tranche of issues that we tried to address.

The letter also asked us to publicise within the company our understanding of the point that you have made around privilege in general, and we will be doing that. Fairly soon we will be putting an article in *Our future*, which is our internal communications magazine, advising people of the various inquiries that are going on with regard to Telstra and letting people know that they, like any other citizen, are entitled to appear before a committee. We have also provided them with the Senate's web site address so that they can look for themselves at their rights and how those rights can be protected if they do decide to appear before the committee. But I do have to say that, in the letter that we sent, we also did ask the inquiry to take into account that Telstra is in a commercial world and it does have to consider the way in which it balances the appropriate desire by the Senate to have as much information as possible with our commercial responsibilities.

Senator MACKAY—Mr Scales, do you think the issue of privilege is subordinate to that commercial imperative?

Mr Scales—No, we do not believe that.

Senator MACKAY—If, say, Mr Stanhope decided to appear as an individual in front of a Senate committee, given his level of knowledge in respect of the commercial side of Telstra, how constrained do you think he should feel?

Mr Scales—I think that is a separate issue from privilege. We would ask any employee and any committee inquiring into Telstra to take that into account and, if possible, to hear that evidence in camera. The question of privilege is quite clear, but it is about how the requirement of the Senate meets the requirement of any commercial organisation in these circumstances.

Senator MACKAY—If there were a suggestion that, say, plastic bags were being used to prop up the network, and a technician who currently works for Telstra decided he or she—it would most likely be a he, I suspect—wanted to appear at a Senate inquiry because he had had limited luck in raising this difficulty within the organisation, would that be appropriate?

Mr Scales—Yes, certainly.

Senator MACKAY—And that person would not fear for their job or their future?

Mr Scales—No, of course not, because we would want them to talk to us anyway. There are a number of elements to this, and I am happy to continue with them if you wish; just let me know when to stop—

Senator MACKAY—This is very important. It is not simply me raising this, by the way; a number of senators have raised it.

Mr Scales—We want to encourage our people to bring this information forward. If they believed the appropriate way to do that was through that forum, that is fine. If the Senate, on their first understanding of the issue, saw an issue as perhaps being very commercially sensitive—not in that particular circumstance, which has been well canvassed and has been canvassed in this public forum—we would ask the Senate to take into account how they would receive that evidence. That is really the point that we would want to make.

As to the other issue—around whether a technician, for example, using the example you have given, felt that they were constrained—I would be concerned about that from another perspective. I would be concerned about it because it would indicate to me that we somehow have a fearful environment that stopped them from doing that in the normal course of events. While I would feel a little constrained in responding simply because somebody had given evidence to your inquiry, I would be very concerned about that.

Senator MACKAY—I have in front of me a copy of the letter signed by Dr Switkowski which I did not have before. I wish to reassure you that this was raised by a number of senators. In respect of the other inquiry, we are aware of Telstra—I am sure not with the blessing of the organisation—contacting people, and they are not the usual suspects, incidentally, who would give evidence to the other inquiry that is running concurrently.

Mr Scales—We are aware that Telstra had contacted customers of Telstra, and we make reference to that within the letter. I am going a little from memory here, but I think it was around nine customers that we had contacted. Our people did that in good faith because they do that under all circumstances. It would not matter where the inquiry was. We are trying to understand where our customers are concerned about our performance, and we do want to respond to them immediately if we possibly can, to address those issues.

As we have said to Senator Allison in our reply, we have simply stopped doing that. We have told our people that under no conditions are they to contact anybody who might make

any complaint about the system to the inquiry. It certainly was not done with any malice. It certainly was not done simply because we wanted to influence anybody's evidence.

Senator MACKAY—I understand that.

Mr Scales—In a way, contacting people after they had given evidence of itself would not have influenced the inquiry anyway.

Senator MACKAY—Yes.

Mr Scales—We had nothing to gain other than to try and address their concerns. But, as you have seen in the letter, we have said to our people that they must not do that, and they will not. With any complaints that are made to your particular inquiry from now on, we will look at them on the web site—as we do; we take notice of things that are on the web site—and we will try and understand the generality of the points that are being made, but we will not contact those individuals.

Senator MACKAY—That is fine. What we were concerned about was circumstances where, with people who had an ongoing problem with Telstra, they might think this was a fairly effective way of expediting the difficulty. There was no inference in respect of most of the information that we had received—not all—that you can be responsible for the activities of the whole organisation. Senator Allison took the view that it would be best that this ceases. Otherwise the Senate would be used as a conduit to fix up Telstra difficulties, and we do not want that—except in the broad, of course. We will continue to track this. I am not holding anybody at the table personally responsible for this—it is a big organisation—but we are aware of some instances. Rather than act on these instances, the committee took the view that it would write to Telstra to ensure that it was clarified. I am pleased, and I think the committee will be pleased, that you are going to undertake the activity that you mentioned—that is, put it in your bulletin. I do not know what you are thinking about putting in there, but the issue of Senate privilege and what it means needs to be canvassed. The Senate committee can determine what it regards as commercial in confidence and what it does not. I think this committee is pretty sensitive in relation to that, through both Senator Eggleston as the chair and Senator Allison as the chair of the other committee. But that is a decision of the Senate.

Mr Scales—We understand that, and that is why you notice the tone of that letter was such as to bring it to the notice of the Senate. Clearly we are all trying to balance a number of conflicting issues here, and it is not immediately clear where the dividing line is. That is why we raised it in that context.

Senator MACKAY—We will track that. Can you just provide the committee with the newsletter?

Mr Scales—Certainly.

Senator MACKAY—It may pay for you to consult with the Clerk of the Senate in respect of what is put in.

Mr Scales—We considered in great detail how far we should go and what we should put into the document. That is why we decided that we would give the address of the Senate's web site, which gave all the details about what privilege meant. To be honest, what we were quite concerned about was that no matter how we phrased anything it might be seen as being misconstrued by some people. For example, if we were to overemphasise the commercial element of the business in any article, you might quite rightly say, 'You are trying to unduly influence people from giving evidence.' If we did not provide some commentary around an issue like that, people may not therefore think about how that issue might be addressed in the circumstances. That is why we decided that, rather than go into great detail about it, we would

simply give the information that is available about the Senate's web site; people would be able to scrutinise that themselves and they would be able to come to an understanding of what privilege meant for them. We felt that was the best thing to do.

Senator LUNDY—I would like to ask a few questions about Telstra's definition of commercial in confidence. In particular, I would like to refer to a response to a question on notice that I asked in relation to the NRL rights. The question I asked concerned a statement that Telstra had an arrangement with the NRL which was a sponsorship arrangement. I asked how much that sponsorship was worth. The answer goes along the lines of 'The cost of this sponsorship arrangement is commercially sensitive' and concludes with the statement that exposing Telstra to such inequitable detriment would prejudice Telstra's commercial interests and thereby the interests of its stakeholder owners, whether private shareholders or through the Commonwealth shareholding Australian taxpayers. You have not claimed commercial in confidence specifically in that answer; rather, you have said 'commercial sensitivity'. Then you have cited the Commonwealth's interests in Telstra and Australian taxpayers as part of the justification for that commercial sensitivity.

Can you explain Telstra's thinking behind that response—the relationship between, as you see it, the commercial interests of the majority shareholder? I have certainly never heard it being asserted even by the minister that the Commonwealth's shareholding be used as a justification for trying to prevent information from becoming public, particularly when it is a relatively straightforward issue where the estimation and speculation about the amount in question has been aired previously.

Mr Scales—Again, this is one of those issues which we agonised over quite considerably. The issue of commercial in confidence is one that probably has a number of elements to it. The first is that we are—it is a truism—a business involved in competing with other very large businesses in this space. Some of the largest businesses in the world are ones which we compete against. We are competing against Vodafone, for example, with many times our capital structure. While it might seem like a very long bow, even issues about how we organise our sponsorship go to the heart of how we then attract customers and therefore go to the heart of whether shareholders, including the Commonwealth, get an appropriate return for their investment in this particular company. That is one element of it. In particular, that was the element to which we were referring in that particular answer.

Senator LUNDY—It seems to me that the NRL sponsorship is no secret. It is something Telstra is obviously very involved in. It is very public. I am concerned about the justifications for preventing even approximate amounts which are being spent by Telstra being made public—the building up of spurious arguments as to why that should not be able to be made public. I am sure that the committee would feel a lot more comfortable if you gave a ballpark figure, a best estimate, an approximate cost or a 'between such and such an amount and another' just to give an idea. I suspect that the more convoluted your justifications for preventing this information from being disclosed to the public are—it was not accompanied by any request for the information to be provided in camera—the more it will provoke a response from this committee to just pursue those details consistently. I certainly do not see the justification for non-disclosure.

Mr Scales—The issue of sponsorship is quite a difficult one. Sponsorship is part of any company's broad marketing campaign. A broad marketing campaign often relies on one's ability to be able to obtain sensible sponsorship at a reasonable cost. An answer that we might give to something even like a question as to the cost of our relationship with the NRL, the AFL or even Athletics Australia, or any of the other people that we sponsor, can have almost a

profound effect on the price of those sponsorships right across the economy. They are not particular to that one sponsorship. There is a whole industry around the way in which somebody markets, values and negotiates around an issue like the NRL, AFL or Athletics Australia. I can understand that, from the point of view of the Senate, this might seem like a relatively simple issue, but in the context of the industries that surround this, this is almost a profound issue. I certainly would not want to trivialise the importance of why we gave this answer; it was given with a lot of forethought.

Senator LUNDY—I can appreciate the sensitivity during negotiations, but once the agreement has been entered into and the contract has been signed, surely a large part of that sensitivity would be avoided.

Mr Scales—Not necessarily. A number of parties prefer to keep these arrangements confidential because—

Senator LUNDY—Is that because the parties want to keep it confidential and you agree as the sponsoring body? Surely as a partnership in that arrangement you could require the amount to be made public.

Mr Scales—I think there is motivation on both sides—for both the buyer and the seller. From the seller's perspective, they are often quite loath to disclose these sorts of circumstances because that may prejudice them from getting a higher value next time they want to attract somebody else to come into that particular market. On the part of the buyer, it is obvious why you would not want to necessarily disclose that, because that also might similarly prejudice your ability to enter into negotiations with other like parties in similar circumstances.

Senator LUNDY—I certainly think that this issue will continue to be a problem. I put you on notice—not with a question—on the basis of flagging that we will watch very closely Telstra's response if it is to claim commercial in confidence or commercial sensitivity.

Senator MACKAY—There have been some recent media reports that Telstra is considering moving responsibility for monitoring its international telecommunications traffic to Hong Kong. Could you address those media reports and give the committee an update on what is happening.

Mr Scales—I presume you are talking about the recent press around our relationship with Reach?

Senator MACKAY—Yes.

Mr Scales—I might ask Mr Stanhope to make a comment.

Mr Stanhope—You are talking about the network management of international traffic?

Senator MACKAY—That is correct.

Mr Stanhope—We have made no decision about whether that international traffic will be managed in Australia or out of Australia. Right now it is in Australia. There are about 30 people involved in the operational centre managing that traffic. We have come to no decision. I know there has been some speculation around it, but we certainly have not reached any conclusion about where that traffic should be managed.

Senator MACKAY—I understand that you may not have reached any conclusions, but what has happened?

Mr Stanhope—There has been an approach by Reach that it might be a good idea for them to manage their traffic out of Hong Kong, but we have not agreed to that at this point.

Senator MACKAY—What is the nature of that approach?

Mr Stanhope—They think they are far better off managing all their international traffic. There are advantages in doing so out of Hong Kong and right around the world rather than having a separate management centre to manage the traffic out of Australia and any transit traffic that goes through Australia's international gateway. That is their view. We do not necessarily agree with that view and discussions are continuing.

Senator MACKAY—Have any trials been conducted or is there any contemplative consideration of trials?

Mr Stanhope—In the proposition that they have put forward it is suggested that maybe some trials can be done to prove the case, but we have not agreed with that either.

Senator MACKAY—So at this stage it is simply an approach by them?

Mr Stanhope—It is a proposition put forward by Reach. They think it would be better for them and we are considering that, but no decision has been made.

Senator MACKAY—They have proposed that trials be commenced to advance their view?

Mr Stanhope—That is part of the proposition, because they no doubt suspect that there will be some opposition.

Senator MACKAY—In respect of this decision that has not been reached either way—or this proposal, I suppose—in your thinking about a response have you considered the security implications? Do you consider there may be security implications?

Mr Stanhope—That is part of the consideration of the whole thing—managing the traffic and network security. They are all certainly part of the consideration.

Senator MACKAY—What is the level of profitability between Telstra's Australian operations and its investment in Reach?

Mr Stanhope—The Reach gateway is not a singular profit centre entity. The cost of running the gateway in Australia comes to account in Reach's books in Hong Kong. The cost of providing the network management out of the global operations centre in Australia is also charged on to the Reach business.

Senator MACKAY—Is it a profitable arrangement?

Mr Stanhope—No, it is an at-cost arrangement.

Senator MACKAY—It is a zero sum game, is it?

Mr Stanhope—Reach is suggesting that they might be able to do it cheaper. As I say, that is part of the consideration; it is not a foregone conclusion.

Senator MACKAY—Does Telstra get any money out of its investment in Reach? Is it profitable or are you saying it is a break-even scenario?

Mr Stanhope—Reach, the entity in Hong Kong, is EBITDA positive. It is a fifty-fifty ownership, so it is equity accounted. Last year, it made a profit; this year it is struggling.

Mr Scales—It might be worth while to give a couple of reasons for that. Reach operates in an environment of high levels of competition because of the extensive networks, which are now available, that are not fully utilised. In fact, as you know, the Reach business is really about interconnectivity between continents and, in many ways, about traffic over the infrastructure between continents—put very simply. There is a huge excess capacity that is

driving down prices in that business. That is why John made the point that, at this point in time, it is certainly not as profitable as we would like.

Mr Stanhope—It is a tough market.

Senator MACKAY—I guess they feel their profitability may be enhanced by any such proposed venture?

Mr Stanhope—Yes, that is their proposition.

Senator MACKAY—Mr Stanhope, I do not want to verbal you, but I think it is fair to say that Telstra is verging a little towards giving this the thumbs down. Would that be fair, or is it simply that you have not made a decision at this point?

Mr Stanhope—I think you are trying to put words in my mouth. It is a fair way from decision.

Senator MACKAY—What is the time line in respect of that?

Mr Stanhope—We have not really set a time line; we do not have a time line.

Senator MACKAY—Richard is not here.

CHAIR—The minister may not be far away.

Senator MACKAY—It is all right. I will come back to that. Maybe we could try and get him, Chair, just for a few minutes. While we are waiting for the minister, I want to—

CHAIR—Do you want to break?

Senator MACKAY—It is not that dramatic. I will move on to another topic and come back to it. Who in Telstra manages corporate entertainment?

Mr Scales—Corporate entertainment?

Senator MACKAY—Yes.

Mr Scales—Do you mean—

Senator MACKAY—The entertainment budget for—

Mr Scales—Do you mean like corporate—

Senator MACKAY—‘Corporate’ not as in other organisations; Telstra’s own entertainment budget.

Mr Scales—I have been advised not to be too flippant about that.

Senator MACKAY—That is all right. We can start off with a bit of flippancy; that is fair enough.

Mr Scales—Corporate entertainment is managed by each of the individual business units. What we try and do is to devolve as much of that sort of responsibility back to the individual business units and even in some cases down almost to subsets—almost to the first level within the organisation. Some of our team leaders, for example, would have the opportunity to be involved in what you might generally describe as corporate entertainment. They would be encouraged from time to time to take their teams out and have a meal when their teams have performed particularly well in some areas. It just depends on the exact point that you are wanting to draw us on.

Senator MACKAY—What is it called within the organisation? One assumes it would not be called entertainment. It would have some other sort of—

Mr Scales—Not necessarily. It is an expense. What happens with all of these expenses within the company is they are all generally justified for a particular purpose. For example, with me, if somebody is entertaining somebody as you have described—they take somebody out for lunch—I want to know the reasons why, I want to know that it is legitimate expense from the company's perspective and I want to make sure that it really is talking about business that relates to Telstra or that has a relationship to Telstra's outcomes. It might be sort of a generic issue about entertainment but primarily it is about enhancing Telstra's objectives in the broader sense.

Mr Stanhope—That is at its simplest level where somebody will ask their manager if it is okay to entertain somebody—like the lunch example—and the manager will ask, 'For what purpose?' and so on. But if you are talking about the allocation or the use of a facility like a box at the MCG, for example, the responsibility for that we give to the customer-facing business units because those allocations are used by and large—probably nearly 99 per cent of the time—for entertainment of customers. So it is that business unit which is responsible for the use of a facility like that.

Senator MACKAY—I might come back to that. I just want to finish off this other issue by asking the minister a couple of questions. Then we will come back to that.

Minister, we were just talking about the issue of the approach by Reach in Hong Kong to Telstra in respect of monitoring international communications traffic. It was basically a proposition to outsource Australian international telephone traffic to Reach. We had a lengthy discussion about it. I do not know if you want to get apprised of that. But there are some questions I wish to ask you. At a government level, has this been discussed? Are you aware of it?

Senator Alston—I am not aware, but Telstra does have a general obligation to apprise us of significant developments. It may be that they provided something, on paper or orally, to the department.

Mr Stanhope—Minister, I do not think we would have done that yet, because the proposition has just come on the table for us. I should point out, Senator Mackay, that what has probably prompted this from Reach in Hong Kong is that the contractual arrangement between Australia and Reach in Hong Kong runs out at the end of this month—

Senator MACKAY—Sorry, what runs out at the end of this month?

Mr Stanhope—The contractual arrangement between Reach and the parent, Telstra, to provide these services of network management out of the global operations centre. That runs out at the end of February, so that has prompted some of this discussion. Just because it runs out at the end of February does not mean we will not renew it.

Senator MACKAY—I understand. Minister, how were you aware of it—by reading about it in the paper, perhaps? Have you seen this article?

Senator Alston—I think I did see it; yes. As Mr Stanhope indicated, we do not expect Telstra to brief us in detail on every newspaper report. Certainly, there is always a matter of judgment about when you formally advise the government. To some extent, if it involves matters beyond the jurisdiction it may well mean that we would not have a capacity to do anything about it, even if we thought it was a matter of some concern. On the other hand, I would expect that Telstra would advise us of matters of sensitivity in order to ensure that the government was relatively comfortable. So I am assuming that, if and when a significant decision is taken, we will be made formally aware.

Senator MACKAY—But Telstra agree—we just had this discussion—that on the face of it there are some security implications, particularly in the current international environment. I am surprised you have not been advised about it.

Senator Alston—As I heard Mr Stanhope say, they have not yet reached a point of finality sufficient to justify coming to us with a concrete position.

Senator MACKAY—I understand, but presumably you would have the view that there are security implications—everybody else does.

Senator Alston—We would expect them—basically taking what they have told you—to regard that as requiring them to make us aware in due course. So we can have sufficient confidence that they will bring these matters to our attention, and give us an opportunity to talk them through and make our own judgment about any security implications.

Senator MACKAY—What happens when an article like this appears in the paper? Does the department provide you with a brief? Does the office provide you with a brief? I understand that you are not expected to be completely apprised of every single bit of minutia of the media.

Senator Alston—I would assume that, if the relevant people in the department read something in the media about which they were not aware, either they would contact Telstra or Telstra would contact us. I think that system generally works fairly well. If it were something very significant, I might be on the phone myself. I think in recent years, particularly since Dr Switkowski has been the CEO, Telstra has been pretty good at giving us forward notice of issues, which an ordinary company would not do.

Senator MACKAY—I understand, but ultimately it is the department's responsibility, I suppose. So can I ask the department: does the minister have a brief on this matter? I do not expect you to have photographic memories.

Mr Thomas—No, the minister has not received a formal brief on it. We have talked to Telstra about it, and reminded them of their obligations in terms of the legislation relating to privacy and telecommunications interception. As the minister has pointed out, that legislation applies within the Australian jurisdiction, however.

Senator Alston—Just to be clear, I do not think it is sufficient justification for not fully acquainting us with the detail to say, 'This is a matter beyond the jurisdiction', because clearly Telstra itself is within the jurisdiction—the decisions are made here. They are decisions over which we might ultimately have a view.

Senator MACKAY—I understand. My next question—and I do not know if there is any point in asking it—was whether Defence or A-G's have expressed a view, because in the current environment there is an extra dynamic, or whatever word you wish to use. I am surprised that we haven't got a brief on it; that is all. You might want to take that up.

Proceedings suspended from 10.56 a.m. to 11.11 a.m.

Senator CONROY—I have a couple of questions arising out of the Australian Electoral Commission disclosure returns that were announced a week or so ago for 2001-02 which show amounts of around \$32,000 going to the Liberal Party from Telstra and only \$17,000 going to Labor. I wonder whether you could give me the background to these amounts.

Mr Scales—The background of that is this: I think it was reported as though we were making donations to one party or another. These were not donations to political parties; they were somewhat analogous to the point that Senator Mackay was raising earlier in that they were payments over time for various functions that have been held by the political parties. As

you know, both parties encourage business people to go along and listen to the various issues that are being discussed by various spokespersons, and that is what that referred to. I think the combined figure for the Australian Labor Party and the Democrats was roughly equivalent to what we had spent attending the functions with the coalition parties.

Senator CONROY—Does the board have a policy on donations?

Mr Scales—Yes, it does have a policy on donations: it does not give donations to political parties.

Senator CONROY—Does the board have a policy on attending functions and on the costs and the balance?

Mr Scales—The board does not have a direct policy on that, and I will come back to what I mean by that in a minute. That is primarily an issue for the management of the company. What the board does have, however, is a very strict policy, at an audit level, to ensure that Telstra's management does not in any way embarrass the company and therefore, by implication, the board. But it is through that process that the board examines these sorts of issues.

Senator CONROY—What is management policy on attending functions?

Mr Scales—For functions like that, it would be where a particular minister might be speaking about a telecommunications issue and we would like to make sure that we have somebody in attendance to understand the nuance of that particular comment. If, for example, there is an opposition member speaking—we have had recently opposition members speaking about a range of issues to do with the company, whether it be industrial relations or telecommunications issues—we try to be there to listen to what is being said so as to understand the implications for the broad policy of Telstra. So that is our general policy. It has to be quite specific to the benefit that might flow to Telstra.

Senator CONROY—Is there a time gap between attendance at functions? If, for instance, the minister was speaking five days in a row, would Telstra go all five days?

Mr Scales—Probably not; it would depend on what he was talking about.

Senator CONROY—Sure, I understand.

Mr Scales—If we understood that the minister was going to give the same speech five times, I think it would be unlikely that we would attend five times.

Senator CONROY—Do you check with the minister's office as to the topic or the likely content so you can ensure you do not go to the same speech five times?

Mr Scales—The topics are generally well known because they are generally well publicised, so I do not think we specifically go to the minister's office every time. But, from time to time, we do check—as we do check with the opposition parties—so we know what the issue might be and whether it would be of particular interest to Telstra.

Senator CONROY—For obvious reasons—I, like my colleague Lindsay Tanner, suffer this terrible problem—ministers seem to get more invitations than oppositions. It is just the way of the world.

Senator MACKAY—It is terrible!

Senator CONROY—It is terrible, but I am told it happens in reverse as well so I cannot afford to be too precious about it. Do you see a problem in that there are more speeches that the minister will give per se that could fall into your area? This is money going to the Liberal

Party, so the Liberal Party may put on Richard Alston on a regular basis. We try to share ours around a bit more.

Mr Scales—As a point of principle, we do not see that as a particular issue. You have alluded to it yourself, but to some extent it is a natural consequence of one particular party being in government at one point in time and another party being in opposition. As much as anything else, it is the immediacy of the effect of what a minister might say as to why there is an added urgency to make sure that we are there. With an opposition party—whether it be the Labor Party or a coalition in opposition—you do not get quite the same immediacy about the effect of any message that comes through. That gives a slightly different emphasis, in addition to the one that you have alluded to, which is almost the natural course of things.

Senator CONROY—How many functions does the \$32,000 represent?

Mr Scales—I cannot answer that, but I will certainly take it on notice.

Senator CONROY—You seem to imply that there was a bit of a balance because the total of the Democrats and the Labor Party equalled the government. You can imagine that, from my perspective, that is not balance.

Mr Scales—It was just an observation.

Senator CONROY—It was a coincidence that they added up to the same amount?

Mr Scales—No, it was more of an observation.

Senator CONROY—Is it a coincidence, or is it policy?

Mr Scales—No, I think it was just an observation. It is hard to know whether or not it was a coincidence.

Senator CONROY—Do you have any idea whether there are any plans for Telstra to attend any more functions in the near future?

Mr Scales—We would certainly have plans to attend functions if and when it is appropriate for us to do so. Particularly in an area like telecommunications and information technology, it is moving so rapidly and this particular world is changing so quickly that we have to be aware of the thinking of the key thinkers in our society, many of whom are politicians, that we attend their functions to listen to what they have to say.

Senator CONROY—These are specific. It is not like you are going to the Australian institute of communications. This is a specific, advertised Liberal Party fundraiser. There is a difference between that and going along to a minister's speech.

Mr Scales—It is certainly true but, at the same time, as you would be aware from your own involvement in fundraising within the party, you are required to try to make sure that you give some added value to any speech that you might give to the audience.

Senator CONROY—I just wish the minister were here right now.

Mr Scales—In that sense I think the same thing does apply. People do come along because they do want to hear what is being said. As you know, ministers and shadow ministers try to add value to the audience in that particular way.

Senator CONROY—If the ALP's main fundraiser was listening to this or got a copy of the transcript, he could conclude that, if we put on Lindsay Tanner once every couple of months for a couple of thousand dollars, with a slightly different angle each time, you would be a regular attender?

Mr Scales—I think, in general, the point you are making is right, but I would not want to give marketing advice to the ALP nor would I want to give it to the coalition.

Senator CONROY—I appreciate that. Who gets to go? Do you get to go, Mr Scales? Do you have to attend these?

Mr Scales—If you were speaking, Senator, I would be there, of course.

Senator CONROY—No, I am talking more of Mr Tanner, a far more entertaining speaker than me. Do you actually get to go or is it Mr Stanhope or Mr Rix?

Mr Scales—It really does depend; it often depends on an individual's diary commitments.

Senator CONROY—Get your diary out and we will pick a few dates and organise a few fundraisers! So management do not have a policy that you are aware of, of wanting to balance attendance at functions? It really is on a case-by-case basis.

Mr Scales—No, we do not have a policy of balance. It is really around the issues which are being discussed and whether we believe it is in our interest to attend, to try and listen to what is being said.

Senator CONROY—That is all I have at the moment. I will need the minister for the next batch of questions, if we could round up the errant minister.

CHAIR—The minister could be called. Perhaps his staff could attend to that.

Senator CONROY—I have a quick one. Can Telstra confirm recent media reports that it is outsourcing or selling its debt to private debt collectors?

Mr Stanhope—Yes, we have sold debt to outside debt collectors.

Senator CONROY—Mr Scales isn't scary enough?

Mr Stanhope—No, we don't send Bill out collecting debts, but it might be an idea.

Senator CONROY—At what point do you hand over or sell your consumer debt to private debt collectors?

Mr Stanhope—It is relatively new to Telstra. It is not new in the industry. In broader industries, of course, it is quite prevalent. We sold our first tranche of debt back around June and we sold another tranche of debt in December. It is typically debt that has been written off and we place it in the hands of debt collectors. We go through a process beforehand to try and cleanse the database to make sure that we are not asking people to pay who have already paid. We try to make sure that deceased estates and so on are covered. We try to do that as best we can. There has been a couple of occurrences—nine that I know of—where people have paid the debt. Recently, we have discovered one where a person was deceased. Where those things are drawn to our attention in the process, we obviously withdraw that claim. In all, over 300,000 accounts have been sold to agencies.

Senator CONROY—What does that represent in terms of dollars?

Mr Stanhope—In the first tranche, we sold about \$300 million worth of debt. In the second tranche, the most recent tranche in December, about another \$300 million worth of debt. The last \$300 million was about 50 per cent debt of mobiles and about 50 per cent fixed line. All the first debt was fixed line debt.

Senator CONROY—Do you have any policies to ensure that the companies collecting the debts incurred are operating within the law?

Mr Stanhope—Yes, we do. We set very strict rules for these agencies. We go out to tender to see who wants to buy the debt, and there are very strict rules on the procedures that they are

to take in collecting the debt. We all know that there are particular sensitivities around Telstra. It is a large company, 50.1 per cent owned by the government, so we make sure that there are very stringent rules for those debt agencies.

Senator CONROY—This is an industry that has some unsavoury elements.

Mr Stanhope—Yes. The two agents that we have chosen, Baycorp/Alliance and RML—Receivables Management Limited—are very reputable. We hold both of those agencies in high regard.

Senator MACKAY—I did not make a note of the dates of the sales of the tranches. Can I have those again?

Mr Stanhope—The sale dates were 13 June and 20 December.

Senator MACKAY—The first tranche was fixed line exclusively and the second tranche was a melange including mobile and fixed?

Mr Stanhope—Yes. The second tranche, as I said, was about 50-50. It was about \$200 million fixed line and about \$100 million mobile.

Senator MACKAY—Why did you determine that the first tranche would be fixed line? Why was that a priority?

Mr Stanhope—We were working through the amount of debt that was written off and we happened to do FlexCABS, which is the fixed line billing system, first.

Senator MACKAY—The aggregate was \$600 million?

Mr Stanhope—Yes.

Senator CONROY—How much of that debt do you think we will get back? What sort of ratio do you reckon you will pull in?

Mr Stanhope—When people tender to sell debt, they tender for how much they think they can recover. There is a commercial agreement in place but we do not release that.

Senator CONROY—I will not ask you to breach any commercial—

Mr Stanhope—They tender on a certain amount and obviously, for commercial reasons, they tender in opposition to a lot of other debt companies.

Senator CONROY—Sure. If this is not possible to answer, please just say so. I am interested because I do not know a lot about debt collecting agencies. You sell them \$600 million and presumably they think they can get, say, 60 per cent and so they would bid—because they have to have their own margin—

Mr Stanhope—They would not in their wildest dreams think that they could collect 60 per cent.

Senator CONROY—But I assume they have a margin that they keep themselves if they recover some.

Senator MACKAY—Presumably there must be some contractual benchmark.

Mr Stanhope—It is up to them. They are buying debt.

Senator MACKAY—So you do not have any criterion?

Mr Stanhope—We want to optimise how much we get for the sale of that debt. They pay us for it and they make a judgment about how much they can collect.

Senator CONROY—Traditionally, what would you have hoped to get—let us say using the \$600 million figure—when you chased your own debt in the past with just Mr Scales on the job?

Mr Stanhope—This \$600 million debt is over the last five years. Our bad debts would probably be two per cent of sales—quite low. Being in charge of credit management myself, I think we do a reasonable job of collecting the debt.

Senator CONROY—So it is you we sent out, Mr Stanhope. You have been out there knocking on doors.

Mr Stanhope—That is right. It is fairly tough debt to collect.

Senator MACKAY—Just to clarify that, are we saying that there is not a performance based benchmark that underpins the selling of the debt? Does Telstra say, 'Here's \$600 million worth of debt; do your damndest,' or does Telstra say, 'Predicated on this amount of debt, we would anticipate you getting X'?

Mr Stanhope—No. We would have an expectation as to what we should get for that debt.

Senator MACKAY—What is it?

Mr Stanhope—It could range from 2c to 10c in the dollar, for example.

Senator MACKAY—So the bottom line would be 2c and the best-case scenario would be 10c in the dollar?

Mr Stanhope—Yes. So therefore to us that debt is worth a certain amount of money. We go out to tender and obviously we accept the tender that gives us the best return, provided they are a reputable agent and are prepared to accept our conditions of collection and so on.

Senator MACKAY—Minister, are you quite happy with Telstra selling debt to private collection agencies?

Senator Alston—Factoring? That is a normal commercial practice, yes.

Senator CONROY—Minister, we had a big announcement last week. You have canned the House of Representatives communications committee inquiry that you set up. Is that right?

Senator Alston—Yes, the committee has been—

Senator CONROY—What processes were involved? Did you just pick up the phone and say, 'No, that's it; it's over'? Was it your decision? Did the members of the committee have anything to do with it?

Senator Alston—Yes. The committee members themselves met and discussed it and I think there would have been a full meeting of the committee where decisions were taken not to proceed further. We do not make any apologies for that because the fact is that this had been made a live political issue by Mr Tanner refusing to rule it out over a period of many months, despite no doubt very persuasive pressure from people like Senator Mackay. But if Mr Tanner had done an ounce of work 12 months ago he would have had some idea of what was involved. But he apparently chose not to inform himself until the 11th hour. Why on earth he decided to announce the day before the committee hearing that it was game over and Labor had thrown in the towel, I simply do not comprehend. So if there are members of the industry who were looking forward to appearing, then they have every reason to ask why Mr Tanner chose that point to make the committee redundant.

Senator CONROY—Can I just clarify? Is Mr Tanner on this committee?

Senator Alston—Yes, he is.

Senator CONROY—Does he control the committee? Does he have the numbers?

Senator Alston—No, he does not have the numbers. It is a House of Representatives committee.

Senator CONROY—Yes, a House of Representatives committee. The decision to establish the committee was a government initiative—

Senator Alston—Yes.

Senator CONROY—and the decision to close it down was a government initiative?

Senator Alston—That is right.

Senator CONROY—But it is Mr Tanner's fault?

Senator Alston—The whole purpose of the inquiry was to address a live public policy issue.

Senator CONROY—I wish I had that much power.

Senator Alston—Let me explain it to you. If Mr Tanner had not hung this particular piece of linen—

Senator MACKAY—So that is what it was all about; it was all a political exercise.

Senator Alston—No, it was not a political exercise, unless you regard—

Senator MACKAY—From your comments it seems to be.

Senator Alston—I am explaining it to you. Unless you say that every political debate, every policy position, is somehow a matter of politics not to be taken seriously, I took Mr Tanner's repeated refusal to rule out the possibility of structural separation as a very serious issue to be debated in the Australian community—

Senator CONROY—So you have been talking about it.

Senator Alston—Never. We have opposed it consistently from the outset. It of course created a black cloud of uncertainty over Telstra. It meant that a lot of people saw it—

Senator CONROY—Have you had a black cloud hanging over—

Senator Alston—as a serious possibility, if Labor ever came to government that they would embrace a break-up of Telstra, and it is no secret that the Labor Party has for years been flirting with various break-up models. I can recall Paul Keating on the *7.30 Report* saying, 'Well, we'll hang on to the core business'—because the unions would not have a bar of selling it off—'but we would be happy to get rid of mobiles, Yellow Pages, internationals.' So Labor has had a long and very undistinguished history of being in favour of breaking up Telstra.

On the other hand, we committed in 1996 to selling Telstra as a going concern, and we have always taken the view that being able to offer a full suite of services is a critically important part of Telstra's business case. As I say, there are any number of good reasons why structural separation was a dead duck from the outset. If Mr Tanner had read some of the international literature and if he had acquainted himself with the recent OECD report, he would have known just that. Yet he kept it alive for 12 months in the face of that. Senator Mackay was on his hammer all the time raising this issue in caucus, belting him up in whatever you call your backbench meeting equivalents. But no: he persisted in hanging this

out to dry, so we took that as a serious and distinct policy issue. Therefore, we wanted it examined. We were always utterly confident that—

Senator CONROY—So you wanted the policy examined, irrespective of who was advancing it?

Senator Alston—We wanted to demonstrate that this was not a viable policy option in the face of Mr Tanner's intransigence and, as it turns out, total lack of any homework at all. That is what it boils down to: he had not done any work on it but he eventually got some advice from a Chifley Centre-commissioned outfit which told him what anyone else could have told him a long time ago—in fact, I have had people ring my office and say they had told him just that—and that is that it would not work. But having persisted and having held this Sword of Damocles over Telstra we thought was an unacceptable situation and what we wanted to do was flush him out. And we flushed him out big time, to the point where he made this humiliating capitulation.

Senator MACKAY—He flushed you out.

Senator CONROY—We will come to that.

Senator Alston—How embarrassing.

Senator MACKAY—How embarrassing for you.

Senator Alston—You have this one big policy—

Senator CONROY—Be fair. The minister humiliated Chris Pyne; he did not really humiliate himself.

Senator LUNDY—Chris Pyne was looking forward to his moment in the sun and you deprived him of it.

Senator Alston—No doubt a number of them were salivating at the prospect of taking this idea—

Senator CONROY—I do not even want to think about Chris Pyne salivating, frankly.

Senator Alston—apart bit by bit.

Senator MACKAY—It must be boring being a government backbencher.

Senator Alston—The idea of having one big policy idea over the last 15 months called 'structural separation' and not doing any work over that period of time and then having to come along, humiliatingly, the day before the committee starts—when you would have thought you would be all geared up to go in there and demonstrate that it was a goer and put all your material on the table and get your witnesses teed up—and say, 'Game over.' As it turns out, I think we had something like 72 submissions. Not one of them was able to demonstrate that this could possibly work and that is because it will not.

As I say, Mr Tanner could have acquainted himself with some of the international experts. Bob Crandall for example, has been writing on telco competition issues for 20 years in the US and he has given a devastating indictment of structural separation. There are other guys—Martin Gough from the UK. A lot of people have looked at this because to some people it is superficially attractive. If you are an alternative carrier you might think, 'Well, gee, wouldn't I love to break up my competitor.' Standard Oil was broken up because Standard Oil was a repeat offender, big time. If we caught Telstra doing things that were totally unacceptable and it demonstrated continued rogue behaviour and all the rest, you might think twice. Some people would say that was what the issue was with Microsoft. But there is no suggestion that

Telstra is behaving like that or anything like that. So why on earth would you want to embark upon the most extreme solution, without doubt, when you have no idea how it would work?

So rather than letting Mr Tanner just wave this around for another six or 12 months, which I think he was proposing to do, we wanted to flush him out. And flush him out we did—to actually have to call a press conference the day before the committee started, which should have been his perfect opportunity to argue his case and demonstrate that this was a terrific idea. But, no, what happened? He has to go out there and say, ‘Game over.’ Not a good look. I really think this is a market opportunity for Senator Conroy—

Senator MACKAY—So, Minister, you are happy—

Senator CONROY—He does not mind humiliating Chris Pyne any day of the week.

Senator MACKAY—But it is more serious than that, Senator Conroy.

Senator Alston—If you want to have serious communications debates, my suggestion is do not leave it to the House of Representatives, where you can never have this discussion. Give Senator Conroy responsibility for it and let us get on with it and we can have a serious discussion. But to think that you can have a guy like Tanner, who has been wandering around—

Senator MACKAY—Mr Tanner to you.

Senator Alston—To have Mr Tanner wandering around the investment houses asking them how he could break up Telstra and sell it off surreptitiously or sell off parts of it—

Senator CONROY—Let us not revisit your CS First Boston report.

Senator Alston—That is what this is all about. It is just not a good look. You lose three elections on the trot because you did not have any policies and here is a bloke who aspires to leadership from what we read and his one big policy idea turns out to be a dog.

Senator MACKAY—So we have established that on the basis of this one option from an options paper, you organised—

Senator Alston—This is his one big idea. He did not have any other ideas.

Senator MACKAY—the House of Representatives inquiry and you had 30 people in Telstra tied up on it, on a political stunt.

Senator Alston—It was a live policy issue, wasn't it?

Senator MACKAY—You just said that it was a political stunt.

Senator Alston—You and I might have thought he would have to throw in the towel eventually but, if we had not called that committee, he would still have been waving it around and he would have been saying, ‘I am a big thinker, I am. I have this structural separation idea. I don't settle for small things.’ How embarrassing. What does he end up having to do? Talk about debt recovery stuff. If that is not peripheral to the main game of a comprehensive regulatory regime, I do not know what is.

Senator CONROY—Are you aware of any other committee that has cancelled an inquiry the day before the hearings were due to commence?

Senator Alston—No, not offhand. Am I aware of a proponent of an idea which was the *raison d'être* for a committee being established in the first place throwing in the towel within 24 hours? No, I am not aware of that, either. So put the two together and you get an unprecedented capitulation—you get an unprecedented cancelling of a committee.

Senator CONROY—Did you speak to Mr Pyne about the decision before the decision was made?

Senator Alston—I had discussions with a number of people.

Senator CONROY—I will take that as a yes unless you want to deny it. Have you apologised to him yet?

Senator Alston—I do not think there is anything to apologise for.

Senator MACKAY—What about to Telstra for all the work they did for nothing?

Senator Alston—As I say, I would think a number of them were disappointed, quite frankly. Wouldn't you be? If you knew that you had a hand of aces, you would like to go to that committee and demonstrate that you had all the good arguments. Unfortunately, Mr Tanner looked at his hand for the first time 24 hours before kick-off and realised that he did not even have a pair of twos. For him, there was nothing else to do but throw in the towel. For the committee, there was no point in going ahead. Both sides were suddenly in heated agreement. There was no policy issue for the committee to examine. That is why it is unique. I accept that it probably has not happened before.

Senator CONROY—Did anyone from your office contact any companies to encourage them to put in submissions?

Senator Alston—There is regular two-way contact.

Senator LUNDY—Do not try and fudge it; just answer the question.

Senator CONROY—I appreciate the fact that—

Senator Alston—You are asking me to speak on behalf of others. I cannot do that, for a start.

Senator CONROY—I am asking you about your office. I am not asking you about others over which you have responsibility.

Senator Alston—That is what I said. If you are asking me what phone calls or conversations were instigated by members of my office, I cannot tell you that offhand.

Senator CONROY—I asked you whether your office urged or solicited anybody to put in a submission.

Senator Alston—I cannot tell you offhand.

Senator CONROY—Surely after reading the newspaper report—I am sure the clipping was provided to you—you asked, 'Has anyone been up to this?'

Senator Alston—I did see that report and I did—

Senator CONROY—You did not ask anyone in your office?

Senator Alston—The report quoted one guy. I think his name was Peter Kennan, or something like that. We contacted him, and he said that he had been comprehensively verbed. He said that he had said nothing of the sort. I gathered that he was putting in a letter to the editor, and I thought, 'That'll do me.' I did not take it any further. But I do know that a number of those players—not just the investment houses, but other carriers—are constantly in touch with us offering sensible policy suggestions.

Senator CONROY—I am sure they are, Minister. I would hope that you are in constant—

Senator Alston—Some of them may well have said, 'We'll be putting in submissions.' We would not have said, 'Don't.'

Senator CONROY—Here is your big opportunity. Can you guarantee that no-one in your office urged or solicited anybody to put in a submission to this inquiry?

Senator Alston—I am not going to give you any qualitative assessment of the conversations and discussions that have occurred over the recent months since this committee was established simply because, as I say, a number of people quite often ring up and say, ‘We are putting in a submission.’ We probably say, ‘That’s great.’

Senator CONROY—That is not what I am asking you. I am asking whether you can give us a guarantee that your office was not soliciting and urging people to put in submissions to the committee.

Senator Alston—As I say, I am not in a position to give you any judgment.

Senator CONROY—You do not know what has been going on in your office for the last three months?

Senator Alston—If you ask whether it would be improper—

Senator CONROY—I am not suggesting for a moment that it is improper.

Senator Alston—Let me answer the question. Would it be improper for Mr Tanner to urge people to put in submissions? I would say no. So I am not sure what the point of that is, interesting though it may be.

Senator CONROY—I am sure you have better things to do with your time, but I am asking you whether your office has done it.

Senator Alston—As I say, I do not know. I have not talked to them about it. I read the report. There was one guy—

Senator CONROY—But you did not ask—

Senator Alston—One guy was named. I said, ‘What about this?’ They said, ‘We’ve been on to him and he’s writing a letter of furious denial to the media,’ and I thought, ‘That’ll do me.’

Senator CONROY—It did not say that just one person had been contacted in this. It suggested that there had been a number of contacts. In the process of reading that article and having a chat with your office, did you ask them—

Senator Alston—You have been around the place long enough to know that it would not be the first time that the media turned a specific example into a general statement. If I read about generalised unattributed sources claiming things, I take it with a grain of salt. If, however, they name names I start to take notes. That is what I did here. I said, ‘Who is this guy?’ And I was told we had been onto it.

Senator CONROY—No-one has contacted your office to say, ‘We’ve put in all this work—

Senator Alston—I have no idea. Probably, a lot of them did—I do not know.

Senator CONROY—You are not aware of anyone contacting your office on this matter?

Senator Alston—I would not be at all surprised if carriers or investment houses had mentioned it to me, my office or Christopher Pyne. We are all operating in the real world. We are all doing the rounds. It would be a natural thing for people in the industry to say, ‘You’ve got this inquiry coming up; we’re putting in a submission.’ I would say, ‘All right, good.’ The only point at which there might be a concern was if someone did not want to put something in and we twisted their arm. I assure you that has not happened.

Senator CONROY—I am not suggesting such a thing.

Senator Alston—Again, it is very revealing that poor old Mr Tanner was not able to find one submittee, out of 70-plus, who had done any homework on the issue in his favour.

Senator MACKAY—He did not solicit; that is why.

Senator Alston—Maybe—

Senator MACKAY—Maybe he should have. Is that what you are saying?

Senator Alston—If he had made a few inquiries he could have saved us all a lot of time and trouble by announcing, as soon as the inquiry was set up, that he no longer believed that this was a valid concept. Then we would have been able to save a lot of people some time and trouble. He deliberately kept it open right through the period. Submissions closed at the end of January and I presume that as a committee member he could have had access to them immediately. His heart would have sunk but he could have seen that no-one had done any work to show you how this would operate.

I think there was one submission that actually referred to the OECD. I think that might have been on behalf of the competitive carriers. ACIL did a consultancy. ACIL's bottom line was essentially that someone else should have a look at this, which is not quite what you would hope for. Nonetheless, they referred to the OECD reports. So, again, if Mr Tanner had been doing his homework he would have known, from 1 February—or as soon as he got hold of the OECD material—that this could not fly. Yet he left it until 12.15 the day before the committee hearings when, you would assume, some people were in Canberra ready to give evidence. It is a shocking performance. There is going to be a reshuffle shortly, isn't there?

Senator CONROY—Cancelling the committee is the shocking performance.

Senator Alston—This is the big opportunity. I was disappointed Senator Mackay did not get up the other day. I thought she went very close—

Senator CONROY—Given that you have been unable to give us a guarantee that your office was not soliciting or encouraging submissions, if any of the people who put in a submission seek compensation for the amount of wasted time and effort, airfares and that sort of thing, do you think it would be fair for you or the department to compensate them?

Senator Alston—No, Mr Tanner is the one.

Senator MACKAY—We did not call the inquiry, you did.

Senator CONROY—We did not solicit their submissions.

Senator Alston—It is entirely his responsibility. Mr Tanner's policy position was the reason the committee was set up. Mr Tanner's change of policy was the reason the committee was closed down. It is all his own work.

Senator CONROY—So you suckered a few people into wasting their Christmas and you are not even embarrassed about it.

Senator Alston—We did not; he did. He could have told them a week ago that the game was up.

Senator CONROY—You have an opportunity to apologise to all those poor mugs who spent the entire Christmas writing up the submissions.

Senator Alston—I feel very sorry for them.

Senator CONROY—Here is your chance to apologise for putting them up to it in the first place.

Senator Alston—On his behalf, I apologise that Mr Tanner did not see fit to do some homework at a much earlier stage and save people unnecessary time and trouble.

Senator CONROY—You keep trying to portray that there was only one subject that the inquiry would look at.

Senator Alston—There was.

Senator CONROY—It is well known, if you read what Mr Tanner said—and obviously you are a devotee—that he was also saying that the committee should look at the virtual separation issues.

Senator Alston—But that would have been beyond the terms of reference. That is just changing the subject at a press conference. It is an old technique. You basically have to go along there and say, ‘I haven’t got a feather to fly with on the terms of reference but, by the way, I am interested in virtual separation.’ I do not know if he knows what that means. He seems to imply that it means accounting separation—

Senator CONROY—Why don’t you set up a House of Representatives committee inquiry and let us all look at it?

Senator Alston—You want to have another inquiry into accounting separation?

Senator CONROY—We would like to have one. You cancelled the other one.

Senator Alston—We had one that was strictly and only to do with—

Senator CONROY—It was a political stunt.

Senator Alston—No, it was not—

Senator CONROY—With narrow terms of reference devised by you.

Senator Alston—It is only a political stunt if you say Mr Tanner’s policy position was a political stunt. Everything is political in the sense that political parties have policy agendas, but as far as I was concerned this was a very live policy issue that Mr Tanner repeatedly refused to rule out. It does not help Telstra; it does not help the government; it does not help anyone. Here you have the prospect being dangled in front of your eyes for the last nine months, and probably another nine months, where, come a change of government, you could get an almighty upheaval. Two million shareholders would not have been very grateful. Telstra were estimating that prices probably would have gone up eight per cent or more. There are a whole host of problems associated with it. We thought it was necessary to clear the air. And boy did we clear the air. Here he has thrown in the towel and it is off the agenda. The tragedy is that it did not happen earlier.

Senator CONROY—Did Telstra put in a submission?

Mr Scales—Yes, we did.

Senator CONROY—How many pages?

Mr Scales—Going from memory, about 80 pages.

Senator CONROY—How many people worked on that?

Mr Scales—It is difficult, as I think I mentioned earlier, to give any view of a precise number, but there would have been from time to time—

Senator CONROY—Were you working on it?

Mr Scales—Yes, I have worked on it.

Senator MACKAY—You said 30 earlier.

Senator CONROY—You were oversighting it?

Mr Scales—Yes, in general.

Senator MACKAY—How many hours did it take—

Senator Alston—Telstra took it very seriously, as did a lot of other people, all because Mr Tanner pretended it was serious.

Mr Scales—As you know, it would be hard to give an exact answer to that. I think I mentioned earlier—

Senator CONROY—Did you have Christmas Day off?

Senator MACKAY—We feel sorry for you.

Mr Scales—No, it certainly was not like that, but I think I mentioned earlier that from time to time we would have had anything up to 30 people or so that would have made a contribution to that submission.

Senator CONROY—You would agree, though, that that is a substantial number of people to be working on a submission.

Senator Alston—Scandalous, just scandalous.

Senator CONROY—A scandal?

Senator Alston—That Mr Tanner allowed himself to—

Senator CONROY—You should apologise to Mr Scales. He is your only—

Senator Alston—I feel very sorry for all these people who were misled into thinking that this was a live issue when clearly it was not.

Senator CONROY—The government had the numbers; the government created this; the government set it up.

Senator Alston—Because it was a live policy issue.

Senator CONROY—You are right; it is a scandal.

Senator Alston—We are in the business of live policy issues, aren't we? Why do you have parliamentary committees?

Senator CONROY—We do not know. You apparently cancelled it, so we are never going to know.

Senator MACKAY—Why don't you get the House of Representatives committee to do an inquiry into the sale of Telstra then?

Senator Alston—Are these stunts—all these Senate committees you established? You would claim, would you not, that they are looking at live policy issues. Once it ceases to be a live policy issue, you do not need a committee hearing.

Senator CONROY—You have wasted the opportunity to apologise to Mr Scales and the 30-odd staff at Telstra who—

Senator Alston—I think they very much understand the position, and so does the rest of the industry.

Senator CONROY—I am sure you have told them to understand it.

Senator Alston—They will be very loath to take anything Mr Tanner says at face value again.

Senator CONROY—I have finished my questions, but I think Senator Lundy may have a few questions.

Senator Alston—Anyway, good luck in the next reshuffle.

Senator LUNDY—I would like to go back to an issue that was touched on with the minister earlier, to follow up with questions about pair gains. I note the lateness but also the fact that we got some information from Telstra about the different types of pair gains through the exchanges around the country. Probably the most efficient way to handle it is just to acknowledge the receipt of a very large document in response to question on notice No. 28, which lists quite a number of different types of pair gain system—in fact, some 15 different types of pair gain system—which have different attributes about what they can achieve. I think there is another document which describes those attributes. I would like to ask a few questions about some of the types of pair gains. In particular, the ANT1 pair gain is the one I would like to go to. I understand that the ANT1s have been identified as necessary for replacement, and Telstra has offered customers on ANT1 a replacement copper line that will allow them to get an ADSL service. Could you provide me with an update as to how you are approaching customers with the ANT1 pair gain, and in doing so describe the attributes of that type of technology for those customers.

Mr Scales—I will ask Anthony Rix and Don Pinel to share these issues. We deliberately tried to make sure that we had them here today, because we half anticipated you might ask a few questions around pair gains. Both Don and Anthony will be able to cover a lot of those issues for you.

Mr Pinel—You are right; there are a lot of pair gain systems in our network, and the ANT1 is one that is to be progressively replaced over time. You will recall that in the \$187 million program, the RNT program, there was \$35 million allocated to do with the replacement of pair gain systems that are inappropriate. We are addressing this withdrawal under that allocation of funding. It will take time; it is not going—

Senator LUNDY—Is that the whole of that \$35 million for the ANT1?

Mr Pinel—No, it is not. It is depending on customer need. As you know, the program is managed by the 28 general managers within Country Wide. They identify within their specific geographic area the priorities for spending that money. The program is in effect 28 programs. We will be spending money across the country under that umbrella, some of which will go to replace the ANT1s.

Senator LUNDY—What is the motivation for rectifying or replacing the ANT, which I understand—so that we are not using acronyms all morning—is an analog network terminating unit. It also essentially provides an ISDN line that is split into two channels, allowing a voice and a data analog line. It is not like a normal pair gain. Rather, you can get reasonable dial-up speeds through an ANT1, but it still prevents customers from getting ADSL.

Mr Pinel—That is correct.

Senator LUNDY—I just wanted to clarify that. Can you tell me the motivation for what appears to be a reasonably significant investment in their replacement?

Mr Pinel—As I say, it is not only ANT1s that that money is being targeted at. There is a desire to target areas in the network that are inhibiting access to advanced technologies. This is one of a number of areas where we will spend that money. It does not stand out on its own. It is older technology and it has aspects to it that we would like to see progressively removed from the network.

Mr Scales—In a general sense, the motivation here is to make sure that we are continually upgrading the network, as Don has suggested. As we find that any of these bits of technology are either ageing or not any longer relevant, we will phase them out and replace them with other technologies. But it is also based very much around making sure that we do try to understand the needs of our customers and put in the appropriate technology to accommodate them. In the broader sense, this is an ongoing debate and discussion within the company where we try and make sure that not only do we phase out old technology but also we try and understand our customers' needs.

Senator LUNDY—With that \$35 million, are you able to notionally allocate how much of it will be spent on replacing the ANT1s?

Mr Pinel—I do not have that breakdown. As I say, it is really the subject of about 28 separate programs around the country. We could aggregate it fairly quickly, but I do not have that level of breakdown available on a daily basis.

Senator LUNDY—What are the other items of expenditure that the replacement of ANT1s is competing with out of that \$35 million?

Mr Pinel—It is competing with a range of things that are designed to remove blockers from the network and allow products such as ADSL to be more widely available and also to increase the reliability of the network where current technology may be either obsolete or more difficult to maintain. So it is a range of issues. It will depend on the particular circumstances. It is a local program identifying the best use of funds to improve the network generally across Australia.

Senator LUNDY—Has the definition, under the ACCC, of 'simple and complex services' changed recently in relation to ANT1s?

Mr Pinel—I am not sure about that.

Mr Scales—Let me check with Paul Paterson and see whether he is aware of that. We do not know that. I do not think it was changed with regard to that particular technology. Part of the reason for it is that, in the general debates and discussions we have with the ACCC, they try not to be technology specific. They are more focused on what are the outcomes from a particular use of technology to ensure that what we promise our customers under the broad consumer protection responsibilities meet those customer requirements. So it would be quite rare, in fact, for the ACCC to enter into a discussion with us about a particular technology. If it does happen, it is almost for their interest rather than any particular statutory responsibility which they hold in that regard.

Senator LUNDY—Can you describe the circumstances in which an ANT1 would be installed for a customer?

Mr Pinel—Where it would be installed now, or historically?

Senator LUNDY—Perhaps historically. I understand that an ANT1 service is usually installed where there are no other copper pairs available. So could you just step me through the technology itself and why you would use an ANT1 service when there is no copper—that is, is it to save installing more copper?

Mr Pinel—That is the prime reason, yes.

Senator LUNDY—Right. Is there a particular demographic or geographic description that would make that more obvious, or is it metropolitan, regional and rural?

Mr Pinel—I do not know the distribution of them, metropolitan versus country—unless Mr Rix has something on that.

Mr Rix—No.

Mr Pinel—No, I cannot. It is one of a suite of solutions that we have used historically over time. It is just one of a range of pair gain systems. And, yes, it is used to provide an additional channel.

Senator LUNDY—In terms of requests for second lines, were ANT1 services used to service that demand, in particular?

Mr Pinel—That is my understanding, yes.

Senator LUNDY—Did you ever offer half price second phone line type deals in association with the use of ANT1s?

Mr Pinel—In terms of all pair gain systems, they provide a service that is charged at the standard rate.

Mr Rix—At certain times we have had promotions for half price second lines. They have not been specific to any type of technology. They have been a general promotion. In providing that at times there have been types of technology which you are alluding to—ANT1s have been used to provide that second line.

Senator LUNDY—What if customers want a different type of service? How do they get out of, for want of a better phrase, an ANT1 style service and get a copper line? What are the commercial options facing customers who are currently on an ANT1?

Mr Pinel—The first thing is for them to express their need for that, and it may be that they are looking to access a technology that is not supported by an ANT1. That then is assessed by our sales front of house as to what the correct product is that they need and they work with the customer to identify that. Depending on the outcome of that particular dialogue, a decision will be taken about whether or not it needs to be removed.

Mr Scales—I think Darian Stirzaker would be able to add something to this because he comes at it from the customer perspective. As we were saying earlier, what we are trying to do with all of these technologies is to understand what the customers' needs are and get the appropriate technological fix for those particular needs.

Mr Stirzaker—As I think we have mentioned at previous Senate estimates, we have changed the scripting at our front of house so that what we do is ask people what they want to use the service for. We are specifically mindful of their use of the Internet or their desire to get access to high-speed Internet as distinct from pure voice requirements. That information flows through the system into the provisioning mechanism and they will then make a decision as to how they can best provision the system, including doing all of the service qualification checks if they in fact want ADSL. So all of those processes are being put in place.

If they want it purely for voice services, irrespective of metro or regional areas, an ANT1—like another pair gain system—may be an appropriate solution. I personally have had an ANT1. It is a very good dual voice system and that system provides good data throughput for normal dial-up speeds.

Senator LUNDY—What are the commercial options for customers wanting to change the style of service because—let us use the obvious example—they would like ADSL? What happens then?

Mr Stirzaker—We are currently in the process of working through and refining the process whereby, if someone wants ADSL and they firmly require ADSL and they meet the service qualification—

Senator LUNDY—That is, they are close enough to the exchange and those sorts of things.

Mr Stirzaker—Distance et cetera. If they meet that and giving them ADSL does not involve massive network upgrades—that is, having to haul in a whole lot of extra copper—then, as the policy is finalised, we will be looking to remove the ANT1s and provide an ADSL service. It also includes ISDN because that conversion is quite easy.

Senator LUNDY—They can go from an ANT1 to an ISDN home?

Mr Stirzaker—Yes.

Senator LUNDY—How much does that cost?

Mr Stirzaker—They would currently be using and be charged for two normal voice lines under one of the HomeLine options. They would undoubtedly cancel one of those lines because it is effectively an additional line. Whatever the ISDN home rate is, it is about the same as having a HomeLine Plus or a HomeLine Complete service.

Senator LUNDY—On that upgrade from an ANT1 to ISDN, where does the technology change happen? The physical infrastructure does not change; it is just in the exchange, isn't it?

Mr Stirzaker—At the risk of you talking to a sales type person, there are two points: one is—

Senator LUNDY—Back to the techies.

Mr Stirzaker—One point is in the house, because it is a different terminating device—

Senator LUNDY—Yes, they have to get a different modem.

Mr Stirzaker—and the other one is back into the exchange.

Senator LUNDY—But the bit between the house and the exchange does not change.

Mr Stirzaker—No, the bit between the exchange and the home should be okay.

Senator LUNDY—To go from an ANT1 to an ISDN home package, my understanding is that, because an ANT1 is effectively a split channel ISDN line anyway, the customer is really dropping paying for one of those lines and buying a full ISDN service, which is the 'always on' style service.

Mr Pinel—That is generally the case. The pricing is a little more complex than that, but I would have to go and get the details.

Senator LUNDY—So they need a new modem to make that—

Mr Pinel—They would need a new terminating unit. It is a digital terminating unit; an ISDN termination.

Senator LUNDY—What happens in the exchange?

Mr Pinel—It is the same thing; it goes on to an ISDN port rather than the PSTN port.

Senator LUNDY—So you take it out of that plug and put it into that plug, so to speak?

Mr Stirzaker—All the infrastructure is there because of the characteristics of the technology. I am not a technologist, but there is likely to be slight changes in the technology in the exchange to facilitate the full features of ISDN. An ANT1 is ISDN in part but analog into the home.

Mr Pinel—A lot goes on behind the scenes in terms of changing record systems and billing records et cetera.

Senator LUNDY—So is that how you justify the conversion from an ANTI to an ISDN at being \$190.30?

Mr Pinel—The justification for the price is made in marketing. There is an amount of work that goes on that includes the things you are talking about: there is the house visit to replace the equipment at the house or the premises; there is work at the telephone exchange; and there is work behind the scenes in our various systems, recording the changes.

Senator LUNDY—So it is potentially going to cost customers quite a bit to make that conversion?

Mr Pinel—I suppose it depends on the value they put on the end result.

Senator LUNDY—Indeed. What value broadband? Well, not even broadband, although I think the minister defines ISDN as first generation broadband.

Senator Alston—I suppose so. Dial-up is really first generation.

Senator LUNDY—Of broadband? Draw the line somewhere, Minister.

Senator Alston—Anything beyond dial-up modem.

Senator LUNDY—It is beyond dial-up. Going back to this whole issue of availability of ISDN in the actual exchanges, my understanding is that, if a customer on an ANTI line requested the ISDN conversion, that still is dependent upon the availability of ISDN ports—I do not know whether that is the correct term—within that particular exchange anyway.

Mr Pinel—That would be correct. ISDN is generally widely available through the network and it would be relatively unusual that it is not able to be provided with the existing infrastructure.

Mr Stirzaker—Just to add to that, we are obligated to provide ISDN, as was mentioned earlier on. We may need to provision, in terms of the ports and the exchange, the specific final bits that actually provision it, but the exchanges are capable of providing it, notwithstanding distances and all the other stuff that goes with ISDN. There may be some delay in doing that but invariably we should be able to do that.

Senator LUNDY—Can you tell me whether ANTI's were ever installed even where copper pairs were available and, if so, why?

Mr Pinel—I cannot give you a categorical answer on that, but it is possible. I certainly would not rule it out, but I do not know for a fact that that was the case.

Senator LUNDY—Could you take that on notice?

Mr Pinel—I am wondering how we can dredge it up, Senator. We will certainly take it on notice and see if the information is available.

Senator LUNDY—Going again to the point of your decision-making, how do you prioritise upgrades? Is it purely based on customer request and is the request for an upgrade from an ANTI to the ISDN service coming out of the \$35 million used to generally upgrade the network?

Mr Pinel—Generally, the ANTI's will be linked to a specific customer demand, although generally we would also like to see them reduced in the network because of the nature of their blocking. Most of the replacements will come through the front of house on individual

customer requests. There are a couple of aspects on where that will be funded. Some have to be picked up out of the \$35 million. Some will be done as normal business.

Senator LUNDY—It is fairly difficult, and I am conscious of the conversation held before between Mr Scales and Senator Mackay, leaving you with questions on notice. I will try to be specific. I would like to know how Telstra is going to organise their response to ANT1s. Putting aside the responding to customers issue, what strategy do you have in place for the general replacement of ANT1s, if any? What are your priority areas for targeting those ANT1s for replacement? So that is separate to the customer driven complaint/demand 'I want to upgrade my line' kind of approach. I am happy for you to take that on notice.

Mr Pinel—I think I will, rather than waffle and perhaps take up time. I am happy to take that on notice and get back to you.

Senator LUNDY—Thank you. On the document provided to me which lists every exchange, the exchanges themselves—I will use one in Canberra as a good example—list a whole series of different types of pair gain technology in a given exchange. Obviously, most of the exchanges in this document have many different types of pair gains. Can you provide me with a general description as to how you determine what types of pair gains are installed in what exchange? I presume part of that is a question of historical build-up of new systems coming online and then being installed, but how do you determine those proportions and ratios of the different types of technology in exchanges?

Mr Pinel—They have been progressively put into the network over a lot of years. Generally, there will be one type of pair gain system that is favoured at any point in time, so you will see those go in to meet customer demand through that period, which might be 12 months. If a later generation or something new comes out and the economics and performance of it are better, it then becomes the preferred technology for providing additional services. Over time you get this proliferation of different technologies in the network. It is unintended, but that is how it evolves. That would be generally the case throughout the network.

Mr Scales—It is also not independent of the way in which the company has been structured over time, and it is one of the reasons why the most recent reorganisation was put in place—to try to make sure that there is a generality of the decision-making process within the company which is customer driven. As the company has evolved over time it has been driven by different imperatives. At various points in its life it has been driven by technological imperatives. Those technological imperatives may not have been as aligned as we would have liked to customer imperatives. What you begin to see over time is that things like investment in exchanges and the extent to which an investment in an exchange is truly aligned with a customer will change depending on the way in which the organisation itself changes. All of these things will vary and, as I say, one of the reasons that we made the recent organisational change was to try and get a greater degree of linking between some of these decisions and the needs of customers in a particular area.

Senator LUNDY—Just on those general questions, it seems to me that the ongoing and extensive use of pair gains, particularly in the pre data period, has left the network in a state where fewer exchanges were being built and the network was being pushed out through extension mechanisms, for want of a better word, like RIMs, pair gains, obviously, and so forth. What is Telstra's thinking with regard to that general strategy, given the roadblocks on broadband that that type of approach has now led to? In particular, what is your strategy now for making the appropriate investment in more exchanges which take the fatter pipes and the higher bandwidth closer to not just your customers but to everyone, given interconnection and

the fact that any competitor needs your backbone in the local loop to be able to access those customers?

Mr Scales—I will ask Don to maybe give a more specific response to that. But, first of all, I think what you are seeing in the information that has been provided to you is the complexity of the network.

Senator LUNDY—It certainly paints a very clear picture of that complexity.

Mr Scales—In a way that might be helpful because, from where we see it, the future is likely to get no less complex. As the demands of individual customers change, along with our understanding of what the requirements of the community might be at any particular point in time, there will be changes in that level of complexity. What is going on all the time within the company is understanding what the future might look like, what the demand for particular products might be and what the technology to accommodate that might be.

Mr Pinel—It is always a difficult question when you are putting plant into the network that has an extended life and you cannot see what products and technologies are coming down the pipeline in five or 10 years time. At the moment our philosophy is based on rolling out CMUX technology, which I think you would be familiar with from previous meetings, and using that as the general technology to extend the network using nonblocking technology. It meets the product needs and customer needs that we can foresee at this stage, so our focus is very much on going down that path.

Senator LUNDY—From memory, Telstra are banking on an anticipated demand for ADSL style broadband services of about 25 per cent in a given market. My understanding is that that is the effective capacity of the availability of ADSL in exchanges that are enabled anyway. What I am hearing is that Telstra very much make all of those decisions about their investments purely on demand as they assess it. Is that the case?

Mr Pinel—Certainly the projections on demand are part of the input, but there are also aspects about the general nature of the network, its supportability, its maintenance costs and a whole host of other aspects that go into it too.

Senator LUNDY—On that issue of demand, we are at a point where there is a bottleneck out there with regard to broadband—and, as you know, I get to hear from all of the frustrated customers. There is a sense that the investment has not been made in the network for the future. I have certainly expressed that view. What confidence can Telstra customers—and telecommunications users more generally, because other carriers rely on access to your network to get to those customers—have that you are going to get those projections about future demand right and that we will not be proceeding into a period of constant frustration in which Telstra is responding to a demand that, because of how rapidly it is growing, is never actually met? To me, that looks like Telstra putting the brakes on growth, because you respond post the demand being made. It is really a question of why you are letting yourselves be so demand driven and what you are doing to anticipate those needs far more in advance.

Mr Pinel—In fact, a very large percentage of the Australian population has access to ADSL. I think about 7.3 million people live in areas where they can get ADSL if they want it.

Senator LUNDY—Correct me if I am wrong but, if 7.3 million people wanted ADSL tomorrow, only 25 per cent of them could get it—right?

Mr Pinel—No, it is not equipped to that extent. But at the moment the footprint that is covered by the ADSL installation covers about 7.3 million services.

Senator LUNDY—But 7.3 million people could not get it all at once, could they?

Mr Pinel—And the thing is that 7.3 million people do not want it.

Senator LUNDY—That is not my question. I am saying that 7.3 million people could not get it all at once if they wanted it.

Mr Pinel—No, they could not.

Senator LUNDY—So don't you think it is a little misleading to use that figure?

Mr Pinel—No, I do not. The question comes back to the real demand for ADSL, and that gets into all the debates about applications and other uses for it. Yes, there are parts of our network where people are very frustrated because they cannot get ADSL, and we are working with some vigour to be able to address that; but there is still a large percentage of the Australian population that could apply for ADSL if they wanted it.

Mr Stirzaker—There is a whole combination of dynamics at work here. One is, as Don was saying: what is the true demand of customers in any particular area? I am sure we will have areas where we are oversupplied with DSL and do not have enough people who want to get it. We are very much in the business of selling as much of this as possible, as is the wholesale part of our business. Last time we were here we talked about the broadband demand register, which sits independently of all of us. It is in the process of being completed, but we are taking that demand now.

We are in the early part of the life cycle of this product in relative terms, particularly relative to the rest of the world, and there is some learning we all have to go through in terms of getting those demand forecasts right. But equally I do not think it is appropriate that we build the entire country to be ADSL capable—that we switch it on tomorrow—on the off-chance that maybe someone will use it. So there is a balance, there is a learning curve and there is a dynamic of old infrastructure we have to deal with. At the end of the day, the ADSL numbers are growing, and we are very sensitive to the frustrations of a lot of our customers.

Mr Rix—Senator, you asked the question: is it purely demand driven? No, it is not. Our investment is often looking at world's best practice. Things we have done in the past are certainly examples of that. We are moving towards packet switching, for example, as part of our exchange technology—moving away from single switches. We are looking at other carriers worldwide and at the types of technology they are using. We have certainly invested heavily in things like optical fibre cables as replacements for our cables. It is very much getting the balance right between using the capability of the current network—a network that has served us very well over a long period of time—and moving towards the future. The future is, obviously—and we are certainly advocates of this—the DSL and, in particular, the ADSL product at the moment.

Senator LUNDY—I refer to a comment made by Telstra in the Australian telecommunications network inquiry. This is a quote from page 52:

In particular, Telstra has ceased ordering non-ADSL compatible PGS—

Pair gain systems—

and has been working with its partner, Alcatel, to develop and deploy a new ADSL-compatible technology solution for areas of substantial high growth.

Can you tell the committee today whether you are still installing any non-ADSL compatible pair gains systems or exchange technologies?

Mr Pinel—We have stocks of pair gains systems that we still draw on from time to time for maintenance purposes.

Senator LUNDY—So if something breaks you replace it?

Mr Pinel—Yes.

Senator LUNDY—What about in new exchanges and new RIMs?

Mr Pinel—The technology that we are working with is the CMUX technology. That is the new technology we are sourcing now and introducing. At this stage we do not have the capability of deploying that in all circumstances. As you would be aware, we are trialling some smaller CMUX equipment at the moment. So, in circumstances where we do not have the ability to deploy CMUX, we will use other technology, including pair gain systems, if that is necessary to meet customer demand.

Senator LUNDY—I go to the issue of those trials. I know that you have identified Gungahlin here in Canberra as an area for trial. Can you tell me whether pilots similar to that still come under the auspices of the ACCC's guidelines to provide access to competing carriers so that alternative carriers, through that trial period, have the opportunity to provide ADSL services?

Mr Pinel—It is my understanding—and I will ask a colleague about the ACCC's position on it—that we are moving to a point now, after the very early stages of the trial, that will include wholesale customers in the next stage. But in terms of the actual legalities of where the ACCC sits on it, I defer to my colleague.

Dr Paterson—The ACCC has certainly taken an interest in this issue, as you would be aware. There is no specific regulation around access by wholesale customers. It is not a declared service, mandating provision to other service providers. Nonetheless, we have been very active in the market in providing ADSL to wholesale customers to drive broadband take-up overall. I do not know the specifics of whether others are involved in the trials and would need to take that on notice, but there is no specific ACCC mandate to do that.

Mr Scales—In addition to the points my colleagues have made, we would be a little concerned about involving wholesale customers too early in the process because we would want to make sure that the product would meet their requirements. As you are aware, this particular trial is at a fairly early stage and, while it is looking very promising, it still has a little way to go. I think it is more likely that we would want to involve them in the next phase of the trial rather than do it too early and perhaps provide them with something that was not as robust from a service perspective as we might like.

Senator LUNDY—I remember a quite humorous exchange with Mr Paratz last time round, when I tried to get a number from him with regard to how many ports would be available in the DSLAM or the minimux inside the RIMs. He was unable to provide an answer. I think I took a guess. I presumed that he was so unforthcoming because of some commercial sensitivity, and I do not know whether that has changed.

Mr Scales—No, I do not think that was the reason. I think it was more about him trying to do the mental arithmetic of the size of a particular box and how many of a particular size of a piece of equipment you could fit inside any one particular box.

Senator LUNDY—Are you able to provide a more specific answer?

Mr Pinel—In terms of Gungahlin at this stage, in the trial phase there are four RIMs, each of which has been equipped with 48 ports. That is where we are at right now.

Senator LUNDY—So there are 12 in each one?

Mr Pinel—There are 48 in each one.

Senator LUNDY—So there are 48 in each RIM but 12 in each group?

Mr Pinel—There are four RIMs, with 48 ports in each.

Mr Stirzaker—There is plenty of capacity there at the moment.

Senator LUNDY—So there are 48 ports in each RIM?

Mr Pinel—Yes.

Senator LUNDY—If all of those are taken up by Telstra customers during the trial, what happens next?

Mr Pinel—The trial, by nature, will be restricted to a smaller group so that we can control it. At some stage through the trial, as Bill has alluded to, we will test our wholesale processes as well. Once again, there is a lot of back of house stuff that goes on there in terms of systems and the demand register et cetera to make sure that everything is working. That is the way we progress before we get to a general release and make it available broadly to the community.

Senator LUNDY—Just on that general release, there are lots of other pockets here in Canberra, as there are around Australia, that have RIMs and have an equally vocal group of residents who would dearly like to access a broadband service, whether it is through you or one of the resellers. What can you say to them? This is your opportunity. When are you likely to get there? How long is the pilot going to go for? Do you have a map yet?

Mr Pinel—I understand an extension of the pilot is to Townsville, Queensland, which is my home territory, and other places.

Senator LUNDY—They are particularly vocal up there too.

Mr Pinel—They are indeed.

Senator LUNDY—And deserving.

Mr Pinel—I think it is too early in the trial to say anything about the expectation in terms of a general release. I would be surprised if we get to a position of having it available this side of the end of June, so it will take some time to work through the issues.

Mr Stirzaker—Senator Lundy, perhaps I could also point out the importance of the broadband demand register. It is a vehicle by which customers can express a sincere and firm interest in ADSL or broadband. For example, in Gungahlin—which is proving to be a very good place to trial it—about 50 people, from memory, have expressed firm interest in ADSL. We have probably four times the capacity. The more people express their interest in a committed sense through that demand register, the more it allows us to improve the forecasting method, improve the provisioning and deal with that frustration as quickly as possible. So it is a very important part of understanding what that true demand picture really is.

Senator LUNDY—Just for the sake of the completeness of this discussion, how do people register on that broadband demand register?

Mr Stirzaker—There is a systems development in terms of having a demand register which is independent of both the retail and wholesale units. At the moment they are using the normal registration process online through the broadband online ordering system or service qual or that sort of thing, and we pick it up from there—at the moment in many ways fairly manually. But we have to put the independence in place to ensure that the wholesale customers have equal access along the lines that we have been discussing.

Senator LUNDY—Could you take on notice providing the committee with any detail you have about the program or the schedule for the pilot and the proposed rollouts after that? If it is a matter of, ‘We’ll look at the broadband register and see what that says,’ could you respond to me formally in that regard?

Mr Pinel—Are you talking specifically about the MiniMux product?

Senator LUNDY—Yes, the issue of RIMs quite specifically.

Mr Pinel—Yes.

Senator LUNDY—Mr Stirzaker, I think it was you who mentioned the way the front end of the business is now relating to customers or asking them for their specific requirements. Is there any way in which a customer who wanted a data service—and perhaps specifically an ADSL service—could make that request and have Telstra accidentally provision them with a pair gain that would prevent that happening? Have you got a system to rule out that eventuality yet?

Mr Stirzaker—This is a big company and a 100 per cent guarantee is not something I think we can ever truly undertake, much as we would love to. Would there be possibilities? Yes. Are we working through some of the Six Sigma and other process re-engineering methodologies right now to militate against that? The short answer is yes. At the moment we are almost case managing many of these requests that fall into the domain where we are simply not totally sure that something can flow through, and we are doing that through the two organisations that have clearly been set up for that purpose that Mr Scales referred to before. So there is work in progress that certainly has major impact on the field part of the business for the purposes of being able to provide it not just for the retailing unit, which is what I represent, but also for the wholesale part of the business. A lot of work has to be done.

Mr Scales—Senator, if I understood your question correctly, the other way to address it is to say that, if we put in the incorrect technology, the customer would not get what they wanted. What we are trying to do with the most recent reorganisation is to ensure that we get very clear feedback from the customer about lack of performance in the system. So, while I think the point that Darian made is clearly right, we would expect that to come through in terms of the customer saying, ‘It’s not working as I would like it,’ and that would be corrected. That is the loop we are trying to make sure we put in place.

Mr Stirzaker—ADSL is very black and white. If that is what you are after, you either get it or you do not get it, so the process has to work. We would know about that extremely quickly.

Senator LUNDY—We talked earlier about \$35 million to look at pair gains. My understanding is that there is also another \$10 million, which we discussed last time, that Telstra announced in relation to a broadband plan. I have received the breakdown for the expenditure of that \$10 million package. It seems to me that, by and large, it is also being spent on resolving the pair gain issue. To quote the answers you provided me with, there is \$2 million for a RIM replacement device and pilot of the minimux, \$3 million for the upgrade of an additional 100 exchanges to be ADSL enabled—which is probably not directly related to pair gains—\$1 million for transferring customers to alternative copper pathways, \$1 million for new high-speed ISDN services, \$2.5 million for ADSL held orders process and small network upgrades to get around blocking, and \$500,000 for a new demand register to track variations in demand, which I presume is what Mr Stirzaker is talking about. To me, that does not exactly come together as a comprehensive broadband strategy. It is more along the lines of removing current blockages, which is better than nothing, but that is fixing existing problems

rather than being a strategy for the future, which was certainly the way that package was promoted by the company.

Mr Pinel—In context, I think that package undertakes to equip a further 100 exchanges with ADSL capability against the current prior installed base of 800. It is a significant increasing of the footprint for ADSL for broadband services to be available. To that extent, I would see it as a very positive move to improve broadband availability around the network. There are some other aspects to it. For example, Darian referred to the broadband register, which is an integral part of managing broadband availability. A million dollars of the \$10 million is for taking customers off blocking technology. That is to some extent related to pair gain systems, but it is all aimed at broadening the availability of broadband throughout the country.

Mr Stirzaker—A couple of Senate estimates prior to that announcement, we had had a lot of discussion—and we still are, obviously—about pair gains and the like. I think the importance of that press release which was a day before the last Senate estimates, from memory, also meant that the policies and methodologies were being implemented to be used in going forward. As much as there may be an investment right now, it will come back to the whole demand question yet again. We are at least putting in place those vehicles that can be used to accommodate growth where we need to remove a pair gain system in part of that investment. That is what it dealt with.

Mr Scales—Senator, I hope I did not misunderstand your question, but the \$10 million was not meant to represent our broadband strategy, because our broadband strategy is multifaceted. It relates to the way in which we think about technologies like the ones you have spoken about, but it also includes other forms of technology.

Senator LUNDY—I appreciate that. I have a question now about ADSL zoning. I have had a query raised with me about Telstra's approach and their charging, and I am not sure whether it is in the wholesale or retail sense. I think you offer users within 165 kilometres of the CBD monthly access for \$19.99. Can you clarify that the wholesale pricing—

Mr Scales—No, I cannot. I would need to—

Senator LUNDY—Perhaps I should ask it in a more general sense. What zoning restrictions are there on the provision of ADSL services?

Dr Paterson—Perhaps I could respond to the wholesale side in general terms. Unfortunately, I do not have the specific details, but certainly for wholesale ADSL there is a zoning element of charges.

Senator LUNDY—Are we talking about wholesale?

Dr Paterson—I expect so, although the \$19.99 figure does not ring a bell. That seems to be too low.

Senator LUNDY—It does not sound accurate, does it?

Dr Paterson—No.

Senator LUNDY—Okay. So there is zoning for wholesale ADSL.

Dr Paterson—Wholesale charges, yes. There is a slight increase the further out you are, although it is not much of an increase.

Senator LUNDY—From the CBD or from a particular technology—

Dr Paterson—In each state I think it is from the capital city, because that is the way the network is configured.

Senator LUNDY—So with this issue I am raising, users who are more than 165 kilometres from Sydney would be charged more under your wholesale program for ADSL?

Dr Paterson—Yes.

Senator LUNDY—Therefore my question is: for those customers in Queanbeyan—who are, of course, in New South Wales and more than 165 kilometres from the CBD of Sydney but about 10 kilometres from the CBD of Canberra—my understanding is that you charge the wholesale rate zoned from the CBD of Sydney. Can you tell me why, given you are effectively exploiting state boundaries and state definitions under your zoning policy, you are charging resellers—who are purchasing ADSL wholesale—more?

Dr Paterson—The charging structure for the wholesale service reflects the network configuration and how we actually provide the service, and the central hub that exists in the capital cities—

Senator LUNDY—Are you sure about that?

Dr Paterson—That is certainly my understanding.

Senator LUNDY—Even for a reseller of DSL services based in Queanbeyan, you would use your CBD Sydney infrastructure to channel the data, not the ACT's?

Mr Pinel—There would be local infrastructure, but there is backhaul with transmission capacity required to then bring that back to the central port. So there are two elements to it, as I understand it—and I am not an expert on wholesale charging, but certainly the cost of transmission is an element of it.

Senator LUNDY—Could you, on notice, provide a detailed explanation on Telstra's policy on the wholesale charging of ADSL in relation to zoning?

Mr Pinel—That is probably the best way to deal with it, yes.

Senator LUNDY—Thank you.

Mr Pinel—I think though, as a general point, when we put ADSL out to areas outside the capital cities, the business case even for us involves a cost of transmission back. That is at a technical level. It is not just a matter of going to an exchange and putting in an ADSL port. It has to be connected back into the network.

Mr Scales—Senator, while we will do our very best to provide you with that information, we have so many wholesale customers that almost every one of our wholesale customers will have a different contract with us for a range of reasons. Our wholesale pricing is not like how you would think about it in a retail sense. It very much tends to be based around a range of issues to do with our relationship with that particular customer. My reason for raising it is that we may inadvertently disappoint you when we come back with that answer, because we may not be able to give you the sort of specificity which I suspect was inherent in your question, because of the complexity and the number of wholesalers which we deal with on a regular basis.

Senator LUNDY—Can you provide me with an answer in relation to all of the wholesalers who are reselling DSL services in Queanbeyan, New South Wales?

Mr Scales—But that raises the same question. We deal with a range of ISPs. Even those that are not in that particular area may have a desire to be in that area. If we start disclosing publicly what some of those arrangements will be, we will clearly give some people an advantage over another. We will look at it; I am not suggesting we will not. I just do not want to give you the impression that we will be able to perfectly satisfy your requirements. I would

think that, when we look at it, we will come to the view that most of those arrangements are different, they are entered into with different companies for different reasons, they may even have different credit arrangements associated with them, because of—

Senator LUNDY—The central point does not rely on your disclosing the details in relation to any given company. The essential point here is: do you discriminate on the basis of what you charge wholesale customers on state boundaries? If what Mr Pinel says is true then it is based on traffic back to the CBD, some notional cost—that it costs you money to put this data along those backbones. You are implying that you have this great subsidisation of the services that you provide customers of Telstra just because they live within the boundaries of the ACT. It does not make sense and it goes to the heart of other problems people have raised with Telstra about the arbitrary nature of some of your zoning policies.

Mr Scales—That is a helpful clarification and it gives us the ability to understand how we should respond it without necessarily undermining the commercial relationship we have with a whole bunch of other people.

Senator LUNDY—You know my view about that, anyway. That you should be as forthcoming as necessary is as much as we ask. I need to move on, so I will leave that issue with you. It has certainly been the subject of some complaint that has been raised with me and I would like to get to the bottom of it. I am very conscious of time and I only have until 1 o'clock; I will place some further questions about the SCADS technology on notice.

I would like to ask a couple of questions about Telstra and faults that have been occurring with the ADSL service. Some pretty awesome statistics about the level of faults have been given to me anecdotally, so I would like you to provide details to this committee about the number of ADSL faults Telstra is aware of to each of your DSL resellers, from 1 January this year.

Mr Scales—Obviously, we need to take that on notice.

Senator LUNDY—Please take that on notice and make sure you try to get it back within the time. DSL is so new that I would not expect you to have any legacy system that would make it difficult for you to collate that data. So no delays, thanks.

Mr Rix—We could have subsystems that we are still using—obviously, some of the legacy systems for accounting—but we will do it as quickly as we can. The quarterly report for the Internet assistance program may be of some benefit with reference material. We could pass that on as well, Senator.

Senator LUNDY—Thank you. I would like to ask about pair gains. You have provided some information to the committee but if someone rang me and said, 'Look, I live in whatever street in whatever town,' how would I know which exchange they were linked into? I do not think I have any way of finding out apart from guessing. If someone would like to know more about what technology is in their exchange—because they are enthusiastic technologists and they want to use that to inform their decision about their own communications choices—are you able to provide that information to customers?

Mr Scales—We would want to provide that to them so that we could try to get an understanding of what their need was and then meet their need. Darian might be able to tell you the best way we could collect that information because it would be in our interest to try to address that customer's needs.

Senator LUNDY—I am sure you would be able to deal with it on a customer by customer basis because you could look up their address, their phone number and your exchange details.

I am sure you could do it all and I hope that you would. I guess my question is about broader availability of that information for the purposes of empowering consumers.

Mr Pinel—Are you talking about some maps of exchange boundaries?

Senator LUNDY—Yes, so that they could use your site to tap in their phone number and address and get the details about their exchange and, ideally, details about their own connection. Are you thinking about that sort of strategy?

Mr Rix—We have an online application for ADSL in which you can view that, at www.bigpond.com. There is information that is provided there when you apply.

Senator LUNDY—But you have to formally apply to get it, don't you?

Mr Rix—You can go in and have a look. Maybe Darian could help me. Darian, are we able to just go in and have a look at that without application?

Mr Stirzaker—No—

Senator LUNDY—I know the answer is no.

Mr Stirzaker—Another part of the challenge is that, if you come back to Gungahlin for a moment, and you pointed out the variety of devices over history, et cetera, what do they do with the information when they actually get it? There are some devices which are okay for certain things. Very shortly—whatever 'shortly' means—we will start bringing to bear devices which become ADSL capable. Therein lies part of the challenge. We can certainly have a look at it, but it is not a simple thing to do. What you are doing is trying to interrogate the entire plant record system and then interpret exactly what all the variables within it mean to an individual customer so that they will then go, 'Oh, I understand what that means'. That is not that simple.

Mr Scales—We will take on notice an investigation of that. I understand the intent of your question—that is: how do you provide greater knowledge and, as I think you have described it, empowerment for those individuals to decide what might be available?

Senator LUNDY—Without making them engage in a contract or a formal request for service.

Mr Scales—We will take it on notice. As you know, we do something not dissimilar when we try to help people to understand what might be our mobile coverage. We have maps that cover those things. I presume you are talking about something not dissimilar to that. We will take that on notice to see what can be done in that regard.

Senator LUNDY—Speaking of maps, you have just reminded me. I received in response to a question on notice a mapping exercise of current ADSL availability or ADSL enabled exchanges or future ADSL enabled exchanges. I have not got the full information in front of me, but I cannot distinguish on these maps—and I do not think it is just because of the quality of my printer; I am not sure—between planned ADSL and broadband ADSL's existing availability. So I might follow that up—not 'Here's the place', but the maps were not of sufficient quality to be able to extract the information that I was hoping to get, particularly because some of the expanded versions of the map have so little locational detail. I do not even know where they are. So I will come back to that.

Finally, I commend Telstra's efforts during the recent bushfires. The work you undertook in the middle of the crisis was phenomenal and very demanding, and many Canberra residents are very grateful for that, as are residents around the country who have also been affected. I have a series of questions I would like to put on notice about that. They are just general

questions about the work that Telstra undertook, but I wanted to place on the record the gratitude from the residents of my constituency, at least, for the work done.

Mr Scales—Thanks very much for that. We are incredibly proud of the work which was done. I do not say that in any way other than the way it is meant. As you know, our people got out there as soon as they possibly could enter a particular area. They were doing assessments right through the night, 24 hours a day. In fact, we had to encourage some of our people not to go out quite so quickly because there were safety issues we were concerned about. You would also be aware of what we tried to do with regard to the various customers and the way we put pay phones in areas, and enabled pay phones so that they could be used by people and so on. I do not want to go into the details. As you have said, it was a pretty terrific effort. Again, I think we should put on notice for the purposes of it how we were incredibly proud of the work of our people. We have told them that, as you would imagine. We have tried to convey that.

I suppose it is a bit of an advertisement for us in a way, but we are also proud of the way our people in areas other than Canberra have responded, because it is not only in Canberra that these things happen—although it was a tragic situation here. Our people have responded similarly, no matter where they have been placed. We are very proud of that.

Senator LUNDY—It has been truly excellent. My understanding, through discussions here with emergency services, is that Telstra did very well to be part of that emergency response as opposed to a subsequent service provider moving into those areas. That was probably an important part of your ability to respond. I thought that was an excellent initiative.

Mr Scales—I think what we are doing all of the time is learning from our past experience. We learned from the bushfires in New South Wales last year about how we had to be a very early part of that activity. We have changed our internal systems. We are trying to make sure that, almost from day one, our infrastructure services team are standing alongside all the emergency services, whether they be the country fire authorities, the local fire authorities or whoever—the police and so on—to let them know that we are there and available and we will work 24 hours a day if necessary to restore services. I must say that I am very proud that that has come through to you. We are also aware that we should not under any circumstances try and suggest that we are doing anything more than what the other emergency services are doing—and we are not. But at the same time we want to be there and hopefully have our people recognised for the great effort which they put in.

Senator LUNDY—Chair, I do have one final question and then that is all from me. It is an important question and it is really only one question and Telstra will respond. I understand that there have been developments with respect to the Sam Boulding affair—his tragic death.

Mr Scales—Yes.

Senator LUNDY—I was hopeful—I think we are almost near an anniversary of that event.

Mr Scales—Yes, that is correct.

Senator LUNDY—Perhaps you could provide the committee with an update as to what has occurred.

Mr Scales—As you said, it was obviously a tragic event, and we said that last time. Telstra tried to respond as quickly as it could not only to address the specific telecommunications issues which were the key to the whole thing—and you have seen what we have done there in terms of our now response to that—but in some ways, and I do not use these words lightly, even in some ways more importantly, to address the pain which was felt by the family. We have tried to be as sensitive as we can to that. We have tried to make sure that the family had access to trusted legal advice in their own community. We have worked with the solicitor in

that community that they have trusted to make sure that the arrangements which we eventually came to with the family were ones which were completely acceptable to them. They have advised us that they have no intention of wanting to necessarily make any public comment about it. Nobody clearly has gained out of this, and we have all lost in many ways. They have indicated to us that any comment that will be made will be through their solicitor. We have tried to keep in close contact with the family throughout this whole process but at the same time remain aloof from them to the extent that they wish that to be the case. Again without going into too many details, this has been a matter which we have handled at the highest levels within the company—the highest levels—to make sure that the family was provided with all of the support that they needed during this very, very difficult time for them.

Senator LUNDY—Thank you, Mr Scales.

Proceedings suspended from 1.03 p.m. to 2.04 p.m.

Senator MACKAY—I want to go to the issue of cables. It was reported in the *Australian* on 10 January that following heavy rainfall in Brisbane around 10 December telephone faults in that region trebled. Is that correct?

Mr Scales—Senator, I will ask Anthony Rix to cover that issue, if that is okay with you.

Mr Rix—I don't have information on whether it trebled or not—and I could certainly get that—but the faults did go up significantly when we did get the rainfall. But within 48 hours they were certainly back to normal levels.

Senator MACKAY—The allegations, though, to the work management centre were that they went from 500 to 1,570 within 48 hours. Is that broadly correct?

Mr Rix—That certainly would be broadly correct. It is certainly not inconsistent with the amount of rainfall that occurred at that time. I would also like to point out that the majority of faults there would have been in the distribution network at the time.

Senator MACKAY—Is trebling usual in those circumstances?

Mr Rix—A number of factors come into it: obviously, where the rain has occurred and the amount of rain that has potentially ingressed into our systems. It would be important for us to get a full breakdown of whether there were any lightning strikes, for example, on cables at that time and perhaps what the nature of the faults was. A full analysis of that would be quite important. I would suggest that trebling in a short period of time is not uncommon. We normally run at fairly low fault rates per customer base, and for them to go up when there is a lot of water around is certainly not uncommon. I think a lot of it is about our response as well and getting those customers back on the air as quickly as we possibly can.

Senator MACKAY—So have you done any quantitative analysis over the years in relation to this type of situation? You say you need to get a breakdown of the types of faults and so on. Have you made any inquiries about this situation, given it had fairly big prominence at the time?

Mr Rix—Over the years there have been a number of studies analysing ingress of water into the telecommunications network. Certainly, the two do not go together, and that creates the potential for faults. Also, things like lightning strikes at the time are certainly a problem. We have approximately 55 million cable joints around Australia in our distribution network, and if water gets into those at any time it creates a problem for us.

So, yes, there have been a number of studies. The outcomes of those were around being able to seal our distribution network adequately and making sure that, when this does occur, we have a flexible enough work force to move quickly and at the same time to get those

services remedied as quickly as possible. It really comes back to our overall strategy of targeting the areas where we have had high levels of faults in the past. I think the network reliability framework will go a long way towards assisting that and giving our customers—and I think the general public—confidence that we are moving towards maintaining the network in a targeted approach and linking all of those factors. One of those certainly is when we have had high rainfall; others will be our maintenance program, our reticulation program and our growth strategies, all linked to a targeted approach to our future capital spend.

Senator MACKAY—So, with respect to this particular situation, did Telstra make inquiries as to the trebling of faults? Did anybody talk to the work management centre and say: why has this happened?

Mr Rix—I personally could not answer that, but I would suggest that certainly the general manager of that area would have done that. I would be happy to ask that question myself to ascertain that. It may already have been done; I am just not privy to that level of information on the specific issue of Brisbane.

Senator MACKAY—So the contention is, in the broad, that this is not unusual; that historically this is not anomalous in terms of similar weather variations or patterns. Would that be a reasonable summation?

Mr Rix—Yes, I think that would be a reasonable summation. Once again, as I have mentioned, it very much depends on the level of rainfall and the number of customers in the geographic area. So, obviously, where you have a high concentration of customers and, for example, you get an ingress of water—predominantly that leads to battery or noise faults in our cable network—you are more than likely to have a lot of customers affected at the time. By the same token, we still work within the framework set by the regulatory body to meet and repair those services in an appropriate time frame.

Senator MACKAY—That is a whole other issue that we have traversed previously. So you are not aware at this stage of the specifics or the circumstances surrounding that? Are you happy to take that incident on notice?

Mr Rix—Yes, we will certainly take that on notice.

Senator MACKAY—If I were to ask you whether the trebling of faults is related to the seal the CAN initiative, you would not be able to answer that now; you would take that on notice as well, wouldn't you, in terms of this specific incident?

Mr Rix—I could not make a comment on that. The strategy of the seal the CAN issue was to stop incidents like those and to prevent lots of services being disrupted by any ingress of water into the network. The whole idea of putting a gel inside our joints was to actually stop that—and in most cases that works very well. I have mentioned before that in the past where it has not worked is if the cable were damp before we sealed them, and they are the ones that we are replacing. That is the idea why we do seal and have sealed, and that has been our overall strategy.

Senator MACKAY—I will still ask you to take that on notice as a variable. Is Telstra aware of whether plastic bags are still being used as a temporary measure to overcome leaks in the cable associated with the use of a sealant gel?

Mr Rix—We would certainly hope not. It is our policy that we do not use plastic bags within our network, and everybody is instructed about that. I certainly cannot say that that does not occur. We do have quality checks on workmanship, and that is generally done by the team leader. We also have quality accreditation with any of our contractors that work within the network, and they do quality checks as well.

Senator MACKAY—Are you aware of any? The answer is no?

Mr Rix—I am not aware of any.

Senator MACKAY—Is anyone else in Telstra aware of any incidents where plastic bags have been used?

Mr Scales—We are not aware of it. But, as you would imagine, we would have rehearsed this question before we came here because we were aware that it might come up.

Senator MACKAY—We are flattered.

Mr Scales—We take seriously your comments. One of the things that we were concerned about, even when we were discussing it amongst ourselves, was that we know that some of our people in the field will maybe do that for the best of intentions. If they are going out to do a repair and find that they then have to go back into a depot or whatever, some of them might simply wrap one of those joints in a plastic bag. So, on the one hand, we are confronted with this issue that says: give our staff an opportunity to address an issue if they believe it is going to enable them to get some time to complete the repair; on the other hand, it is certainly not one of our policies. So it is that balance. That is why we are a bit concerned about giving you a categorical no to a question like that.

Senator MACKAY—So Telstra is not formally aware of any incidences where this is happening?

Mr Scales—No.

Senator MACKAY—Mr Rix, you said that everyone is instructed in respect of this situation. What did you mean by that?

Mr Rix—I meant that it is Telstra policy not to put plastic bags in the network.

Senator MACKAY—When you say ‘everyone is instructed’, is that simply its policy? What did you mean by ‘everyone is instructed’?

Mr Rix—I would suggest that it is through the learning briefs that we put out to our staff and the way that we communicate with our staff. I cannot think of the actual communicate that we put out but it would be an update of the sort of learning brief that we have not to put plastic bags into the network.

Senator MACKAY—Is this communicate a fairly recent innovation? When did that go out?

Mr Rix—I would not say that it was recent.

Senator MACKAY—What time line are you thinking about here?

Mr Rix—I would suggest that it is something that has been ongoing over a length of time and that it is something that we continually go back and review.

Senator MACKAY—What length of time? Ten years, one year, two years, 10 days or 10 months?

Mr Rix—Certainly in the last couple of years. Obviously I would need to check that and check what communication has gone out.

Senator MACKAY—Are contractors similarly instructed via communicate?

Mr Rix—Yes.

Senator MACKAY—Over the same period?

Mr Rix—Certainly any contractor who works on behalf of Telstra in our network needs to put forward, as part of winning that tender, their quality assurance approach to our network, and the instruction there would be not to use plastic bags.

Senator MACKAY—Let us say that a technician used a plastic bag—as Mr Scales correctly said, with the absolute best will in the world. Nobody is saying that using plastic bags is anything other than an attempt to sort the problem in terms of the people on the ground. Say that were to happen, as the only option that the technician or whomever had at that point, what are they supposed to do if they are not allowed to do that and they are faced with a situation where that is the only short-term remedial strategy available to them? What does Telstra say to them in those circumstances?

Mr Rix—What we instruct them to do in that situation—and in many others when they are unsure as to what they can do to provide service or to protect the network—is to go to their team leader or their team manager. Their team manager will then work across multiple areas and look at whether the issue is in the delivery of material to that person or whether it is a skill that the person does not have—such as being able to put the appropriate joint in place for that cable—and will source through that process a solution.

Senator MACKAY—So are you aware of any incidents where that process has been followed?

Mr Rix—Every day. I do not manage field staff, but certainly a number of staff in my business go to their team leader daily for assistance, whether it is with a process issue, with a policy issue, or with general communication. That is something—we are very proud to say—we have pushed over a number of years now in Telstra: to go to your team leader for personal assistance and also for assistance in understanding the policies and procedures.

Senator MACKAY—Most technicians are very highly skilled; I doubt very much whether it is a skill issue. Suppose a technician is confronted with a situation where the only thing he or she—nine times out of 10 it is ‘he’—can do is wrap a plastic bag around the problem and then go through the process that you have outlined. If they cannot wrap the plastic bag around the problem as a short-term remedial strategy, what are they supposed to do? Are they supposed to just leave it there, and then report to the team leader?

Mr Rix—No, not at all. The first thing is that they may seek assistance from their team leader before they even make that decision. I would suggest that there are alternatives to doing that.

Senator MACKAY—Like what?

Mr Rix—Before they would even move to cut a joint out, for example. Normally you put on a plastic bag after you have cut the cable joint out because the cable joint was faulty or wet or whatever. They may have contacted the team leader before they did that and said, ‘Let them know that I don’t have the material’ or whatever is the situation, and ‘Will I still go ahead and cut this joint out or will I move on to my next job? I have fixed the particular problem here. Are you able to supply me with the appropriate equipment that I need to do this job?’ That is the general format in which we would follow up.

Senator MACKAY—That would be a reasonable aspiration, but clearly there are circumstances where they believe this is the only thing they can do in the short term. One cannot blame the workers for taking these decisions. I know you are not—

Mr Rix—No, not at all. In the past I have certainly witnessed that in former positions where I have been managing field staff. I would like to say for the record that what you are outlining has been true. I would suggest it could even be true at times today, where people

within our organisation think of the customer first and go to all lengths to provide that quality of service to the customer. We certainly encourage them, if they are doing anything outside the standard, to let us know and certainly let their manager or their team leader know what has occurred so that we can remedy that situation.

Senator MACKAY—So confronted with this situation, you are not saying: ‘Don’t use the plastic bag’? You are saying, ‘If you do use the plastic bag, then report it immediately to the team leader,’ et cetera.

Mr Rix—No. What we are saying is that, prior to using any plastic bags, we would like you to have communication with your manager or at least let somebody know in authority who can make a decision on an alternative solution to using a plastic bag.

Senator MACKAY—Maybe the best thing would be for me to give you the opportunity to undertake some exploration of this. Maybe you could take on notice as to whether anybody in the organisation is aware of where this is occurring; if so, when; and what particular action has been taken. At what stage is Telstra at in its attempts to correct problems with the sealant gel that we talked about in the last estimates round? Can you brief me on that?

Mr Scales—We have a plan in place to do exactly that. We are allocating resources to do that—we are allocating people as well as money. It is really now a process of trying to make sure that we systematically look at the priorities in such a way that we address those most important areas first.

Mr Rix—I will give a bit of background. In approximately 97 per cent of cases the gel is in place and continues to work well, and that has continued through our investigation. Telstra has a program in place which will address approximately 100,000 cable joints where the gel could be potentially service affecting. This program—and we spoke on this last time—is approximately \$110 million over three years for replacement. There are currently—and these are round figures because they are quite fluid—100 people across Telstra focusing on identifying, prioritising and repairing cable joints where the gel has contributed to the degradation of our network.

Senator MACKAY—Is there any breakdown of where these people are located?

Mr Rix—I don’t have that level of information with me. But, if that is something you require, we could search for that.

Senator MACKAY—I guess we do in that obviously areas of high rainfall would be more prone to the difficulties that we have outlined.

Mr Rix—It is a slightly different problem. Generally the gel itself is not the one that is prone to high rainfall. The gel is actually reacting with cables that are already wet. What is actually happening is that the water is coming out of the cable as opposed to ingressing the cable and that is causing a reaction which is then obviously causing problems with service. So we are talking about ones that are already sealed. We are looking at local area services—that means we are working with team leaders and staff in the field to identify where these joints are. If those who are upgrading the network, installing new services or repairing faults come across where they believe the gel is causing problems in joints, we collect that information. So we are sourcing it from the ground up and then we are putting local teams in place to repair that situation.

Senator MACKAY—So what level of prioritisation has occurred?

Mr Rix—In the repair of these?

Senator MACKAY—I guess in terms of the discovery of them. I take it from what you are saying that this is done in the normal course of events—that in a person's normal working day this is how the information is being gathered. Would that be fair? You have not got special teams out there?

Mr Rix—No, we do. We certainly do have people—and I mentioned before that there are 100 people—

Senator MACKAY—But where are they?

Mr Rix—Some of them will be in design areas where we are grouping together all the work in a designated area that may occur—

Senator MACKAY—What are the designated areas?

Mr Rix—I don't have that level of information, but I am sure that that would not be difficult to get. I am saying that as well as the 100 people we have got people working in the network every day and that is another way of us capturing the information.

Senator MACKAY—The people out there on the ground doing the normal work report in and then you have an extra 100 people—and we do not know where they are. It would be good if we could get that information. Telstra, presumably, has gone through a prioritisation in terms of designated areas. It would be good to get those. Then, presumably, there is prioritisation of the remedial action. So what process is in place for fixing these when they have been reported?

Mr Rix—You mentioned the word 'priority'. I think we have demonstrated that level of priority by putting money aside over the next three years to do this. We have this particular focus group of 100 people, who are designated to preparing this right across Australia. At the same time, where an opportunity to cut out a cable joint and remove it from our network has been identified, we have people on the ground who can do that immediately.

Mr Scales—Another additional point that might help here is that there tends to be a bit of a bottom-up approach in that we rely very much on our people in the field to identify for us where these particular cables are and, as Anthony suggested, feeding that information through to the various people within their teams and subsequently to those who are trying to plan how we allocate these resources. As much as anything else, using our people to identify them is a bottom-up approach.

Senator MACKAY—I understand that, but there is also another level in terms of these 100 additional people. I am just attempting to find out where they are specifically being sent. I need that information, which Mr Rix has taken on notice.

Mr Scales—Given that we have such a ubiquitous system, the 100 may not be being sent to all parts of Australia. They may be doing a large part of the plan—which they are—and then allocating that work to the particular region, where a technician might be involved in it. We will get you that information. I think that is the best way to do it.

Senator MACKAY—But they are determining priority areas. That would be an obvious management process. How many of these have been reported or fixed thus far in terms of the original estimate of three per cent?

Mr Rix—I do not have that level of detail with me on the amount we have already fixed or the amount that are now ready to be repaired. I do not see that that would be a difficult thing for us to ascertain—we should be able to ascertain that quite quickly—but I do not have that level with me today.

Senator MACKAY—I am surprised. I thought that, given that one assumed that this was going to be raised today, you might have been able to give us a progress report on how many have been reported and how many have been fixed. I am not casting aspersions; if you cannot do it, you cannot do it.

Mr Rix—No, I do not have that information.

Senator MACKAY—Therefore, you presumably would not be able to tell me how much of the \$110 million spend that has been allocated over the next three years has been expended thus far?

Mr Rix—Once again, I do not have that level of detail with me today.

Senator MACKAY—How hard would that be to get?

Mr Rix—I would not suggest that it would be very difficult to get at all.

Mr Scales—Part of the reason it is not easy for us to have these available to you when you ask is that we do not know what you are going to ask.

Senator MACKAY—Mr Scales! Come on!

Mr Scales—I suppose I am trying to make a relatively important point here about our relationship with the committee. When we come along to a Senate estimates committee we know that there is a myriad of issues that you might raise. Even on an issue like the gel, it might be a generality about the gel, like you have just asked, or it might be a specific element about the gel. We have no way of understanding how you might address it. For us to try to cover off every answer in advance would, of itself, be an industry within the company.

Senator MACKAY—I understand, but you would not have to be a clairvoyant to work out that I would ask how this was progressing.

Mr Scales—We will try to get the information right now.

Senator MACKAY—There were further media reports in the *Australian* on 30 January that, at the beginning of December last year, 1,000 cables in Brisbane and 110 on the Sunshine Coast were in alarm condition. Is that correct?

Mr Rix—I do not have a copy of that particular media report, but perhaps you could pass it over to me and I could have it checked out.

Mr Scales—Senator, I suppose that being in an alarm condition does not mean a fault.

Senator MACKAY—I am asking the question about whether they were in an alarm condition. What about the reports that a recent weekend deluge of rain in the Cairns area pushed the average Telstra daily telephone fault rate from 190 to 800 faults? Do you have any information in respect of that?

Mr Scales—The recent deluge, as you would be aware, caused floods in that area. Yes, we did have an increase. I have talked on that, similar to the Brisbane situation. Again, we need to make the difference between your comment around the cables under air pressure and alarm and the distribution network which are not alarmed and not under any cable pressure. The majority of the faults in the Cairns area—that is, in the high 90 per cent of the faults, if not 100 per cent of the faults—were in the distribution cable.

Senator MACKAY—Can I take it, based on that comment, that the jump from 190-odd to 800 faults is reasonable?

Mr Rix—I beg your pardon.

Senator MACKAY—Not confirming in the minutiae, but you are saying that 190 to 800—given the circumstances in Cairns—is correct? It is not beyond the bounds of possibility, I suppose, that it is correct?

Mr Rix—No, I certainly think it would be. Overnight in Cairns 20 millimetres of rain fell. So that is certainly not inconsistent at all, Senator.

Senator MACKAY—Similarly, in the *Illawarra Mercury* on 26 January there were reports that air pressure in the Telstra cables in the Illawarra region were below Telstra's own guidelines—that is, air pressure of less than 20 kPa. Is that correct?

Mr Rix—Yes, that is certainly correct. In the Illawarra area, we did have a number of cables that were below the Telstra standard. We have moved very quickly to upgrade those cables above the 20 kPa. In doing that, moving quickly to get them towards 40 kPa, we have a dedicated task force made up of three distinct groups. One is the NDC group within Telstra. The NDC group have the accountability to upgrade cables that are under alarm to the appropriate level or the standard within Telstra and their program was to get those cables up above the 20 kPa over a period and that is right across Australia.

Senator MACKAY—How many are involved in that exercise?

Mr Rix—There are 150 people right now working on it across Australia. The point I wanted to make was specifically in the Wollongong area. In the Wollongong area along with that, we have put dedicated people from our internal work force as well, which is our NNS work force, which is our network work force. We are continuing, by the way, to put people in as we certainly deem appropriate to move this project very quickly.

As well as that there are areas within our business which is the bottle replacement. We have been down some of that path before as we have low pressure, we put bottles on some of the cables to get that pressure up to an appropriate level, so that there is not an ingress of water if we do get levels of rain into our main cables. We have not had any incidence of that that we are aware of. We have given some of that even to our contracting group, so that they can move quickly to put those bottles on in the Illawarra area and let our internal staff—which, by the way, are the most highly skilled staff and multiskilled in this area—get on to the permanent fix. We have had, in the last three months, significant improvement in this area. In the next three months, there are approximately 60 more cables in the Wollongong area that we believe need upgrading and we have to put the appropriate steps in place to move to do that very quickly.

We are targeting areas—obviously areas where the cables have the least amount of air in them, and bringing them up to an appropriate standard. We believe 20 kPa is a standard which will hold out water up to two metres depth; then up to 40 kPa, which is the standard, would hold out up to four metres depth of water. It is something we are fully aware of. We have an overall strategy in place, with our NDC partners, our internal work force and, where appropriate, contractors used to move quickly.

Senator MACKAY—I will go back to the original question. You have got teams for this air pressure issue as well. How many people are involved in that exercise?

Mr Rix—In Wollongong or around Australia?

Senator MACKAY—Around Australia.

Mr Rix—That is the 150 I was referring to.

Senator MACKAY—Okay. Of that 150, 100 are looking at the sealant, amongst other things?

Mr Rix—No. They are two separate issues and two separate groups.

Senator MACKAY—So it is 50 on air pressure?

Mr Rix—No, it is two separate groups. There are 100 on the distribution cable and 150 devoted to CPAS.

Senator MACKAY—Other than the Illawarra, what other areas has Telstra identified where there are air pressure difficulties?

Mr Rix—Our main areas are the Wollongong area, the Penrith area and the Newcastle area. There are also parts of Sydney—pockets within Sydney in the metropolitan area which we will concentrate on. Those are the four areas across Australia that will get our immediate attention with the task force. It does not mean that we are not looking at other parts of Australia, particularly Western Australia and South Australia. Those groups will stay there. Once it is in place and we have identified the appropriate processes and steps to get the remedial action and to get the cables up to the appropriate standards, we will move that process and the task force, if required, to wherever the immediate need is.

Senator MACKAY—To recap, on this 150 dedicated resource issue in terms of air pressure, you are looking at Penrith, Newcastle and parts of Sydney—I appreciate that it is not all of Sydney. Which parts of Sydney have been identified as potential problem areas?

Mr Rix—There are a number of exchange areas. It is actually quite fluid in Sydney. You do get fixes and then, with the size of the network in Sydney and the age of the network in certain parts, you will get times—and a majority of these are through a third party—where a cable is broken, cut through or something like that. There will be times we make a fix and then we go and react to another area. I have not got information with me today as to which areas are the worst in the Sydney metropolitan area, but I am sure I could get that for you. I reiterate: the areas are certainly Wollongong, Penrith and Newcastle, and I can ascertain which suburbs or exchange areas they are in Sydney.

An important point—and I know Mr Scales has already said it—is that, whilst this is a barometer for us to go and act, there are often reasons why low pressures will be in cable. Sometimes it is our own doing and is deliberate. An example is when we are working on a particular cable or upgrading cables. We actually stop the pressure coming out of the exchange. At any one time we are working on up to 30 or 40 per cent of these main cables around Australia; hence, we take the alarms off, we stop putting the pressure down the cable, and then—at night when we are not working on them or during the day—we put bottles on at the same time.

Senator MACKAY—I understand that contingency.

Mr Rix—The other situation is obviously where we have cables that we are not able to easily access, particularly under main highways and main roads. We build that in then to our overall plan. What I mean by that is that, with the overall capital plan, maintenance plan or upgrade plan, we look at the age of that cable, how many customers have working services on that cable and what is the overall plan—to put optical fibre in instead of that type of cable or whether there is an opportunity to transfer those customers to another redundant cable or another cable that is in use which would save us repairing that. The repair of these cables often is a major expense to the organisation. We do use the bottle appropriately at certain times. That is not to say that we have not recognised that there are also issues where we have low pressure in cables, but I have already mentioned what we are doing to address those.

Senator MACKAY—Just going back to the gas task force that is looking at pressure, for want of a better term, can you tell me what that task force is called?

Mr Rix—The actual 150 people are part of the NDC group. They are currently working on it and they are deploying teams of specialists. That is for two things. One is to identify the alarms and upgrade the cables. The second is to make sure that there is enough air through the use of cylinders in those cables so that we are minimising any risk to disruption. In relation to the task force itself, instead of having small numbers of people geographically based—and there was a lot of that through history, because that is where that person was located in the past—where we identify that we have an issue with CPAS, we actually put a group of people in now and put them into that area. The Wollongong example I have already used is a good example of the way that we are now targeting this so that we can move quickly to get the areas which are—

Senator MACKAY—I understand that. What is it called?

Mr Rix—I do not know that we actually have a name for it. It is just a dedicated group of people.

Senator MACKAY—It is 150-odd people.

Mr Rix—Under a single management structure.

Senator MACKAY—You mentioned Western Australia and South Australia. I know you have identified the key priority area as New South Wales, and we have gone through that in some depth.

Mr Rix—Yes.

Senator MACKAY—How are you being advised of where problems are occurring? You have mentioned, say, Western Australia and South Australia. How has it come about that you have identified problems in Western Australia and South Australia? Are they recent problems that have been identified or something that you have been aware of for a while?

Mr Scales—Before Anthony answers that question, I just want to focus on the word ‘problem’ that you have used. In relation to a lot of the work that is going on in terms of understanding gas pressures and so on, it does not necessarily mean or suggest a problem in the system. It just may mean that it has not achieved exactly the standard which we had set. A lot of this is preventative maintenance, as it is with anything else.

Senator MACKAY—I understand.

Mr Scales—It is a normal part of our ongoing process of evaluation. I do not want to leave you with the wrong impression that we are talking about an issue that is a problem now within the system. Even in relation to the comments that Anthony has made around Sydney, for example, the fact that we are looking at pressure in our cables does not of itself even indicate that there is a problem there. I just want to get that—

Senator MACKAY—I understand. I am not trying to be alarmist—no pun intended. If there is a task force of 150, there must have been some identification beyond the sort of situation that you are talking about. How has that identification occurred?

Mr Rix—It is not new, but what we have done—

Senator MACKAY—You have put in 150 people, so there must be some.

Mr Rix—No, of the 150 people, a number already existed. We now understand how many people we have working out there, plus we have, as I said, the dedicated group, the task force, in specific areas. What we have done is raised this issue in priority so that we have a look at it and make sure that we address where the needs are. As part of the overall plan through NDC,

we had a plan that we would upgrade over the next two years, and we were to spend a substantial amount of money.

Senator MACKAY—So there is a budgetary allocation against this program?

Mr Rix—There certainly is.

Senator MACKAY—What is it?

Mr Rix—I think it is \$19 million. I will come back to you on that—I will have that with me here. Through this more targeted approach, we want to get all the cables up to the standard more quickly. We have set ourselves quite a tight time frame for the next six months to get a lot of these cables up to an appropriate level which we believe would stop any ingress of water into the cables.

Senator MACKAY—And the criterion is, broadly, below 20 kPa?

Mr Rix—That is certainly the criteria, but if, for example, as part of our repair, we were able to move beyond that, we would do so.

Senator MACKAY—Of course. How many have you identified so far on a national level as requiring attention beyond the scenario both you and Mr Scales outlined?

Mr Rix—This may not quite answer your question, and I could take that particular question on notice on the exact cables. As I said, that can be quite a fluid number based on the work that we are doing at the time and it would be remiss of me not to point out that some of the cables that are below 20 kPa are obviously deliberately below 20 kPa, and that is our overall strategy. At any one time at the moment there are 700 cables that are supported by cylinders within the Telstra network across Australia.

Senator MACKAY—You say ‘at any one time’. Does that mean that 700 cables have been identified as requiring remedial action?

Mr Rix—No, not necessarily.

Senator MACKAY—How many—broadly?

Mr Rix—I will stick with percentages. Fifty to 60 per cent of the 700, I would suggest, and that is based on a briefing I received this week. Approximately 40 per cent of the cylinders that we have on are for upgrades or action that we are taking deliberately in the network.

Senator MACKAY—Obviously, nobody is going to hold you to these figures, but we are looking at about 350 cables around Australia that are currently propped up with gas bottles that require action to the 20 kPa point?

Mr Rix—No, certainly not to 20 kPa. That actually could even be beyond 20; that could go up to 40 kPa.

Senator MACKAY—How have they been identified?

Mr Rix—By the number of cylinders in the replacement program that we are putting in place. For example, I could give you the information today on Wollongong right down to the lowest common denominator. That is, there are 60 cables at the moment in Wollongong that we are in the process of upgrading or repairing; or, conversely, making a decision and linking it to our overall strategy of CAN investment, for example. If you need that level of detail right across Australia, I could take that on notice.

A couple of the stats are here. In doing this, there are approximately 18,000 air-core cables that support around 80 per cent of all working services. About 13,000 of these are alarmed at the moment, so part of this program is to continually alarm the other cables. So, while we are

there, we are not just necessarily fixing the immediate issue but also looking at the future and alarming all our main cables. That is part of the work.

Mr Scales—I think it is also fair to say that the network reliability framework has given us a focus around some of these issues.

Senator MACKAY—I was just about to ask that, actually.

Mr Scales—I think we have to be fair and say that that is what it has done. We are now continually going back and asking ourselves, ‘How can we assure ourselves under that framework that we know exactly the status of each one of these cables?’ So what you see going on here and some of the things that Anthony is explaining are part of the effect of the network reliability framework and how that is playing itself out—the way in which we look at the company, how we organise the company and how we allocate resources.

Senator MACKAY—That is fine. Mr Rix, just acquaint me of this. This air pressure difficulty—does that arise only with old cables or can it also arise with new cables?

Mr Rix—No, it certainly could arise with new cables; there is no reason it could not. The style of cable is more the issue. These are generally air filled with a plastic covering; they have a lead sheath inside the cables. They are the main cable; the main cable is the cable that comes from the telephone exchange to the distribution point out in our network. Then, obviously, we have non-air-filled cables or different forms of cables that go from there. Sometimes, and I have mentioned this, it is to do with where we actually have damage to these cables—not necessarily because they are old, but just because somebody inadvertently has damaged the cable. With the number of people that now work within our network, that can be common. Also, the major cause of customer outage for us is lightning strikes. If we have a lightning strike in the area, that can cause damage and, similarly, that is where we will be putting cylinders on the cables.

Senator MACKAY—The lightning strike could easily strike a brand-new cable. But is it fair to say in the main that it is the older cables that are more at risk?

Mr Rix—Yes, I think that would be fair to say.

Senator MACKAY—Do you have a broad indication of how much has been allocated for this program yet—the 150 in gas as distinct from the 110 over three years?

Mr Rix—I have just been informed that it is \$40 million for the NDC contract. Quite evidently, we have now dedicated some further resources, which I have mentioned already, internally. I do not have the actual figure on that, but there is certainly some additional internal funding that we will be putting towards this.

Senator MACKAY—You were talking about an accelerated six-month time frame. Presumably the idea is to expend the \$40 million et cetera and the additional resources within that six-month period? Would that be the aim? I appreciate that there is a sort of capacity for rebadging or rephasing, to use the trendy term these days.

Mr Rix—All of that, yes, but certainly the accelerated approach is to spend the money and to get the network up to the standards that we have put in place.

Mr Scales—I think the \$40 million might be over a slightly more extended period. From memory, I think it is over two or three financial years.

Senator MACKAY—It probably would be. We are talking about a calendar year, I think.

Mr Scales—Yes, that is right. I think that is the current situation.

Mr Rix—I have just been informed that the \$40 million was allocated over three years. The sort of task force approach for the six months that I spoke on will be in addition to that.

Senator MACKAY—Do you have any idea how much those 150 staff will cost in terms of over and above?

Mr Rix—No. The 150 staff are part of the overall program. We would certainly be in a position in the next couple of weeks to give you that type of information.

Senator MACKAY—We are here to represent the public of Australia. It would be very interesting to find out what areas of Australia Telstra has identified as requiring remedial action. You have already been very forthcoming, and thank you for that, in respect to Illawarra, Penrith et cetera. If there are other areas that you have identified, we would like them fairly speedily if you can get that information.

Mr Rix—Yes, certainly. I would just like to make one more point, and I know that Mr Scales has touched on it. I just want to make it really clear about the two different types of networks—that is, the distribution and the main cable networks. You have asked questions on both, and sometimes it can become a little bit clouded about where faults occur. Less than six per cent of the faults occur in this main cable area. As I have mentioned, the majority of those faults that do occur in the main cables are normally through either third-party damage or some form of lightning strike. Not many faults over the last couple of years—I am uncertain about the situation prior to that—have occurred through ingress of water due to main cables being not up to the appropriate level.

Senator MACKAY—I would be happy for you to provide me with information that has that caveat, provided that—to the extent possible—the caveat is empirically based. Is it true that NDC maintains a grading system for cables whereby cables are categorised as gold, silver or bronze?

Mr Rix—Yes, it is true. That is an internal measure that they use. That is not dissimilar to what I have already suggested to you—that is, below 20, 20 to 40 and above 40.

Senator MACKAY—So the bronze would be below 20. Silver would be what?

Mr Rix—I would suggest that that is 20 to 40, but I will look that up for you.

Senator MACKAY—And gold is in excess of 40 kilopascals?

Mr Rix—Did you say gold, silver or bronze?

Senator MACKAY—Gold, silver, bronze—like the Olympics.

Mr Rix—Yes, gold would be in excess of 40. It says here: ‘The agreement reached has four segments that, in effect, determine the level of focus. These categories are’—actually you left one off.

Senator MACKAY—Is there lead?

Mr Rix—There is platinum.

Senator MACKAY—Platinum—not lead?

Mr Rix—No. That is obviously the way we have described it.

Senator MACKAY—What is platinum? Is that what it ought to be?

Mr Rix—It is certainly not defined in this paper. You have raised it but, because it is an internal thing that NDC use, it was not something we were expecting for general comment.

Senator MACKAY—So there is a shorthand: gold, silver, bronze. That is fine. If there is an internal grading system with NDC, presumably it would be possible to establish how many platinum, how many gold, how many silver and how many bronze there are.

Mr Rix—Yes, certainly.

Senator MACKAY—So perhaps you could take that on notice.

Mr Rix—Certainly.

Senator MACKAY—Going back to the issue of Wollongong, Telstra indicated in response to a question on notice that alarms have always been set at 40 kilopascals. In the inquiry that we are conducting into the state of the network, we got advice that, on 11 October, APCAMS reports for the Albion Park area showed more than one-third of alarms only being triggered at six kilopascals. That is the evidence we were given. If you are not able to answer that, could you take that on notice?

Mr Rix—Yes, I am not able to answer that.

Senator MACKAY—Is it conceivable that an alarm would not be triggered until pressure got down to six kilopascals?

Mr Rix—I would have to take that on notice. Our policy for APCAMS alarms is that they trigger at 40 kilopascals, and that is what I am aware of. I do not see any reason why we would use six when our policy is 40.

Senator MACKAY—No, the information that we got was that one-third of alarms in Albion Park were only triggered at six kilopascals. If that is inaccurate, this is the opportunity to either correct it or take it on notice and correct it. On 6 December in the network inquiry we requested that Telstra—I think Mr Paratz was the witness at that point—provide the committee with APCAMS reports for all of Australia. When will we get those? We have not got anything yet.

Mr Rix—I do not have information as to where that is up to at the moment but I can certainly take that on notice.

Senator MACKAY—Going back to this priority issue, my information is that it does not apply to air pressure exclusively; it is a more general grading system. Is that correct, or is that inaccurate?

Mr Rix—In the last couple of days, I have read some of the brief and spoken to a lot of people around this. Again, I did not personally do a lot of research on the gold, platinum and silver grading system, for the reasons that I have already stated. I did research on the overall strategy we are taking—something that I could explain around the 20 kPa to the first 40 kPa is our standard—where we are going and the areas in which we are going to concentrate on with the task force. I do not think that that is as relevant to the way that we brand things as it is to what we are doing to fix these situations.

Senator MACKAY—No, I understand. That is why, as I said, I am interested in actual numbers. I am just using this shorthand term because that seems to be what is used internally. Perhaps you could take this on notice.

Mr Rix—If it is okay with you, we will certainly get a definition of those for you and, from that, we will get you some numbers on each.

Senator MACKAY—Just to clear up a misapprehension that we have, we would like to be disabused of the idea that regional areas are regarded as low priority. Can you do that right now?

Mr Rix—I certainly can. Regional areas are not treated as low priority.

Senator MACKAY—In your understanding, it is related to the issue of air pressure exclusively, irrespective of where the air pressure problems arise?

Mr Scales—Do you mean in terms of the grading?

Senator MACKAY—Yes.

Mr Scales—No. It would be quite usual to have a grading that generally talks about the quality of a particular cable and then, once you have graded that cable, it would be usual to ask why is it graded in that way. Clearly you are trying to get a shorthand way, as you have done, of understanding whether you need to do more work. Therefore, you would go in and ask yourself, ‘Is this rated as being bronze because of air pressure or because of moisture in the system or what?’ There would be a further cascading down of knowledge. But we will get you those definitions so that it becomes clear for you.

Senator MACKAY—Please give me the information in relation to the location issue as well. Does NDC do all of Telstra’s pressurisation work?

Mr Rix—Yes. NDC has the contract to do it.

Senator MACKAY—Is it all NDC?

Mr Rix—NDC is the primary contractor.

Senator MACKAY—Is it the primary contractor or the only contractor?

Mr Rix—It is the primary contractor. What I mean by that is if NDC—

Senator MACKAY—They could contract it out?

Mr Rix—If they did some contracting out, that would be a decision made by NDC.

Senator MACKAY—Are you aware of whether they do?

Mr Rix—I am aware—and I have already stated this—that they have contracted out some of the changing of bottles.

Senator MACKAY—With regard to question on notice No. 13 about gas pressure, Telstra says there is a ‘minor increase’. Exactly what is the percentage increase here? Go to the first dot point of question on notice No. 13. As a preamble, Mr Rix, the first sentence of the question was:

How many locations are there in the cable that currently need gas bottles to maintain air pressure?

Telstra’s response is:

There are some 7,000 bottles in use to maintain air pressure across Telstra’s network.

Then the first dot point says:

Whilst this represents a minor increase in the use of bottles from some years ago—

I am curious as to what the quantum is.

Mr Rix—I could not answer that, I am sorry. We do not have the quantums. I could not answer that one today.

Senator MACKAY—I have a question in respect of the rest of that dot point, where it goes on to say:

... reflects a conscious decision by Telstra to increase cable pressurisation alarm system, monitoring the network and therefore manage down the incidence of alarms.

How does the increase in the number of gas bottles indicate an increase in monitoring activity? Does it mean that the more Telstra monitors the alarm systems, the more gas bottles that need to be used?

Mr Rix—No. That does not make sense, does it? I would suggest that the question has moved on from the use of gas bottles to the use of monitoring and alarming, which is incident alarming to give us an idea as to where we need to go out and do work. The use of bottles is part of that process; it is not the process.

Senator MACKAY—Similarly, in the last point of the examples in that question on notice on the use of gas bottles, Telstra says that the alarms ‘provide time for action to be taken before water can enter the network’. What happens if action is not taken before water can enter the network? Does that mean there will be a service disruption?

Mr Rix—There potentially could be; yes. It has always been our policy to keep moisture out of our network. What actually happens is hypothetical. I could not tell you, depending on the amount of moisture or the age of cable, whether there were any other impacts at that time. I think today we are representing our commitment to getting this right and to making sure we have a network that is sustainable and able to manage the needs and requirements of our customers.

To reiterate some of the points, we do not always act immediately, for appropriate reasons. We do not want to waste our capital expenditure by replacing cables that sometimes do not need replacing. We also want to make sure that we link it to our overall capital program. The use of materials is an important factor here. If we do make replacements, we replace with the latest technology or the latest cables available. And at the time we find we have a cable that needs replacing, we obviously go through the process of the just-in-time ordering. We order through our suppliers, and the use of bottles is then highly appropriate in those situations.

Senator MACKAY—Are all Telstra alarms currently triggered at 40 kPa, or is there a variation?

Mr Rix—The only variation I am aware of is that there are two systems. There is the APCAM system, and there is another system called AMS.

Senator MACKAY—What does that stand for?

Mr Pinel—Alarm management system.

Mr Rix—I think it is a legacy from Telstra managing state-by-state issues in the past. Many years ago we built up systems in different states. AMS is used in Queensland, and the system monitors at 50 kPa.

Senator MACKAY—So you are not aware of any alarms that are triggered below 40 kPa?

Mr Rix—I am not.

Senator MACKAY—Could you take that on notice?

Mr Rix—Certainly.

Senator MACKAY—In answer to question on notice No. 14 from Senator Lundy, regarding the length of time temporary gas bottles are used on cables, Telstra said:

It depends on the circumstances under which the bottles are deployed.

Is the length of time dependent on the availability of cable from the manufacturer? Is that a variable?

Mr Rix—That is certainly a variable.

Senator MACKAY—What percentage of cable repairs would that relate to?

Mr Rix—That is a level of detail I do not have with me, unfortunately.

Senator MACKAY—I understand that. Perhaps you could take that on notice.

Mr Rix—I have a note here which says that most cable manufacturers within Australia work on a just-in-time delivery basis and in many cases the right cables may not be immediately available. A similar note says that crews are assigned on the basis of priority to gain the best possible return. If that is the case—that is obviously if we do not have a cable available—we prop it up with compressed air from cylinders.

Senator MACKAY—Telstra also says—again, from the same question on notice by Senator Lundy—that ‘If a decision has been made based on economics and the recent performance of the cable, the cable need not be replaced. The bottles will continue to be used until such time as scheduled maintenance occurs.’ Could you elaborate as to what that means? What is ‘recent performance’ and ‘economics’? It is all a bit vague.

Mr Rix—I think I have covered most of it so far. What we are saying is that, instead of racing off every time you get an interruption in your network, such as an alarm having gone off, it gives you an opportunity to do a full investigation. Whilst that is going on the process is, yes, to put some bottles across that cable to keep the pressure up, but to link it to many of the other programs that we have talked about in Senate estimates before to make sure that we are spending our money in the most effective and efficient way. That is what I would suggest that means, Senator.

Mr Scales—The only thing I would add to that is the point I made earlier—that the network reliability framework is adding an additional acuteness to that. That is part of the reason behind the comments Anthony has made about the additional resources we are putting into some of these things being a high priority for the company. We know that we will be judged not only in the court of public opinion but also very severely by a range of regulators, including yourself here at Senate estimates and the government and everybody else. So the network reliability framework is putting an additional layer of responsibility on us which we are taking extremely seriously in this whole process.

Mr Rix—To support that, Senator—and you have talked about Wollongong—I have some figures here regarding some of the work that we have done in Wollongong in the last few months. One of them is that 365 leaks were repaired in cables in works progress so far. This overall effort has resulted in an improvement of 27 per cent of points now above 20kPa. So it is consistent with our having targeted the lowest pressure and are moving them above. I have already mentioned that that is going to be our continual focus.

Senator MACKAY—As always, get us as much information as you can. What prompted the change of heart on NDC?

Mr Scales—With regard to NDC, we are always looking at what is the right structure for the company to be able to deliver services and, in this case, to continue with the appropriate maintenance and repair of the system. It is clearly no secret that the management and the leadership of Telstra have been looking at what is the right way to ensure that NDC was capable of doing that. We considered whether it would be better to sell the company and give it to one of the major contractors to be able to provide those services to us. When they came in with their various bids and we looked at them we felt that that was not the appropriate thing to do. It is no secret because, as I am sure you would be well aware, the leadership of NDC had notified all of its staff that we were doing a review of NDC and what the right structure should be. We have not made any decision yet as to what we will do with regard to NDC. We

will make a decision fairly soon about that but we haven't yet completely decided what that will be.

Senator MACKAY—So there may not necessarily have been a change of heart?

Mr Scales—There may not be, because we are looking through a number of circumstances to make sure that all of the staff are appropriately cared for. We will look at all of their terms and conditions of employment if we are going to make a change so that there is no disadvantage to anybody with NDC as a result of what we might do in those circumstances and, if we do decide we want to make a change, that we communicate effectively. All of these things are being addressed. Once we have got that analysis completely done then we will make a decision.

Senator MACKAY—What sort of time frame are you looking at?

Mr Scales—It could be even within the next two weeks. We are at a point where we will want to make a decision, but to some extent this Senate estimates hearing has come when we are not exactly at a point where we could say what that decision is.

Senator MACKAY—There were media reports that projected staffing levels within NDC are likely to be cut by a further 1,000; is that correct? Let me put it another way: what are the projections for future staffing levels in NDC?

Mr Scales—We do not have targeted numbers for any of our businesses. We are always looking at the demand for the services we provide, and NDC is no different from any other of our businesses.

Senator MACKAY—That is a little bit disingenuous with respect to the media reports that there are another 1,000 likely to go from NDC. Is this under active consideration or not?

Mr Scales—I have no knowledge of there being any plan for another 1,000 people to go out of NDC.

Senator MACKAY—It may not be as many as 1,000. Are you aware of any plans for a further diminution in staffing levels in NDC?

Mr Scales—The reason I am hesitating, as you can tell, is that we still have not yet made a decision about what we are going to be doing with NDC. If a situation arose where we decided to reintegrate some elements of NDC back into the business then we would be looking to see whether there might be some broader efficiencies from bringing back-of-house work inside Telstra. That might then enable us to get some economies of scale and scope to that process. I am not trying to obfuscate; it is not an easy question to answer. It will very much depend on what decision we make. If the nature of your question is: are we wanting to diminish the field work force within NDC and therefore by implication reduce the resources that are available to us to do the sorts of things we have been discussing today, then I have to say that is not our plan.

Senator MACKAY—It would be pretty hard to go any lower than it currently is, with respect. I do not wish to be disrespectful to you. Is Telstra aware of any internal documentation that canvasses the potential diminution of staff within NDC?

Mr Scales—I am aware that there has been one internal review done on NDC and it does canvass the issue that I have just raised—that is, if you were to bring both of those organisations together, would there be economies of scale and scope that will give you the ability to achieve the same level of output with a different configuration of staff—but it was not necessarily focused on that field work force; it was around what we might describe as the back office issues.

Mr Stanhope—NDC did make an announcement on 9 January that it would be seeking a further reduction in the work force. The number reported around that time was about 280 and that has been subsequently revised to around 200. There was certainly a change of heart, to use your terminology, with respect to that number and it was to refocus staff on the CPAS issue, the gas pressure issue. So there was that announcement on 9 January. Anything like 1,000 people is not planned or speculated—whatever words you want to use—and is certainly not in NDC's announcement or plan.

Senator MACKAY—What was NDC staffing establishment, to use that old-fashioned term, five years ago and what is it now?

Mr Stanhope—I have got some numbers here. The total staff at July 2001 was 5,620 and the total staff at January this year is 3,426. So it is a reduction of about 2,000 over that period of time.

Senator MACKAY—With the economies that Mr Scales was talking about, there are potentially another 200, depending on what the final decision is. Would that be a fair assessment?

Mr Stanhope—Yes, that is right. The workload is what causes the fluctuation here. We have previously been through how the construction industry is not as buoyant as it used to be.

Senator MACKAY—I have one final question. The media reports of 30 January this year, again in the *Australian*, were that 80 of 190 NDC staff were retrenched in Queensland. Is that correct? The contention in the article by Michael Sainsbury and Chris Jenkins is:

Concerns are growing inside Telstra about the condition of its copper networks, with 80 out of 190 staff allocated to watch over its ageing lead-cased pipes given redundancy notices this week and no contract staff signed to take up the workload.

I am just trying to confirm whether or not that is correct.

Mr Stanhope—I do not have that level of detail, but I would suggest that that is probably correct.

Mr Rix—I can give you an additional bit of information. We believe the number of positions is around 40 not 80. That was part of the resource rebalancing. So, that was the number.

Senator MACKAY—So, it is not 80 out of 190; it is 40 out of 190?

Mr Rix—It is certainly closer to 40.

Senator MACKAY—Is the 190 figure accurate?

Mr Rix—I am suggesting that the number of positions is around 40—which was a national number—as opposed to 80 out of 190. But I think we might take that on notice. That is the information I have here that was passed on to me, but we will come back to you with some more specifics.

Senator MACKAY—Okay. Can you take on notice where and when the redundancies have occurred since July 2001.

Mr Rix—Certainly.

Mr Stanhope—I can give you right now the figures, state by state, since July for the 2,000 I was talking about: New South Wales, 753; ACT, 15; Victoria, 516; Tasmania, 28; Queensland, 518; Western Australia, 146; South Australia, 206; and the Northern Territory, 12.

Senator MACKAY—That is aggregated to about 2,000?

Mr Stanhope—The total is 2,194.

Senator MACKAY—So that is the state breakdown.

Mr Stanhope—Yes, that is the state breakdown of those numbers I gave you before.

Senator MACKAY—Since July 2001?

Mr Stanhope—Yes, that is right.

Senator MACKAY—Perhaps, if that is the case, I will take on notice the intrastate figures. Queensland is a big state. Mr Rix has some information that it is 40.

Senator CONROY—Is it possible to get a copy of the departmental submission to the now defunct inquiry?

Mr Scales—Telstra's submission to the inquiry?

Senator CONROY—No, the department's.

Ms Williams—I do not think it is one for us. It was given to the committee. I am not sure what the position is.

Senator CONROY—The committee is dead.

Senator Alston—If it is already publicly available, and I think it is, then you are entitled to it; if not, since the committee is dead—thanks to Mr Tanner's efforts—there would be no point in making it available. If the horse has not bolted, you are welcome to pat it; otherwise, we will put it back in the stable and bolt the door.

Senator CONROY—A substantial document like this deserves to be available to the public—all of that intellectual work that has gone into it.

Senator MACKAY—That is right. We might be able to use some of it.

Senator Alston—You seem to lose the point I was making this morning. Because you made structural separation a live issue—one for policy debate—we set up an inquiry. Now you have said you do not support it. There is no interest in the Australian community, amongst policy makers, in pursuing this option.

Senator MACKAY—So all that work was for nothing—poor old Telstra, 30 people all working over Christmas.

Senator Alston—They did.

Senator MACKAY—They look very sad now.

Senator Alston—They are entitled to be rather annoyed, peeved, but I know that they will bite their tongues and they will smile at Mr Tanner the next time they see him. But they should not, because it is all his own work. Rather than look at the department you ought to look at the OECD, because they will give you a comprehensive—

Senator CONROY—I am interested in the department's submission.

Senator MACKAY—We do not have any power over the OECD, unfortunately.

Senator Alston—You can read their report, and that will tell you what the world thinks of structural separation.

Senator CONROY—You are not ashamed of the submission, are you?

Senator Alston—No, I am just saying that if it is out there you are entitled to it and if it is not out there you are too late.

Senator CONROY—I was wondering—and maybe someone in the secretariat can help us—whether parliamentary privilege still applies now that the inquiry has been shut down.

Senator Alston—I do not know.

CHAIR—The secretary seems to think it does.

Senator CONROY—It does. You see, it is safe; you can release it.

Senator MACKAY—You could even release it in camera.

Senator Alston—All I am saying is that it is so academic that it is not an issue. So I do not really see why you would want it. Anyway, we will both have a look at where things are at and maybe I will send you a complimentary copy of the OECD report.

CHAIR—It will be very interesting reading for you.

Senator CONROY—You have not plagiarised it, have you?

Senator Alston—I did not write the department's submission, so I am not guilty.

CHAIR—I thank Telstra for appearing today.

[3.27 p.m.]

Australian Broadcasting Corporation

CHAIR—I welcome the ABC to this hearing.

Senator CONROY—Can you give an overview of the ABC's recent triennial funding submission?

Mr Balding—The submission was forwarded to the minister at the end of November of last year. You may be aware that a summary of the submission was released publicly on 17 January. Copies were forwarded to all members of parliament. We are currently having dialogue with the minister and his staff. There is a summary funding table at the end of the triennial funding submission.

Essentially, there are three components of that submission. The first component is about continuation of existing funding. There are two elements of that. The first element is \$2.8 million, which was funding that was provided to the ABC in August 2000 for Radio Australia short-wave radio transmission. It was provided in August 2000 for three years, so it finishes at the end of this financial year. We are seeking from the government continuation of that funding of \$2.8 million. The second element, as you may also be aware, is in respect of the national interest initiative funding of \$17.8 million, which was provided for four years. There is no commitment from the government at this stage that that funding will continue. In respect of the triennium, that funding would run out at the end of 2004-05. We are seeking continuation of that funding from the 2005-06 year.

The second component of the funding is in respect of new initiatives and activities. I would like to come back to that in a bit of detail in a moment.

The third component is about extending existing services. We spoke about that the last time we were at Senate estimates. There are two elements of that. One is in respect of extending the reach of News Radio and Triple J to populations of 10,000 and above. That, in a full roll out, would cost in the vicinity of another \$18.8 million, but what we have proposed in the triennial funding submission is an incremental ramp up of that—in other words, a gradual roll out—to pick up both News Radio and Triple J. That would take Triple J to an additional 16 regional communities and News Radio to an additional 59 regional communities. A smaller

element in respect of extending existing services is Radio Australia. Essentially what we are looking for is the use of FM relay transmissions overseas to expand Radio Australia's reach.

I will now come back to the second component, which is in respect of new programs and initiatives. What I outlined in the triennial funding submission and publicly when I released the submission was that, without any additional funding for content, the ABC will have no option other than to cut programs and services. In respect of the funds for programs and services, there are two main elements of this. One is in respect of the multichannels, the opportunities that can come out of digital multichannelling and the ABC's belief that the use of compelling content on the multichannels—in other words, providing the audience with something that they do not have now—will provide a catalyst to accelerate the take-up of digital. The second major element in that is in respect of an industry production trust fund with a view to increasing our content, particularly in respect of drama and comedy. It may be better if I ask Lynley Marshall to talk in a bit more detail about the multichannelling submission and the benefits and opportunities that we believe are available in respect of that initiative and ask Sandra Levy to talk about the industry production fund.

Ms Marshall—The ABC believes that it can play a key role in aiding and supporting the development of digital broadcasting in Australia. First, it can do this by attracting new audiences to digital services through the content we are offering. You will see in our proposal that we are proposing to offer content which appeals to children, and the ABC daily channel will appeal to older audiences and more mass audience, with a comprehensive offering of news and information services. We also believe that, through that range of programming, we can attract a broad range of viewers. So there will be new viewers to digital services and a broad range of viewers. We also see that we can play a valuable R&D role for the industry as we use new services, new technologies, which other broadcasters are not using and share our learning and the research that we gather along the way. Finally, we think that we can play an important role in educating audiences in the utilisation of digital services. For example, the interactive program *Long Way to the Top*, which we ran recently, was an opportunity for audiences to engage with services that they had not had before.

Senator CONROY—Very popular.

Ms Marshall—Yes. It takes some time for them to learn how to use the remote, how to access the content and so on. That is the rationale behind our proposal for the multichannelling services.

Ms Levy—In terms of the industry partnership, if I could speak to that one, the ABC has, over the last five or six years, seen a reduction in our drama hours, as the cost of drama is quite high and the costs of other genres that we provide for the schedule are much lower. So over the last few years drama production has declined. The benchmarking that is interesting to note here is that, under the ABA quota requirements for commercial broadcasters, the ABC in drama would fall short of the required quota points. In documentary and factual we exceed the ABA minimum hours but in drama we do not. The proposal for the industry partnership is that the ABC, together with the independent production sector, would develop and make up to 180 hours of additional drama and comedy by looking at a variety of ways of leveraging up the \$62½ million that we are seeking for the triennium. That would give us an extraordinary capacity to provide the diversity of drama and comedy that is currently lacking in our television schedules. We would seek to ensure a mix of content provided from one end—the more innovative and edgy, perhaps political dramas like *Blue Murder*, including literary adaptations and telemovies, a very complex and interesting range of material that is currently unavailable.

The proposal would see a mix of funding mechanisms which would include ABC resources and facilities where they were available, access to both state funding and FFC funding mechanisms that are currently available, collaboration with international broadcasters and other production companies and distributors world wide to ensure that we could try and get double the value of production from the \$62½ million—it would be worth something like \$125 million—by using those other mechanisms. That is our industry partnership proposal.

Mr Balding—We believe that it is a modest but essential ask. We believe that in the triennial funding submission we have put forward measured and sensible proposals which have been properly costed and fully justified.

Senator CONROY—I was hoping to get this next question in before the minister came back, but he has snuck back into his chair. How is the submission being received by the government?

Senator Alston—He is not in a position to answer that, as you well know.

Senator CONROY—How is the government receiving it?

Senator Alston—We have received it physically.

Senator CONROY—Do you think there is merit in Mr Balding's proposals?

Senator Alston—We will consider what has been put to us. I am not in a position to make any public assessments of the merits of the case. As you know, we committed ourselves at the last election to at least maintaining in real terms the triennial funding levels. That is designed to ensure that the ABC does not get caught short if there is an inflationary increase in costs. I have not heard the proposition expressed publicly before that there might be some threat to programs and services. I know David Hill was quite good at saying those sorts of things.

Senator CONROY—It is a very serious problem.

Senator Alston—It was usually his first line of approach to somehow suggest that unless you got more funding you might cut programs and services, but I do not offhand recall that being put in the submission. I will certainly look to see whether there was any suggestion along those lines made at the time of the last triennial funding grant or, indeed, when we gave an extra \$71 million over and above that as a one-off only about 12 months ago.

Senator CONROY—You are in there battling for more funds for the ABC, aren't you?

Senator Alston—I do not quarrel with any organisation that sees a market opportunity by approaching the government for more funding to put a strong case—

Senator CONROY—You know how the process works.

Senator Alston—and Mr Balding has done that.

Senator CONROY—If the ABC does not have a champion in there barracking hard for them, they will not get anything. Just tell us that you are their champion.

Senator Alston—The ABC is certainly entitled to put its best case forward and to indicate that it could do a whole lot of new things with new funding. That is perfectly proper.

Senator CONROY—They are talking about losing things if they do not get more funding.

Senator Alston—That is what is new and different. I had not publicly heard the proposition before that somehow we would now have no option but to cut programs and services. That, I think, is a very new ingredient. You would want to look very carefully at that before taking it at face value, because it is a form of words that has been used from time to time in the past, presumably with a particular intention in mind. All I am saying is that we will

make our judgments on the merits. We will not take a statement like that as somehow being an additional reason why we might respond favourably.

Senator CONROY—Ms Levy, let us not take it at face value; let us chat about it.

Mr Balding—Can I just respond. The triennial funding submission does make it fairly clear that, if the ABC did not receive funding for content, it would have to have a look at the level and the mix of its services. When I decided to release the triennial funding submission publicly, to inform public discussion, we released a summary of the actual triennial funding submission.

Senator CONROY—So the sorts of things, though, that Ms Levy has talked about are contained in the submission?

Mr Balding—It is in the submission and in the summary.

Senator CONROY—So the minister should not be surprised. Have you read the submission, Minister?

Senator Alston—Yes, but Mr Balding is not on to the point that I think he wants to respond to and we are in agreement that they have outlined—

Senator CONROY—I think Mr Balding is indicating that the sort of language and suggestions and problems that may be encountered by the ABC are actually in their submission, Minister, which you say you have read—and then you just sit here and say you are surprised to hear it.

Senator Alston—I am saying that I do not recall it being put in quite those terms. When Mr Balding just said that they would have to consider the mix of services, that is not quite the same thing as saying, ‘We would have no option but to cut.’

Senator CONROY—No wonder you are not the champion; you have not even read their submission.

Senator Alston—We read it a long time ago. It was presented to me four months ago.

Senator CONROY—You have had plenty of time to bone up on it.

Mr Balding—It was the end of November. When I did release it publicly, I made it clear in my covering briefing note to that submission and when I was talking to journalists that I am trying to communicate the impact this will have on the ABC. I am trying to communicate it in a non-threatening way, but I feel I have an obligation.

Senator CONROY—I did not feel threatened by Ms Levy.

Mr Balding—I feel I have an obligation to make it very clear that this is the reality of the situation without additional funding for content—as opposed to funding in respect of reach. There is an ask in the triennial funding submission for reach, which is about equity in access to ABC services—that is, existing ABC services. All Australians should have the same right of access to ABC services, and we have spoken about that here before. If we are given every cent of that money in respect of reach, that will not result in one extra minute of content being available for the ABC. So I am trying to communicate it in a non-threatening way, but it is the reality of the situation that, if we were not to receive additional money for content, we would have to have a look at our existing level and our mix of services and there would be a cut to programs and services. We would not be able to sustain the same level of output that we currently provide.

Senator CONROY—Perhaps you need to put that in bigger type for the minister in your submission. If the ABC does not receive increased funding for its digital multichannels Fly and Kids, what is the future for those multichannels?

Mr Balding—We would have to look at all programs and services across all platforms. It is not a matter of, ‘If we do not receive money for one service, that money would have a direct impact on that service.’ I think the board would need to have a look at a whole range of options, and obviously the multichannels would be part of that option.

Senator CONROY—Coming back to Ms Levy’s comments, what are the sorts of services that would be under threat?

Ms Levy—I think, as Mr Balding has said, we would have to look at our entire output because, as a public broadcaster, we provide programs across a wide number of genres. We make science programs, indigenous, religious, arts and local sport programs—there is a huge range of material for which we try to provide a service. By spreading the money thinly across all those areas, we are at the point where the difficulty we are now facing is that, as each genre has a little bit of money, we have been able to sustain that. If we do not have additional funding then we will have to look at which genres we could perhaps let go of, which ones we can afford to keep going and which of the areas—drama being very expensive—we would be unable to continue in. So we really have quite a complex set of material that we try to create, from science magazine programs through to performing arts specials. We would need to look at them all.

Senator CONROY—So nothing is safe?

Ms Levy—No. I think that is correct.

Senator CONROY—My question is for Mr Balding. How did you arrive at a figure of \$675 million per annum that the ABC receives in government funding this financial year?

Mr Balding—I simply took the ABC’s appropriation from the parliament, I took off the borrowings and I took off the one-off capital grants and the capital use charge.

Senator CONROY—How does this compare, in real terms, with the funding the ABC received prior to the 1996-97 funding cuts?

Mr Pendleton—I do not have it on the 670 sheets. In levelling the comparative between the years, we adjust transmission out because the transmission was a non-cash item in earlier years. Likewise, we take out the orchestras—because we are no longer funded for them—and the loans and the capital use charges, as Russell said. That comes to a figure—the 808—this year of \$613 million. The comparative number for that in 1995-96 is \$578.5 million.

Senator CONROY—Do you have it for 1996-97?

Mr Pendleton—The figure for 1996-97 is \$550.5 million.

Senator CONROY—Does the ABC have information on the number of viewers currently watching the ABC’s two digital multichannels, Ms Marshall?

Ms Marshall—I do not have the numbers with me but we can provide that to you on notice.

Senator CONROY—Would the ABC like to see genre restrictions lifted on public broadcasting multichannels?

Mr Balding—We have been advocating that for about 12 months. We believe that to get the full benefit of the multichannel service you need compelling content; but in order to

deliver that we would need the genre restrictions to be lifted and we have advocated that in a number of reports and submissions to government.

Senator CONROY—In the ABC triennial funding submission you state that you have reduced costs in ABC television by reducing levels of drama and comedy production in favour of less expensive genres. Could you provide further details and examples of particular programs that might fall into these categories that have been affected by the belt-tightening decisions?

Ms Levy—Perhaps I could give you, as an example, the strand of production that we call *New Dimensions*. That is a strand of production that we make around the country. It is a half-hour magazine program for four nights a week, so we make two hours of programming a week. We make the history program in South Australia; we make the ‘people’s program’, as we call it, in Perth; we make the health one in Sydney, and we make the futures one in Melbourne. We utilise production crews all around the country and we try to ensure that we maintain magazine segments shot economically. To create two hours of factual programming in that manner using our staff would probably cost about \$200,000 a week. It would be very hard to create two hours of drama for much less than \$700,000 to \$800,000 a week. So just by looking at the structure of a magazine program you can clearly see that you can create that kind of program much more quickly and much more cheaply than you can create drama. That is why there is more of that kind of programming—and less of drama.

Senator CONROY—Do you try and strive for a balance between those things when you set out what you want to produce? Is it becoming a bit unbalanced? Is that what is happening?

Ms Levy—The problem is that each area is getting just enough money to get by, but we are running very close to the wire. With drama, we created a new series in 2002 called *MDA*. Series production is cheaper than telemovie or miniseries; however, with judicious co-producing we are able to do some miniseries. But money is very tight and we try to stretch it as far as we possibly can by looking at all of the mechanisms that might be available to us with the independent sector of trying to provide high cost drama.

Senator CONROY—With regard to the ABC triennial funding submission’s call for an ABC independent production trust fund to source projects from the independent production centre, why does the ABC assume that independent productions will be of a higher quality than in-house programs?

Ms Levy—I do not think it is a matter of a higher quality or not higher quality. The ABC currently does not have in-house producers, writers or directors. In a drama department many years ago there might have been five, six or seven in-house producers and 10 to 12 in-house directors. That no longer is the case. Almost all drama in about the last 10 to 15 years has been created with the independent sector because the ABC no longer has that in-house capacity. But, also, in the independent sector there are many mechanisms that they can use: they can apply to the FFC, they can apply to state funding bodies and they can go to distributors. There are all sorts of mechanisms they can use to ensure that the money is levered up to a higher degree than if we paid in cash. But if we fully paid for it we would expend our money on, say, one miniseries, whereas if we financed the way we do with the independent sector we would get better value for the money. The independent sector is very active, vigorous and diverse and it is an appropriate way for us to be working in creating drama.

Senator CONROY—We have lost the minister again.

CHAIR—Do you need to have the minister recalled?

Senator CONROY—We could probably break for coffee now, if you want, while he is in panic out the back.

CHAIR—I do not know that he is in total panic. Do you need the minister for the questions you want to ask?

Senator CONROY—Probably my next batch of questions are more to the minister. I am happy to bring on the break while he is consulting his office.

CHAIR—Consulting his office is more likely, yes, than total panic.

Senator CONROY—I thought we were breaking at four, so I am just saying as it is about seven minutes to four we can do it now.

CHAIR—We have the minister back now.

Senator CONROY—Welcome back. Will the government extend the one-off funding for Radio Australia shortwave radio transmission in South-East Asia which expires at the end of this financial year?

Senator Alston—I cannot give you any forward quotes on these things. These matters are normally considered in the budget context. For the ABC, the \$71 million was a one-off. The whole purpose of triennial funding is that you do not get one-offs really.

Senator CONROY—Will you build it into the base funding then?

Senator Alston—You would expect that matter to be considered along with the rest of the ABC's budget.

Senator CONROY—So it would be more likely to be included in base funding?

Senator Alston—It will be considered at the same time as the rest of its budget.

Senator CONROY—Will the government extend the one-off funding of the ABC National Interest Initiative, which has increased the ABC's regional presence, beyond 2004-05 to 2005-06?

Senator Alston—I think that has at least another two years to run so—

Senator CONROY—It goes, I think, to 2004-05. I am asking will it go to 2005-06? It is a one-off grant, so I am just asking whether it is going to be part of the new triennial funding, because there is going to be a gap at the end.

Senator Alston—If you are asking me whether it will be built into the base, I would think the answer is no, because it was never a base funding allocation. Whether it gets extended is a separate issue, and it may. If you extended it indefinitely it could be a de facto part of the base, but I think generally you would be reluctant to just expand the base when funding has been sought for a particular purpose.

Senator CONROY—Even elections come around every three years.

Senator Alston—Just so we are clear, the ABC maintains vigorously and loudly and often that its base funding is entirely at its own discretion whereas, if it approaches us with a specific request for funding, we respond to it in those terms and that money is then tied up. It is given for a purpose; it is used for a purpose. By that conceptual definition, it should not be included in base funding.

Senator CONROY—If you are suggesting that, as it is one-off, it is going to end. I am not sure you are suggesting that, so I am not trying to verbal you there.

Senator Alston—I am saying it was granted as a one-off—

Senator CONROY—We are talking about 50 full-time staff positions and 10,000 additional hours of regional programs. I know the election has come and gone.

Senator Alston—I thought it was a four-year grant; it may have only been a three-year grant.

Mr Balding—It is four years.

Senator Alston—It was four years. So you are only halfway through; you do not normally consider things that far out.

Senator CONROY—You do when you do triennial funding; that is the point.

Senator Alston—But it is not an integral part of triennial funding; it is not part of the funding base. It is a separate and distinct initiative. If the ABC said to us that they would like it considered at the same time, and they have, we will have a look at it. But that does not mean we will necessarily make a decision on it now. We could just as easily wait one or even two years, or we might make a judgment now about its future. We could certainly consider it now but that does not mean that it will just find its way into the base. It will remain apart and it will be dealt with separately.

Senator CONROY—I want to move onto one of your favourite topics, which occupies much of cabinet's time, the ABC board appointments. When did Mr Kroger announce he would not be seeking a renewal?

Senator Alston—I am not sure.

Senator CONROY—Was it in November?

Senator Alston—I am not sure that he said anything publicly.

Senator CONROY—Mr Balding, does that ring a bell? There were a number of newspaper stories that were very well sourced—

Senator Alston—It is not normally holy writ in our game, is it? As I am informed, the board itself wondered whether December might have been Mr Kroger's last board meeting. So I do not think he had—

Senator CONROY—But he had confirmed earlier than that.

Senator Alston—If you are asking me—

Senator CONROY—Well, he is a friend of yours.

Senator Alston—He was appointed on the basis of his—

Senator CONROY—No, I mean you must have chatted with him about it.

Senator Alston—I have talked to him, I have talked to a range of people. I thought you were asking whether he has publicly announced that he is not seeking an additional term and I am not sure—

Senator CONROY—I am just trying to get a rough indication when it was that well-sourced speculation, that I am sure was drawn to your attention, indicated that he would not be seeking to have his appointment renewed.

Senator Alston—If you are asking me when did so-called well-sourced speculation first arise, it must have been months ago.

Senator CONROY—Was it November?

Senator Alston—Longer ago than that.

Senator CONROY—I cannot remember whether it was October or November.

Senator Alston—Let us say it was either, I do not remember. I would have thought October.

Senator CONROY—When do you expect to announce a replacement for Mr Kroger on the board?

Senator Alston—In the not too distant future.

Senator CONROY—Has cabinet considered it? Has it finalised its decision? I am not asking you what it is.

Senator Alston—I cannot really tell you what cabinet talks about and what it does not.

Senator CONROY—I am just asking you whether or not it has made a decision.

Senator Alston—There is no decision that I am in a position to announce.

Senator CONROY—Can you confirm whether Peter Reith, Tony Staley or Lynton Crosby are on your short list?

Senator Alston—I think Mr Crosby ruled himself out. Other than that, I have not really ruled anyone in or out. I think I indicated as much to one of your colleagues last year that we might rule out appointing a majority of Labor supporters. We might rule out appointing a former South Australian Premier. Although as I have said, I thought John Bannon did a pretty good job on that board. We might also rule out appointing an adviser to the WA minister. We might also rule out Mr Cameron, an ALP pollster. But beyond that we really have not focused on who we might rule in or out at all. The act prescribes the qualifications, and against that background we will make our judgment.

Senator CONROY—Does Mr Reith meet the act's qualifications?

Senator Alston—I have not looked closely at his qualifications—

Senator CONROY—You have known him well for years. You should be able to say, 'He fits the bill.'

Senator Alston—Again, there are probably many people who would think they qualify. We have a lot of offers of assistance from members of the public and others who believe they are qualified. At the end of the day you have to make a judgment.

Senator CONROY—Did you get any public response? I think the Friends of the ABC put out an ad. Did anyone write to you?

Senator Alston—I do not know that they were asked to write to us.

Senator CONROY—Was it to the Prime Minister?

Senator Alston—Were they?

Senator CONROY—I do not know. It would have you or the Prime Minister.

Senator Alston—I thought it would have been to them. I did not study it closely. Quite frankly, I assumed it was an entertaining diversion. I have met with Terry Laidler, for whom I have considerable respect; certainly during his time as a broadcaster I thought he was pretty fair and reasonable. But I do not think anything has come to me as a result of that ad, so maybe the public saw it as an entertainment.

Senator CONROY—Maybe they all went to the Prime Minister and he has not told you yet.

Senator Alston—Maybe they did; maybe that is what happened.

CHAIR—We might at this point have our tea break.

Proceedings suspended from 4.01 p.m. to 4.17 p.m.

CHAIR—We will go to Helen Williams, who has some information about a question that was asked earlier today.

Ms Williams—Thank you. I would like to table, if I could, some of the information that Senator Mackay wanted in relation to the Telstra questions on notice. Senator Mackay asked what date they were received by the department, and also the date they came to the Senate committee, and I have got a list here. Could I table that, please?

CHAIR—Yes, that can be tabled with the agreement of the committee, which is given. Senator Conroy, you can continue now.

Senator CONROY—Before the break we were chatting with the minister about the board. We appear to have lost him.

CHAIR—Senator Tchen could ask some questions while we wait for the minister to return.

Senator CONROY—I am happy to let him finish his questions so that I do not interrupt him.

Senator TCHEN—Thank you very much, Senator Conroy. Mr Balding, I know that in the submission for your triennial budget you have on the agenda the development of the regional radio service, particularly News Radio, and the extension of it. Congratulations.

Mr Balding—Thank you for your support for that, Senator.

Senator TCHEN—Thank you. It is a bit disappointing that it can only be provided with new funding, which implies that in the ABC's view it is less important than all your other existing services, but at least it is now on the agenda.

Mr Balding—Can we just clarify that for you. The ABC receives specified amounts for transmission. You might recall that a number of years ago—and Colin Knowles might be able to give you a bit more detail—the ABC never paid for transmission services; they were provided by the National Transmission Agency. On selling that transmission agency, the government then provided to the ABC a specified amount of funding for transmission. At the time, that funding was to continue transmission at that current level of service. So the ABC does not have the funds to take out of its operational budget to put into transmission, hence the requirement to ask for that in the submission.

Senator TCHEN—Thank you, Mr Balding; I stand corrected. Obviously, I saw something which was not there. Mr Balding, you might remember that last November you gave the committee, at my request, some information about the ABC's new complaint review process. I understand that there was an appointment of Mr Murray Green as the complaint review executive.

Mr Balding—Correct.

Senator TCHEN—Since then, has the ABC made further modifications to these procedures? I understand that now Mr Green does not actually investigate or handle any complaints in the first instance. The complaints will now be sent to the head of audience and consumer affairs, who will deal with the complaints in the first instance. If the complainant is dissatisfied then the matter is referred to Mr Green. Furthermore, I understand there is now an independent complaints review panel, which is a final level of appeal. Is that correct?

Mr Balding—It is semi-correct in that the process you outlined was the process we implemented. As part of the new complaints handling system, all complaints received by the

ABC go to audience and consumer affairs in the first instance. If the complaint is to do with a program, audience and consumer affairs will then seek comments from the program area, make an assessment and then reply to the complainant. If the complainant is not satisfied with the response of the ABC then the complaint is referred to Mr Murray Green in his capacity as the complaint review executive. If the complainant is then still not satisfied with that independent assessment—because Mr Green is separate from the program makers and separate from audience and consumer affairs—they still have two options available to them. They can go to the independent complaints review panel, the panel set up by the ABC board a number of years ago. That is not a recent initiative. They look at serious cases of bias, lack of balance or unfair treatment. They will then review the complaint independently and go back to the complainant. The complainant also has the option of taking their complaint to the ABA. So there are still two external avenues that the complainant can go to.

Mr Murray Green would not normally look at any complaint in the first instance if it is coming from the audience. However, in accordance with our editorial policies and guidelines, if it is a matter of serious complaint about bias or breach of editorial policies then it may be that that complaint goes to him in the very first instance, or if I am of the view or the chairman is of the view that it is a matter that the complaint review executive should look at in the first instance then we will refer it to him in the first instance.

Senator TCHEN—I take it that his role as complaint review executive is a part-time job for Mr Green.

Mr Balding—It is one of his roles. He is also the state director for Victoria.

Senator TCHEN—So he would not have received additional dedicated staff to assist him with the investigation of any complaints?

Mr Balding—No, not dedicated staff.

Senator TCHEN—I assumed that would be the case, because it seemed to me that there is some logic in audience and consumer affairs doing the investigation in the first instance.

Mr Balding—Yes.

Senator TCHEN—Is Mr Green's job to focus on assuring procedural fairness or is he also required to look at content fairness?

Mr Balding—He is to look at the nature of the complaint in terms of the editorial policies and guidelines, which covers both of those.

Senator TCHEN—I see. So he is not just restricted to looking to see whether the complaint has been dealt with or the case has been heard?

Mr Balding—No, he would also be adjudicating on the content and whether it complies with the ABC's editorial policies and guidelines.

Senator TCHEN—Thank you, that is very good. I understand that the ABC has a very specific objective of being balanced, and I think it is very important that Mr Green is looking at that. One of the issues that has come up recently which people have complained to me about is whether ABC is being fair. One particular instance was at end of last month—on 30 January, actually—when Mr Mick O'Regan interviewed Mr Pilger, who was there as an expert witness on the foreshadowed Iraq war. Mr Pilger was described by my colleague Senator Steve Hutchins recently in the Senate as Australia's 'most embarrassing literary export'. Senator Hutchins said he was greatly concerned that once again, just at the moment when Australia faces a big decision concerning its place in the world, Mr Pilger has, after 30 years away from Australia, suddenly decided to call Australia home again. When Mr O'Regan

introduced Mr Pilger he described Mr Pilger as a ‘relentless critic of the moves to war and of the failure of the media to expose the distortions that justify it and the excesses that characterise it’.

Senator Alston—He’d be to the left of Bob Brown.

Senator TCHEN—Given that the war actually has not started—there is no shooting yet—and Mr O’Regan is already prepared to characterise the moves to war as ‘excesses’, has he sought to bring any balanced views on this into his program?

Mr Balding—It is very difficult for me to comment on that when I did not hear the program.

Senator TCHEN—Would it be ABC’s editorial policy that Mr Pilger’s, or perhaps Mr O’Regan’s view, ought to be balanced?

Mr Balding—It needs to be balanced. I am more than happy to take that on notice and to look into that and provide a response to you.

Senator TCHEN—Thank you, Mr Balding. Talking about questions on notice, I have some questions related to the television documentary called *Victims*, alternatively known as *Seasons of Revenge*. At the previous hearing, in November, both I and the chair, Senator Eggleston, put a number of questions on notice to the ABC about this program. We have since received responses on all those questions, and I thank the ABC for that. However, I will quote to you one particular question which Senator Eggleston asked about a complaint that one of the principal persons described the document actually wrote to the ABC management expressing her concern that the program would be biased. She was supported by some leading members of her community. The question was: what steps did the ABC take to address these concerns? The answer from the ABC was as follows:

Over a number of years concerns have been expressed to the ABC regarding this project. The ABC has thoroughly investigated these concerns to ensure that the issues raised were appropriately addressed in the program.

I am afraid that does not actually tell us very much because the question very specifically was: ‘What steps did the ABC take to address these concerns?’ Instead of putting the question to you again in writing, Mr Balding, what I would like to do is put the question to you directly and see whether perhaps we can throw some light on this.

Firstly, the ABC commissioned this program in 1997 and you spent \$82,933 under an agreement in force at the time and the Film Finance Corporation was required to provide an additional \$195,282 to cover the cost of production. As you might recall, there were two Hungarian Australians, Mr Tibo Vajda, who headed the interrogation department of Hungary’s postwar communist secret police, the ABH, and Mrs Magda Bardy, one of the victims of the secret police. Can you explain why the ABC was interested in a documentary about matters that were in the public arena in 1993 when this issue was first raised in the Sydney newspapers? The *Sydney Morning Herald* and the Nine Network’s *Sixty Minutes* program published a story of Mrs Bardy and Mr Vajda. Some four years after the ABC commissioned the documentary. Why was there this four-year gap? What was the interest four years later?

Mr Balding—I apologise that we did not answer that other question more specifically for you; and I will have a look at that. I am really not in a position this afternoon to answer that question in the detail which I think you are seeking. This is a matter that has been discussed a number of times at Senate estimates. It is a fairly long issue. There are a lot of complexities to the actual project and the program itself. Sandra was not even Director of Television at the time it started, so those people have come and others have moved on. To provide a

comprehensive answer to this would take a bit more time and research. I am happy to do that again, and I am more than happy to have one of our managers come down and take you through it. But I am not in a position to give the level of detail to that question here this afternoon.

Senator TCHEN—Since Ms Levy, who is now in charge of all this, is new to these issues, perhaps I should go through with these questions.

CHAIR—If you wish to.

Senator TCHEN—Perhaps Ms Levy then can get a feel for this. The second issue is that, in 1993 after the first publication of these allegations in the *Sydney Morning Herald* and *Sixty Minutes*, Mr Vajda commenced a defamation process in the Supreme Court of New South Wales against Mrs Bardy and the media in respect of the publication. Those proceedings were decided in 2002 last year against Mr Vajda, the plaintiff. So when the ABC made its decision, that was in the middle of the legal process. Can you explain why the ABC commissioned Ms Janet Bell, who happened to be the long-time de facto partner of Mr Tom Molomby, the barrister representing Mr Vajda in the defamation action against Mrs Bardy and the media, to produce, write, direct and narrate the documentary which dealt with Mrs Bardy and Mr Vajda? Could you tell me whether Ms Bell approached the ABC to do this documentary, or, if not, how she was chosen to be the documentary's producer?

Ms Levy—I think Mr Balding already explained that it dates back to 1997—maybe even earlier—in terms of the development period, so I am afraid that I am unable to give you the kind of detail you wish to have, and the people who were involved at that point in commissioning it are no longer on the ABC staff. So it may be very difficult to give you an answer about people's motives, which I think is what you are asking: how did they come to do this? We can give you information from our files on what actually happened, but I think it would be very difficult for us to give you an answer on motives.

Senator Alston—I think what Senator Tchen is probably more interested in is whether the decision was made on the merits and therefore anything that would indicate that it was made on the merits would be acceptable, but if it was not, I expect he would want the ABC to say that it would not happen again.

Senator TCHEN—Yes. While you are going through your records, perhaps you can see whether at any stage Ms Bell informed the ABC that her long-time partner was actually the barrister representing one of the prime characters in the documentaries in a current legal action against the other prime characters? If you could provide all the documentation relating to Ms Bell informing the ABC about this matter or, if she did not—

Ms Levy—We will do our best to locate that information. The program had quite a lot of answers on it, and it was made by Film Australia not by the ABC. It was made by Film Australia as part of the Film Australia national interest program. The ABC makes about 10 programs a year with Film Australia under this process. The selection of the producer and the project would have come about through Film Australia, not through the ABC. I think we have put that on the record. We can certainly go back and try and provide more information. But with some of those questions we would have to seek some answers from Film Australia. They would not be decisions that the ABC made at that point.

Senator TCHEN—Of course, if it will assist the ABC, I will certainly ask the same questions of Film Australia tomorrow. I also understand that Ms Bell is still producing programs for the ABC, so perhaps she can assist you in your inquiry as well.

Ms Levy—I should correct that: apparently it was an FFC-ABC project, not Film Australia. My apologies on that one. It was an FFC-ABC documentary under the documentary accords.

Senator TCHEN—I think we might see FFC tomorrow too, so I will put that question to them. I had raised another issue with you, Ms Levy, but I am sorry did not notice you were talking to someone else at that time. I said I understand Ms Bell is still producing programs for the ABC, so obviously she is still accessible to you and perhaps she might be able to assist you.

Ms Levy—Ms Bell is not currently working in ABC Television, though she recently was involved in the *Dynasties* series for the ABC.

Senator TCHEN—Obviously she has not disappeared off the face of the earth and is still accessible.

Ms Levy—She is a documentary film-maker.

Senator TCHEN—So perhaps she might be able to assist you with some of your inquiries. Could you also find out what advice the ABC sought or obtained about this matter, including in relation to whether such a situation, firstly, was in accordance with the ABC's editorial policies and guidelines; secondly, whether such a situation could inappropriately influence the court case; and, thirdly, whether this situation was both legal and ethical? If you did receive such advice, I would appreciate receiving a copy of it.

My third question is: can you confirm the truth of the report in the *Daily Telegraph* on 23 July last year that Mr Tom Molomby had also been employed at the ABC and had sat on the board as a staff-elected member at that time, or at any time?

Ms Levy—Tom Molomby was a staff-elected director of the ABC. I do not know in which years—maybe in the seventies or early eighties. It was some considerable time ago.

Senator TCHEN—Perhaps you can find that.

Ms Levy—Do you want the years?

Mr Balding—We will provide the years.

Senator TCHEN—Whether it was the same period when the decision was made?

Ms Levy—No, it was not the same period at all. It was a decade before.

Senator TCHEN—Okay. Did Mr Molomby have any dealing with anyone from the ABC about this documentary? Can the ABC guarantee that Mr Molomby had no role or input into the documentary? I understand you cannot answer those questions now.

Ms Levy—No.

Senator TCHEN—I am asking you to actually look into those. I will relate the fourth question in relation to the conflict of interest which resulted from the relationship between Ms Bell—the producer, writer, director and narrator of the program—and the barrister representing Mr Vajda against Mrs Bardy and the media. The ABC has previously sought to assure the committee that the documentary would not be a partisan account in favour of Mr Vajda. But, if that is the case, can you explain this? In December 1998, in response to a facsimile from Ms Bell—her only communication with Mrs Bardy in relationship to the program, shot on location in Hungary, and Mr Vajda—Mrs Bardy forwarded to Ms Bell a copy of a letter dated 26 July 1996 from the Hungarian interior minister's office to Mr Vajda's Hungarian lawyers. The letter contained a definitive account of the available documentation related to Mrs Bardy as well as to Mr Vajda in the archives of the interior ministry. The letter

from the minister's office made it clear that, contrary to a 1995 memorandum that the only existing documentation relating to the interrogation of Mrs Bardy had not been signed except by Mrs Bardy, Mr Vajda's signature appears on each of the orders which have falsely imprisoned Mrs Bardy, her husband and several members of her family. The same letter from the interior minister's office referred to documents in archives which indicated that, under the most repressive communist regime in Hungary during the late 1940s and early 1950s, Mr Vajda was personally involved in the demise of scores of political prisoners.

Given this definitive letter from the Hungarian interior minister's office, which Mrs Bardy had also forwarded to the ABC's then head of national networks, how do you account for the fact that the ABC accepted a program in which Ms Bell, as narrator, repeatedly asserts the innocence of Mr Vajda and that documents in the archives of the Hungarian interior ministry indicate a different AVH officer interrogated Mrs Bardy? Did anyone at the ABC ever seek an explanation from Ms Bell as to why there was no reference in the documentary to a letter from the Hungarian interior minister's office which refuted the claims advanced by Ms Bell in support of Mr Vajda?

Ms Levy—It might be helpful to point out that this documentary has not ever been screened and is not going to be, so what we are talking about is a program that has not been seen. I do not know if you are aware of that.

Senator TCHEN—I see. So what you are telling me is that in fact the ABC actually believes that the documentary is biased and unsuitable to be screened?

Ms Levy—That is not what I said. There were various processes of investigation, I gather, from 1997 onwards looking at the program. At a certain time the program simply became out of date, and it has no current relevance. Other events had overtaken it so that it was no longer appropriate to screen it. The program has not been scheduled and will not be scheduled, so we are talking about a program that has not been seen by people. We will attempt to get you answers to those questions, but I do not know if you are aware of that fact.

Senator TCHEN—Thank you for letting me know that but it actually does not bear on the reason I asked that question.

Ms Levy—I am sorry then; I might have misunderstood. What was the reason for the question?

Senator TCHEN—No, that is fine. The question of whether the ABC has done something in screening a particular program is not at issue. I am concerned about how the program came to be made and how the ABC managed to choose someone to make that program.

Mr Balding—Let me assure you we will go through all those questions, we will go through all our files and we will try to put together as comprehensive an answer as possible.

Senator TCHEN—Okay. In that case, to assist you perhaps I could go through the other aspects I wish to raise with you.

Ms Levy—On the same program?

Senator TCHEN—Yes, on the same matter. I would like to draw your attention to the fact that it was reported in the *Sunday Telegraph* on 21 November 1993 that during 1993 the Dental Board of New South Wales permanently removed the name of Mr Vajda from the roll of dentists. This followed an inquiry which revealed Mr Vajda in fact had not completed any degree in dentistry, yet throughout the program, which has not been screened but has been made, Ms Bell refers consistently to Mr Vajda as Dr Vajda.

The sixth issue relates to your responses to question No. 143 from the additional estimates hearing of 18 February last year and question No. 81 from the supplementary budget estimates hearing on 20 November 2002. The ABC said it had commissioned the documentary because it was perceived that the issues contained in the proposal remained of relevance at the time of commissioning. I touched on this issue in my first question. The answer that the ABC gave was that it believed that, at that time, the issue remained relevant. Did the ABC ever ask why the documentary overlooked the facts, as reported in the *Australian* on 13 August 1993, that when Mr Vajda arrived here in 1957 he made no mention of his job as an officer in Hungary's KGB or that he had been convicted of maltreating prisoners and preparing false statements? What if any role did the ABC's commissioning editor of documentaries have in checking whether this documentary was factually correct or accurate?

The seventh aspect I would like you to look at is the responses to question No. 156 of 18 February 2002 and question No. 82 of 20 November 2002. The ABC claimed that the only reason for not broadcasting the documentary was the length of time that had passed between when these matters were in the public arena and the completion of the film. What documentary evidence is the ABC relying on in claiming that this was the reason for not showing the documentary? Could you please provide a copy of this evidence or the process by which you reached that decision. Who made this decision? How could it be that it was timely to commission the program in 1997, although it covered matters that were dealt with in the public domain in 1993, but then it was not timely to broadcast the documentary after it was completed?

The eighth question is: could you please provide the committee with all ABC analysis of the documentary upon its completion. Why won't you admit that the program the ABC commissioned and accepted from Ms Bell was so flawed that the corporation lacked the stomach to broadcast it? If the answer is that there has been a change of management and a change of view, I am sure there will be a documented indication of that, and I would like to see that as well.

Ms Levy—If there has been a change of management, you would like to have that documented?

Senator TCHEN—If there has been a change of view of the management, I would like to see that change.

Ms Levy—I am sorry, I thought you meant a change in personnel. We will do our best to answer those questions.

Senator TCHEN—Of course. My ninth question is: is it a fact that the ABC and the FFC wasted in excess of \$277,000 of taxpayers' money in this production? I know that that is self-evident if you have not shown it, but the question I would like an answer to from the ABC is: what have you done to make sure that in future the money you spent was well spent? Or do you simply write it off?

Finally, I would like you to turn your mind to question No. 83 from the last supplementary estimates hearing on 20 November 2002. You indicated that, since producing *Victims*, Ms Bell has worked as an ABC television executive producer on two internal productions: *In the realm of the architect* and *Dynasties*. Would you please include the amounts spent on these programs and the amounts paid to Ms Bell.

Ms Levy—Could you repeat the last part of your question?

Senator TCHEN—According to the answer given to us by the ABC, Ms Bell has subsequently worked as an ABC television executive producer on two internal productions. The first one is called *In the realm of the architect* and the second is called *Dynasties*, which I believe was screened fairly recently. Would you please indicate the amount spent on these programs and the amount paid to Ms Bell?

Mr Balding—We will take that on notice and provide that information.

Senator TCHEN—Thank you.

Senator CONROY—I refer to the decision taken on 4 February to extend the broadcast of parliament, which is normally between 2 p.m. and 3 p.m., to 3.45 p.m. to allow viewers to watch the Prime Minister's statement on Iraq, and the subsequent decision to cease broadcasting when the opposition leader, Simon Crean, rose to make a statement on the same topic. Could you explain who within the ABC took this decision and on what basis?

Mr Balding—I will explain the background and Ms Levy may know who actually took the decision itself. To put this in some context, the ABC scheduled parliamentary broadcast time is between 2 p.m. and 3 p.m., as you are aware, on every sitting day. With very little advance notice that the Prime Minister's speech would not start until approximately quarter to three, the ABC essentially had three options to deal with this situation. One of those was to pull out of the broadcast at three o'clock—the scheduled time—which would have been in the middle of the Prime Minister's speech. The second option was to extend the session to accommodate the Prime Minister's speech and to advise when the Leader of the Opposition's speech would be televised in full—ultimately, that was what we did at 11.45 p.m. The third option was to extend the parliament's broadcast, which would have taken us to about quarter to five which would have had a significant impact on our programming schedule. I believe the ABC took the right option. You should also bear in mind that both speeches were broadcast live on News Radio. In respect of who took that decision and on what basis, Ms Levy may be aware of those matters.

Ms Levy—I was out of the country at the time—

Senator CONROY—Good answer.

Ms Levy—It was very convenient. The scheduler took the decision. We have a very big and loyal children's audience that turns on at three o'clock. We do not have much of an adult audience between three and six and, in fact, the biggest number of complaints we get in television is when we change the schedule. When people turn on to watch *The Bill* they do not particularly want to watch something else. Parents that turn on programs that their children have been waiting to see do not particularly like having their programs changed. Normally, we try very hard to stick to the scheduled programs and that is a procedure that we follow. That is rule number one: stick to the schedule and only make exceptions really in the most exceptional circumstances. The children's audience is large in number and it probably would have been inappropriate to take up the entire children's segment of the afternoon with a parliamentary broadcast. I am sure that is the way the scheduler saw it. That is basically how we would have handled it.

Senator CONROY—You felt it was okay to frighten children with the Prime Minister?

Ms Levy—I think the courtesy that was described by Mr Balding to not cut the Prime Minister's speech off in the middle was appropriate. We had no notice of its duration, so it was difficult to understand when one might appropriately pull out of it—as it were.

Senator CONROY—I appreciate that the length of his speech was not known—it was not even advised to ourselves. Equally, you had no idea how long Simon Crean was going to

speaking for—he could have only spoken for 15 or 20 minutes. I appreciate that you try not to change your regular programming but, given that the content of both the speeches was about Australia going to war, do you think it is reasonable that the Prime Minister gets an extension and the Leader of the Opposition gets cut off?

Mr Balding—In taking those points you just said, they were very significant issues that were being addressed in the parliament. Equally, we did not know how long the Leader of the Opposition's speech was going to go for. Word was around that speeches were going to go for a maximum of 53 minutes, I think. I was actually in Parliament House that afternoon. It would have been equally discourteous to cut the Leader of the Opposition's speech in the middle as well. So the programmers took a decision to make a clean cut at the end of the Prime Minister's speech, but to advise the audience that the Leader of the Opposition's speech would be replayed in full at the scheduled parliamentary time at 11.45 p.m. and also to note that it was live on News Radio.

Senator CONROY—Let me get this right: you felt it was all right to change the programming to suit the Prime Minister?

Mr Balding—No, we changed the program to accommodate the significance of the issues that were being addressed in the House. Even when the Prime Minister got up to talk, we did not know how long he was going to go for. I am told that the program makers—and they are doing this on the run in respect of schedules on national television, as you have acknowledged, Senator—were given very little advance notice of this. In fact, when we were given this advance notice, the ABC sought to have the sequence of events changed to bring the speeches on first rather than the condolence motions to try to accommodate the speeches in our allotted time.

Senator CONROY—But that would not have helped Simon though; you would have still cut Simon on that.

Mr Balding—No, because at that time we still did not know how long the speeches were going for. On the guise that, I suppose, it would be the program as scheduled, they took the decision initially to extend the program to 3.30 p.m. and then to take through to the end of the Prime Minister's speech—in other words, not to cut off the Prime Minister's speech midway through the speech.

Senator CONROY—Given that Ms Levy was overseas, did the scheduler seek to talk to anybody other than Ms Levy? Did anyone give you a ring?

Mr Balding—The scheduler, I believe, was in fairly close conversation with the national editor from news and current affairs as well as our bureau here in Parliament House to try to get a handle on how long the speeches would go for and what would be the issues that we needed to take into account in respect of the schedule.

Senator CONROY—Were you advised of the dilemma?

Mr Balding—No, not until after those decisions were taken.

Senator CONROY—Do you think it is reasonable that the Leader of the Opposition was cut? What sort of signal does it send when you are prepared to change your scheduling for the Prime Minister but you cut the Leader of the Opposition—putting aside the length of the speech?

Mr Balding—I understand where you are coming from. The issue also is trying to find the correct balance in a decision. As I said, these are very significant issues but, at the same time,

we did not know how long the speech of the Leader of the Opposition would go for and we did not want to be faced with a situation where—

Senator CONROY—But it did not matter how long the Prime Minister’s speech was going to go for—you were going to cover that.

Mr Balding—No, they took the decision to make a clean exit from that.

Senator CONROY—Yes, but you took the decision that, it did not matter how long he spoke for, he was not going to be cut.

Mr Balding—You know—you win some and you lose some.

Senator CONROY—But he could still be going, would you still be showing it?

Mr Balding—No, we would not, but let us talk about the reality of the situation. The decision to take the Prime Minister’s speech in its entirety I think was correct. What we did not want to be faced with was cutting the Leader of the Opposition’s speech.

Senator CONROY—Why would you possibly consider cutting the Leader of the Opposition’s speech when you have just made a decision not to cut the Prime Minister’s speech?

Mr Balding—We went 43 minutes into the children’s program schedule and to have gone a further hour into that schedule would have had a major impact on our audiences.

Senator CONROY—When was the last time there was a speech about Australian troops going to war?

Mr Balding—I do not know.

Senator CONROY—It would have to be at least 10 years. No, possibly East Timor might have fallen into that category, but then the ABC did give that blanket coverage, so I am sure everyone got a guernsey that day.

Mr Balding—I will more than acknowledge the importance of the issues, but it is finding that balance—

Senator CONROY—It just sounds like the diatribes you have just put up with from Senator Tchen and Lynton Crosby seem to be having some impact: ‘We will accommodate the Prime Minister but we’ll chop the Leader of the Opposition out.’

Mr Balding—That was a decision that was taken as a programming scheduling thing, and you just need to try and get the balance right. We took the decision.

Senator CONROY—I am trying to avoid getting you to comment on the decision at the time, but do you think that the right balance was struck?

Mr Balding—I believe the right option was taken, yes, I sincerely do. I did not partake in that decision process—we have editorial managers and programming managers to take those decisions and accept responsibility. But, given the circumstances, as you have rightfully acknowledged, giving very little advance notice of the length of the speeches and the scheduled events—

Senator CONROY—I know you keep trying to refer to the length of the speeches, but it did not matter how long the Prime Minister’s speech was, you were going to cover it.

Mr Balding—I cannot comment on that because I just do not know.

Senator CONROY—That is what happened.

Mr Balding—Whether the people knew in scheduling that the Prime Minister's speech was going to finish at about 20 to four—

Senator CONROY—I am sure they did not; no-one had an absolute time frame on it. But it did not matter: you were going to cover the Prime Minister's speech to the end of his speech.

Mr Balding—That is a risk you need to take in respect of the length of that speech.

Senator CONROY—If you would like us to start a letter writing campaign from Geoff Walsh and for a few senators to stand up here and grandstand and ask a whole string of ridiculous questions about each individual court case you are involved in, we can do that for you, but I would hope that we do not spend the entire day doing those sorts of things and we can still achieve a sense of balance. I appreciate that is what you are seeking to achieve. But if you want us to progress down that path, I am sure we have plenty of senators who would like to take up a range of issues with you. I just find that you are comfortable that the Prime Minister gets to speak for as long as he likes and he is going to be covered and the Leader of the Opposition gets midnight. That just does not sound like balance to me.

Mr Balding—I am not saying I am comfortable; I am saying that, faced with the options that were available to the corporation, I believe the corporation chose the correct option.

Senator CONROY—So it did not matter about the kids as long as the PM was speaking, but it mattered about the kids when it was Simon Crean who was speaking.

Mr Balding—It is finding the balance. You are not comfortable that you are affecting your schedule to start off with; and, no, I was not comfortable that the entire speeches were not shown. It is finding that balance, and exiting at an appropriate time.

Senator MACKAY—Sorry, Senator Conroy, but can I just ask: are you aware of any discussions between the government in its broader sense—that is, staffers et cetera—and anybody from the ABC with respect to this matter?

Mr Balding—Post or during?

Senator MACKAY—Pre.

Mr Balding—No, I am not. I can make inquiries for you.

Senator MACKAY—Is anybody else aware whether there were any? Did the ABC get the heads-up on what was likely to be happening?

Mr Balding—I think, close to the time, our Canberra bureau was getting information that this was going to impact on our programming, that in fact it was going to run over—that the fact the Prime Minister would not be starting his speech until just before three o'clock was going to have an impact on our programming. As I said a bit earlier, when they found that out I think that is when we made approaches to try and change the sequence.

Senator MACKAY—Where did they find that out from?

Mr Balding—I do not know. I can find out for you.

Senator MACKAY—Does anybody know? Just for the record, who is the national editor for news and current affairs?

Mr Balding—John Cameron.

Senator MACKAY—Thanks.

Senator CONROY—Was anyone on the board consulted?

Mr Balding—No, I do not believe so; nor would they be.

Senator CONROY—Just so we can get the historical record, could you provide us with information—if necessary, on notice—on what the ABC Television broadcasting arrangements were for the similar parliamentary statements made by the then Prime Minister, Mr Hawke, and the then opposition leader, John Hewson, prior to the Gulf War in 1991?

Mr Balding—Yes, I will take that on notice.

Senator CONROY—It may be that they were not done at question time. I do not know, but I would be interested in that. Can you see a similar circumstance arising where the Leader of the Opposition would be relegated to midnight?

Mr Balding—Again, it depends on the advance notice that the ABC is given. And bear in mind that the speeches were live on News Radio, so they were covered. It is not as if they were not covered live, and they were subsequently covered, as you said. But there was advance notice to our audience that it would be covered at 11.45.

Senator CONROY—If the Prime Minister was sitting here would you be saying to him, ‘Oh, no, you were covered live on radio,’ if you had cut him from the TV?

Mr Balding—Again, it depends on the circumstances at the time.

Senator CONROY—I bet it did.

Mr Balding—It is very difficult to forecast what would happen and what decision you would take.

Senator CONROY—Clearly, in somebody’s mind, the Prime Minister was going to get an uninterrupted speech for as long as he wanted.

Mr Balding—I do not think it would be for as long as he wanted.

Senator CONROY—Are you now suggesting that you would have cut the Prime Minister off at some stage during his speech?

Mr Balding—It depends on the length of the speech.

Senator CONROY—What would have been an unreasonable length of speech, Mr Balding?

Mr Balding—If you started going an extra hour, people in respect of program scheduling would need to make a decision as to how they would and when they would exit. Whether it is an extra hour or an extra half hour is subjective.

Senator CONROY—But you are telling me that you deemed it to be uncourteous, I think you said, to cut him off after 15 minutes.

Mr Balding—Yes.

Senator CONROY—I am just wondering when your courtesy was going to run out—if he had kept going for another five, 10 or 15 minutes. I am just trying to get a sense of it.

Mr Balding—I cannot answer that. I am sorry.

Senator CONROY—I would have thought it was fairly straightforward.

Mr Balding—No, Senator. That is a decision that the program schedulers would be taking—

Senator CONROY—I am asking you what your opinion is. I am not asking a program scheduler.

Mr Balding—Again, it depends on the length of the speech and how long it was going to go for.

Senator CONROY—But you do not know the length of the speech. The program scheduler did not know the length of the speech. I am now asking you what you thought a reasonable length of speech would be before you would cut the Prime Minister off?

Mr Balding—I would have thought—again this is subjective—that, if it was going for at least another hour, that would have a significant impact on our afternoon programming schedule and a decision would have to be taken to exit.

Senator CONROY—So, after another hour of the Prime Minister’s speech, you might have thought about cutting him off?

Mr Balding—In another hour or another half hour—again, it is subjective. It is very difficult to put yourself in that situation. It depends on what is being said at the time.

CHAIR—Are you saying the importance of the issue was a consideration, Mr Balding?

Senator CONROY—I agree completely. The importance of the issue is the point.

CHAIR—It was the national leader who was speaking on television. Surely the national leader should be heard in his entirety on a major issue?

Senator CONROY—I am actually agreeing with you. It is then the question that the ABC decided to cut off the national opposition leader speaking on it that is the bone of contention, not whether the Prime Minister speaks for an hour or—

CHAIR—He is not the national leader. That is probably the—

Mr Balding—We did not cut off the Leader of the Opposition.

Senator CONROY—You did not put him on.

Mr Balding—No, we did not cut him off.

Senator CONROY—You are right: you could not cut him off because you did not start him. Just for the record, we do not live in a presidential regime; we live in a Westminster democracy, Senator Eggleston.

CHAIR—The Leader of the Opposition does not have the same status as the Prime Minister.

Senator CONROY—Clearly not at the ABC.

CHAIR—He is the national leader and he was speaking on a matter of national importance. The ABC made a judgment accordingly, I would suggest.

Senator MACKAY—I think Senator Conroy is querying the editorial policy.

Senator CONROY—Yes. I was just about to go to the question of whether or not you believe it is consistent with your editorial policy section 11.1.2, which calls for the public to ‘be fully informed of the position and policies of those parties competing for political office’.

Mr Balding—We believe they do comply because—

Senator CONROY—Midnight is as fully informed as prime time?

Mr Balding—The Leader of the Opposition’s speech was broadcast on radio. Secondly, it was broadcast on television and delayed, and our audiences were informed of that.

Senator CONROY—This is not a completely accurate analogy, but it is often the case when, say, a one-day match or even a test match or other sporting events such as tennis

matches run late that they would have a flier running across the bottom of the screen, 'Normal programming will resume after the completion of'. That was not an option for the ABC?

Mr Balding—It took an option, which went 43 minutes into the children's programming schedule.

Senator CONROY—You could not just run a little flier across the bottom saying, 'Normal programming will resume when the Prime Minister and the Leader of the Opposition have completed their speeches.' Wasn't that an option?

Mr Balding—It may have been an option, but the decision was taken from a programming perspective to return to the children's program.

Senator MACKAY—Did the ABC tell television viewers they could hear Mr Crean's speech on News Radio?

Mr Balding—No, I am sorry. I need to correct that. They did not.

Senator MACKAY—I am certainly interested in what discussions there were between anybody from the government in its broader sense—press secretaries et cetera and not simply political staffers and the ABC in relation to this matter. If that could be taken on notice.

Mr Balding—Yes, Senator. I have already agreed to take that on notice.

Senator CONROY—I was just wondering whether you could outline the current nature of your agreement for a retransmission of the ABC signal over pay TV networks?

Mr Balding—I take it you are referring to the retransmission agreements with Foxtel.

Senator CONROY—I am not sure who they are with.

Mr Balding—It is with the merged platform at the moment. We have a current retransmission agreement with Foxtel that allows retransmission of our primary channel on their cable, but no multichannels; and a retransmission of our primary channel with up to an additional four channels on their cable once that network is digitised, but again nothing on their satellite service. In the absence of a 'must carry' provision in respect of the legislation, we are currently negotiating with Foxtel to see if we can have all ABC services carried on their platform. Those negotiations are continuing at the moment.

Senator CONROY—Foxtel is the only one you are involved in discussion with at the moment, is it? I know there are not many options nowadays.

Mr Balding—We have retransmission agreements with Austar, Optus and TransACT and other smaller players but it is obviously the Foxtel one we are concerned about in that they are the only pay TV platform that does not carry our multichannels or we are at least in advanced negotiation with the carrier to carry our multichannels, and that we are not carried on their satellite service.

Senator CONROY—It is pretty hard dealing with a monopoly, isn't it?

Mr Balding—We are working our way through it.

Senator CONROY—I hope you have more success than their previous competitors did. Do you believe it would be a real threat to your ongoing retransmission if you were not able to do that?

Mr Balding—If these negotiations break down, yes, I do believe that. I have said it publicly and I think I said the last time I was here that we are going to have a situation in which I believe the Australian public would want certainty that they have access to the national broadcaster. At the moment that certainty does not exist.

Senator CONROY—Given that we now have an effective monopoly in pay TV, most economic theory would suggest that you need to have a slightly tougher regulatory regime. Do you think one of the constraints that perhaps the ACCC should put on Foxtel as part of an agreement to allow the merger to take place is to take into account the national interest and the ABC's position on this? Have you put in a submission to Fels on that?

Mr Balding—Yes, we have advanced that to the ACCC in writing.

Senator CONROY—Have you heard back from them?

Mr Balding—I believe we are still having discussions with them but we have put it to them in writing that we are advocating a 'must carry' provision in the legislation.

Senator CONROY—I would like to ask the minister whether he is prepared to mandate that, but as he is absent again I am not able to. Is the minister anywhere in hearing or in sight? Hello! Hello! We have lost the chair and the minister. Welcome back, Chair. Is there any sign of the minister?

Senator MACKAY—Perhaps I can ask a question, Senator Conroy, while we are waiting for him.

Senator CONROY—I suspect we will not see him.

Senator MACKAY—Just going back to the situation with the Prime Minister and the Leader of the Opposition, what will you do if faced with the same circumstance again?

Senator CONROY—The same thing.

Mr Balding—Do you mean with very little notice?

Senator MACKAY—Let us just say the situation is replicated. Clearly this has created some angst. One may have views about whether or not it is warranted; we think it is. I guess I am attempting to get some level of reassurance in terms of the future.

Mr Balding—If it is a serious matter, which it clearly was, then the corporation would be looking, as best it could, to accommodate it.

Senator MACKAY—Can we take from that that if, for example, the horror scenario arose where there was a war, the ABC would be broadcasting both leaders at the same time—not concurrently, but one after the other?

Mr Balding—Again, we would be looking at that but it depends on the nature of the events and the time as well.

Senator MACKAY—But you do take on board the opposition's concern in respect of this, do you?

Mr Balding—I do, and I think I acknowledged that at the opening of the questions and the discussion that we had.

Senator MACKAY—So, presumably, from now on procedures may be put into place to ensure that perhaps you might be consulted in respect of this if—

Mr Balding—We would need to have a look at it, yes.

Senator MACKAY—Minister, what is your view in relation to this issue?

Senator Alston—I thought Matt Price's article had a lot going for it, actually. I presume you read it?

Senator MACKAY—I have not, actually. What is your view?

Senator Alston—His basic proposition was that, from Simon Crean's point of view, it was an absolute godsend, because if you looked at his address he was all over the shop. He turned a 14-minute speech into a 43-minute speech on the run and paid the penalty.

Senator MACKAY—So do you think the ABC has made the correct decision?

Senator Alston—It is not a matter for us. They make their own judgments on these things. I have not sought to ask them the basis; I have presumed that they are intending to be even handed and they were probably put in a more difficult position than usual because of the length of the speech. If it is the Prime Minister of the day making an important address to the parliament and he goes first, then almost by definition they cannot cut into that halfway through, so if they have other programming commitments they are between a rock and a hard place. I do not know what followed, but I suppose if it was children's television, you would have had another war on your hands. So it does make it very hard for them. I assume they were not aware of the length, but in any event it is hard to see what more they could have done about it.

Senator MACKAY—Thanks.

Senator CONROY—Minister, I have one final question. We were talking about the problems that the ABC is having negotiating with Foxtel about the retransmission. We were wondering whether or not you would consider mandating such retransmission in the event of negotiations breaking down, given that this is now a monopoly and given that most economic theories suggest that monopolies need to be more tightly regulated to avoid abuses. Also, do you think it is in the national interest to include in the regulation of this new monopoly that the ABC should get its opportunity to retransmit? Take a bold step.

Senator Alston—You are probably philosophically more inclined to mandating than we are—we would see it as a last resort whereas you seem to think of it often as a first resort.

Senator CONROY—It would save time.

Senator Alston—I imagine that it will not be an issue because it seems to me it is in everyone's interest that free-to-air services be retransmitted, and we are talking here about both cable and satellite. As you know, Channel 9 has already struck a commercial agreement with Foxtel—I do not know the terms of that. My starting point would be to ask why similar terms are not available to other commercials, and presumably the national broadcaster as well. I would be very surprised if at the end of the day there is any in-principle objection. I think there may be some haggling about the price to be paid, although—

Senator CONROY—Unfortunately, you missed Mr Balding's statement. They have actually had to write to the ACCC to try and get the ACCC to—

Senator Alston—To arbitrate on a fairer—

Senator CONROY—No, hopefully not to arbitrate but to insist that they be included.

Mr Balding—Our submission to the ACCC was advocating a position in respect of the 'must carry' provision in the legislation.

Senator CONROY—Yes, 'must carry', not a cost, 'it must carry' and then let them negotiate.

Mr Balding—The ABC currently is not funded to pay for retransmission.

Senator CONROY—Exactly, and unless you are planning on dipping your hand in your pocket, there is no way they can come up with a commercial settlement along the lines that you are asking. This is in the national interest.

Senator Alston—It depends whether it is a nominal asking price. I do not think—

Senator CONROY—If it is a dollar I am sure even you could kick it in.

Senator Alston—I think in the past you have had free retransmission in certain circumstances.

Senator CONROY—Minister, do you believe it should remain free or do you believe the ABC should pay for it?

Senator Alston—I think Mr Balding is about to tell you that the ABC was getting it for free.

Senator CONROY—But I am asking: do you believe that the retransmission costs should remain zero under the new regime, which is a monopoly?

Senator Alston—I would need to be persuaded that there was a justification for paying anything other than a nominal fee, yes.

Senator CONROY—A nominal fee is not zero.

Senator Alston—Nominal is peppercorn rental or whatever. Nominal is something that even the cash-strapped ABC could afford.

Senator CONROY—So a dollar is a good peppercorn rent?

Senator Alston—Yes, a dollar is very nominal.

Senator CONROY—Do you think that is fair?

Senator Alston—You and I could pay that for them.

Senator CONROY—Yes, we could go 50c each. I will put my 50c in to get the ABC retransmission. Will you put yours in?

Senator Alston—I certainly will.

Senator CONROY—You can mandate it. How about you make it happen?

Senator Alston—No, we are not dead keen on mandating. As I say, it is a last resort.

Senator CONROY—You could make it happen.

Senator Alston—I know, but these things have a bad habit of coming back to bite you if you somehow mandate common set-top boxes and—

Senator CONROY—You would know more about mandating the digital industry than anybody, Minister. Have you got a digital set yet?

Senator Alston—If you remember, you lot mandated the phase-out of analog and you should be eternally grateful that CDMA came out of left field.

Senator CONROY—Have you got a digital TV yet?

Senator Alston—Yes.

Senator CONROY—Excellent!

Senator Alston—But I do not get much time to watch it.

Senator CONROY—No wonder you are going to have to retransmit it in digital. There you are, witnesses: you have one customer. So, Minister, you have the chance. Take a bold step: tell Foxtel they are a monopoly dependent on government.

Senator Alston—As I say, I do not think this is going to prove to be a problem. If there is a need for a bit of gentle arm twisting, we are not averse to that, but the idea of legislatively mandating something that is likely to emerge voluntarily is premature.

Senator CONROY—Hopefully for tomorrow's newspapers, as there are a few journos here, they can write the story that the minister says a bit of gentle arm twisting is on the way if you do not come to the party for a dollar. 'Conroy, Alston agree to pay 50c each'—that could be the lead story in the *Sydney Morning Herald* tomorrow.

Senator Alston—You are a shameless headline grabber. There are serious policy issues at stake. I know what it is like in opposition—you can have a bit of fun with these things—but you have to take account of other precedents. You have to look at the knock-on effects. You have a regime now which does not involve must-carry. Must-carry has been a fact of life in the US for a long time but theirs is slightly a different market: they have exclusive franchise areas so you only have one commercial carrier in a particular neighbourhood—

Senator CONROY—Foxtel have now got an exclusive franchise area: it is called Australia.

Senator Alston—We have competing carriers in theory and you are moving ever closer to a de facto monopoly regime, I concede—

Senator CONROY—Concede?

Senator Alston—At a content level that is probably going to be the case but at a carriage level that is not necessarily the case at all. Optus seem quite interested in running an alternative and they still reserve their position in relation to competing content, but they are pushing uphill, I would think. Similarly, I think Seven and others would like to get in the game, so it is not an absolute monopoly in the way that you find in some other places.

Senator MACKAY—Did you pay for your digital TV yourself?

Senator Alston—I have on loan a plasma screen—

Senator CONROY—They are worth 10 grand, aren't they?

Senator MACKAY—Lucky you! Where did you get that from?

Senator CONROY—Aren't they worth about \$10,000?

Senator MACKAY—Yes, they are.

Senator Alston—I do not know. I think the prices keep coming down. I do not know what the current commercial rate is.

Senator MACKAY—Where is it on loan from?

Senator CONROY—Who have kindly loaned you one?

Senator Alston—Telstra.

Senator MACKAY—Telstra have loaned you a plasma TV?

Senator Alston—They have.

Senator MACKAY—Goodness me! Is it indefinitely? Is it just for you to check it out and see whether it is okay?

Senator Alston—I am surprised you are not aware of this. I declared this to the Senate several months ago.

Senator MACKAY—What, that Telstra had lent you a plasma TV? No, I was not aware of that. Stephen?

Senator CONROY—No, I am afraid I was not. I have obviously got to go back to scouring the pecuniary interests register.

Senator Alston—You should.

Senator MACKAY—How long ago did they lend it to you?

Senator Alston—I do not know; I suppose it would be maybe three months ago.

Senator CONROY—How long is it for?

Senator Alston—I have seen it as essentially for the purpose of looking at sport, which I think is probably the best—

Senator MACKAY—The tennis!

Senator CONROY—No, the cricket—come on, be fair. No, he wants to watch the Pies. But the least you could do, Minister, is invite me around.

Senator Alston—For cricket and football.

Senator MACKAY—Is this plasma TV at home, Richard, or is it in your office?

Senator Alston—No, at home.

Senator CONROY—At home?

Senator Alston—I do not get much time to watch these things. The only time I am ever going to watch sport is at home, and even then you do not—

Senator CONROY—Has Telstra left the ACT yet? Can we get them back in?

Senator Alston—Well, I am sure that if—

Senator MACKAY—But we would refuse it of course, Senator Conroy. You can go around to Richard's place and watch the cricket.

Senator Alston—I am sure you could get the phone number. You could make contact with them.

Senator CONROY—I am obviously not a football fan, but now that you are putting on a barbecue at your place when Collingwood play, I think I am.

Senator Alston—We might have left our run a bit late. We should have found this out six months ago.

Senator MACKAY—Has anybody else got a plasma TV from Telstra?

Senator CONROY—Are you aware of any other members of parliament that have been loaned a plasma screen by Telstra?

Senator Alston—Again, if I were you I would search the records.

Senator CONROY—I take it that TV reception has been a bit of a problem in your area?

Senator Alston—No, not particularly.

Senator MACKAY—It is not impacted by a plasma TV, though. It's just a zillion times better quality.

Senator CONROY—They are really doing it for digital.

Senator MACKAY—It might not be digital. I don't think he understands that.

Senator Alston—The real issue is, as others have rightly said to me from time to time, how can you make judgments about these things if you do not know what you are talking about, if you have never seen them?

Senator MACKAY—We could all say that.

Senator Alston—At least I am now in a position to know what it looks like and what value it adds. I think I can say that high-action sport, and particularly on a wide screen, is obviously attractive. That explains why the take-up rate of widescreen sets has been very impressive. If you want me to make decisions from an informed knowledge, then I am in the position of doing it.

Senator CONROY—Who are we playing in the first round?

Senator Alston—That is a very good question.

Senator CONROY—It hasn't arrived yet. So that is a date then?

Senator Alston—I will see what I can do for you.

Senator CONROY—I do normally prefer to watch the Pies live at the ground but I know you do too.

Senator Alston—The replay.

Senator MACKAY—Our plasma TVs are in the mail.

Senator CONROY—I see representatives of Australia Post are at the back. Have they given you any freebies that we need to be aware of? ABC, any freebies for the minister?

Senator Alston—It will be on the record but I can assure you that the ABC does not have—

Senator CONROY—It cannot afford a dollar to buy rebroadcasting. The minister has spoken for himself and we should move on.

Senator MACKAY—We should.

Senator CONROY—My questions are finished. Senator Mackay, did you have a few?

Senator MACKAY—I am going to put them on notice. That is it for us.

CHAIR—We have finished with the ABC. Thank you very much for appearing.

[5.27 p.m.]

Australian Broadcasting Authority

Senator ALLISON—My questions go to the role of the ABA with regard to the Internet's Interactive Gambling Act. First of all, from your point of view, what are the implications of the decision of the High Court in *Dow Jones v. Gutnick*—that is, that in respect of the Internet material, it is published where it is read? Can you just advise what in your view this means in terms of broadcasting and interactive gambling on television principally?

Ms Wright—It has little impact on our jurisdiction as we have a confined role under the scheme. Our role is confined to two aspects: one, is registering codes of practice made by the Internet industry, which we did in December of the year before last; our second role is to investigate complaints about material that has gambling content. To date we have received 13 complaints, so it has been a very focused number. For us there is very little impact because our role is confined.

Senator ALLISON—Is it possible to give the committee some idea of what those 13 complaints that you have received were and what has happened as a result of those?

Ms Wright—Certainly. Of the 13 complaints, when we were investigating we found that in two of those the URLs did not contain material that came within the scope of Internet gambling. Nine concerned material that was hosted overseas. Of those nine, seven fell within the definition of prohibited content. In that case, we pass that material on to the filter providers under the industry code of practice and it is then filtered. Two of those complaints about overseas hosted material were found to have no prohibited content and the two complaints that appeared to be made in relation to Australian content did not reach the threshold for Internet gambling prohibited material. Had they done so, we would have passed them on to the Australian Federal Police, but they did not do so.

Senator ALLISON—Of the 13 complaints, none has had further action taken with regard to prosecution.

Ms Wright—No, only in the sense that we have passed on seven of them for filtering.

Senator ALLISON—Is there anything to stop the ABA from taking an investigative role? Why does the ABA need to wait for complaints to be made?

Ms Wright—The focus of the scheme is having a place where complaints can be passed to us. We had understood at the time of the legislation being passed that in fact there had only ever been three companies or web sites in Australia that had hosted such material and that they no longer did so once the legislation was clearly going to be passed. So we understood that in fact there had been a move by the industry not to continue down that path given the legislative situation, and so then it would be a case of overseas hosted material being referred to us if there was a matter of concern rather than, in a sense, us needing to go looking for it. In the case of overseas material, it may not be illegal in the country that it comes from and there would be very little, I think, that the ABA could do in that instance beyond the measures that we have already taken, which would be to pass it to the filterers.

Senator ALLISON—So if I can go to that first assumption that there will be compliance, that you felt the industry was complying, does that mean you therefore assumed there would be no need to do any investigation or any oversighting yourself? Is that the rationale?

Ms Wright—The thrust of the legislation is for us to receive complaints. In addition to that we are in touch with the Internet industry and we discuss with them what response the industry has taken. Our understanding from those discussions is that that material is not being hosted in Australia.

Senator ALLISON—Do you get a sense at this stage—and I know that a review has just been commissioned—that there is a particular class or group of persons who would make complaints and that complaints may not bring up the kinds of incidents or the transgressions against the bill, I guess if you like, that you might be looking for or that might be problematic?

Ms Wright—I do not have a sense of that at the moment. I am not aware at the moment who precisely those complainants were for the 13 complaints that have come to us, but I am aware that they are not from the same or a single source, but because it is a very focused number of complaints it is very difficult to identify trends in relation to such a small number.

Senator ALLISON—Nonetheless, you would know if it was individuals or organisations of some sort who were complaining.

Ms Wright—Yes, and at the moment I do not have the understanding that a large number come from organisations, but we could check that.

Senator ALLISON—So given that the legislation is focused on complaints, at what point would you determine that you need to go beyond that to do some sort of investigation as an authority? Presumably the act does not rule out your doing that—I guess that is what I am after. At what point would you say, ‘Well, we are not getting complaints but we get a sense that it is happening.’ Is it possible for the authority to do that?

Ms Wright—Because we also register codes of practice—and I would comment that we are not receiving complaints about the operation of those codes—we would also look from that perspective.

Senator ALLISON—If you were receiving complaints?

Ms Wright—Yes, complaints about the codes of practice because, as I said, we have a two-pronged role, if you like: not only do we investigate complaints but the industry body formulates a code of practice so that, if we are satisfied that there has been sufficient industry and community input into that, we will register those codes. We find that, because we have codes of practice in other areas of the work that we do in relation to broadcast television, radio and other Internet content, from time to time we receive communications or complaints that various areas of those codes may not be operating effectively. Such complaints may not go to material being complained about, but it might be about various industry procedures, and that type of complaint then alerts us to a broader problem, but we have not had any indications that the codes of practice are not operating effectively.

Senator ALLISON—So the codes of practice cover what, at this point?

Ms Wright—A number of things, but including the mechanism that the industry uses to deal with material that is problematic. They are also to do with their role in educating consumers about certain types of material, where they can complain and also how to basically have a safe and productive Internet experience.

Senator ALLISON—Are those codes of conduct available?

Ms Wright—They are available on the Internet Industry Association’s web site and we link to that web site from the ABA’s web site, so the codes would be accessible either through our own web site by that link or by going directly to the Internet Industry Association site.

Senator ALLISON—Can I take you back to the first question, which was the implications of that High Court ruling on the appeal. I would imagine that there are significant ramifications for that decision, given that this means that advertising that is conducted in another country could be sent to Australia by email by someone who wished to send it to a network of people or an individual. What work have you done on the implications of that decision?

Ms Wright—Currently, we do not have a role under the scheme in relation to advertising, it is only into the sites itself. I think my colleague might wish to comment, but we do not have a role in relation to advertising currently.

Mr Tanner—I am happy to look further at the question for you, Senator, but I was not aware that the Gutnick case had any obvious implications for our jurisdiction.

Senator ALLISON—I will ask the department. I thought it may have done so. Thank you for that. Can I ask about the program which I gather is proceeding from Ladbrokes—a television program called *Poker Million Masters* which is made for television and run by Sky Sports. Has this been raised with the ABA and is it in breach of the act? It is due, I gather, to be broadcast in Australia in February. They are the heats, and then the final round will be in March. Has that been brought to your attention?

Ms Wright—I am not aware that it has been brought to our attention.

Prof. Flint—Now that it has been brought to our attention, we certainly will be examining the implications of that program.

Senator ALLISON—Could I bring it to your attention.

Prof. Flint—Thank you, Senator.

Senator ALLISON—Could you indicate whether this is of interest to the ABA. I understand it is likely to be on Fox Sports cable if it is not already.

Prof. Flint—Thank you, Senator.

Senator ALLISON—Has the department referred any complaints or any matters to you with regard to interactive gambling legislation?

Ms Wright—At the beginning of this scheme, before the scheme was in place, my understanding was that, if there were complaints, they passed to NOIE. When the codes were registered and our role took place, I think there were two complaints that were passed on to us at that time because they had not been able to be dealt with prior to our scheme being in place. I think we received two complaints passed on to us in that way at the beginning of the scheme, but I am not aware of anything since.

Senator ALLISON—If I could jump back again to the codes of conduct. Are you expecting further codes to be developed or is what we have got what you expect to be the suite?

Ms Wright—No, the codes have a review period. Usually, in the case of Internet gambling or Internet content, we look at them after 18 months or three years. I think in the case of the gambling code it is due for review after 18 months after inception.

CHAIR—I thank the ABA for their appearance today. That concludes the questions for you. I call the Australian Communications Authority.

[5.43 p.m.]

Australian Communications Authority

CHAIR—I welcome the officers from the ACA, Mr Shaw and Dr Horton.

Senator MACKAY—I refer the ACA to the annual telecommunications performance report 2001-02 and the media release accompanying the report dated 11 December 2002 entitled 'Telecommunications industry performance improves—ACA report'. In terms of the word 'improves', what was the basis of that claim?

Mr Shaw—I do not recall the exact press release that went out with the report. In general our workings on the assessment for 2001-02 indicated that overall performance in the industry has improved, and that is shown in all our performance monitoring statistics and in the intelligence that we reported in that report that we received as part of the work for preparation of section 105 of the report.

Senator MACKAY—I am wondering why you did not include in your release the fact that Telstra complaints rose by six per cent?

Mr Shaw—It is a general statement. Clearly there are ups and downs in all the performance measures, as you would be well aware. But if you compare year on year across the board, I think that is quite a reasonable statement to make.

Senator MACKAY—Why is it a reasonable statement?

Mr Shaw—Because complaints about services are just one of many indicators of overall performance and I am well aware that the number of complaints that the Telecommunications Industry Ombudsman has received had been increasing but in fact, in more recent times, I think you will find that they have actually been reducing. But that statement is just a general assessment of how we saw performance across the board.

Senator MACKAY—I am just curious as to why on page 42 you have actually stated: The ACA has described this six per cent increase in Telstra complaints as ‘relatively stable’. I am wondering whether a six per cent increase can be described as relatively stable?

Mr Shaw—I would have to read the report to be able to comment on that.

Senator MACKAY—It is your report.

Mr Shaw—If it is six per cent, I would have to go back to the figures and look at whether it was a six per cent increase which was from a previous year and we are just comparing the quarters for that year, or exactly what it related to.

Senator MACKAY—Why do you not have a bash at answering the question now? This is estimates.

Mr Shaw—You point me to the exact paragraph.

Senator MACKAY—It is page 42. This is your report.

Mr Shaw—It is a very long report.

Senator MACKAY—It is on page 42, Mr Shaw.

Mr Shaw—Which paragraph?

Senator MACKAY—It is the third last paragraph on page 42.

Mr Shaw—It says remaining ‘relatively stable’ during 2001-02, which was up six per cent, but presumably that is a quarter by quarter figure. Dr Kelleher, is that correct?

Dr Kelleher—The figure—and again I have not had a chance to review the figures—might well be up six per cent because Telstra’s share of the complaints went up, but the number might well have been stable. In the previous year there were a large number of complaints related to OneTel which, when they obviously were taken out of the figures in this year because they did not happen, changed the distribution of complaints by the other carriers so that the share of complaints would have gone up for other carriers simply because of the large number of OneTel complaints that had come out of the statistics.

Senator MACKAY—Is that the reason or is that a guess?

Dr Kelleher—It was one of the reasons. I know it was one of the factors that we looked at when we were looking at the change in complaint statistics and it was very difficult to do a year-on-year comparison because OneTel was no longer there and, in the lead-up to OneTel going out of business, it generated many more complaints than it could have been expected to do proportional to the number of customers it had. Again, that is a quick response.

Senator MACKAY—I cannot see anything in here that would indicate that.

Dr Kelleher—That is just part of the analysis behind the figures and behind the sort of conclusion that we would have come to.

Senator MACKAY—I just wonder whether it would have been appropriate for that explanation to have been put in the report.

Dr Horton—I think if you read further into the qualification of that paragraph those figures increase, and those figures reflect the impacts of bushfires and heavy rain in New South Wales in late 2001 and early 2002 which caused extensive network damage and also affected those fault complaints in other states. The staff needed to be transferred to assist with repairs. So I think the relatively stable aspect of that is that you would maybe expect a much greater effect than that six per cent increase if all those things were going on.

Senator MACKAY—I understand that, but this is not the first period in which there have been bushfires et cetera, that is my point. I am simply asking a question as to how that conclusion had been drawn.

Dr Horton—That is certainly true and maybe this year will also reflect some very significant bushfire induced complaints. This year probably has been one of the worst on record and last year was not a good one but this one is probably worse. But that is beyond the control of all of us to a large extent.

Senator MACKAY—I understand, but in terms of the subjective comment it is not me that has written ‘relatively stable’ and I guess that is what estimates are for.

Dr Horton—I understand what you are coming to. But the ‘relatively stable’, I think, is what I am trying to define for you as I read into that: ‘relatively stable in the absence of these catastrophes’.

Senator MACKAY—Which happen every year.

Dr Horton—No, they do not. Not of the significance of the types of bushfires we have had recently. They are only every decade or so.

Senator MACKAY—When was this report produced?

Mr Shaw—This report was tabled by the minister late last year and the statistics relate specifically to 2001 and 2002.

Senator MACKAY—So it was prior to the bushfires that occurred?

Mr Shaw—The recent ones, yes. As Dr Horton said this would relate to the bushfires that were around the Sydney region at that time.

Dr Horton—You may remember at Christmas last year there was very significant bushfire activity—

Senator MACKAY—And again this Christmas this year.

Dr Horton—You can expect a significant increase in complaints because of this.

Senator MACKAY—I noticed in the press release put out in the name of Mr Shaw that the ACA drew attention to the improvement in Telstra’s remote fault rectification, despite the relatively small number of faults involved in that category, but I could not see any mention that there was no improvement but there was in fact a small decline in Telstra’s urban fault rectification performance, which is the category with the largest number of faults. Why was the former case highlighted and the latter case not?

Mr Shaw—It is a very good question, Senator.

Dr Kelleher—The performance, I think, in all areas was considered to be quite good. We certainly look at performance and trend information over a number of years not just within a year. Certainly in the rural and remote area performance now is very high, well over 90 per cent in each area. I think there was a small drop off in performance in the urban area, but only quite marginal. We did see quite significant improvement in other areas. I guess it is an issue

of making an overall comment and assessment of service—particularly against CSG where our assessment now is that Telstra performance is pretty high and has been quite stable over a period of time that we consider it fairly good, irrespective of the fact that there have been some small variations over time. But in terms of the trend analysis it is going up.

Senator MACKAY—I understand. My expectation is that matters be reported comprehensively. If you look at the fault rectification standards in respect of urban Australia, for example, Telstra is failing to meet fault rectification standards in 13 per cent of cases in urban Australia. That is not insignificant.

Mr Shaw—If you look at the figures, that is up from the high 60s and 70s from 1998 so it has progressively increased and during, say, the June and September quarters of 2001 it was 92 per cent and 91 per cent. It dropped down to 84 per cent, but in fact our most recent figure is back up to 91 per cent. So if you compare it in a trend sense, there has clearly been an overall improvement over that four- or five-year period.

Senator MACKAY—The ACA's finding on page 109 is that 18 per cent of Telstra's payphones were not fully functional during a survey on Telstra's payphones by the ACA. I am just curious as to why the ACA did not choose to include this figure in its covering press release on the annual report?

Mr Shaw—The answer is the press release is a summary of what were perceived to be some of the more important highlights. It is not to say that there is not a lot of other information in the report that is equally useful but we cannot repeat everything, otherwise we would have a document as a release that would be unreadable. It is just a judgment of what is in there and what is not.

Senator MACKAY—I understand. We are just looking for a bit of balance. I understand that the ACA is not a carrier and it is not Telstra et cetera. If you had said something like 'However, in the area of pay phones, in terms of our survey 18 per cent were not working', I think that would have been totally fair.

Mr Shaw—We do not go out of our way to report positively on any carrier or service provider unless overall we think there is a case to be made as to why there has been an improvement in general. But I guess it is a question of judgment as to what goes into the press release and what does not, and the judgment clearly was that, given other information and with the objective of keeping it short and readable, that was not important. But that is not to say that it is not a useful piece of information which anyone can read in the report.

Senator MACKAY—So do you think that during the survey that was done by the ACA the fact that 20 per cent of Telstra's pay phones were not fully functional is serious?

Mr Shaw—It depends on what fully functional means. We have done quite a lot of work in our surveys just to try and look at the extent to which some of those functioning aspects occur. Certainly I think there are concerns and we have been having discussions with Telstra about how they might be able to improve their performance as well.

Senator MACKAY—So you are having discussions in respect of the pay phone performance in particular?

Mr Shaw—We have continuing discussions—

Dr Kelleher—I was just going to mention that we put out a separate report specifically on the survey we did in relation to pay phones, so there was a separate publication on this survey during the year, which is one of the reasons why it did not get the same level of attention when we came to the final end of year report. We have had a separate report on it.

Senator MACKAY—I understand, but I guess people have an expectation that the final report will encompass the scenario over the entire period; that is all.

Dr Kelleher—I take your point but, given the context—I mean, we put out other reports, for example, on consumer satisfaction and consumer awareness, during the year as well. Just in relation to fully functional, it is a very high test. It means that the pay phone has to operate with both cards and coins and it has to provide a service in relation to a number of test calls. It also means it has to have a very high level of voice grade service; it cannot be noisy or difficult to understand. So it is a high hurdle. That does not mean to say that you would not want to see a better result but it does also need to be seen in the context of other measures such as a measure which would indicate that the phone could be used, I think it is closer to 99 per cent of the time, to make 000 calls, so in an emergency those phones are operating or working, even though they are not what we call fully functional.

Senator MACKAY—Correct me if I am wrong, but I thought not fully functional meant that one of the payment options would not work, that is, coin or card or whatever. Is that not correct?

Dr Kelleher—It could be one of a number of measures would not be working. It is a fairly high—

Senator MACKAY—What are those measures?

Dr Kelleher—As I said, it may be that it was not returning coins properly. It may be that it was not accepting coins or it was not accepting a card. It may be that it was a very noisy line. It may be that there was vandalism to the phone that made it difficult to use or something. So there are a number of measures that contribute to whether or not the phone is fully functional.

Senator MACKAY—So in general, out of the 18 per cent that have been identified as not fully functional, how many of those 18 per cent are not working?

Dr Kelleher—It depends what you want to use them for.

Senator MACKAY—Making a phone call.

Dr Kelleher—There was only a couple of per cent, for example, that you could not use to make a 000 call and I think only a few per cent where one or the other method of payment was not working. I have not got the figures at the top of my head at the moment.

Senator MACKAY—Can you take those on notice?

Dr Kelleher—Ninety-seven per cent of call attempts to both emergency services and a standard 1800 number, which is basically a normal number, connected to the end party and had satisfactory line conditions. So 97 per cent of call attempts were successful.

Senator MACKAY—For 000, and what was the other one?

Dr Kelleher—And an 1800 number which is just a test number, basically. And when attempting to use either a coin or a phone card 93 per cent of call attempts and 91 per cent of call attempts to an STD number were satisfactory.

Senator MACKAY—Okay; what is the rest of it?

Dr Kelleher—It is a combination of issues related to the phones that relate to the 82 per cent. So 82 per cent means it is 100 per cent perfect phone in absolutely perfect working order.

Dr Horton—Another way of looking at it is that you will see in that same paragraph that Telstra can remotely test these pay phones but of course they cannot remotely test the coin

mechanism or the mechanism that gives you access to payment. They find that, compared to the 82 per cent, 98 per cent is fully functional according to that remote functionality test. So that gives you some feeling of what is the critical factor.

Senator MACKAY—Thank you.

CHAIR—We have reached the dinner break. Senator Mackay has not finished her questions. We will resume at seven o'clock. Thank you all very much.

Proceedings suspended from 6.02 p.m. to 7.02 p.m.

Senator MACKAY—I am interested in the annual consumer satisfaction survey which saw declines of consumer satisfaction in areas like price competition and customer service, while under the hard data it showed improvements. Your hard data is showing improvements and customer satisfaction declining. Do you think there is a difficulty with methodology there?

Mr Shaw—We prepare two reports. One is awareness and the other is satisfaction. Awareness levels are quite high but the recent survey results suggest that satisfaction levels by consumers have declined. It is perfectly reasonable that the two could be the way they are. There are all sorts of reasons that might explain the decline in satisfaction. We are trying to use some of that material to look at how we might be able to improve our information flows to consumers so that they become more aware. For example, if there is dissatisfaction as a result of the complex mobile carrier arrangements and the different options that are available, our mobile tool kit is designed to try to lift that level.

Senator MACKAY—So you are covered, if you like. You have prepared that for that issue.

Mr Shaw—We feed those results directly into what we do.

Senator MACKAY—Regarding the complaint handling code issue, which I think was covered from page 90 or so of the report, I notice that the Telecommunications Industry Ombudsman reported widespread noncompliance with the code, noting the code experiencing the highest number of potential breaches. Given that, why did the ACA find that 'the ACA considers that compliance with this code is satisfactory'.

Mr Shaw—We have done a separate report on complaints, a copy of which, I believe, was provided to the committee at the last hearings. That went into the detail of the results of our concerns there. It is a question of judgment as to whether codes are working or not. In relation to that particular code now we are monitoring very closely what the major service providers are doing. Certainly if we perceive that they have not lifted their game, we will be taking action, legally if necessary, to force them down that path.

Senator MACKAY—That is fine. That almost covers my next question. You stated that you will be following up the monitoring of compliance with the code by the carriers. Could you indicate what follow-up has occurred and the results of that?

Mr Shaw—We have separately published a report in relation to our investigations into the service providers. That demonstrated there were definitely some problems—

Senator MACKAY—Yes, and what is the next stage?

Mr Shaw—They have essentially agreed to improve their complaints handling processes, and we are now monitoring that. If we have not observed an improvement we will then have to take some action to—

Senator MACKAY—To be specific, over what time period are you monitoring? What have you said to them about improvement—and you can take this on notice if you wish—

Mr Shaw—Mr Neil might be able to answer those questions here now.

Mr Neil—I can answer in general terms—

Senator MACKAY—There is a range of questions. I will put them on notice.

Mr Neil—That will save time then.

Senator MACKAY—There are some quite specific questions. Do you believe there are any systemic breaches occurring?

Mr Shaw—We believe that there were breaches, certainly, but our investigation demonstrated that the service providers were taking action to improve their processes. We are hoping that will solve them. If they do not, then we will go down the path of using our powers in relation to warnings or directing them to comply with the code.

Senator MACKAY—What is the period over which you are monitoring?

Dr Kelleher—We are monitoring over the next six months.

Senator MACKAY—I noted on page 13 of the September quarter bulletin that the ACA again reported that no carriers reported network loss exceeding one per cent. In the last estimates we talked about whether the ACA independently verifies or audits carriers' claims on network loss and that only eight out of 81 carriers reported on network loss. Given that, which we discovered last time, should we be looking at this figure of one per cent a bit more closely?

Mr Shaw—In what sense—as in trying to get behind the figure and—

Senator MACKAY—How do you know they are telling you the truth?

Mr Shaw—I guess that is the problem with any reporting mechanism. I do not know that we have done any audits in recent times—perhaps my colleagues might—

Dr Kelleher—No, we have not, not on that particular figure. When we get the reports from the carriers we look at each piece of information not only on its own but in the context of other information that we are receiving both from carriers and from the TIO and other consumer groups. We could bring to bear on any one piece of information not just what might be a formal process in terms of auditing those figures but some more informal processes about what we expect and whether the data we are getting is actually consistent with other data. The one per cent network loss is actually quite a low level of network loss. We have been satisfied that that has been a reasonable hurdle at which we should start to report. This does not result in major congestion in the network or inability of people to make calls. For example, we used to have problems some years ago on Christmas Day and Mother's Day when people found they just could not use the network at those periods. Those sorts of blips have disappeared now, which is one of the reasons we moved to the exception basis for reporting rather than quarterly reporting of the actual figures, because they had got so low.

Senator MACKAY—Are there any other agencies that the ACA oversees that pay a levy to cover costs associated with providing resourcing for the ACA as Australia Post has been required to?

Mr Shaw—All the carriers contribute to the ACA's telecommunications costs.

Senator MACKAY—Are there any other agencies that you oversee that pay a levy to cover a cost associated with providing resourcing for the ACA as Australia Post is being required to?

Mr Shaw—Australia Post is required to, as are all the carriers, including Telstra and Optus. The other 89 carriers also pay to our costs. So it is pro rataed. Our telecommunications costs are pro rataed across carriers relative to their revenue shares. We also collect our costs for our radio communications work through licence fees from the radio communications industry. It is a standard form of cost recovery for an organisation such as ours.

Senator MACKAY—Does that mean that it is unusual that Australia Post has not been paying the levy previously?

Mr Shaw—No. Australia Post has not been paying a levy because there has not been a function from one of the statutory bodies in relation to regulating that sector. It is only now that the government has decided that the ACA would have that role in the future, subject to parliament's decision making.

Senator MACKAY—What information will the ACA be requesting of Post with respect to the increased regulatory oversight resourcing announced in the additional budget allocations?

Mr Shaw—In the additional budget estimates there is an amount of \$1.2 million allocated for the ACA. I would not anticipate that the ACA would actually be drawing that money down until the legislation is passed.

Senator MACKAY—So it might be rolled over?

Mr Shaw—Yes. It would need to be looked at. There seems to be little prospect of that legislation getting through before 1 July, so I would not see that amount being used by the ACA.

Senator MACKAY—What information will you be requesting of Australia Post?

Mr Shaw—We will not be requesting any information. We will not be doing any work ourselves. Our establishment act does not have Post as one of our functions yet until parliament changes that.

Senator MACKAY—How have the mass service disruption notices issued by Telstra changed in the past year?

Mr Shaw—In May last year there was a licence condition that the minister applied to Telstra in relation to those mass service disruption notices which put requirements on Telstra about notification times and other specific provisions. That was as a result of the Boulding investigation as part of the government's response. There have been several areas where we do not believe that Telstra has necessarily followed them directly, but they have certainly improved the process, we believe.

Senator MACKAY—I notice that Telstra in its mass service disruption notice say, 'The affected area'—the mass service disruption area—'is bordered by and includes, but is not limited to,' which seems to be a bit illogical. How could something be bordered by and include but not be limited to in respect of the area covered by mass service disruption? It does not seem very specific. Are you happy with that wording?

Mr Shaw—My antenna would go up with wording like that. My staff do look at the mass service disruption notices and I know they have gone back to Telstra on several occasions and indicated they were not happy with what was in them and Telstra has made some adjustments.

Senator MACKAY—We might revisit some of this next time. I am aware that we need to move on. I have some questions which I will put on notice. That is the end of my questioning of the ACA.

CHAIR—I thank the ACA for appearing.

[7.16 p.m.]

Australia Post

Senator MACKAY—Has Australia Post been approached by anyone in the government to keep a note of, or stockpile, for want of a better term, the terrorism kits that have been marked ‘return to sender’?

Mr McCloskey—The arrangement in place with the Department of the Prime Minister and Cabinet is that any kits that are returned to sender will be retained pending advice from the department as to what they want done with them.

Senator MACKAY—Was that an instruction or how was that communicated to Post from PM&C?

Mr McCloskey—That is an operational agreement between Post and the Department of the Prime Minister and Cabinet in respect of this particular mail-out.

Senator MACKAY—So PM&C have said to Australia Post, ‘Just hang on to them pro tem, until we can advise you further about what should be done with them’?

Mr McCloskey—That is as I understand the situation to be.

Senator MACKAY—Is Australia Post keeping a tally of how many have been returned?

Mr McCloskey—Not that I am aware of, because any that are returned will be returned in different locations, handed across at a retail outlet or whatever.

Senator MACKAY—In terms of the PM&C advice to Australia Post, is there a central point where they are being gathered, because it has ‘return to sender’? Who is that—the Prime Minister, PM&C, Senator Abetz?

Mr McCloskey—It would be kept at the state level.

Senator MACKAY—Have you made inquiries of the state offices as to how many you have had?

Mr McCloskey—One of my colleagues may be able to advise on that. I am not sure.

Mr Lee—No, we have not at this stage. If I could just add to what Mr McCloskey has said, the service that was used for delivery of those is our unaddressed delivery service. The process for this particular delivery is a contract negotiation with PM&C and that included an arrangement that we would hold returns. Normally with an unaddressed service, we do not provide returns as part of the service; we would normally destroy them. We are collecting for them for their instructions as to how to handle them.

Senator MACKAY—Had PM&C not issued the operational instruction, for want of a better term, they would just be destroyed, as per the normal ‘return to sender’?

Mr Lee—If it was a normal unaddressed delivery service, but we do the same sort of thing with other people at the point of negotiating the arrangements for the unaddressed delivery service.

Senator MACKAY—So at the point of the negotiation, PM&C specifically said words to the effect of: ‘Just hang on to them until we determine what to do’?

Mr Lee—Exactly.

Senator MACKAY—Is there anything stopping Australia Post from making inquiries into its state offices to determine how many there are? For example, if I were to ask you, ‘Can you please give the committee state by state figures on how many are returned and then provide us with an aggregate?’ you are going to have to at least consider it. There is no reason why you ought not answer it. Can you take that on notice?

Mr Lee—Absolutely.

Senator MACKAY—Is this an unusual contractual provision?

Mr Lee—No. It is very unusual to deliver seven million pieces of one article.

Senator MACKAY—I understand that.

Mr Lee—So you can understand that, in that context, it is not at all unusual.

Senator MACKAY—So you have had other companies which have put on the same proviso—that is, ‘Just hang on to them’?

Mr Lee—It is not a proviso. It is when we are negotiating a delivery as large as this—negotiating the price and the conditions that the customer requires. We have in the past done the same sort of thing for other customers. It is not unusual to do this.

Senator MACKAY—I am just trying to get a handle on this. So PM&C in the contractual negotiations said, ‘In terms of the “return to sender”, just hang onto them until we get back to you,’ or words to that effect? I do not want to verbal you so if that is inaccurate—

Mr Lee—In effect, that is very reasonable.

Senator MACKAY—What is Post’s view of the accounting separation obligations imposed on Post by the government? Mr McCloskey, that question might be for you.

Mr McCloskey—At the last estimates hearings we indicated that we do not feel that the legislative proposals that were announced by the government late last year, from our understanding of the intent of those, are likely to have any adverse impact on Post. In respect of accounting separation in particular, we pointed out that Post already operates accounting separation internally across its various activities for business monitoring purposes. In fact, the ACCC, as part of its inquiry into our price rise application last year, confirmed that it was satisfied with the integrity of our cost revenue and asset allocation process.

Senator MACKAY—What is Australia Post’s view with respect to the levy on the oversighting by the ACA and the ACCC? You are now paying a levy.

Mr McCloskey—We are not at the moment paying any levy.

Senator MACKAY—What steps is Post going to be taking to comply with the increased regulatory oversight of Australia Post announced by the government?

Mr McCloskey—I think we will wait until we see the actual legislation before we determine that.

Senator MACKAY—That is fair enough. What is the predicted annual increase in revenue for Australia Post now that the basic postage price has been increased?

Mr McCloskey—My understanding is that the 5c increase in the basic postage rate, and the other increases that were around that, will lead, on a full year basis, to an increase of around \$50 million in revenue.

Senator MACKAY—Why did Australia Post deem it necessary to increase the basic postage price?

Mr Lee—I am sure you are aware that it is some 11 years since the basic postage rate has been increased. We have, through that period, of course, absorbed a large number of cost increases. We have managed to do that through very substantial productivity gains during that period—in fact, productivity gains that were double the national average. We have also had substantial volume growth during that period, which has added to the effective productivity. However, in viewing the cost of the basic postage versus the price that we were achieving in the marketplace, that service was in fact running at a substantial loss and we felt it was quite appropriate to go to the ACCC seeking an increase in price.

Senator MACKAY—Just because it is permissible does not mean you necessarily have to do it.

Mr Lee—It was done because we are required to achieve commercial return on the letters business and without the price increase the letters business will not achieve a commercial return.

Senator MACKAY—So a full year effect, as Mr McCloskey has indicated, the increase is about \$50 million in revenue.

Mr Lee—Correct.

Senator MACKAY—I am interested that the one-off special dividend by the government was \$100 million. If that one-off special dividend had not had to be paid, what implications would that have for the increased cost of postage?

Mr Lee—They are two separate issues; perhaps my colleague Mr Meehan could answer that.

Mr Meehan—The two transactions you refer to are completely independent. There is no relationship between either of those transactions.

Senator MACKAY—Why?

Mr Meehan—The special dividend was a dividend that was declared by our board on the basis that it was an appropriate return to the government, the shareholder owner in the context of our financial position and our investment requirements so that we had available cash reserves. Their decision for the increase in the stamp prices is simply about moving Post forward and enabling it to grow at the level it has been growing in the past and to ensure that all its products can stand in their own right and be profitable. So it is a long-term decision against a decision—

Senator MACKAY—I understand that but, as a layperson, one could say that, had that special dividend not been required of Australia Post, there would be \$100 million to play with.

Mr Meehan—That is correct but it is after tax profits. It is money that Post would either invest or spend on something else. It is not distinctly a profit difference, which is the amount that flows through from the increase in stamp price.

Senator MACKAY—But basically you had \$100 million less in revenue as a result of that decision.

Mr Meehan—No, Senator. We had \$100 million less in tax.

Senator MACKAY—I understand all the accounting.

Mr Meehan—We had \$100 million less in cash.

Senator MACKAY—You have then gone to the ACCC, which you are permitted to do in terms of increasing the basic postage stamp price. This will gain you \$50 million in revenue per annum in terms of a full year effect. My obvious point is that, if that special dividend had not been paid, you would have had \$100 million more in cash to play with, irrespective of however you categorise it fiscally.

Mr Meehan—That is correct, Senator.

Senator MACKAY—So it would be fair to say that the special dividend has had some impact in terms of Australia Post in that you have got \$100 million less in cash than you would otherwise have had.

Mr Meehan—That is correct, Senator, but the \$100 million in cash, if we retained it, other than spending it on a particular project, would earn us, at five per cent, not a great deal of money—about \$5 million. We would have paid tax on that and 60 per cent of our after tax profits is paid to the government in dividends. So the net cash impact on Post is about \$1.5 million on that special dividend on profits that we could have otherwise made if we had that \$100 million to invest.

Senator MACKAY—If the impact is so insignificant, why do you not pay the government an extra \$100 million every year?

Mr Meehan—That is a decision between the board and the government.

Senator MACKAY—What you are saying is it is possible; you could do it without too many deleterious impacts on your operations.

Mr Meehan—That would depend entirely on the cash flow impacts that we have got in the year, Senator, and any issues that we have in regard to equipment purchases, large investments, as we have made recently with FuturePOST where we spent \$550 million. This sort of special dividend in the same period that we were spending that amount of capital would not have been possible.

Senator MACKAY—But you have got \$100 million less. Otherwise why wouldn't any government say to Australia Post every year, 'Give us a special dividend of \$100 million.' Why shouldn't we say that? We are the alternative government; why shouldn't we say that to Australia Post? Or would you argue with that?

Mr Meehan—I do not have an argument for it at all.

Senator Alston—I can give you an argument. It depends entirely on the level of your operating expenses and your capital expenditure requirements. If you have more than \$100 million surplus to those requirements, the money is available for a range of things. Some companies do not pay dividends. Australia Post is required to pay dividends at a certain level. As Mr Meehan has explained, if you have surplus funds, there are choices as to what you do with them. But unless you have got the surplus funds in the first place, the last thing you would want is a pre-existing commitment to pay a dividend irrespective. I mean, if they had a bad year, for whatever reason, they would not be in a position to meet that obligation. So it has to be a judgment made on a year by year basis when you look at what the surplus is.

Senator MACKAY—In that case why has the price of stamps gone up?

Senator Alston—Because, as much as possible, we want them to operate on a commercial basis, and I do not think it has gone up for—is it eight or 12 years?

McCloskey—Eleven years.

Senator Alston—So you do not just cross-subsidise for the fun of it. You could argue on the basis that we should have free stamps. That is not a smart move. You try and keep in line with customer demands, customer affordability and the cost of providing the service.

Mr Lee—The ACCC's decision was based on the extremely exhaustive review of the revenue earned by the letters business. They have two basic parameters in conducting the review. Firstly, are we operating efficiently? And they determined that we were. If so, are we earning an appropriate revenue stream for the business? They measured that against what they determined to be appropriate revenue. Within all those parameters, they determined that it would be appropriate that we increase the price of the basic stamps. They have looked at that financial model to come to that determination from a revenue point of view.

Senator MACKAY—I understand all of that. People will draw their own conclusions in respect of it. What percentage of standard letters is subject to the discounted postage rate?

Mr Lee—The bulk postage rate?

Senator MACKAY—Yes.

Mr Lee—Approximately 50 per cent.

Senator MACKAY—Do you see that there might be a point of differentiation between the ordinary consumers costs going up but not businesses'?

Mr Lee—Could you explain 'a point of differentiation'?

Senator MACKAY—An extra 22 per cent of total standard letters have been added to the discounted postage charge—that is my understanding—under a new category called clean mail.

Mr Lee—That is correct.

Senator MACKAY—Will Australia Post seek a further increase in the next five years for that, say, to the ACCC for assessment for standard letter increase?

Mr Lee—We will continually review our prices and our costs. We will review them across all of the services. At this stage, we do not see a necessity to go back to the ACCC to seek further price increases, but they will be continually reviewed.

Senator MACKAY—We might have to revisit this next estimates. This is a fairly complex topic for which I will need a bit more time. Have the identity checks for anyone seeking to post a package over 500 grams been implemented?

McCloskey—Yes, Senator, they have.

Senator MACKAY—When did that come into effect?

McCloskey—It started on 16 December.

Senator MACKAY—How does it work? How are people's identities checked?

McCloskey—There are a range of identity options: a photographic option, an identity that has a photograph attached to it or as part of it; or a signature option. So it can be a credit card, a driving licence or something like that.

Senator MACKAY—Anything with a signature. It does not necessarily have to be photographic?

McCloskey—It does not have to be photographic; it can be a signature identification.

Senator MACKAY—How long do you think these checks will remain in place? Indefinitely or are you going to review it at some point?

McCloskey—As long as we are required to under the direction issued by the Department of Transport and Regional Services under the air regulations act.

Senator MACKAY—Perhaps you could give me a quick update on the postal industry ombudsman. Probably you can, Senator Alston.

Senator Alston—It was an election commitment and we are looking at how we can implement that. We have taken what I think was a public process. There were a number of submissions received as to how we might go about it. At the moment, we are assessing the most appropriate model for effectively ensuring that there is some oversight capability and so that people have a point of reference if they have concerns about the postal system.

Senator MACKAY—What is your time line, given it was an election commitment?

Senator Alston—I would hope we would be in a position to make an announcement later this year. It is a work in progress. I have recently seen a brief on it, as recently as five minutes ago.

Senator MACKAY—Serendipitous. Minister, in response to a question on notice from myself, I think, about the guarantee that the government will never deregulate Australia Post, the response from you was:

The government is committed to maintaining Australia Post in full ownership.

That is a different answer.

Senator Alston—What was your question?

Senator MACKAY—The question was: can the government give a guarantee that it will never deregulate Australia Post? Your response—you are probably not aware of this—was:

The government is committed to maintaining Australia Post in full ownership.

It is a different answer. So can you answer the question at this point?

Senator Alston—We are just having a discussion about what might be meant by 'deregulation'. I do not know that we have ever addressed a proposition in those terms. We have had, as you would know over the years, a number of reports suggesting that you could expose Australia Post to greater levels of competition without having any adverse impact on consumers and that you could have a more transparent regime to identify the cost of its community service obligations.

So there are a number of ways in which you could introduce more efficiencies into the system or, more generally, by benefiting competitors without impacting adversely on Post. For example, I am not sure where we are, but the legislation in relation to couriers—which is a de facto legitimisation of a practice that has been in place for 20 years, to my knowledge—could, in theory, be regarded as more deregulation. In fact, it is little more than legitimising the status quo, which does involve a degree of competition with Post. That is why I say that I am not precisely clear on what is meant by deregulation. If it means that you will never ever change the rules governing the regime, we certainly would not give that commitment.

Senator MACKAY—What stage is that contemplative legislation at on the courier issue?

Senator Alston—There is legislation being drafted at the present time.

Senator MACKAY—When are you going to introduce it, do you think?

Senator Alston—I would assume it probably will not be until the budget session.

Senator MACKAY—So it has only been drafted—

Senator Alston—It could be earlier.

Senator MACKAY—It could be earlier, okay.

Senator Alston—There are three more sitting weeks, aren't there?

Senator MACKAY—Yes, I understand that. So one presumes, therefore, as the drafting is not complete, that Australia Post has not had a chance to look at it?

Senator Alston—No, we consult with Australia Post.

Senator MACKAY—Have Australia Post seen the draft legislation?

Senator Alston—I am not sure they have seen the draft legislation, but we consult with them about it. So they are generally aware of what would be involved in the draft legislation.

Senator MACKAY—I am asking what Australia Post has seen with respect to this.

Senator Alston—We have not yet got the draft legislation so, by definition, they would not have seen that.

Senator MACKAY—Perhaps a question to Australia Post: what has Australia Post seen? Are we talking about a discussion paper? What are we talking about?

Mr McCloskey—There have been discussions between the department and Australia Post on the legislation but, as the minister has said, we have not yet seen the actual draft legislation.

Senator MACKAY—But you have seen some bit of paper, I take it, or have you just been in verbal discussions?

Mr McCloskey—It has been mainly verbal discussions.

Senator MACKAY—Mainly?

Mr McCloskey—Yes.

Senator MACKAY—What about the 'not mainly' bit?

Mr McCloskey—Particularly in relation to the courier amendments that have been referred to, Australia Post has provided to the department an indication of the sorts of issues that it feels would need to be covered off in that, to ensure that there are no unintended affects.

Senator MACKAY—I understand that. When did Australia Post provide that to the department?

Mr McCloskey—Some months ago.

Senator MACKAY—What, six months ago, two months ago? I do not want you to take it on notice.

Mr McCloskey—It would be about six months ago, I would think.

Senator MACKAY—Minister, is the plan to provide Australia Post with the draft legislation for comment before it is introduced or do you feel that sufficient consultation has occurred?

Senator Alston—Yes, I think we would be providing them with a copy of the draft, but I would not expect there would be any surprises, based on the discussions to date.

Senator MACKAY—I want to go back to another issue that Senator Conroy canvassed that is actually nothing to do with Australia Post. There was one further question that we wanted to ask with respect to the mandating retransmission issue. I am just wondering, will you mandate, or rule out mandating, retransmission of the commercial free-to-air on Foxtel? I think you were asked about the ABC.

Senator Alston—I did mention that Channel 9 has already reached a retransmission agreement, certainly in respect of cable—I do not think so in relation to satellite—and discussions are proceeding with both Channel 7 and Channel 10. It is everyone's expectation that agreement will be reached. If that is the case, there would not seem to be any need to legislate.

As I said, mandating is a fairly blunt approach and it would be a last resort. If you took the view that there was no justification for not allowing retransmission, but Foxtel was simply saying no, you might consider it. But there is no indication, to my knowledge, that Foxtel is wanting to do other than reach a sensible commercial agreement. Whether that involves a price of any significance is not something that I am aware of. Suffice it to say that no-one has been complaining to us that there have been any unfair demands made of either side.

Senator MACKAY—Thank you, Minister. Has Australia Post commented on the DFAT discussion paper on GATS, released by John Anderson on 15 January?

Mr McCloskey—No, we have not commented on that.

Senator MACKAY—Are you intending to?

Mr McCloskey—No, we do not. We provided our comments last year to the department of communications on their discussion paper.

Senator MACKAY—So you are not intending to comment any further in respect of this matter?

Mr McCloskey—Not unless we are asked to specifically in matters that might relate to Post.

Senator MACKAY—Just a final wrap-up, and you can take it on notice. We are keen to know the number of antiterrorism kits that have been returned on a state by state basis. How quickly can we have that information?

Mr McCloskey—I think it might depend on how complete you want the information to be.

Senator MACKAY—We could ballpark it.

Mr McCloskey—If you wanted to set a particular date for the numbers of returns, we could certainly seek to provide that information as of that date.

Senator MACKAY—What would be a reasonable date?

Mr McCloskey—The mail-out is a national one of seven million items and it is due to run until the 14th of this month. It would be pointless in doing it any earlier than the 14th. If you wish to nominate a date after the 14th, that might—

Senator MACKAY—I do not want to create a huge amount of work for Australia Post. What would be reasonable? One rarely gets this opportunity, so grab it.

Mr McCloskey—Say, a week after that, the 21st?

Senator MACKAY—Done.

Mr McCloskey—As of the 21st, we will provide that.

Senator MACKAY—Thank you very much.

CHAIR—As there are no further questions, thank you very much, Australia Post.

[7.43 p.m.]

Department of Communications, Information Technology and the Arts

Senator LUNDY—I would like to begin with some general questions about the financial statements in the budget documents—I presume they are the additional supplementary documents. There seems to be a significant reduction in departmental investment figures in the budgeted administered financial position in table 3.7.

Ms Williams—We are just getting the relevant person to the table, Senator. Could you repeat your question?

Senator LUNDY—Can you explain the reduction in the departmental investment figures in the budgeted administered financial position in table 3.7 on page 74? It shows the investments going from some \$6.9 billion to \$1.1 billion.

Ms Gale—I do not actually have the breakdown with me. Those investments represent investments the Commonwealth holds in agencies like Telstra and Australia Post. So as their assets move the investments actually move with them.

Senator LUNDY—So why has it dropped effectively \$6 billion in how it is listed in the budget papers?

Ms Gale—I would actually have to have a look at the break-up. I do not have that with me.

Senator LUNDY—Even if you do not have the break-up—

Ms Gale—It is the Commonwealth's investments in other agencies so as their equity changes our investment changes with it.

Senator LUNDY—So does that mean that for the purposes of the budget papers the Commonwealth estimated its investment in Telstra and Australia Post as being about \$6 billion?

Ms Gale—I would have to have a look at the break-up. To be honest, I am not sure.

Senator LUNDY—It is a pretty big and pretty obvious change in the actual and the revised budget. I would expect there should be someone here who can explain it.

Ms Gale—I can get an answer in the next half an hour. I just need to actually look up the individual numbers, which I do not have with me.

Senator LUNDY—In the annual report it states on page 220 that that figure excludes the values for Telstra and Australia Post in accordance with budget estimates arrangements. I would like an explanation for that as well and what those arrangements are.

Ms Gale—Sorry, which page?

Senator LUNDY—The annual report states on page 220 that this figure—in other words, the \$6.9 billion and the revised budget figure of \$1.1 billion or thereabouts—excludes values for Telstra and Australia Post in accordance with budget estimates arrangements. I want to know what that means and what those estimates arrangements are as described in the annual report, and I want a full explanation for the reduction of that figure.

Ms Gale—I need to get the break-up.

Senator LUNDY—Thank you. I will hand over to Senator Conroy while you do that and come back to you in about 20 minutes.

Senator CONROY—Did you ask any questions previously about postal services policy?

ACTING CHAIR (Senator Mackay)—I asked questions of Australia Post.

Senator CONROY—How many responses have there been to the postal industry ombudsman paper released for public comment last year?

Senator Alston—Twenty-eight.

Senator CONROY—How many responses have there been?

Senator Alston—Twenty-eight submissions.

Senator CONROY—What has been the nature of these responses?

Senator Alston—I think it is fair to say there has been the usual variety. I am not able to tell you who they have come from but they do have different perspectives and we will obviously work through them and see what—

Senator CONROY—Have they been favourable in general, would you say, to the introduction of a postal industry ombudsman?

Senator Alston—A number of them have been supportive.

ACTING CHAIR—Senator Conroy, I will just indicate to you that the minister earlier said that they were looking at introducing—I do not want to verbal you, Minister—legislation some time this year in respect of the creation of the ombudsman. Was that right? Just so Senator Conroy can be assisted by the information, would that be a fair assessment of what you said? I am talking from the chair.

Senator Alston—Yes.

Senator CONROY—One of the options in the paper calls for a form of self-regulation without a postal industry ombudsman, which would appear to be in breach of the coalition's election commitments. Is that still a live option?

Senator Alston—I suppose it was put out there for comment.

Senator CONROY—Really?

ACTING CHAIR—Let us have a House of Representatives committee—

Senator CONROY—Exactly. You did not put out a discussion paper for comment just to see what people thought.

Senator Alston—As you would probably appreciate—

ACTING CHAIR—I think we will have to deal with this, Senator Alston.

Senator CONROY—We will have a Senate inquiry into that right away.

ACTING CHAIR—This is an outrage—a House of Representatives full committee inquiry!

Senator Alston—May I explain? I do not know the precise form in which the discussion paper is put out but it is quite common to put all options on the table.

ACTING CHAIR—Is it?

Senator Alston—The alternative would simply be to ask for comment on the government's election commitment, wouldn't it? But you can put—

ACTING CHAIR—You could ask for comment on a foregone conclusion, perhaps?

Senator Alston—You can put the base case forward.

Senator CONROY—You could not possibly introduce this.

Senator LUNDY—The minister of double standards strikes again.

ACTING CHAIR—Give Christopher Pyne something to do.

Senator CONROY—Chris Pyne has not much to do at the moment.

ACTING CHAIR—Do the boy a favour. Have we got an job for you, mate!

Senator CONROY—Have we got an inquiry for you, Chris!

Senator Alston—I am grateful to have been informed by Brenton Thomas that it is a department discussion paper. He may well tell you why options beyond—

Senator CONROY—You see, we do not have departments so we just put out options papers. It is a similar process, you know.

Senator Alston—As I noticed with structural separation, if that is what you mean.

Senator CONROY—Just an options paper. Anyway, let us move on. You look silly enough now.

ACTING CHAIR—We all want to come round to your place to watch your television.

Senator Alston—Just for your benefit, can I tell you all the submissions—

Senator CONROY—Are they public? Do they have privilege?

Senator Alston—Except those which people did not want made public, they are available on the web site. So you can really do some very useful work by trawling through those.

ACTING CHAIR—Can you make the other ones available on the web site?

Senator Alston—You want our one-page summary made available, do you?

Senator CONROY—No, just the ones from the committee you closed down.

Senator Alston—From when the committee was closed?

Senator CONROY—The committee you closed down.

Senator Alston—That one—no, we have already been over that.

Senator CONROY—Have they been shredded yet?

Senator Alston—Not on my instructions.

Senator CONROY—Let us move on, shall we? Has the department, the minister or the minister's office been involved in discussions with senators or media organisations about a further series of amendments to the Broadcasting Services Amendment (Media Ownership) Bill 2002?

Senator Alston—It is fair to say you are almost in a state of constant discussion and consultation with—

Senator CONROY—You are?

Senator Alston—You said the department, the minister and others, and I am saying it is not uncommon for me to come across senior people in media organisations who want to discuss the progress of the cross-media bill or some aspects of it. The most recent was on Friday, for example. Similarly, I would think the department would have regular discussions.

Senator CONROY—You mentioned senators as well.

Senator Alston—Senators? I cannot really speak on their behalf.

Senator CONROY—No, I am asking whether you have been involved in discussions.

Senator Alston—With other senators?

Senator CONROY—Yes.

Senator Alston—We have had discussions with interested parties, yes.

Senator CONROY—With people who are not members of the Liberal Party or National Party?

Senator Alston—Yes. All those with open minds are welcome. We have not managed to find any on your side as yet, despite your private promises prior to the last election.

Senator CONROY—Are you suggesting that I—

Senator Alston—I am just talking generally. The media proprietors were generally led to believe that Labor was supportive of significant cross-media changes prior to the last election. That seems to have fallen over as a result of the election. It is not unusual.

Senator CONROY—Could you tell me any more of the secret policies I have?

Senator Alston—Yes, you are in favour of changes to the cross-media ownership rules.

Senator CONROY—Am I? Thank you.

ACTING CHAIR—That is only you, though, Stephen.

Senator CONROY—That is right.

Senator Alston—I do not think anyone has fingered you personally.

Senator LUNDY—He is just generally verballing the Labor Party.

Senator CONROY—Are you in a position where you can outline any of the significant developments from those discussions?

Senator Alston—Unfortunately, no.

Senator CONROY—Never mind. Are you drafting further amendments to the Broadcasting Services Amendment (Media Ownership) Bill 2002?

Senator Alston—Not as we speak.

Senator CONROY—Have you been?

ACTING CHAIR—What about the department?

Senator Alston—We may have picked up a couple of things from the Senate report but beyond that, no, we are not drafting anything further, although we may do.

Senator CONROY—That is perfectly reasonable. Are media reports correct that the government is considering linking this bill to the ABC funding?

Senator Alston—We have not proposed that. Someone told me there was some mention in the press of that.

Senator CONROY—Is that another one of those scurrilous media reports?

ACTING CHAIR—Has that been put to you, Minister, by interested parties?

Senator Alston—I do not think I should be canvassing what various people might put to us as propositions.

Senator CONROY—Surely you would reject such a linking, though? That is completely unethical.

Senator Alston—Unethical? Are you accusing us of being unethical?

Senator CONROY—No, I am saying that if you accepted a proposition like that it would be completely unethical. Tying the national broadcaster's funding to some other piece of legislation would be unethical, surely.

Senator Alston—I would be very surprised if anyone was suggesting that somehow the ABC's funding levels are dependent upon the cross-media legislation.

Senator CONROY—I am pleased to hear you say that.

Senator Alston—Our commitment, for a start, is that we will maintain, at least in real terms, the current levels of funding for the next triennium. That is not conditional upon anything to do with cross-media legislation.

Senator CONROY—It would be very disappointing if it was. But I have confidence that your integrity—

Senator Alston—I can assure you that we will be delivering on that election commitment.

Senator CONROY—Excellent. When does the government expect to debate the existing media ownership bill in the Senate? I am fired up, I am ready, I am waiting.

Senator Alston—Yes, but you are so negative. There is no point bringing it in for your benefit, because all you are going to do is say no.

Senator LUNDY—Do not take it personally.

Senator CONROY—I try not to.

Senator Alston—We would rather wait until the times are slightly more propitious.

Senator CONROY—I have a question for the department: can the department provide an update on the current estimated number of digital set top boxes out there in the Australian community and, if you know, how many plasma screens are loose in the country?

Mr Cameron—Based on advice from the industry, we understand that there are around 37,000 digital set top boxes in the Australian community. We do not have any direct information in relation to the number of plasma screens.

Senator CONROY—We know we have one over here, so that is a start. Can you see if anyone keeps that information? Can the department provide an update on the estimated current number of high-definition television sets which have been purchased by Australian consumers?

Mr Cameron—Again based on industry information, we understand that there are around 90,000 televisions which are capable of displaying a high-definition picture. But, in order to display an HD signal, they either need to be an integrated set or to have a high-definition set top box. We understand that around half of the set top boxes which have been sold on the market are high-definition capable.

Senator CONROY—You do not need a plasma screen specifically for digital TV, do you?

Mr Cameron—No.

Senator CONROY—It is not technologically necessary?

Mr Cameron—No.

Senator CONROY—Minister, what do you see as the major driver of digital television uptake in Australia, apart from the footy?

Senator Alston—I do not think anyone has a simple prescription but, if you look at what has driven take-up rates in the UK, and to a lesser extent in the US, which are really about the only comparable markets, there is certainly an element of wishing to have a high-quality picture—in other words, high resolution. Wide-screen seems to be a significant driver, associated with DVDs.

Senator CONROY—Is that wide-screen plasma?

Senator Alston—No, wide-screen sets.

Senator CONROY—They are smaller than plasma screens, aren't they?

Senator Alston—No, not necessarily. You might have one that is bigger than a plasma screen.

Senator CONROY—How big is yours?

Senator Alston—I do not know.

Senator CONROY—Is it that big? Hansard cannot pick up the dimensions of those gestures.

Senator Alston—You can get sets that are probably twice as wide as a plasma screen. It is a different concept: the plasma screen is a flat screen, the set is more conventional.

Senator CONROY—I know someone who has one almost half the size of his wall to watch the footy, so I was wondering how big yours was.

Senator Alston—I cannot give you the dimensions. What is the range of sizes of sets in the marketplace? You can get sizes of over 100 inches, can't you?

Mr Cameron—Yes.

Senator Alston—Obviously content is a driver. Multichannelling is potentially a driver.

Senator CONROY—Haven't you knocked multichannelling on the head?

Senator Alston—There can be supply side issues. For example, if the film is already made in digital rather than in film—

Senator CONROY—You mentioned multichannelling. I thought that multichannelling was something that you supported, but it got knocked on the head and you got rolled in cabinet on it.

Senator Alston—Without canvassing—

Senator CONROY—I know that you secretly support it, but your colleagues did not seem to.

Senator Alston—We have not made any decisions on digital television.

Senator CONROY—I thought it had been pulled. I thought you put it to cabinet and it had been pulled.

Senator Alston—It is a matter of record that I have said that there are potentially some virtues in multichannelling. The networks, or two out of three networks, would generally say to you that there is not much of a business case because multichannelling fragments the advertising dollar.

Senator CONROY—I heard a whisper that you were very supportive of it. I thought you were taking something forward.

Senator Alston—I have consistently said that I think there is some merit in the multichannelling concept, but—

Senator CONROY—But you got rolled.

Senator Alston—two of the three networks would have a contrary view because they see it as fragmenting the advertising dollar.

Senator CONROY—You are the minister.

Senator Alston—It is not a matter of me doing anything other than trying to identify good policy and having a debate on that, and we are still having that discussion.

Senator CONROY—So you are not going to take anything to cabinet?

Senator Alston—We have not taken any final decisions on these issues. We will be doing that at a convenient point. I am simply saying to you that there are heated debates around issues like multichannelling and, if you look at the current UK experience, multichannelling is generally a function of pay television. If you have 20 or 50 channels that is, by definition, multichannelling. In Korea or Japan they would say to you, ‘We will compete not on channels but on quality, so we see HD as a very significant potential driver because we will have digital enhancements, we will have EPGs and we will make it a very worthwhile experience, both in audio and video. It does not have to be a number of channels competing with a larger number of channels.’ On the other hand, in the UK, now that ITV Digital has fallen over, you have this very interesting consortium of Sky and the BBC, which is largely a free-to-air multichannel offering of, I think, 26 channels.

Senator CONROY—You mentioned that you were, generally, supportive of multichannelling. Are you considering allowing multichannelling in the near future to help drive this digital uptake?

Senator Alston—No. All I am saying is: the government have not yet taken a decision on changes to the current digital regime, but we are reviewing it. All I have said is that—

Senator CONROY—Do you think that is good policy?

Senator Alston—multi-channelling is a concept worth exploring, based on international experience.

Senator CONROY—Why do you not put out an options paper on it?

Senator Alston—I do not think we need one. Anyone who would be interested in contributing—

Senator CONROY—Chris Pyne might set up a committee hearing for you.

Senator Alston—This is not an issue where people are unaware of an examination of the issues. All the interested parties are giving us their views on a very regular basis, so I doubt very much that—

Senator CONROY—A good public debate is not in the nation’s interest? Chris Pyne runs a very good committee, I hear.

Senator Alston—These matters get regular airings in the media, so there is nothing to stop people from writing to us and expressing a view. It is generally a pretty technical area where most people would not have access to the latest experiences internationally. The department—James Cameron, in particular—are very much up with international trends, so I think we are

probably in a much better position than anyone else to make these judgments. We have not made any final decisions.

Senator CONROY—I appreciate that. Is there a potential date for when you might make a decision?

Senator Alston—No.

Senator CONROY—There is no final date? There is not even a suggestion—not even an aspiration?

Senator Alston—Unless there is some sort of deadline that you must meet, good public policy is about getting it right, not just getting it done for the sake of it.

Senator CONROY—That is fair.

Senator Alston—Given that you can have cataclysmic events like the UK experience, that probably tells you that you should not rush into anything all that much.

Senator CONROY—Caution is wise.

Senator Alston—It is evolving technology. Take-up rates are slow, but I think most people would say they are certainly going in the right direction. I could commend to you a very high-quality—

Senator CONROY—Plasma screen?

Senator Alston—interview on Radio National on Sunday, in the public interest. Malcolm Long gave, I thought, a very good explanation of how the industry is moving. Look at the take-up rate of DVDs, for example: in the first couple of years it was probably 40,000 or 50,000; last year it was 900,000-odd. So you cannot judge these things on the first few years experience. Even colour television took a few years to get off the ground. Therefore, based on international comparisons, we are up with the rest. We are not behind by any means. In fact, we have legislated a regime ahead of almost everyone else in the world.

Senator CONROY—Do you think it is a reasonable concern that it might be hard for some of the commercial channels to compete against a fully digitised monopoly with hundreds of channels—the Foxtel network—if they do not have any multichannelling capabilities? There is a legitimate competitive issue there, and I know you are concerned about it.

Senator Alston—The irony is that the free-to-air do not take the view that they are under a competitive disadvantage and would therefore like the option of multichannelling. Two of the three would say, ‘We do not want it.’

Senator CONROY—Do those two have any financial relationship with the pay TV provider?

Senator Alston—As you know, Nine is a 25 per cent shareholder in Foxtel.

Senator CONROY—So would it be fair to say that it is not really a competitor at all?

Senator Alston—But they still have to run a free-to-air business. I do not think anyone has accused Mr Packer of not being interested in maximising his position in the free-to-air industry. Nine has traditionally been No. 1. All I read about the shake-ups that have been going on—and there has been a fair bit of ‘blood on the floor’—suggests that they are very keen to see it prosper. That being the case, there is no suggestion at all that they want to see Nine or the free-to-air industry wither on the vine in favour of another industry in which they have only a 25 per cent shareholding. Channel Ten, of course, do not have any interest in pay

TV. I think it is much more a reflection of their view of the world, which is that the audience is not going to grow simply because there are more channels. You simply fragment the advertising dollar. You cannot have a premium on exclusivity. Therefore, they are not persuaded about the business case.

Senator CONROY—News Ltd are not excited about the prospect of multichannelling, either, are they?

Senator Alston—As a competitive issue, Foxtel would presumably prefer the maintenance of the status quo. We put the initial ban on multichannelling in order to protect an infant industry. That infant industry now has around 20 per cent of households—

Senator CONROY—It is a monopoly. It is an infant industry that has turned into a monopoly.

Senator Alston—It still has to be something that people want. You have had a pay TV industry out there for some years. It has managed to get household penetration of one in five. I think the general view would be that recent changes in relation to Foxtel-Optus will not make a huge difference to take-up, but digitising the cable network may well do because there will be many more channels on offer. Current analog would allow about 60 to 70, I suppose, whereas in theory you can get hundreds—

Senator CONROY—Digitisation is going to bring more sharply into focus the degree of competition between free-to-air and pay, though.

Senator Alston—Yes it is. There has always been competition there.

Senator CONROY—Not absolutely directly. You are a supporter of competition. You have always argued for competition.

Senator Alston—I do not think you will find that there has been an overall increase in television viewing since pay came along. In fact, it has probably been reduced by the Internet as well. But, by and large, pay and free-to-air are fighting over the same eyeballs. If you are watching pay you are not watching free-to-air and vice versa. So these guys have been in competition from day one. In many ways pay on cable is always going to have the ability to out-multichannel free-to-air on terrestrial because the most you are going to be able to do on terrestrial is four or five, standard definition, unless you get greater compression ratios. So a contest between a digitised cable network offering several hundred channels is going to be a bit one-sided, even if you allowed full multichannelling on terrestrial.

Senator CONROY—That is a fair call.

Senator Alston—That is why HD—and standard definition, to a lesser extent—could well be the competitive advantage that the free-to-airers rely on, rather than simply an increase in the number of channels per se.

Senator CONROY—That is a fair argument. Do you anticipate further changes? You mentioned that some changes to the digital television policy are in the pipeline. Do you have any idea when they will be finalised?

Senator Alston—We put three through the parliament last week.

Ms Holthuyzen—Yes. They were the HD changes.

Senator Alston—There were two other changes on advertising. There were annualisation, archival material and advertising, so three changes went through the parliament last week. There may well be more. You keep reviewing these things. There is an obligation to have any number of statutory reviews over the next few years.

Senator CONROY—They are relatively minor, though, I understand.

Senator Alston—They went through non-controversially so, in that sense, yes.

Senator CONROY—They are relatively minor.

Senator Alston—Yes.

Senator CONROY—Some would even suggest they were tinkering rather than substantive change.

Senator Alston—They are not fundamental; I would agree with that.

Senator CONROY—You seemed to moot that there were more substantive changes by the tone and tenor of your earlier comment.

Senator Alston—I meant something like multichannelling, restructuring of data casting or—

Senator CONROY—An extension of the moratorium; that sort of thing. They are major changes.

Senator Alston—Those sorts of things are; yes. They potentially have a major impact on the structure of the market. Obviously, those sorts of changes require a lot more thought and consultation. Given the international experience that the sands keep shifting all the time, you can never be confident that you have the right model, because it is evolving. If possible, I suppose, the government should not be heavily involved, but almost by definition you have to be because of the historical structure of the industry. We have always had a limited number of commercial free-to-air networks. We had two in 1956 and a third in the sixties, and we have not had any more since. So there have always been boundary lines drawn in this area, and I suspect there always will be, of one sort or another.

Senator CONROY—I move to another topic. Can you confirm that you have been sitting—and I do not mean literally—on the ABA report into the antisiphoning lists since June 2001?

Senator Alston—That has a pejorative connotation. I had better get someone to—

Senator CONROY—I think the answer is yes. I think they are politely trying to inform you that it has been in your in-tray for about 19 months, Minister. Dog ate your homework?

Senator Alston—No, I think it is more that, as often happens in this business, because you have contending interests and different views being put forward you are endeavouring to see if there is common ground and, if not, weighing up the consequences of whatever changes you might have in mind. They have had reviews in the UK of their antisiphoning regime and we have had a couple of reviews here. I would probably agree with you that it has not been a matter of extreme urgency, but it does not mean that we are not committed to reform of the antisiphoning regime. I have said a number of times that we think in principle the list is too long. It is really a question of how you can sharpen the system up. We certainly do not believe that it should be dispensed with but, from memory, there are something like 13 sports on our list and about five in the UK. They are not all of equal significance, so you have to ask yourself whether there should be a simple shortening of the overall list or whether there should be some prioritisation of or differentiation between categories.

Senator CONROY—Have you had a chance in the 19 months since you received the report to consider these issues? Is there any prospect that you might report in this calendar year?

Senator Alston—Yes, I would certainly like to see it finalised. I do not know quite where it is at the moment, but I have certainly had discussions with a number of the major players from time to time. It is not as if we have not been considering the issues.

Senator CONROY—What colour is the cover sheet of the report? This is just so the minister notices it next time he is in his office.

Senator Alston—To see whether it has faded?

Senator CONROY—I am very concerned you might have faded, because those offices are well lit, I understand. It may be that big, thick yellow one sitting in the corner.

Senator Alston—I do not always get the glossy edition. I get a working copy.

Senator CONROY—You are aware that the current antisiphoning list expires at the end of 2005?

Senator Alston—I think we did extend it for 12 months.

Ms Hothuyzen—That is correct. It was extended to that.

Senator CONROY—It was extended to that, yes. Many sports broadcasting rights for post 2005 are approaching.

Senator Alston—Inexorably.

Senator CONROY—As these things are negotiated years in advance, do you think that this might encourage you to expedite your response? It is 2003 now and these rights come up a few years in advance. People might like to know whether they are going to be free-to-air or—

Senator Alston—Certainly, nobody has approached me in recent months saying that there is a heightened degree of urgency, but your general proposition that these things do not stand still is right. Quite often these are long-term agreements and, if you reach a point where they renegotiate another five- or 10-year agreement, you have missed your window. There is certainly a good argument that the matters ought to come to fruition in the not too distant future.

Senator CONROY—Look for that large, thick, yellow report. I will turn now to an issue very close to your heart and mine. Have you had a chance to develop a solution to the problem of AFL viewers in some northern states and territories receiving a lesser coverage of AFL games, particularly the live Friday night footy, under the new AFL free-to-air broadcasting arrangements?

Senator Alston—I did ask one of the AFL commissioners recently where the negotiations were at, and he broadly said that he thought that there were no outstanding problems, so I do not think it has come back to me for some months.

Senator CONROY—I am sure that a Collingwood fan who lived in Canberra or Brisbane would be very disappointed to hear you say that, Minister.

Senator Alston—Matt Price did ask me about this very recently.

Senator CONROY—I would hope he did. I am glad to see someone in the gallery is a Western Australian. He is a Dockers fan, so we excuse him on all counts.

CHAIR—AFL, anyway.

Senator CONROY—Not everybody may be lucky enough to have a plasma screen digital TV. Does your little plasma screen include a Foxtel subscription perchance?

Senator Alston—I had a Foxtel subscription before.

Senator CONROY—Did you get a new one as a result of this? Did you get an upgrade, like Fox Footy?

Senator Alston—No. We already had a cable subscription and that was added to it.

Senator CONROY—Added to it by you or added to it when they kindly gifted you—

Senator Alston—My subscription to Foxtel is ongoing.

Senator CONROY—Yes, but this calendar year and last year Fox Footy would have been a new element of the subscription. Did you have to purchase it separately or was it just added in automatically?

Senator Alston—You have to pay for it, don't you?

Senator CONROY—That is what I am asking. Did you pay for the upgrade or did it just come with the plasma screen?

Senator Alston—It would not have come with the plasma screen. It would have come because we paid for the subscription. My daughter seems to unilaterally add premium services for which I have to pay. There are no free kicks to my knowledge. We are paying for the subscription services we get.

Senator CONROY—Let us go back to the issue of Friday night footy for fans in Canberra who want to watch Collingwood. Unfortunately, as you know, Collingwood get a lot of Friday night games, which is good for us because we get to see them because we are home. Do you think this gentleman's agreement that is there has resolved the problem for Canberra footy fans?

Senator Alston—I understand the national significance of the issue, and I also agree that it needs early attention as we are approaching the business end.

Senator CONROY—You will be pleased to see that Carlton got off to a flying start to the year up in Darwin.

Senator LUNDY—Can I clarify that you have not been involved in any more formal discussion since the issue arose in July last year?

Senator Alston—I have not, but I do not know whether others have. It has not come across my desk in recent months. I presume your point is whether that means it has all been resolved or whether it is in the too hard basket.

Senator CONROY—Has the AFL put out a press release announcing increased coverage on last year?

Senator Alston—It sounds as though it is something that we should make some early informal inquiries about so we know where things are at. We have not been involved in the negotiations.

Senator CONROY—Why not?

Senator Alston—Because, essentially, these are contractual disputes between the AFL and the networks. Some would say that the AFL's contractual demands were not as tight as they could have been and, as a result, they were seeking to negotiate coverage via the regional and, I presume, metropolitan networks as well. It has not been a matter for us to be directly involved in negotiations. It has been a matter for us to monitor progress and, if there is a sticking point or something that has gone off the track that we can do something about, we

will become involved. You have provided a timely reminder that we should get an update on it but, beyond that, it is not something that we have had responsibility for the carriage of.

Senator CONROY—Is your plasma screen portable or is it attached to your wall?

Senator Alston—It is not attached to the wall.

Senator CONROY—But it is not portable?

Senator Alston—Is it moveable? Most things are moveable.

Senator CONROY—You have not slipped it in a suitcase to bring it up to Canberra on a Friday night?

Senator Alston—It does not even go in the bedroom.

Senator CONROY—I understood that there was a so-called gentleman's agreement that there would not be any reduction in coverage of the footy.

Senator Alston—That is right.

Senator CONROY—The question is: are you going to let it be flouted?

Senator Alston—As you will recall, it was said to be consistent with that agreement to have shown games at 11 o'clock at night. We took a dim view of that, and I think others did too. As a result, there was some bringing forward. I may be able to give you some information on the free-to-air coverage in New South Wales and Queensland in 2002 compared to 2001.

Senator CONROY—No, I think that argument has already been had, Minister.

Senator Alston—Information about the proposed coverage of the 2003 season is not yet available.

Senator CONROY—That is what we are after.

Senator Alston—Programming decisions made by broadcasters are based on a number of factors, including commercial considerations and the balance of interest of their viewers. Ultimately, the government does not wish to dictate decisions on programming which are taken by either commercial or national broadcasters, and that has always been the case.

Senator CONROY—So you are just washing your hands of Canberra Collingwood fans? We may have to have you drummed out of the Pie club.

Senator LUNDY—Can I stick up for the other fans as well.

Senator CONROY—I am not meaning in any way, Senator Lundy, to—

Senator LUNDY—And not just in Canberra.

Senator CONROY—It is just that there are more of us than most.

Senator Alston—Senator Lundy would say that we should mandate netball. You cannot—

Senator LUNDY—But New South Wales, Queensland and the Northern Territory were all affected by similar deprivations during the business end of the season.

Senator Alston—But I think the general view was that if the viewers were not getting what they wanted then the AFL should have insisted, but the AFL agreements with the broadcasters allowed sufficient flexibility for them not to be always shown in prime time. As a result, you get an often loud and noisy minority who are unhappy with that outcome. We had discussions—

Senator CONROY—You are not referring to Collingwood fans in Canberra as a 'loud and noisy minority', are you? You are treading on dangerous ground, Senator Alston.

Senator Alston—A noisy majority, I would have thought. We did have discussions with the ABC, for example, about whether they would be prepared to canvass their viewers. They conducted a survey of sorts which they would say demonstrated that the majority of their viewing audience did not prefer to see football ahead of their existing programming. So it would be quite unacceptable for us to come in over the top and say, ‘We don’t care—just do it.’

Senator CONROY—Do you think we could make it compulsory for Carlton fans to watch each of their team’s games this season?

Senator Alston—We could force them to watch last year’s games.

Senator CONROY—I think after Saturday night that would be about the same. I have two final questions. You have not received loans of any other high-tech equipment from media companies or anything, have you?

Senator Alston—No.

Senator CONROY—Senator Mackay may have asked this, so if you she has, please let me know. Can you outline the policy on the retransmission of commercial television?

Senator Alston—We have had two discussions with Senator Mackay on that.

Senator CONROY—It is all commercial TV rather than just the ABC, which I was asking you about.

Senator Alston—Yes, she asked that particularly.

Senator CONROY—Okay. Do you think the ABC could show the footy if they were able to multichannel?

Senator LUNDY—There’s an idea.

Senator Alston—As I have said, I am not sure that the ABC would see it as their core business, but then again—

Senator CONROY—Clearly, that New South Wales run ABC has got to—

Senator Alston—I do not think it would be allowed under the current regime.

Senator CONROY—There is an amendment that might have bipartisan support, Minister.

Senator Alston—I note your support.

Senator CONROY—I have finished.

CHAIR—Senator Allison is the next person on the list.

Senator ALLISON—Could I just pursue the questions that I started a little earlier about the Interactive Gambling Act. Is Mr Gordon Neil here today? Is he on his way to Lausanne?

Ms Hothuyzen—I think he is, yes.

Senator ALLISON—What kind of message is he taking to this conference?

Mr Cameron—He is speaking at the conference on the regime that operates in Australia and the sorts of co-regulatory arrangements that have been introduced under the interactive gambling legislation in Australia.

Senator ALLISON—Will he suggest it is a successful piece of legislation?

Mr Cameron—I think prior to the completion of the review obviously he will not be in a position to make definite comments in relation to some aspects because that review has not

been completed. But certainly he will be in a position to talk about the sorts of activities and arrangements that have been implemented through the self-regulatory arrangements.

Senator ALLISON—Is it possible to get a copy of his paper, after the 13th when he delivers it?

Mr Cameron—I am sure it will be.

Senator ALLISON—Minister, can you indicate when the IGA review is likely to start and what the first part of the process is?

Mr Cameron—The minister announced earlier last month that the department would undertake the review. The department is preparing an invitation for submissions which should be released in the near future.

Senator ALLISON—Is that like next week or the one after or June?

Mr Cameron—It is likely to be in the next month or so, and the department is also expecting to seek expert advice on particular aspects of the requirements of the review.

Senator ALLISON—Sorry, expert advice on?

Mr Cameron—Aspects of the legislative requirements of the review. The legislation requires the review to consider a number of issues, including those that relate to technological developments and the social and commercial impacts of interactive gambling services, and the department is likely to seek expert advice through consultants on those sorts of aspects of the review.

Senator ALLISON—So the terms of reference are not yet settled?

Mr Cameron—The terms of reference are essentially provided by section 68 of the Interactive Gambling Act.

Senator ALLISON—I am not sure I understand what is required of consultants—what the work is that needs to be done.

Mr Cameron—The review provision in the legislation requires the review to consider the operation of the act, the growth of interactive gambling services, the social and commercial impacts of interactive gambling services, and the effect of a range of specific provisions of the act, as well as technological developments relevant to the regulation of the act. Expert advice will be sought on aspects of those review requirements, most specifically technological developments that have occurred during the operation of the act, and also aspects of the review relating to the growth and social and commercial impacts of interactive gambling services.

Senator ALLISON—Is this being put to tender to consultants or are there some consultants in line—

Mr Cameron—The tender process has not commenced but it will go to open tender.

Senator ALLISON—It will go to tender?

Mr Cameron—Yes.

Senator ALLISON—What sort of consultants have the expertise in this field?

Mr Cameron—I think there is potentially a range of consultants and it is possible that consultants may wish to create a group to address different aspects. But certainly when it goes to matters like the social and commercial impact and the growth of interactive gambling services, there is a range of economic consultant groups that would be able to assist there. There is also a range of consultants that have expertise in relation to technological

developments relating to the Internet and online services such as interactive gambling services, and they could certainly be expected to be interested in this consultancy.

Senator ALLISON—Sorry, I might have got it a bit wrong, but would it be the case that the consultants would run the review?

Mr Cameron—No.

Senator ALLISON—Are they just helping you to prepare something?

Mr Cameron—The consultants would provide expert assistance in gathering information and analysis that will assist the department in the review.

Senator ALLISON—So it is being put to tender?

Mr Cameron—It will be, yes.

Senator ALLISON—Is there a budget for that consultancy?

Mr Cameron—Yes. We understand it is in the order of \$300,000.

Senator ALLISON—There has been some criticism of the department's handling of this whole act in some quarters—and I am sure you have read that, as I have—and questions about whether there are sufficient expertise and skills on board in the department. What, by way of staff, knowledge or expertise, has been brought into the department since the act was given assent?

Mr Cameron—The bulk of the provisions relating to the act are administered by the Australian Broadcasting Authority. I think Andree Wright spoke to you earlier this afternoon about those relating to the self-regulatory arrangements with code of practice arrangements established with the Internet Industry Association and administering their complaints arrangements in relation to interactive services. There are additional provisions in the act relating to the advertising of interactive gambling services, and there have only been a small number of issues raised in relation to those provisions. In the department we have a unit of people responsible for policy aspects of the provisions that assists in the administration of those specific complaints when they arise.

Senator ALLISON—I will just take a step back. The ABA said that it was not part of their responsibility to deal with questions of advertising. Is that your understanding? How does that split responsibility work?

Mr Cameron—It is our understanding that the act does not specifically confer responsibility on the ABA. Those provisions are distinct provisions and distinct arrangements from those aspects that the ABA administers, and there is a relatively clear delineation between the relevant provisions.

Senator ALLISON—So, on the question of advertising, I repeat the question I put earlier to the ABA about the High Court decision *Dow Jones & Company Inc. v Gutnick*: what are the implications of that case for part 7A of the act making it illegal for interactive gambling ads to be published in Australia?

Mr Cameron—We are not aware of any specific implications of that decision for those provisions. Those provisions include a specific definition of what the publishing of an interactive gambling advertisement means for the purposes of the act, which are relatively specific. However, given the issue has been raised, we will investigate whether there are any implications. Certainly, it would be a matter that would be taken up in the context of the review.

Senator ALLISON—So you have not sought legal advice on that?

Mr Cameron—Not yet, no.

Senator ALLISON—That will be done in the context of the review? I would have thought it would be done sooner.

Mr Cameron—Clearly, the efficacy of the provisions is a matter to be considered at the review. Issues such as those, if there are any implications, can be taken up in the context of the review.

Senator ALLISON—Is it possible to make a judgment about how effective these laws have been in stopping games like roulette and blackjack? Have you been able to monitor progress on that?

Mr Cameron—The ABA made some comments in relation to their understanding of the change in conduct within the Australian industry as a result of the passage of legislation. The impact of the legislation and its effectiveness are matters that will be considered in the review, and at this stage we do not have any assessment of that.

Senator ALLISON—So how will you get an assessment? How will you approach that?

Mr Cameron—We will get information from a range of sources. Clearly, submissions to the review will provide useful information in that area, and the consultants will be asked to provide information in relation to the growth or otherwise of relevant interactive gambling services during the period the provisions have been operational.

Senator ALLISON—What sorts of investigations have been undertaken in the department about geolocation systems that now enable web site operators to determine in real time the location of the player, which in effect weaken escape clauses 15(3) , 15(4), 15A(3) and 15A(4)? Can you comment on that? Has that capacity been used to identify those operators?

Mr Cameron—We would have to take that on notice. I am not aware of those issues.

Senator ALLISON—What about changes along the lines of the Leach bill that is, I think, about to be passed in the Senate in the US? Has the department had a look at that legislation?

Mr Cameron—The department has been monitoring the passage of that legislation. It is relevant to provisions in the Interactive Gambling Act that provide for regulations to be made in relation to making debts relating to prohibited interactive gambling services unenforceable. There is a range of practical and legal issues associated with the implementation of that in the Australian environment. The Leach bill potentially provides a similar or related set of developments in the US that could assist in progressing that issue here.

Senator ALLISON—Where are we with making an assessment of that and making recommendations?

Mr Cameron—In relation to the Leach legislation, as you note it has not become law in the US. We are monitoring the development of that legislation and related issues in the US. In relation to the Australian environment, the question of whether regulation should be made under the provisions I mentioned is a matter specifically to be taken up in the context of the upcoming review.

Senator ALLISON—So we were planning to leave the regulations associated with section 69A for the review?

Mr Cameron—It is a matter to be considered in the review, yes.

Senator ALLISON—Why is that? Why were regulations not developed earlier?

Mr Cameron—There are a number of practical and legal issues which make the establishment of regulations, as specifically envisaged under that provision, difficult. Most interactive gambling transactions over the Internet are based on a credit card system. The international arrangements for credit cards do not easily—or at all, in the view of some of the credit card operators—enable transactions related to the specific set of services identified under the Australian legislation to be identified, which would make it potentially very difficult, if not impossible, for such transactions to be controlled.

Senator ALLISON—What is the sticking point here? Is it the consultations with the banks? Where does the difficulty lie? It is more than 12 months now since the act was passed.

Mr Cameron—The issues relate to the question of whether it is practicable in the Australian environment for specific provisions relating to those transactions to be introduced, when Australian credit card providers and banks operate based on an internationally agreed set of arrangements that do not relate to the specific nature of our legislation—and, in fact, do not relate to the specific nature of similar legislation that might exist around the world.

Senator ALLISON—Nonetheless, it is more than 12 months now. Why are we leaving this process to the review?

Mr Cameron—This process has not been left to the review; the issue has been investigated. However, given the potential for developments such as the Leach bill in the US and given the issues identified at this stage, the government wishes to consider this issue further. The review provides an opportunity for further submissions to be sought and further analysis to be conducted.

Senator ALLISON—Where do you expect the breakthrough to come? Whose advice is it that will be crucial to all of this? I still do not understand what the barrier or difficulty is.

Mr Cameron—Additional technical advice needs to be sought in relation to how and whether such arrangements could be implemented.

Senator ALLISON—From whom? Who would provide this advice?

Mr Cameron—As I mentioned before, expert advice will be sought in the context of review through an open tender process. There is a range of consultants who—

Senator ALLISON—So it is locked into the review. It is the review and the consultants who will help you do this?

Mr Cameron—They will provide additional information that may assist. This will provide relevant stakeholders an opportunity to contribute further on whether there have been enough developments which would enable arrangements on the lines considered and anticipated in the regulations or different arrangements that might have a similar outcome.

Senator ALLISON—I am sorry to press this, but I still do not quite understand the problem. Are the stakeholders you are talking about principally the banking system?

Mr Cameron—They are, as people who may be affected, clearly one set of stakeholders. Consumer groups and other operators in the sector would be also relevant.

Senator ALLISON—So as this process seems to be fairly crucial to the effectiveness of the act, why was this not begun soon after it was passed in the parliament? Why wait more than 12 months down the track to start that process?

Mr Cameron—As I indicated, this is not the start of the process. The department has investigated these issues for some period and identified a range of practical and other issues that meant that the government has not been in the position to consider whether appropriate

regulations can be put in place. Given the fact that there are a number of developments overseas that may have implications, which also have not come to full fruition, it was considered appropriate to roll this issue into the wider review of the provisions and enable further investigating to take place.

Senator ALLISON—I asked you earlier about the Dow Jones v. Gutnick appeal decision. Will that be left entirely to the review or have you had any preliminary talks with overseas counterparts about this?

Mr Cameron—No. As I mentioned before, we are not aware of any specific implications. Now that it has been raised, that is an issue which we can investigate and it can be considered further in the context of the review.

Senator ALLISON—I believe the *Australian Financial Review* ran a story recently that quoted legal sources saying that this would effectively be a precedent for other areas of law because defamation is a major legal action with respect to publishing. Is that also your understanding?

Mr Cameron—I could not specifically comment at this stage on the potential implications of that case. I do not have the background.

Senator ALLISON—With respect to complaints about advertising or interactive gambling on the Internet, we talked earlier to the ABA about the 17 complaints, broken down in various parts. What is your view about whether the complaints that are being made represent a fairly good coverage, if you like, of possible offences against this legislation? Do you get a feeling that that which could be complained about is being complained about?

Mr Cameron—I do not think I could add much more to the comments that Ms Wright made when she was talking to you earlier this afternoon, which is that given the number of complaints, it would be difficult at this stage to come to any specific conclusions in that regard.

Senator ALLISON—It is not so much about the number of complaints. It is about if there is another overview or any kind of approach by the department to determine whether there are activities going on out there which should not be, but which are not being complained about. That is the point of my question. The real question is: is it enough to rely on a complaints system to track this down or should there be some more rigorous approach by the department to see just what is going on?

Mr Cameron—The review process will enable us to gain a better understanding of the operation of the provisions and their effectiveness. At this stage I think it would be difficult to make any conclusions.

Senator ALLISON—So the department has not done this itself? It has not attempted to look at the adequacy of the complaints system?

Mr Cameron—No, not in advance of this review.

Senator ALLISON—I would like to ask you about the so-called good neighbour clause. What has the department done in terms of discussions with other countries about how this is working?

Mr Cameron—I will have to take that one on notice, Senator.

Senator ALLISON—Okay. That suggests that that is not happening?

Mr Cameron—I am not aware of those specific arrangements, so I would have to take that on notice.

Senator ALLISON—Do you know the clause I am referring to?

Mr Cameron—Yes.

Senator ALLISON—Would you be aware if we had had discussion or correspondence with other countries about this, or had approaches from other countries?

Mr Cameron—I understand that there have been two approaches made in relation to those provisions, but the provision in the act requires the other country to have similar arrangements in place reflecting our legislation, and that was not the case.

Senator ALLISON—As a matter of interest, which countries were they?

Mr Cameron—We would have to confirm the countries.

CHAIR—We are going to have a break at 9 o'clock.

Senator ALLISON—I have finished now.

CHAIR—We will now have a break and resume at 9 o'clock.

Proceedings suspended from 8.53 p.m. to 9.02 p.m.

CHAIR—Senator Lundy.

Senator LUNDY—I want to clarify some points about the changes to the budget administered financial position. Can you confirm whether the valuation of Telstra and Australia Post is market value or historic value?

Ms Gale—I refer you to page 263 of the annual report. It lists all of the companies, which add up to the \$6.9 billion.

Senator LUNDY—Is that under 'Commonwealth companies'?

Ms Gale—Yes, at the bottom: 'Total for investments'. That was the figure you were referring to in the budget. For budget purposes, Telstra and Australia Post are removed. If you remove those two figures you come back down to the budget figure. They are incorporated at the whole of government level due to market sensitivity at budget time.

Senator LUNDY—Can you say that last bit again?

Ms Gale—Due to the market sensitivity of those two they are removed for budget purposes, but actuals are reported with DCITA once they are published.

Senator LUNDY—So what do those two figures that were removed represent?

Ms Gale—They represent the 1997 net equity position of the two companies as per AASA29 and the finance minister's orders.

Senator LUNDY—So that was the then market valuation of those assets?

Ms Gale—Correct. If you look a bit further down, you will see the market value as well, as note (a). So both figures are disclosed.

Senator LUNDY—Where is the market figure?

Ms Gale—Sorry. Underneath the heading 'Total for investments' there is a little note (a).

Senator LUNDY—Thank you for that. What was the purpose of removing the historical value of the assets from the budget? I understand it does not have an impact on the bottom line—it is just part of the assets register—so what is the purpose of removing it?

Ms Gale—We are just complying with AASA29 and the FMOs and how they need to be reported.

Senator LUNDY—Is that done to conform to auditing accounting?

Ms Gale—Correct.

Senator LUNDY—Why weren't the other Commonwealth companies removed?

Ms Gale—I believe—but I am not sure—that it is only because those two are sensitive to the market so, if you start publishing budget figures, you are publishing what they are proposing to do.

Senator LUNDY—But if it was the historical value that was listed in the papers, the market—

Ms Gale—The historical value is listed in the annual statement but you are asking why it dropped in the budget.

Senator LUNDY—I now understand why it dropped. Now I am asking for more general information about why it was dropped. What are the accounting rules or estimates? I think it says on page 220 of the annual report 'in accordance with budget estimate arrangements'. What does that mean? I am just trying to find out why they and not others were dropped. It seems to me that there is some reference to budget estimates arrangements.

Ms Gale—That is because they are incorporated at the whole of government level, not in DCITA's books. That is the arrangement they are referring to.

Senator LUNDY—Where can I find that arrangement written down—the one which you just described as being in the whole of government statements and not just in DCITA's?

Ms Gale—Sorry, I would have to get back to you.

Senator LUNDY—The way it looks at the moment, from a statement in the portfolio additional estimates statements, is that there is a drop of \$6 billion. You then need to go to the annual report to try and find a reference to that but then there is no explanation in the annual report for that, other than:

The budgeted Administered Financial Performance published in the Portfolio Additional Estimates Statements exclude values for Telstra and Australia Post dividends in accordance with budget estimate arrangements.

What a load of gobbledegook! It does not really tell me anything at all about what the motivation could possibly be—whether it is political, whether it is policy or some accounting standard. There is no information to shed any light on that. It might be completely above board and a very dry reason for doing it but that is not in the books.

Ms Williams—Could we come back to you because I think also we will need to refer back to the whole of budget statements and to where it is actually shown. So if we could come back to you with the full story on the issue, that would be—

Senator LUNDY—Yes. It seems to be quite curious. The implication is, of course, that it has all been tidied up in preparation for no doubt the next phase in the government's policy.

Ms Gale—No, it was reported like that the year before and the year before that. It has been consistently reported like that in our statements. So this is not the first year that has been reported.

Ms Williams—I think if we get the full story it would make more sense than we are doing now.

Senator LUNDY—Yes, that would be helpful. Thank you. How were the valuations for Telstra and Australia Post reached?

Ms Gale—It is the 1997 net assets.

Senator LUNDY—Is there any reason why the breakdowns are in the annual report and not in the actual portfolio additional estimates statement?

Ms Gale—It is just for simplicity, because it would make the statements awfully long.

Senator LUNDY—It seems to me to be pretty important information, though, given two specific assets were involved and a number of assets were not touched by that change. It is quite deficient reporting, from my perspective. What is the overall impact on the budget, if any, of the exclusion of those two assets?

Ms Gale—As I said, they are not actually excluded from the overall budget; they are included in a holistic way. They are just not included in DCITA's budget.

Senator LUNDY—Can you point me to the document where they are included?

Ms Williams—When we come back we will have all that information.

Senator LUNDY—Can you explain why there has been a significant jump in departmental receivables from \$8.384 million in 2001-02 to \$21.044 million in 2002-03? That is on page 74.

Ms Gale—We had some AAO changes in the department during the year in which the information access branch moved from Finance to the department, and it had quite substantial receivables with it.

Senator LUNDY—Could you take it on notice to provide the detail around that as well?

Ms Gale—Yes.

Senator LUNDY—The Telstra Social Bonus 2 had a decrease of \$8.335 million. I could not find any real explanation for that. Can you tell me what it is?

Ms Gale—Which page are you referring to?

Senator LUNDY—I am referring to page 47, to the first item under 'Administered annual appropriations'.

Ms Gale—It represents the movement of the actual expenditure into the out years.

Senator LUNDY—So it is removed from—

Ms Gale—It is removed from that financial year movement to forward out years.

Senator LUNDY—Is that because there has been an underspend in the programs as allocated against the original budgeting?

Ms Gale—The program managers would be able to explain that better than the accountant can.

Mr Barr—I am sorry, I missed that question while I was moving up to the table.

Senator LUNDY—I am looking at the first item under the heading 'Administered annual appropriations' on page 47 of the portfolio additional estimates statements. The budget forecast is \$65.756 million. Additional estimates have that down by \$8.3 million with a revised figure of \$57 million. I would like to know why that has been reduced—and particularly whether this is a result of an underspend in any of the Telstra Social Bonus 2 programs, and whether any of that money was lost to that program or whether it has just been pushed out.

Mr Barr—Certainly no money has been lost. We are talking about movement from one year to the next.

Senator LUNDY—So it is not going out of the Telstra Social Bonus 2 programs?

Mr Barr—No, not at all. It is simply the rephrasing of expenditure from one financial year to the next.

Senator LUNDY—Could you provide me with a table of those movements, certainly for this year, and also as to how they relate to the actuals of previous years and what, if any, changes are there for the budget estimates in the following year—that is, for this forthcoming financial year? If I have to wait for the budget, you can say that in your answer on notice.

Mr Barr—I could almost give them to you now, if you wish.

Senator LUNDY—Okay.

Mr Barr—The two largest movements are, firstly, associated with the Building Additional Regional Networks subprogram, and that amounts to moving about \$6.2 million.

Senator LUNDY—From this current year to next year?

Mr Barr—Actually, we have moved it to 2004-05.

Senator LUNDY—Why?

Mr Barr—Because the funding—

Senator LUNDY—Can't you spend it fast enough?

Mr Barr—That is correct.

Senator LUNDY—So you have not just pushed it into the next financial year at all?

Mr Barr—Not that sum of money, no. The next largest component is the local government fund, and that is \$1.4 million, but it has been moved no further than the next financial year.

Senator LUNDY—With BARN, the Building Additional Regional Networks, \$6.2 million, what was that program worth all up in this current financial year? What proportion of an overall figure is \$6.2 million?

Mr Barr—It was originally \$16.6, almost \$16.7, so \$6.2 is some proportion of that, a highish proportion.

Senator LUNDY—It is. I am not good at maths but it is a significant percentage. It is over a third anyway, is it not?

Mr Barr—It is 30 to 40 per cent.

Senator LUNDY—In terms of the sort of programs it would have funded, can you give a very brief description of the types of initiatives that BARN has traditionally funded?

Mr Barr—It has attempted to fund newer, more innovative regional infrastructure. One of the examples would be a new regional telecommunication company.

Senator LUNDY—Is the reason that that is not being spent because no-one wants to build infrastructure, or no-one is applying, or people are applying and they are not eligible? What is the story there?

Mr Barr—The funding is approved by the Networking the Nation board. There certainly have been applications for that funding in recent rounds but the board has approved only a small number of those applications, and even smaller dollar amounts.

Senator LUNDY—Is that because they are ineligible? What are the reasons given?

Mr Barr—The board has to make a judgment about whether the projects have merit and/or are sustainable. In its judgment, the projects that have come forward have had problems and it has not been willing to support them.

Senator LUNDY—Who is on that board these days?

Mr Barr—It is exactly the same board as from day one.

Senator LUNDY—Who is that? I cannot remember; it was too long ago.

Mr Barr—You are going to embarrass me now too. The chairman is Doug Anthony and Johanna Plante is a member, Professor Gerry Collins is a member, Lindsay MacDonald from Queensland is a member and Ms Eleanor Scholz from South Australia is a member.

Senator LUNDY—Who is, sorry?

Mr Barr—Eleanor Scholz. The details of the board are probably in the annual report.

Senator LUNDY—They are probably on the web site too. So effectively the Networking the Nation board cannot find enough alternative network infrastructure projects in the bush to fund?

Mr Barr—It is looking at proposals but finds that there are some problems with the actual applications that are coming forward. In some instances in the past it has suggested that further work be undertaken to develop the application and on occasion has asked for them to be resubmitted. But it still is not in a position to say yes to the sum of money that is being requested.

Senator LUNDY—Why has it been pushed out to not the next financial year but the one after that? What is the justification for that decision?

Mr Barr—Because the sum of money that we have in the forward estimates for next year is already adequate for our purposes.

Senator LUNDY—How much is it?

Mr Barr—That is a little bit over \$17 million.

Senator LUNDY—Do Telstra have a role in assessing applications under the Building Alternative Regional Networks?

Mr Barr—No. The board has a range of advice it receives, but Telstra is not amongst that.

Senator LUNDY—So Telstra do not get to review applications?

Mr Barr—Oh, no.

Senator LUNDY—Is there any provision in the guidelines preventing infrastructure that is competitive to incumbents, be they Telstra or others, from receiving funding support through this program?

Mr Barr—The intention is to allow some competitive supply of infrastructure and services, so there is not a definitive yes or no to that question. What we are doing is certainly providing a small subsidy to enable perhaps a proposition which would not otherwise have been able to be funded entirely commercially to get up. In the case of those regional telecommunications companies, that is exactly the sort of scenario that we look at.

Senator LUNDY—What if alternative infrastructure providers, like Neighbourhood Cable for example, that are already established in a number of regional areas applied through that fund? Because they are already established, would they be eligible for that funding or not?

Mr Barr—A crucial point here is that the applicant is actually a not-for-profit body, so it could have a commercial partner or player down the track, but the actual applicant has to be a not-for-profit body.

Senator LUNDY—Thanks for that clarification. There are not enough of those to spend all the money?

Mr Barr—Yes, correct.

Senator LUNDY—Have you been able to give some thought as to why that is the case, from a policy perspective? Obviously you are looking at moving the money around but have you done any analysis as to why those applications are not successful, just from a general point of view? I am not asking you to second-guess the board.

Mr Barr—The board itself has certainly discussed this issue and looked at what sort of projects it did see as being priority and deserving of support. It is formulating some views there and it is likely that a little later this year those new spending priorities will be promoted by the board.

Senator LUNDY—So they are actually looking at changing their priorities in response to the lack of demand?

Mr Barr—Yes. In the overall scheme of things that is the case.

Senator LUNDY—I have raised this issue at previous estimates, particularly in relation to Demtel in the north of Victoria and allegations of predatory pricing on behalf of Telstra in those regional areas. Has that been an issue for the board in the quality of submissions they are receiving and Telstra's aggressive stance in many of the regional markets as competitors try and establish a business case and then get punched out of the ring by Telstra at a crucial moment?

Mr Barr—That has not been an issue that has been drawn to either the board's or the secretariat's attention in a great number of cases.

Senator LUNDY—Is it something you are keeping an eye on? Is that part of your brief?

Mr Barr—We are interested in ensuring that the projects that we do support go ahead so we are certainly conscious of it in a broad and general sense.

Senator LUNDY—Have you funded any projects through BARN that have subsequently failed?

Mr Barr—Yes, we have.

Senator LUNDY—How many?

Mr Barr—There is one.

Senator LUNDY—Which one was that?

Mr Barr—That was the Green Phone regional telecommunications company in South Australia.

Senator LUNDY—For the committee's benefit could you give a potted history of what occurred there?

Mr Barr—The full story is not yet known. The liquidator has not yet provided his report, so we do not know the full story. If the purpose of your question was to link it back to Telstra's predatory behaviour, we have no evidence that that was in any way a contributing factor in this case.

Senator LUNDY—Do you know that for sure?

Mr Barr—We can be pretty confident about that, yes.

Senator LUNDY—What about a general potted history up to the point of the inquiry being undertaken?

Mr Barr—The story is actually not something you can put in a potted way. It is quite complicated.

Senator LUNDY—Could you take it on notice?

Mr Barr—Certainly. I am happy to do that.

Senator LUNDY—Could you provide a dot point history of what occurred with Green Phone? How much money was invested in it from the taxpayer's purse?

Mr Barr—Yes. There was about \$1.4 million, possibly a tiny little bit more—perhaps \$1.5 million.

Senator LUNDY—I would love to keep talking about these things but I had better move on.

Mr Barr—Before I leave could I correct the statement I made about the board members? The four board members are listed on page 183 of the department's annual report. One is Professor Gerry Anderson, who is the adjunct professor at the University of Ballarat. I think I may have got his name incorrect in what I said before.

Senator LUNDY—The telecommunications service inquiry response has an additional \$900,000.

Mr Barr—That is the effect of an underspend from the previous year now coming forward and being registered in a positive sense in the current financial year.

Senator LUNDY—Just to make it really confusing?

Mr Barr—There is a minus when it is underspend and there is a plus when it is made available again.

Senator LUNDY—Can you tell me why an additional performance indicator was added in? It says, 'Satisfaction of the ministers and other stakeholders with the quality and timeliness of advice and support.' I thought that was quite cute. Why was that added in? It is on page 53 of the portfolio additional estimates statements. Why was that added in as a new performance benchmark?

Ms Holthuyzen—That is a fairly standard performance indicator that appears across the board.

Senator LUNDY—I would have thought so. I am curious as to why it was not there before.

Ms Holthuyzen—I do not know. Perhaps someone realised it was not there and they put it in to standardise it.

Senator LUNDY—It was an oversight. I am amazed that the satisfaction of Senator Alston was not always part of your performance criteria. I am sure he is glad it is now.

Ms Williams—We are progressively looking at the indicators so that was probably the beginning of it. But we are continuing to look at the indicators to upgrade them.

Senator LUNDY—It seems to me to be a pretty obvious one. I have a few more technical questions about the budget—things like cash from the official public account. Cash

received—table 3.8, page 87 of the statement—runs down from \$486 million to \$144 million from 2001-02 to 2005-06. Can you explain that to me, please?

Ms Gale—That represents appropriations. So, as we draw money for things like Telstra Social Bonus 1, it represents the appropriations drawn in each year. So it is from the official account. We are actually drawing from the budget.

Senator LUNDY—So does the fact that it diminishes over the year mean it is contingent upon each single year?

Ms Gale—Exactly. It is the wind down of programs.

Senator LUNDY—I might put the rest of these questions on notice. What was DCITA's response to Telstra's written advice that they had subsumed or brought back into the fold Telstra Enterprise Services, the company which provides the outsourced IT to DCITA? I think it was under consideration last time we spoke.

Ms Williams—If I could start while they are away, I will give you the general response and they can give you the detail. Obviously, there was some concern from DCITA and the ACCC, which is one of the other group 5 agencies. The changed circumstances presented a significantly increased level of risk associated with management by Telstra of the data, because this obviously may contain some sensitive material. There are safeguards in the contract requiring TES to protect access to DCITA data by permitting access only by approved employees or by subcontractors with each individual required to sign a confidentiality deed and have security clearance at least to the 'secret' level.

Based on some discussions that we have had, the following operational arrangements were implemented. Firstly, TES will continue to operate as a separate legal entity employing the customer business executive, the customer business manager, the operations manager and the commercial manager and the group 5 project office, which includes all of the project managed, customer facing jobs or activities. The help desk—management, network operations and any other operational delivery personnel previously employed by TES who work on the group 5 contract have been transferred to Telstra.

TES will subcontract those delivery functions of the group 5 contract transferred to Telstra under the conditions which address DCITA's concerns and issues about data security and confidentiality. These include processes and procedures to ensure that, firstly, all Telstra employees working on the group 5 contract observe their obligations of confidentiality, are bound by the deed of confidentiality in the form already agreed under the contract and are security cleared to the required level. Secondly, no Telstra employees working on the group 5 contract are obligated by virtue of their employment or any other reason to divulge DCITA's data or confidential information or to provide access to data or confidential information except as provided for and only for the purposes specifically identified in the deed of performance. Thirdly, a list of all Telstra employees working on the group 5 contract is maintained and regularly submitted to DCITA and will also be available on request. The deed of performance has also been revised to reflect the changed operational environment and additional security measures.

Senator LUNDY—Thank you for that. It sounds to me like Telstra has created a separate legal entity in TES for the employees directly engaged in handling data on behalf of the department but for all intents and purposes everyone else is Telstra and the creation of that separate entity is merely cosmetic for the purposes of the department's concerns.

Ms Williams—We do not believe it is cosmetic because we were very concerned about the confidentiality.

Senator LUNDY—I appreciate that. This is separate to all of the undertakings that you have just described. But, given all of those undertakings, why is it necessary for Telstra to maintain a separate entity in TES to do that anyway? What is the purpose of it? If you are satisfied—and I am not suggesting that is enough—that the confidentiality of DCITA’s business is going to be protected, why do they need to form a separate corporate entity? As for the guarantee for Telstra to say that their employees will not be required to divulge any information, how would anyone know? Telstra’s record with their employees has not exactly got the greatest integrity. Anyway, can you answer my question about the purpose of having a separate legal entity?

Ms Williams—I really think that is one for Telstra. It is not one for us. We have to deal with the result but—

Senator LUNDY—No, I think it is for you. They were subsumed. Are you saying it was Telstra’s choice to do that and that is what they offered you and you accepted it with all of your necessary security concerns addressed or was the continuing existence of TES something that was part of the condition of the arrangement continuing?

Ms Williams—It was a wholly owned subsidiary. They have simply decided, I think for their own purposes, to integrate it fully into Telstra. But it was always a wholly owned subsidiary.

Senator LUNDY—I appreciate that. That is what raised the questions. It used to be a partnership. It then became a wholly owned subsidiary. Then came the announcement last year that they were going to subsume it wholly back into Telstra. You are telling me that they have retained the hands-on service people in a separate entity. Perhaps we should clarify that. From the statement you read out, I understood that there was still a separate entity called Telstra Enterprise Services that had its own corporate identity.

Mr Nicholas—Yes, that is correct.

Senator LUNDY—Is that different from what we understood to be occurring last year when we discussed it, albeit briefly?

Mr Nicholas—No. Our understanding at that point was that TES would remain as a separate entity employing those five or six key management positions and seconding, from Telstra, the staff to perform the ongoing operational functions for the group. That was the understanding that we had when we were here in November.

Senator LUNDY—I am sorry, I heard it differently. I thought that the management stayed with Telstra, but the staff underneath were still working for TES.

Mr Nicholas—TES continue to operate as a legal entity, and they are employing the customer business executive, the customer business manager, the operations manager, the commercial manager and the group 5 project office. The operational staff are seconded.

Senator LUNDY—Are they all direct Telstra employees?

Mr Nicholas—Yes. They are now seconded from Telstra to provide the services.

Senator LUNDY—Thank you for that clarification, but my question still remains: why keep the separate entity? Is that just what Telstra said they would do and part of what you had to consider when deciding whether you would accept? Is there a reason of security, liability, responsibility or anything else in the contract between you and TES that requires a company that employs five or six people to remain? If Telstra is doing the work, why do they keep TES there?

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

Senator LUNDY—If you could. Can you also provide me with an answer as to whether that was a condition that either you or Telstra introduced into the discussions or negotiations?

Mr Nicholas—No, there was no condition.

Senator LUNDY—Also tell me what the purpose of it is. I cannot see it. I am sure there is a reason, and I would like to know what it is.

Ms Williams—To some extent, I think that is a question for Telstra, but we will provide what information we can.

Senator LUNDY—I know Telstra are not here, but we do have an opportunity to place questions on notice for Telstra through the *Hansard*, so I will consider that question put to Telstra to try and solicit a response from them, hopefully in a timely fashion. Coming back more to the substance of it, what status do those undertakings Telstra has given you about confidentiality have in the terms of the contract?

Mr Nicholas—They are a formal deed of performance under the contract.

Senator LUNDY—Under the contract with Telstra or the contract with TES?

Mr Nicholas—With TES.

Senator LUNDY—What about Telstra?

Mr Nicholas—There are conditions within the deed of performance from the TES and Telstra perspectives where they warrant that they will ensure that the confidentiality arrangements apply.

Senator LUNDY—But does a confidentiality arrangement formally exist between the department and Telstra, given that Telstra employees, essentially, are going to be providing the hands-on work with sensitive data?

Mr Nicholas—The contract is obviously with TES. The staff are seconded from Telstra and are working for TES, so the conditions they are working under—

Senator LUNDY—But isn't that the point—they are working for Telstra? They are contractually engaged in an employment contract with Telstra. They can be seconded all they like, they are answerable as employees to Telstra, and you are saying you do not have a confidentiality agreement with Telstra per se.

Mr Nicholas—But the deed of performance is binding on them when they are seconded to TES, and there are provisions within that arrangement to ensure that they observe their confidentiality requirements when they are working in that seconded arrangement.

Senator LUNDY—What makes you so sure that that will stick in contractual terms? Have you tested that? Have you had legal advice on its robustness?

Mr Nicholas—The contract went through legal areas when it was drafted and, under the contract itself, there is a condition that, if there is a material breach of the deed of performance, it is a termination option.

Senator LUNDY—Could you provide that clause to the committee?

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

Senator LUNDY—Whatever you do, do not come back and tell me it is commercial-in-confidence. Please, learn from experience. On that subject, the company formerly known as Advantra, which is now TES, do not have a particularly shining history of honouring their contracts, and I want to turn to that issue later in relation to their industry development commitments. To use a probably overworked phrase, they were in material breach of their

contract in relation to that, yet they have paid no penalty. What makes you confident that Telstra are going to honour this commitment? TES themselves have shown that they have not honoured contractual commitments in the past on this specific contract. Are you now just crossing your fingers and hoping that they will not breach it?

Ms Williams—I think we have done all we can with other group 5 members to make certain that we have put the relevant conditions in place. Legal advice indicates that the contract cannot be terminated by DCITA alone—only by group 5 as a whole.

Senator LUNDY—You cannot get out even if you want to?

Ms Williams—Group 5 as a whole can terminate it.

Senator LUNDY—This is a very important point. DCITA could not get out, even if they wanted to, without paying a penalty without the agreement of the rest of the group 5 agencies?

Mr Nicholas—In what circumstances? To get out of the contract altogether?

Senator LUNDY—Yes.

Mr Nicholas—We would have to have a reason, like a performance issue or some sort of performance arrangement—

Senator LUNDY—Or security concerns.

Mr Nicholas—Yes. But we believe that the contract, the conditions and the changes that have been put in place—

Senator LUNDY—If you cannot get out without the full agreement of group 5 then you don't have a lot of choice but to negotiate an agreement, do you?

Ms Williams—I apologise. I have muddled you. I meant that that was one of the things we were considering when we were considering putting in the deed of agreement.

Senator LUNDY—It should have been a serious option, but you ruled it out.

Ms Williams—That does not mean to say that we cannot do something if we have a breach of the deed.

Senator LUNDY—As an individual department?

Ms Williams—That is one of the things we took into account as we were considering how to go when this move happened originally.

Senator LUNDY—If there is a breach with your department but not with the other agencies, can you pull out on your own?

Mr Nicholas—If there is a material breach of the deed of performance then we have the ability to terminate the services.

Senator LUNDY—With TES?

Mr Nicholas—With TES.

Senator LUNDY—I presume that means with Telstra as well?

Mr Nicholas—The contract is with TES.

Senator LUNDY—Can you do that in isolation from the other members of group 5?

Mr Nicholas—Yes, because it would be a breach of the deed that is there.

Senator LUNDY—Could you provide the committee with the details that you outlined? I do not know if that was the whole document, Ms Williams, but if there is any more

information about the commitments provided by Telstra could you please give them to us. Are there any sanctions or penalties that apply to breaches of security or confidentiality? For example, if they have a little slip-up, or a series of little slip-ups, can you penalise the company without terminating the contract, or will the smallest security or confidentiality breach—

Mr Nicholas—It is a material breach.

Senator LUNDY—I cannot see that making you drop the whole lot. Let us not get into what constitutes a material breach, please—I have had enough of that—but I would like a definition from you about how significant that has to be. It might just be a little bit of work the department is doing on the Estens inquiry, it might be on the broadband strategy or it might be on something else—all of which affects Telstra. Certainly, policy thinking in that area on behalf of the government would be of significant interest to Telstra. I would just like greater assurance that even the most minor breach would constitute a cancellation of their contract, if it were found to be the case.

Mr Nicholas—I guess it would be in the department. We would have to make an assessment of the level of the breach and whether we believed it was a material breach and therefore required us to exercise a termination clause.

Senator LUNDY—And then you could enter into litigation with Telstra for the next five years. That would be fun. Minister, do you have some money in the bank to fund that litigation? That is what IBM and other big contractors do. Minister, do you have a slush fund to pay for any litigation when the department tries to possibly take Telstra for a breach of contract? You will need it. You thought relations were bad already.

Senator Alston—There are various ways of skinning the cat.

Senator LUNDY—I bet there are. Tell me what the other ways are, if there is leaked information to Telstra that you might not know about until 12 months after the fact. What happens then?

Senator Alston—I am not dealing with a particular issue. If you are asking me how we deal with Telstra if we believe they are acting improperly or contrary to what we would regard as proper practice, then we can certainly have discussions with them to correct that.

Senator LUNDY—Don't you think it would be a lot tidier if Telstra did not have the IT and telecommunications contract for your department? Why haven't you done anything about making that the case?

Senator Alston—Why do you assume that we are not able to have an arms-length arrangement?

Senator LUNDY—I am not assuming anything of the sort. I am suggesting that, if nothing else—

Senator Alston—Therefore, you can just as easily assume that there will not be any conflict.

Senator LUNDY—it is the perception to taxpayers and competitors that the department's information is potentially at risk, that it is potentially compromised. It just looks bad. Even if for no other reason, surely you have to concede that it is not a desirable situation to be in.

Senator Alston—We are more interested in reality than in perception. It is an easy line to run, and if you were in opposition you would always have a go.

Senator LUNDY—I am trying to be really responsible in finding out the actual details of the relationship.

Senator Alston—If you are then you should satisfy yourself that, in practice, there is not that capacity for leakage of information and you should explain that to anyone who might otherwise be misled into thinking that there could be a problem. These things lend themselves to closer analysis than simply saying that someone might have a perception.

Senator LUNDY—What are the audit procedures? What are the probity audit procedures around this arrangement? Are there any?

Mr Nicholas—If there were a concern, we have the ability to request the information and to undertake an audit.

Senator LUNDY—So there is no probity auditor just overseeing the general process in the relationship?

Senator Alston—There is no reason to assume that Telstra is going to deliberately act against the interests of the government or the department and carry out what could be not only a high-risk strategy but one that would be entirely counterproductive. Why would they want to do that?

Senator LUNDY—Why would they install old technology into new suburbs? I do not know what Telstra is thinking.

Senator Alston—They are different issues. They are commercial judgments about how much you put on capital expenditure. You would say that there is never enough.

Senator LUNDY—Minister, I am not suggesting it would necessarily be a senior management decision to consciously hack into the department or share sensitive departmental information. It might just be because someone thinks it is a good idea. It does not necessarily have to be policy or intent on behalf of Telstra, but nonetheless the risk is there: they are Telstra employees handling all of the sensitive data in the department. Yes, they have signed a confidentiality deed and all the rest of it but, goodness knows, we have seen plenty of those come and go through the IT outsourcing program.

Senator Alston—Why would Telstra be more poorly motivated than any other carrier? Hackers are hackers. I do not see why you assume that somehow—

Senator LUNDY—They have the contract; it is easy.

Senator Alston—On that basis, whoever got the contract could potentially want to act with hostile intent. But the consequences are very high: they would be blackballed from government contracts. I do not see why it would not be in the company's best interest to bend over backwards to ensure that there were no problems of that sort. They are not in the business of gaining a bit on the side by hacking into someone's information channels. They are in the business of providing a service which meets the highest standards, and that applies to any carrier. In the absence of any suggestion that Telstra would act in that manner, I do not see why a normal contract cannot govern it and why it cannot be enforced. I, therefore, think it would apply to whomever got the contract, not just to Telstra.

Senator LUNDY—They might be famous last words, Minister.

Ms Williams—Could I also say that when this happened the group 5, as a whole, did have a privacy and confidentiality audit which was undertaken by Acumen Alliance in June 2002. This new arrangement has been in for really only a very short time. We have the ability to run an audit any time we want, but so far there has really been no time to give them the chance to operate and therefore run an audit. We are certainly concerned about this, and we will

certainly be keeping a close eye on it. But, as the minister said, hopefully they are a very professional organisation.

Senator LUNDY—We will see. Thank you. I do need to move on, but it is something that I will obviously keep a very close eye on—and I am sure you will too. I am sure that the minister will and that he will start putting some money aside for that litigation if and when it occurs.

I now have a couple of questions about DCITA's web site. I understand the department web site has been undergoing development. Can you describe the duration of this development—when it started, if it is finished? I know the minister is very proud of this web site. Minister, does the department do your bit of the web site as well—with your smiling face?

Senator Alston—Yes, I cannot claim credit for that. They digitally master and touch up the photos.

Senator LUNDY—It is a masterful job too.

Senator Alston—Did you think it was my son?

Senator LUNDY—I like the soft focus photo. I think it is very attractive.

Senator Alston—I would prefer an action shot myself, but they seem to be into still life, so what can I do?

Senator LUNDY—What involvement do you have in the minister part of the web site? Is that something that your ministerial office has involvement in?

Senator Alston—Yes. Are you asking if we approve all changes, if we commission changes?

Senator LUNDY—Yes.

Senator Alston—I assume so. They do not consult me every time, but I would assume that these things are done cooperatively. We are on the site on a regular basis, so I suppose we would know if there were things that we did not like.

Senator LUNDY—So when you put press releases out, the department automatically marks up those for the web site and manages the links?

Senator Alston—Yes.

Senator LUNDY—Does that require approval from your office for your part of the web site, or does it happen automatically?

Senator Alston—A press release would not go out to the public until it had been finally signed off by my office. You might get a draft from the department which can be reworked. Once we have given it the tick, I assume the system simply means that it automatically goes on the web site unless we say for any good reason that it should not.

Senator LUNDY—So it is all effectively automated.

Senator Alston—Yes.

Senator LUNDY—Through the department. Going back to the general question about the redevelopment—

Mr Morton—You asked about the web site and when the exercise first started. I do not have the exact date here. From recollection, it was some time in 1999, but I will have to take on notice the precise date.

Senator LUNDY—If it started in 1999, is it still going?

Mr Morton—The redeveloped web site was released in July 2002.

Senator LUNDY—It was finished in July 2002?

Mr Nicholas—It was released in July 2002.

Mr Morton—That is not to say that we see that as the end of the process. We are constantly developing and refining it.

Senator LUNDY—I would expect so, but I am quite curious that this particular redevelopment took 2½ or three years. How long was it, all up?

Mr Morton—I think it would have taken between 2½ and three years, that is correct.

Senator LUNDY—Why did it take so long?

Mr Morton—I think there are probably a number of reasons that it took so long. Basically, we started out with over-inflated expectations of what we could do and I suppose a bit of an immature understanding of content management technologies that were available at the time. We did not have adequate developer skills at the outset of the process. During the period of development, various government requirements were imposed on us which required us to go in different directions and to do different builds—for example, in relation to the secure environment. We were required to make a substantial change in relation to that. By and large, the reason it took so long was that it was a learning process for us as we went and it took us some time to get it right.

Senator LUNDY—Clearly. Three years. What sort of software do you use for the site?

Mr Nicholas—The content management system is Vignette.

Senator LUNDY—How much does that cost?

Mr Nicholas—Per annum costs? I would have to—

Senator LUNDY—Tell me the whole box and dice. What is the licensing arrangement for Vignette and what does the department pay?

Mr Nicholas—I would have to take that on notice as to what the licensing arrangements are.

Senator LUNDY—Could you take that on notice. How much did the redevelopment of the site using the Vignette software cost the department over the three years?

Mr Nicholas—For the Vignette components, to purchase version 5 of the content management system it was \$250,000, and a version 6 licence upgrade was \$104,000.

Senator LUNDY—What about all up? Before you tell me the all-up costs of the redevelopment, what annual or upgrade costs are you confronted with now that you are locked into using Vignette?

Mr Nicholas—We would be reviewing the system as we go along. We would be taking decisions on upgrades based on the system's ability to meet our requirements.

Senator LUNDY—So basically Vignette release their upgrades and you make a decision on whether or not you want to purchase them?

Mr Nicholas—Whether we need the functionality.

Senator LUNDY—What are their upgrades worth and how often do they come out, on average? Are you faced with \$100,000 every time they issue an upgrade?

Mr Nicholas—I could not answer exactly. I guess the fact that the version 6 licence upgrade was \$104,000 would give an indication of the normal upgrade cost.

Senator LUNDY—How much was the cost of the redevelopment altogether, including the Vignette software and all of the expenses over the three years?

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

Senator LUNDY—If you could. Can you tell me what was the original budget allocation for the web site development or redevelopment?

Mr Nicholas—Again, I would need to take that on notice.

Mr Morton—I think it is fair to say that the original budget allocation would have been significantly less than the final cost.

Senator LUNDY—Like about \$1 million compared to about \$5 million overall perhaps?

Mr Morton—I do not have the figures and we are taking that on notice. But, as I said before, I think we would all agree that our expectations of the way a web site could be developed and the cost were quite unrealistic. The time frame and cost that we originally attributed were obviously unmeetable. As I said, we learned as we went along. Obviously, in producing the web site that we have there has been significant extra cost involved. Certainly our original estimate was very wrong.

Senator LUNDY—I look forward to getting the answers on notice. Could you provide a breakdown of the expenditure as well? There is probably no-one more sympathetic than me about how difficult it is to try to get a web site working. Very briefly, at the last estimates we spoke about the Net Alert review. I will touch on that briefly before I move to IT. What stage is the review at?

Mr Cameron—Submissions were sought in relation to the review in September last year. Submissions were received in November. Those are being considered now by the department. I should mention that the review is a review of the online content scheme more generally. There is some consultancy advice being sought that is under way at this point in relation to a particular requirement of the review provisions which relate to the development of Internet filtering technologies. That report is likely to be received by the end of March.

Senator LUNDY—When you say that report is due to be finished, does that mean you deliver that report to the minister or that the minister delivers the report to the parliament or makes it public?

Mr Cameron—That is the report of the consultant which will be delivered to the department. That is one of the inputs into our review process.

Senator LUNDY—Will that review into filtering be made public?

Mr Cameron—That report will provide a basis for the broader review's outcomes. The report is likely to be a component of the review's report.

Senator LUNDY—So that is a no—as to whether or not that report on filtering will be made public when you receive it?

Mr Cameron—Not at the time we receive it. It will provide an input into the review's broader report.

Senator LUNDY—So we may see it at the time the more general review is made available.

Mr Cameron—Yes.

Senator LUNDY—Thanks. I would like to now go to outcome 2 and ask questions about Framework for the Future, the joint industry-government working party on industry

development. Chair, I am also very conscious of the time, although I am in no way responsible. I also want to ask questions about NICTA this evening.

Ms Williams—Could I just check that we have finished with telecommunications and broadcasting.

CHAIR—Senator Lundy says yes, so they can go, I guess.

Ms Williams—Thank you.

Senator LUNDY—If I think of anything, I will put it on notice.

Ms Williams—And corporate? Have we finished with corporate?

Senator LUNDY—Yes, I think so. I think the rest are programs and policy.

Ms Williams—Thank you.

CHAIR—What other programs are we going to call?

Senator LUNDY—We have the issue of NOIE. I am conscious of the time, Chair. You are going to insist on closing at 11, I can tell.

CHAIR—That is the arrangement. We have another long day tomorrow.

Senator LUNDY—I was going to propose—it is something I should flag on the record—that we have NOIE in the morning. I have certainly enough to fill what is left of this evening for the department.

CHAIR—Tomorrow is allocated to different programs, I am sorry.

Senator LUNDY—I have had an indication from Senator Kemp that he is quite amenable to the idea of spending the first hour with NOIE tomorrow morning. I was going to suggest to the committee that we start half an hour earlier.

CHAIR—The NOIE staff may have other commitments too. They expected to be seen today.

Senator LUNDY—Can we ask them? I am suggesting an 8.30 start.

CHAIR—We have an agreed program, and I do not think we can change that.

Senator LUNDY—I am trying to be very cooperative. It is okay by the minister and it is okay by me, so if it is okay by NOIE and by you, Chair, I think it is a goer.

CHAIR—Not quite, because the committee agreed on this program. Who knows what will happen tomorrow? It is a different set of witnesses. It is not really quite that simple. I think we have to stick to the agreed program.

Senator LUNDY—Can I ask that we sit for an extended half hour this evening and I will try to get it all in.

CHAIR—All right. We will sit until 11.30.

Senator LUNDY—Thanks. I will start with Framework for the Future. In the November estimates, this committee advised that the steering committee was due to conclude its proceedings and report to the minister by the end of the year. Did that occur?

Dr Hart—It did not occur, no, but we are at an advanced stage of drafting the report and we expect that it will be released reasonably shortly.

Senator LUNDY—Is there any specific reason for the hold-up?

Dr Hart—Not really. It is, obviously, a very complex issue. That is the nature of the issues facing the industry. I guess the perception has been that it is better to get it right than get it quick. There was no particular imperative driving us towards an end of the year release.

Senator LUNDY—Other than the minister's stated objective, I suppose.

Dr Hart—It was an aim, but, as I say, the decision was really that it was much more important to get it right.

Senator LUNDY—We are already almost in mid-February. Can you give an indicative timetable?

Dr Hart—Not really. We are expecting, as I say, that it will not be too long now. We are at an advanced stage of drafting. It has to then go back to the steering committee and it should be possible to release it after that. The ultimate release date is obviously a matter for the minister.

Senator LUNDY—The minister is not here, but perhaps if he is listening he could come back and tell me whether or not he is going to make it public. I presume so, since we saw the Broadband Advisory Group report. I will look forward to the FFF report. Are any of the reports of the mapping groups going to be released, and have they been completed?

Dr Hart—Yes, I think the mapping work has been completed at this stage. The exact composition of the final report is something that we will be working through, but we expect that there will be a number of supplementary resources attached to the report itself.

Senator LUNDY—So they will come out with the main report?

Dr Hart—There is an expectation that that is the case.

Senator LUNDY—Do you have an overall figure for the cost of this exercise?

Dr Hart—I do not have it to hand, no. It would not be expensive. There would be a number of steering committee meetings, obviously the resources that have been used in the department, and the assistance provided by NOIE.

Senator LUNDY—Can you provide the committee with the bringing together of all of those costs so we can put a number to the exercise, and can you tell me whether that number at the conclusion of this financial year will be reported in its entirety—say in the annual report? That is asking you to second-guess the structure of the annual report, but it would be useful if you could provide that on notice as well. I would now like to ask about the joint industry-government working party. This was announced by the government in October as an ongoing forum in which ICT industry and technology related issues can be identified and jointly examined. The issue for consideration, as I understand it, was the ICT purchasing environment for agencies and ICT suppliers, especially SMEs. Can you tell me what is happening with this working group and what is the status of the report I presume they are working on.

Dr Hart—Mr Allnutt can give you a breakdown of the various activities there have been in relation to the information access side of things and in relation to things like the Commonwealth tender notification system and the longer term projects.

Senator LUNDY—I would like some of that detail, but before we go to that can you tell me what the membership of this committee is?

Dr Hart—It basically comprises government representatives and industry representatives, including small business. We can give you the membership.

Mr Allnutt—The members are government and industry members. They are Tony Robey from Wizard Information; Brand Hoff, chairman of Thiri; Nick Cuthbertson from Protech; John Ridge, the immediate past president of the Australian Computer Society; David Bennet from Powerflex Corporation; Laurie Ffrench from the AIIA; myself from the department; Mike Rombouts from the Department of Finance and Administration, and Steve Alford from NOIE. They represent the AIIA, the ACS and the government.

Senator LUNDY—Can you tell me when they are due to report back to the minister?

Mr Allnutt—There is no formal requirement for them to prepare a report for the minister.

Senator LUNDY—So what are they doing then?

Mr Allnutt—It is seen as an ongoing working group that is pursuing a number of initiatives. But we expect that they would provide regular reporting to the minister without having been tasked to come up with a final report as such.

Senator LUNDY—So can those regular reports to the minister be made available to this committee?

Mr Allnutt—Yes. The intention was that these reports would be public reports by the working group to the minister and also to their own constituencies—namely, the AIIA and the ACS.

Senator LUNDY—But they have not given a report yet?

Mr Allnutt—No.

Senator LUNDY—Not that I have seen. Maybe I have missed it.

Mr Allnutt—No.

Dr Hart—It is essentially not that kind of activity. It really is an ongoing facilitative arrangement.

Senator LUNDY—From my perspective, I see their work as incredibly important to policy development, not just with DCITA—it is with every agency and department. Unless that gets some air and gets discussed, debated and pushed out there, it is not going to make too much of a difference, is it?

Dr Hart—No, and that is not to denigrate the nature of the work. It is just that it is not a finite activity in the same sense that the Framework for the Future is.

Senator LUNDY—If they are going to make ongoing reports, when can we expect to see the first one?

Mr Allnutt—The working group is planning to prepare a report in about March.

Senator LUNDY—Can you tell me now the sorts of things that they are working on? I understand it is supposed to be about breaking down barriers for SMEs—in particular, my longstanding interest in the IT outsourcing contracts. Is that still the emphasis of this group—the access to government ICT work by SMEs?

Mr Allnutt—Yes, certainly. The focus of the group is on assisting SMEs to obtain access to federal government contracts in the ICT area.

Senator LUNDY—Do they have a role in reflecting on the success or otherwise of existing industry development components under the IT outsourcing and I guess providing advice on what is working and what is not working in respect of those arrangements?

Dr Hart—In a sense, in that the group is trying to address the impediments that were identified earlier in the process, and some of those impediments did flow out of that experience.

Senator LUNDY—Mr Allnutt, I will let you tell me now what they are actually addressing, what sorts of issues they are working through.

Mr Allnutt—It has a number of activities, some with a fairly short-term focus and some with a longer term focus. In the area of information, the working group is organising a series of seminars which are being held to address a number of issues. The seminars really have four main aspects: firstly, helping SMEs sell to government, giving them practical advice; secondly, giving advice on the forward purchasing plans of Commonwealth agencies; thirdly, helping government agencies understand SMEs; and, fourthly, facilitating alliances with multinational corporations. They are the four themes, so seminars are being held around those themes.

Senator LUNDY—Is that group looking at things like the professional indemnity required, the liability insurances and those sorts of issues which form quite tangible fiscal barriers for many small businesses?

Mr Allnutt—Yes, it is. Arising out of the inhibitors work, a number of potential barriers to accessing contracts have been identified. So the working group is also addressing those issues and there are a range of those—such as insurance and indemnity that you have just mentioned. Another related area is the use of common use purchasing templates, RFTs and contracts.

Senator LUNDY—Yes. So things like the complexity of tenders?

Mr Allnutt—That is right. That was identified as an inhibitor, and one potential option for making that easier is to have common form RFTs and common form contracts.

Senator LUNDY—Just on that point, it has come to my attention that the more generic you have a contract, the more generic requirements are placed in the contract. Because many of our SMEs have a niche area of expertise, it is that generic nature of the requirements in a specification that could potentially exclude SMEs—because they are not jacks-of-all-trades. They have a specialty that they can develop if they have the opportunity, but they do not necessarily conform to the specification in the first instance. This has been brought to my attention several times now. It is an issue about complexity, but it is also about the tender specifications requiring a capability far beyond what is actually required. Is that an issue? Is the committee looking at that? What can you do about it?

Mr Allnutt—The responsibility for drawing up the request for tender rests with individual agencies, but I think the answer to your question is that we would hope, through working with agencies, to draw their attention to those sorts of concerns and to get them, when they are drawing up their RFTs, to make sure where possible and appropriate that SMEs are able to tender for them. That is the sort of example that we would want to draw to their attention. In terms of the common form contracts, that refers to standard, legal clauses, which would in fact make it simpler for SMEs, because the intention is that there would be a very standard legal approach. That is quite difficult to achieve, as you could imagine.

Senator LUNDY—I wanted to ask a lot of questions on this, but I do not know whether I will have the opportunity now. This question relates to the licensing conditions of existing software vendors. I have observed a significant trend of big software houses doing their utmost to extend their contracts and lock in departments and agencies for long periods. It may be their business strategy to do so, but it severely impacts upon the opportunities of SMEs

who are operating more in the medium term and actually actively looking for opportunities to provide services and software to government clients. Is that issue being addressed through this committee—less hardware and sort of a bit into software and actually challenging some of those licensing arrangements with large software vendors?

Dr Hart—It is an issue that you would expect the contractor to have regard to in drawing up the contract. To date, it has not been something that has directly engaged this working group. But you can see that the contractors themselves would have an interest in ensuring that they are not locked in.

Senator LUNDY—I will probably come back to it. I am not sure if NOIE and the e-government area might have a bearing on it. I do not know if there is any attention being paid to the conduct and practices of big software houses. The context is particularly within that of the open source movement. Is it you or NOIE who is doing the open source seminar?

Dr Hart—It is primarily NOIE that is looking at that issue.

Senator LUNDY—But you are involved?

Dr Hart—Not directly, no.

Senator LUNDY—I will come to that with NOIE, because it all has an impact in terms of the availability of different types of software in the future. Perhaps I will pursue that with NOIE. Could you take this on notice and provide any information that you have about policies or discussions on the implications of software houses extending the duration of those contracts?

Dr Hart—Yes.

Senator LUNDY—Perhaps I could do a survey. That is probably the best way to do it. I would probably have to do one of my agency and departmental specific questions to ask every agency and department what their practices are.

Dr Hart—I expect so.

Senator LUNDY—I will look forward to doing that, and I am sure the agencies and departments will as well. Minister, just on this point, barriers to SMEs is still a huge issue out there. Obviously, this working group is doing some work, but how high is it on your list of priorities to try to help these companies break through and get access to government contracts?

Senator Alston—I think the general view is that we should be doing our best to level the playing field as much as possible, so ensuring that they have access to all the necessary information, that they are aware of demand aggregation strategies, that no inhibitors are getting in the way. Ultimately, of course, many SMEs will not be satisfied until they get contracts, and they are loath to accept that they do not get them on the merits—

Senator LUNDY—They only want them on merit. They think they are very competitive, but they just want it to be a level playing field.

Senator Alston—No. It is like everyone believes in competition in principle. They certainly all would like to get them on merit, but they would like to get them, full stop. So you have to be careful that you do not somehow think that, because they are not getting contracts, they are being discriminated against. The main thing is to ensure that there are not any inhibitors and that you are doing everything possible to get them into the game. From then on, we certainly would like to see them prosper, but you cannot artificially rig the market so that they triumph notwithstanding. There might be other better players around.

Senator LUNDY—Do you think that is what this exercise is all about?

Senator Alston—No, I do not, and certainly it is not from our point of view. I am just saying that, if you talk to the SME sector—as I have done now over a number of years—although the debate is usually couched in high moral terms, the bottom line is that they are really wanting you to give them a fast-track that almost guarantees that.

Senator LUNDY—I disagree with that completely. Whilst ever there are barriers to entry, you cannot put that argument up.

Senator Alston—There are often people who say to us, ‘All that is standing between us and our being a globally successful business is the need to have a reference site. In other words, if we can get government contracts, then that will give us international respectability and we’ll have a huge leap forward.’ Effectively, they are trying to suggest that somehow it makes sense for us to bring that about.

Senator LUNDY—Don’t you think it does?

Senator Alston—That is not what you said to me a moment ago. They are saying that we should engineer it so that they win. What we are saying is that we should—

Senator LUNDY—But don’t you think it is a desirable outcome?

Senator Alston—Yes, it is. It is like: wouldn’t it be great if all Australian companies were huge international success stories? Yes, it would be great, but is it real life? No. Some will prosper and some won’t. I am just reading about some interesting little Australian companies that Intel is investing in, for example. So there are a lot of little companies out there, and some will do well and some won’t. The main thing is to ensure that they are not artificially held back or discriminated against.

Senator LUNDY—Do you think they are at the moment?

Senator Alston—Probably not as much as they would have you believe. But I think in some ways, if you are just starting out, you often do not know the ropes, so it is very important that government does its best to bring people up to speed as quickly as possible and put them in the game. You can only do so much. You cannot rig the outcome just because you think, ‘Wouldn’t it be lovely if they won?’ Then you had Ipex, which was a relatively small company in the scheme of things, actually winning one of these cluster contracts. So that was a pretty good outcome.

Senator LUNDY—Then you still made them do their industry development commitments as well.

Senator Alston—I think we made everyone do them.

Senator LUNDY—I want to talk about that now. A very interesting bunch of answers to questions on notice arrived in my office at about 10.30 this morning. You wouldn’t know anything about that, would you?

Senator Alston—No. Do you think it is some Machiavellian plot?

Senator LUNDY—It is really hard not to.

Senator Alston—The department often gives me briefs at 5 o’clock on a Friday saying, ‘You must sign before you get on the plane.’

Senator LUNDY—I cannot help but apply at least a mild conspiracy theory to this lot, because the information is so fascinating. It is the correspondence relating to several very clear breaches of the industry development clauses in the existing IT outsourcing contracts—

being cluster 3, group 5, Health, Tax and group 8. Looking at them, every single one either has had a breach or a serious breach or has attempted to negotiate its way out of a breach and in some cases been successful. But not one of those companies—including Ipex, by the way—met their industry commitments in full under the IT outsourcing. I want to know what the government has done about it.

This correspondence details each of the circumstances. CSC, in relation to cluster 3, seemed to have pushed out their commitments and modified their commitments over a modified amount of time to allow them to try to avoid a breach. Ipex tried to change their arrangements. This was rejected by the department. The last correspondence I have seems to be that Ipex is in denial. The company formally known as Advantra—TES, or Telstra—tried to redefine their industry development commitments. They were rejected by the department. The correspondence shows that there was a meeting planned and I have no more detail after that. I want to know about that. IBM were found to have breached their commitments as well. No penalties apply under the contract. I do not know what the current status is, but I know that three SMEs were the effective victims of IBM's breach. EDS changed their out of scope commitments to go from committing to the involvement of an Australian IT company to involving a foreign company, and that was accepted by the department it seems.

I would like a status report on each of those contracts. I am sure you are familiar with the answer provided today. You know the status of the correspondence that I have received. All of them are open-ended as far as this document shows, so I would like a status report on each of them and then I will ask more questions about it. Before you start on that, I will ask the minister this question: this is not a very good advertisement for this government's commitment to industry development in ICT, is it?

Senator Alston—It may actually be a demonstration of the wisdom of easing the rules.

Senator LUNDY—So they do not have to do anything? So your answer is that, when they fail, just take the rules away? What sort of weak approach is that?

Senator Alston—The one thing you do not want to do is impose unrealistic obligations on companies in a tough environment where we may not have quite the clout that we once did. If it is a globally competitive business and they can go elsewhere, then you do not have the same negotiating coin. So unless you are imposing realistic obligations, you run the risk that you will lose the business altogether. That is why we have modified and eased the arrangements.

Senator LUNDY—Is that why? Because the multinationals have threatened to leave our shores?

Senator Alston—No, they haven't threatened to leave our shores, but that is always the risk you run if you overplay your hand.

Senator LUNDY—One of these companies is Telstra, which could not even do their bit, and another is Ipex, which is essentially an Australian company. Are you saying that they are threatening—or that you are worried they are going to threaten—to leave our shores if they do not commit to what is quite a measly industry development outcome?

Senator Alston—I am not condoning people breaching contracts. All I am saying is that you often get this sort of behaviour in the building industry. If they think the obligations are too tough but they are desperate to get the business, they will sign on and then they will seek to worm their way out through extensions or whatever.

Senator LUNDY—Litigate later.

Senator Alston—Yes. That is not a healthy outcome—

Senator LUNDY—That is a disgrace. That is a disgraceful analogy because you are essentially excusing yourself on the basis of that.

Senator Alston—I am not across the detail of these breaches anyway—

Senator LUNDY—It makes really interesting reading, because you see how every one of them tries to squirm out of it, and they were not particularly onerous, anyway.

Senator Alston—That may be telling you something.

Senator LUNDY—It is telling me that this government does not place a very high priority on industry development.

Senator Alston—These are unduly onerous obligations.

Senator LUNDY—And that the companies have been untrustworthy in their contractual commitments.

Senator Alston—Let's say you say that we will not do business with any of those. You are going to dramatically narrow your marketplace. You might be better off modifying your requirements and making it easier for them to accommodate to them. Then you will get better business outcomes. They will be much keener on doing business.

Senator LUNDY—So just lower the bar. That is what it is all about, isn't it?

Senator Alston—You may need to. That is what being flexible is about. The world is very different to pre-April 2000, before the tech wreck.

Senator LUNDY—Hang on a minute. Hasn't this government got any sense of either pride or expectation in demanding that contracts at least be adhered to, particularly where the politics of it are very sensitive and very important; that is, Australian industry development? You have put as many words as I have on the record about how important that is—not that I have always believed your commitment. But the point is that here is what would formally constitute—I cannot remember the officer's words—a material breach of contract, and at least in some of the circumstances there does not appear to have been any action pursued on behalf of the government as a result of those breaches.

Senator Alston—I am told there might be some specific breaches but they are generally nothing like fundamental breaches.

Senator LUNDY—Nothing that is going to obviously impinge upon their contract, because we have not heard a peep out of anyone on these issues. It was only through questions at estimates hearings that it all came out, anyway.

Senator Alston—Yes, but in the scheme of things they may not be all that significant. If you can just stand back for a moment: in the short run you are right—

Senator LUNDY—I am going to quote *Hansard* to you on how important the industry development components of this were when it mattered, when the government was trying to sell its IT outsourcing program.

Senator Alston—But why have we changed the ID requirements? It is for the very same reason—that we think you need to provide more flexibility. You do not want to have unduly onerous obligations in a tough market because you may end up losing the business. You are better to try and have a reasonable accommodation than prosecuting every little breach or jumping up and down, unless it is going to have a material outcome.

Senator LUNDY—Those companies are going to love reading this. They are going to throw this back at you at their next negotiations. With every department now that enters into

negotiations with one of these vendors, the vendors are going to tip out this *Hansard* and walk away laughing. Good on you! You have just undersold every department. You have just undermined their legal advisers, who are trying to argue the toss on breaches of these contracts.

Senator Alston—I don't think that is right.

Senator LUNDY—So much you care about it.

Senator Alston—Don't get too personal about it.

Senator LUNDY—I am absolutely outraged. Perhaps we should go to Mr Allnutt and he can give me an update on what is happening in each of those cases.

Dr Hart—Just before Mr Allnutt does that, can I go back to what was mentioned at the last estimates hearings, which is that, in terms of the overall performance of the contractors against the contracts, the general outcomes were over and above their actual commitments and the breaches really were a very small exception to the general rule. The annual report was extremely positive about what the contracts had delivered in terms of ID outcomes. In relation to the ones that are left, in general terms—and Mr Allnutt can pick up the specifics—IBM more than met its overall targets. There are some particular breaches—

Senator LUNDY—But it let down three SMEs at the same time.

Dr Hart—I think there is one remaining issue to be resolved with that particular contract, but we can take you through the details. It is important to get on the record that overall the performance is very strong.

Mr Allnutt—I can take you through the last annual report. Six shortfalls were reported. I can tell you the situation in regard to each of those. IBM had three shortfalls, one in relation to the company Wizard. In that case, negotiations are still under way between IBM and Wizard.

Senator LUNDY—How long have those negotiations been going on?

Mr Allnutt—Five or six months, approximately.

Senator LUNDY—What support is the department providing to Wizard, given that they are effectively in negotiations with IBM? It is not exactly an equal playing field, is it?

Mr Allnutt—The contractual obligation is between IBM and Wizard, so the department has not been directly involved in those commercial negotiations.

Senator LUNDY—So you are doing nothing to support that company?

Mr Allnutt—We are not involving ourselves in the negotiations, which are a matter of commercial negotiations.

Dr Hart—We try to encourage both sides to reach a negotiated outcome which will actually deliver some ID outcomes.

Senator LUNDY—Are you optimistic on behalf of Wizard?

Mr Allnutt—The latest reports we have had are that they are still negotiating in good faith and that they are hopeful of moving towards an outcome.

Senator LUNDY—They are not exactly in a position to take action against someone like IBM. Or are they? Maybe they would if they had a bit more support from the government. Sorry; that is just me having a spray. Please continue.

Mr Allnutt—The other shortfalls related to two other companies. In both cases the companies advised that they were in agreement to defer the commencement of the initiative, so an agreement was reached by both companies to do that.

Senator LUNDY—So the SME just said, ‘Don’t worry about it for now’, effectively.

Mr Allnutt—The SME agreed to defer the start of the project. In the case of one of those, the company has subsequently gone into administration.

Senator LUNDY—As a direct result of not being able to proceed with IBM?

Mr Allnutt—We are not aware of the reasons for it going into administration.

Senator LUNDY—You can probably bet your bottom dollar it has something to do with it. Oh well, chalk one up for IBM. It is a very disappointing outcome, isn’t it?

Mr Allnutt—In both cases the two companies agreed to defer the initiative.

Senator LUNDY—Minister, did you hear that? One of the companies that was involved in a dispute with IBM has subsequently gone into liquidation. The officer said he did not know whether it was a direct result, but I put it to you that it probably had something to do with it. What is your response?

Senator Alston—You cannot make presumptions.

Senator LUNDY—My recollection is that these ID commitments were related to IBM providing export opportunities. Is that correct?

Mr Allnutt—That was the Wizard one.

Senator LUNDY—What about the other ones?

Mr Allnutt—I can look up the details. In the case of one of them it was not specifically related to exports; it was related to assisting in the marketing of its product.

Senator LUNDY—Is that the one that went broke?

Mr Allnutt—That is right.

Dr Hart—That was Approved Systems.

Senator LUNDY—So IBM did not help them with their marketing, and they went broke?

Mr Allnutt—The company agreed to defer the process. And in the case of the other one it was to assist it in developing a business plan and a strategy for increasing its revenue.

Senator LUNDY—Is that company still ticking?

Mr Allnutt—Yes, it is.

Senator LUNDY—Good luck to them. I wish them all the best.

Mr Allnutt—Ipex was the other company which had three shortfalls from the previous report. The first shortfall related to the scope of AVA that it achieved. It achieved 61 per cent rather than 69 per cent, so it was a small but definable difference. We are currently discussing that with the company. We believe that there may be some measurement issues involved with that.

Senator LUNDY—Yes, that is detailed in the correspondence. You disputed their flow-through or pass-through calculations.

Mr Allnutt—There are also questions of the records that the company had, so we are still resolving that particular issue.

Senator LUNDY—So that is continuing?

Mr Allnutt—That is continuing. The second one related to a technician education program where the company committed to training 14 technicians for four months each, and there has been a failure to achieve that. The company and the department are discussing that. Again, we think there may be a measurement issue involved, because the company changed the way in which it organised its training programs for its technicians and that has not been reflected in the statistics it has gathered. So we are currently discussing that with the company as well.

The third one was the commitment to achieve exports. They have not achieved exports. The department in this case is, again, discussing with the company an alternative program to substitute for the exports. The company has indicated that it no longer wishes to pursue the export strategy, so we are looking at alternative substitute mechanisms, such as enhanced investment or local activity. That would be an equivalent outcome for the industry.

Senator LUNDY—And that is ongoing?

Mr Allnutt—That is ongoing as well.

Senator LUNDY—I note that this correspondence is typically dated 2000-01. Another year has passed and another report is due.

Mr Allnutt—Yes.

Senator LUNDY—Was it due late last year, or are they actually due out early in the new year? I cannot remember because they never come out on time.

Mr Allnutt—The report for the period ending June last year is currently being finalised by the department.

Senator LUNDY—When was it due?

Mr Allnutt—There is no formal statutory requirement to provide it. We have received the last reports. We prepare the annual report on the basis of the reports which are provided by the companies.

Senator LUNDY—I appreciate that. I know there have been significant delays in the past. There are obviously ongoing delays now. When do you expect the next report to come out?

Mr Allnutt—In the next couple of weeks. We are currently finalising the report.

Senator LUNDY—Can you email it to me as soon as it is finalised?

Mr Allnutt—Yes, we could do that.

Senator LUNDY—I had a lot of trouble finding the other one. Remember, it was buried on the web site way, way back without any links to it.

Mr Allnutt—It is normally located under the publications section of the web site.

Senator LUNDY—Could you email that to me directly? I will then make sure everyone who is interested gets a copy. I can do some PR work for you.

Mr Allnutt—Thank you.

Senator LUNDY—I want to refer to the correspondence, because the other three are left up in the air a bit, according to this correspondence. The first one is CSC. Because I only got this at 10.30 this morning, I have only had a very brief look, but it seems to me that CSC pushed out their commitments across the latter years of their contract and just negotiated a slight change in the valuations or percentages that they were required to achieve. Was that eventually accepted by the department as an acceptable modification?

Dr Hart—I cannot answer with specific detail. What I can say is that variations are often approved.

Senator LUNDY—It is just not clear from this correspondence.

Dr Hart—That may have been one that was. Yes, we have got some confirmation here that we agreed to that proposal.

Senator LUNDY—Could you take on notice to provide a full explanation of what was agreed to and what the variations are to their industry development commitment? Thank you.

Advantra, now Telstra, tried to redefine their commitments. That was rejected. The latest piece of correspondence that I have is that the department and Telstra were going to meet on 5 January. The date in this correspondence is 5 January 2001. I do not know what happened after that. Could you enlighten me?

Mr Allnutt—I could take that on notice. I would note that the annual report for that year provided the outcome. The debate related to the AVA component. In the annual report for that year, it is recorded that they achieved 78 per cent AVA whereas the target was 74 per cent, so they exceeded the target. So I can advise that the issue would have been resolved and that would have been the result as reported in the annual report.

Senator LUNDY—I cannot remember the wording of my request for this correspondence, but it struck me as being a little odd that I have got the correspondence referring to a meeting on 5 January but then no correspondence following that. Why would that be?

Mr Allnutt—I think that is because the issue would have been resolved and there would have been no further disputes with them on that.

Senator LUNDY—So, because I asked in my questions just to provide correspondence relating to disputes, you did not provide me with a letter that said, ‘The dispute is now over. We’re all happy.’ I would like to formally place on notice a request for all correspondence relating to the outcomes of these disputes.

Finally, in relation to EDS and the tax contract, the correspondence implies that EDS wanted to change their out of scope commitments. This was apparently as BHP IT, which was formally contracted but is no longer. JNA Lucent was taken over, and the department for some reason allowed a big Australian IT company to be swapped with an overseas IT company as one of the subcontractors. I have to say that I did not have time to fully digest quite a lengthy amount of correspondence, but it would be useful if you could provide me with a proper history of that.

Mr Allnutt—I think the final letter attached, dated 9 July, refers to the fact that there were three proposed contract variations and they were accepted.

Senator LUNDY—So there was a significant change anyway, and they were all accepted by the department.

Mr Allnutt—I am not sure about the word ‘significant’. They were changes, but they were not necessarily significant in the sense of being a large percentage of the overall commitment to the company. As Dr Hart said earlier, overall, the commitments of the companies were met.

Senator LUNDY—Sorry, I just want to qualify ‘significant’. Perhaps in monetary terms, yes, but in political terms, one of the changes was an EDS credit services centre to replace an Avaya-Lucent initiative, including revised regional employment targets for the e-business centre. Does that mean there were fewer regional employment opportunities as a result of that change? This might not be big to you, but it was a big political issue—that is, the amount of local employment and opportunities these contracts provided.

Mr Allnutt—I can say that, overall, the regional targets for employment were exceeded by all the companies.

Senator LUNDY—Only if you counted Canberra in the statistics.

Mr Allnutt—But that was the original definition that was used.

Senator LUNDY—I think about four people outside of Canberra.

Mr Allnutt—But, overall, the regional employment statistics were met, so that, although there may be one or two instances where there were individual shortfalls, the overall performance of the companies exceeded their requirements.

Senator LUNDY—What was the process of providing these answers to questions on notice? Can I ask the department when they were provided to the minister's office?

Ms Holthuyzen—We will have to take that on notice.

Senator LUNDY—Minister, have you got any clue about answers to question on notice coming through your office?

Senator Alston—No—

Senator LUNDY—I don't suppose you would. The department probably provided them in a somewhat timely fashion. I suspect the department provided them a bit earlier than today. If not, I would be very disappointed.

Senator Alston—Do you think they are off the hook and we are guilty?

Senator LUNDY—I think it is your fault.

Senator Alston—Well, that is a reasonable starting presumption if you are in opposition, I suppose.

Senator LUNDY—I would like you to take on notice the question as to when the answers were provided by the department to the minister's office so I can find out why I only got them at 10.30 today. They are obviously very interesting.

Just a final issue—and I may well put some more questions on notice once I actually read them more comprehensively—a number of the letters referred to a 90-day period in which you had to resolve the issue before perhaps the technical breach was found. Were those 90-day deadlines met?

Mr Allnutt—I cannot say in specific terms which of them were met in that time or not, but the general procedure is to work with a company to reach an outcome that delivers acceptable ID. If the period does exceed 90 days, which it does in some cases, that is with the objective of achieving an outcome which is satisfactory.

Senator LUNDY—I think I have already placed on notice your providing me with a full chronology following the events that the correspondence provided. Can I clarify that, when I asked for all documentation earlier, I mean that to include all the correspondence.

Dr Hart—We certainly did interpret your request as including all correspondence.

Senator LUNDY—I am just checking; I have been stung before. In providing these answers to questions on notice, is the department in a position to tell me whether what they provided to the minister's office is the same as has been provided to the committee? Minister, you are the only one who would know the answer to that.

Senator Alston—I do not know. I will find out for you.

Senator LUNDY—Thank you. I will look forward to the release of the next instalment in the ongoing saga of the ID report for the IT outsourcing program.

I am very conscious of time, so I will be putting some questions on notice in relation to the BITS review. What is the status of that mid-term review? Is it complete?

Dr Hart—We are currently discussing a draft report and possible conclusions of the draft report with the consultant.

Senator LUNDY—So, March?

Dr Hart—That is possible, yes.

Senator LUNDY—Minister, are you making that public? Sorry; we may have covered this previously. The mid-term review of the BITS program—are reports currently being prepared? Is it going to be made public?

Senator Alston—It probably will.

Senator LUNDY—I suspect that is all I am going to get. I will move on. I would like to move to the ICT Centre of Excellence, NICTA. Has the base for the Canberra node been selected?

Dr Hart—There are operating arrangements in place for the ANU facility, but the actual site has not been selected at this stage. We understand that discussions are at an advanced stage.

Senator LUNDY—An article in the *Canberra Times* on 3 February—so not long ago—indicates that some of the possible sites would be too big for NICTA's purposes, raising the possibility that the centre of excellence may have to develop the property in some way in order to maximise its assets and make the most of the opportunity. What is the department's view or guidelines on such a prospect?

Mr Sutton—The department does not play a direct role in the negotiations that are currently occurring. The ACT government made a commitment as part of the winning bid. The first phase, as Dr Hart indicated, has seen NICTA commence operations from the Research School of Information Sciences and Engineering at the university. The second phase is the establishment of long-term premises. Pursuant to that commitment by the ACT government, they are now in negotiations with the Commonwealth government, the Department of Finance, as part of a broader process of land rationalisation within the ACT over the specific site of the NICTA premises.

Senator LUNDY—So what does that mean for NICTA? Does it mean that there is scope for them to develop excess land? Does it mean that DOFA will have a say in what they can and cannot do with the land in terms of developing it?

Mr Sutton—As I mentioned, Senator, we are not a direct party in the negotiations.

Senator LUNDY—But you are with NICTA. So are you saying that it is completely hands-off from your point of view about how NICTA develops any land that they may or may not be given by the ACT government and/or the Commonwealth?

Dr Hart—We are not a party to the discussions about land rationalisation issues.

Senator LUNDY—No, but if NICTA were given land that is bigger than their required use, you have no policy or guideline that says they cannot be entrepreneurial and develop it into something?

Mr Sutton—Until we find out what the selected site is, it is premature to speculate over what issues there may be in relation to that site.

Senator LUNDY—Everyone is, though. That is why I am asking the question. There is a lot of speculation in the paper. I am just trying to get a feel for the constraints or guidelines, if any. I guess some of the possibilities that it invokes are that NICTA could be co-located with commercial space, residential space, apartments or retail space—that type of thing. People are interested in this kind of stuff. It would be quite novel and interesting. There is a lot of speculation about it, so I was hoping you could bring a little insight to it.

Mr Sutton—Once the specific site is identified, there will then be a process of negotiation between the ACT government and NICTA over the precise terms and conditions which will be attached to the development of the site. We would anticipate being aware and consulted during those negotiations, simply to ensure that the outcomes are consistent with the terms of the ACT government's commitments that it made in the proposal. It is mainly an issue between NICTA and the ACT government, but we would anticipate being consulted during those negotiations.

Senator LUNDY—Given that the whole idea is to create a centre of excellence—a cluster of dynamic, innovative ICT companies—is there any part of those arrangements which would prevent it being completely dominated by very large companies as opposed to the dynamic environment of research facilities and SMEs—an incubator-style environment?

Mr Sutton—There are no specific provisions that go into that level of detail. As you have indicated, a broad objective of the government with NICTA is that it will become a centre of a cluster of ICT activity. The government has not been specific about how that is to happen, and I think that is for very good reasons. If you look at the history of cluster development elsewhere, it is hard to be prescriptive about what is good and what is bad in that regard. We will certainly be maintaining a close interest to ensure that what is done and what is negotiated between the ACT government and NICTA is consistent with the objectives of the centre of excellence program.

Dr Hart—Perhaps it is also worth adding that some of the key aspects of the deed go to the fact that NICTA is to be established as a very open organisation that has strong links with a range of organisations. That includes SMEs, and NICTA is committed to the development of SMEs as integral to its development as a national centre.

Senator LUNDY—Can you tell me whether or not all the formal milestones of NICTA have been met?

Mr Sutton—So far there have been two sets of milestones. There was a \$6.6 million payment on the signing of the deed. There was a further set of milestones that were for 31 December, and those were achieved by NICTA, and there is a payment currently being processed. There was also a second set of milestones, which was due 90 days after signing of the deed. That fell due on 8 January. NICTA has provided a report on those milestones and we have assessed that they have not met those milestones.

Senator LUNDY—This is the 90-day one?

Mr Sutton—Those are the 90-day milestones. There will be no further payment pursuant to those milestones until the department and the ARC, who jointly administer the deed, are satisfied that those milestones have been met.

Senator LUNDY—What was that milestone?

Mr Sutton—There is a set of milestones, not just one. The principal issue in relation to the 90-day milestones relates to NICTA signing agreements with the four partners who were involved in the original proposal. That is the ANU, the University of New South Wales, the New South Wales government and the ACT government.

Senator LUNDY—No-one is holding out, are they?

Mr Sutton—Having watched the negotiations from the sidelines, our perspective is that the partner agreements are actually quite complex documents in which the commitments that were bid into the proposal are being translated into something that is actually enforceable.

Senator LUNDY—Have you got a time frame in which that will be concluded?

Mr Sutton—Based on information we are receiving from NICTA, it appears that there is a fair degree of confidence that those agreements can be finalised satisfactorily within the next few weeks.

Senator LUNDY—I will look forward to hearing that they have passed their next milestone. In the portfolio additional estimates statements, the centre has been given an additional \$3 million. Is that \$3 million from underspend last year that has been carried across?

Mr Sutton—Yes. There was \$3 million that was allocated in 2001-02 that was not spent. That has been reappropriated to this year.

Senator LUNDY—Yes, I remember it. Is the government committed to the long-term success of NICTA? Oh, the minister is gone. The right answer, of course, is ‘yes’—but it would have been nice to hear it from him. Thank you. I will continue to watch your progress. I might have a couple of questions to place on notice. In the interests of time, I will move on to NOIE.

[11.11 p.m.]

National Office for the Information Economy

CHAIR—I welcome officers from NOIE.

Senator LUNDY—Is NOIE separate from the department?

Mr Rimmer—Yes.

Senator LUNDY—When did that happen?

Mr Rimmer—This financial year, NOIE is both an executive agency under the Public Service Act and a prescribed agency, in terms of the financial management arrangements.

Senator LUNDY—Correct me if I am wrong, but we have been here before, haven't we?

Mr Rimmer—No, this is the first time NOIE has been an executive agency and a prescribed agency.

Senator LUNDY—I am not familiar enough with the technical terms, Mr Rimmer; I am sorry. My understanding was that NOIE once was separate from the department, then it was as one with the department, and now it is separate from the department again. And that happened in the last financial year. Why is this separation different?

Mr Rimmer—I think it is now more separate than it was.

Senator LUNDY—It is more separate than it was before?

Mr Rimmer—It is more separate than it has ever been.

Senator LUNDY—Is that a good or a bad thing?

Mr Rimmer—It provides NOIE with the flexibility to undertake some of its functions that require relating independently to a large number of Commonwealth agencies and external sources. There are obviously some associated administrative costs in being a separately prescribed agency under the financial management legislation, but we enjoy productive working relationships with the department. The reality is that we have more policy linkages with the Department of Communications, Information Technology and the Arts than we have with any other department in government.

Senator LUNDY—What was the reason behind this change?

Mr Rimmer—It was a decision that was made before I joined, so I would only be speculating.

Senator LUNDY—It's all right—we won't go there tonight. We haven't got time. I would like to talk about the Broadband Advisory Group in the report. I take this opportunity to congratulate the members of the Broadband Advisory Group and NOIE's stewardship. We now have a report which will make it very difficult for the minister to pretend that broadband is not important any more, which I am very pleased about. I do not know if the minister is listening, but I have a couple of questions for him about the government's response to the report and what the intentions are. But perhaps I should ask you, Mr Rimmer, what happens next, to your knowledge, with that report.

Mr Rimmer—The government considers its response to it.

Senator LUNDY—Is there any ongoing work in relation to broadband or broadband strategy that NOIE is continuing with?

Mr Rimmer—We obviously continue to monitor what is happening in other countries, and also put our mind to what are the issues involved in broadband in the future in Australia. The next step is for the government to take some decisions about a response.

Senator LUNDY—Again, probably better asked of the minister, but why were issues like interconnection and the pricing of telecommunications, particularly at the wholesale level, not included in any detail in the Broadband Advisory Group report, particularly in the context that anywhere you look these days it is clear that those pricing and interconnection policies are competition related policies which directly affect the roll-out and uptake of broadband?

Mr Rimmer—In general terms the issues were canvassed in the report in the sections dealing with a competitive environment and a regulatory regime which is in the long-term interests of end users. The report identifies the issues involved in a long-term sustainable investment regime, which requires both that end users receive value for money and that investors get a return on their investment. It is also true to say that the short-term issues that you refer to have been dealt with significantly in the government's recently announced changes and the ongoing work of the ACCC in relation to the immediate broadband market. It was certainly my view that the Broadband Advisory Group should be paying attention to the medium-term, rather than the short-term, issues.

Senator LUNDY—Did the Broadband Advisory Group look at telecommunications industry structure?

Mr Rimmer—Not in any specific sense at all, no.

Senator LUNDY—Given that at least the latest international report I looked at identifies industry structure as a major determinant in the effectiveness of, I guess, upgrading the network and the provisioning of broadband, do you think that is a gap or something that needs further attention? I do not want to pick the report apart, but the areas of pricing, industry

structure and interconnection are crucial to the big question and probably worthy of continuing attention.

Mr Rimmer—Clearly, the Broadband Advisory Group discussed, and its report refers to, some of the issues involved in the shape of next generation networks, and there are some significant questions there. These issues were addressed in the chapter of the report looking at policies for a competitive and sustainable market and, rather than look at the details of specific structure and pricing, the report looked at the general principles associated with the regulatory regime.

Senator LUNDY—The group is going to be disbanded now.

Mr Rimmer—The group was set up to produce a report and it has done a report.

Senator LUNDY—That is a shame. Is there an indicative time frame within which the government will respond to the report?

Mr Rimmer—No specific time frame has been set down.

Senator LUNDY—What was the outcome, and in particular the long-term outcome, of the bilateral talks between the Australian government and the US government on critical infrastructure protection?

Mr Rimmer—This is an ongoing process of consultation. I cannot recall precisely the outcomes. The most significant outcomes are probably the consultative benefits rather than specific decisions in that these bilateral discussions provide an environment where groups from the private sector industry and different sectors of government who do not always talk to each other in each country have the opportunity to talk together in a bilateral environment. It is almost universally regarded by all of the participants on both sides as a highly fruitful exercise in allowing for the sharing of experience and mutual learning.

Senator LUNDY—Is the government considering constructing information sharing analysis centres, or ISACs, as they are known in the US?

Mr Rimmer—I think there was a joint statement last year—Mr Dale might be able to refresh me on the details—which talked about the future consultative arrangements in relation to critical infrastructure protection. It talked about the importance of information exchanging networks. But I do not think anyone is making an easy assumption that the ISACs, the bodies that you referred to in the US, are easily transferred to Australia because the size of the industries in the US is much larger. In Australia the number of industry players is so much smaller that it was thought unlikely that you would be able to have a proliferation of such bodies. But Mr Dale may want to expand on that.

Senator LUNDY—Very briefly, please Mr Dale, because I have a few questions. I would like to move on.

Mr Dale—Just to add to what Mr Rimmer said, the process for greater information sharing on a sectoral basis has been taken forward by the Attorney-General's Department. At present we are providing an assisting and coordinating role and I believe some significant functions are planned by the Attorney to bring those parties together in the next two or three months.

Senator LUNDY—In terms of the required standards for security of government systems being the Protective Security Manual, or PSM, and ACSI 33, which is a standard I think that is subordinate to that manual, can you tell me how many agencies and departments currently conform to these standards and whether it is NOIE's responsibility to ensure that they are complying?

Mr Dale—I do not have exact details of agency compliance at the moment. We could try to find that information for you. In terms of responsibility, at the present time the Protective Security Manual and policies surrounding compliance with it and enforcement of it—and the ACSI 33 electronic communications standard that you mentioned is part of the manual—rest with the Protective Security Coordination Centre, which is a unit of the Attorney-General's Department. They do have a policy committee dealing with most aspects of protective security and the PSM. NOIE participates in that group along with a number of other agencies. I think there is an ongoing program through that to ensure the levels of compliance that the government seeks with those standards, which is obviously 100 per cent of all agencies.

Senator LUNDY—So there is a body that is charged with the responsibility for ensuring those standards are met, and that is the Protective Security Coordination Centre?

Mr Dale—Yes. It is part of the Attorney-General's Department.

Senator LUNDY—So when NOIE issued the Commonwealth Agency Website and Internet System Security Checklist and the Government Online Commonwealth Agency Security Statement, that did not have any status in terms of NOIE's responsibility for ensuring compliance?

Mr Dale—My recollection of that checklist was that it was developed in consultation with the National Audit Office following an ANAO report the year before last dealing with Internet security. It was intended as a guide or an information resource for agencies and continues to be so.

Senator LUNDY—So that is not enforced by that section in Attorney-General's?

Mr Dale—It is not enforced in a legislative sense. There is no statutory basis to any of this. It is an administrative and a management framework for government.

Senator LUNDY—So that survey that you issued was never collated or collected or had any statistical value? Basically, I am asking for the results. Can you provide me with the results to this survey?

Mr Dale—The survey on web site security?

Senator LUNDY—The Commonwealth Agency Website and Internet System Security Checklist. I am presuming you got the results back.

Mr Rimmer—Was it a survey or a best practice guide?

Senator LUNDY—It was a best practice guide. So you did not get any responses back?

Mr Dale—I do not think we were asking for a response. It was being issued as a resource. We can check that for you, though.

Senator LUNDY—Does NOIE have any official role in ensuring that government agencies and departments comply with the security standards?

Mr Rimmer—NOIE's role is essentially educative and communicative, to encourage the more widespread adoption of a culture of e-security within Commonwealth agencies. In doing that, we act cooperatively and with the full support of both the Attorney-General's Department and the Defence Signals Directorate, who have a specialist technical role. But we specifically do not have a compliance role. Our task is to be the encourager up the front, rather than the policeman down the back.

Senator LUNDY—I just have a final question. I am very sorry I did not have more time with you, because there are a number of issues I would have liked to have gone through. This

question relates to the issue of open source. Is it NOIE that is organising the open source seminar?

Mr Rimmer—Yes.

Senator LUNDY—It is a great initiative. In reading a lot of the material from overseas, security is now a reason cited for motivating various governments around the world to look at open source. Has NOIE done any investigation into the security merits of open source versus significant suites of proprietary software that are currently well utilised in government agencies and departments?

Mr Rimmer—We have not done a systematic study of that with a definable report. It is an issue that we obviously keep under review carefully. The claims on both sides of this argument are not without contest, including the claims about greater security—in the same way that competing claims are made about the total cost of ownership benefits, which, when you analyse them, depend upon the particular methodology which has been used in order to get particular results. Our approach to this is that these are empirical questions—it is not an issue of the government adopting a philosophical stance about open source, but there are obviously some areas where open source software is being widely used around the world with effective results, and Commonwealth agencies need to do a detailed assessment of which particular parts of their operations might be more effectively and efficiently done using open source.

Senator LUNDY—So the seminar is really about pushing that information out there and raising awareness?

Mr Rimmer—The seminar is very much for agency chief information officers and senior officers concerned with decision making to hear a variety of perspectives about open source and to come out of it better able to ask these questions as they affect their own operations.

Senator LUNDY—Can I have a copy of the invitation list to that seminar?

Mr Rimmer—Yes, certainly.

Senator LUNDY—That is all. I will place further questions on notice.

CHAIR—Thank you. I thank NOIE for their attendance tonight. There being no further questions, the committee has now concluded today's program. The committee's examination of the arts and sports areas of the Communications, Information Technology and the Arts portfolio will begin at 9 o'clock tomorrow morning. I thank the minister, Ms Williams, the officers and officers from Hansard and Sound and Vision.

Committee adjourned at 11.31 p.m.